



# 2008 Trade Policy Agenda and

# 2007 Annual Report

of the President of the United States  
on the Trade Agreements Program



## Foreword

The 2008 Trade Policy Agenda and 2007 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 2007, where listed, is annualized based on January to November data.

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
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
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
WTO.....	World Trade Organization

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**THE PRESIDENT'S  
TRADE POLICY AGENDA**



# I. THE PRESIDENT'S 2008 TRADE POLICY AGENDA

## **A Legacy of Leadership, Economic Opportunity and Freedom**

The 2008 Trade Policy Agenda and 2007 Annual Report is the final such report of the Administration of President George W. Bush. In this year's edition, we look back on seven active years in which the United States provided strong global leadership in international trade and investment and created new opportunities for U.S. farmers, ranchers, manufacturers, service providers, workers, and consumers; a seven-year period during which U.S. exports to the world increased 50 percent, and concluded in 2007 with exports attaining their highest share of GDP in U.S. history, at nearly 12 percent. We also look ahead to the many market-opening, pro-growth trade and investment policy opportunities on the horizon in the coming year and beyond.

In the years preceding the Bush Administration, public support for trade had eroded due in part to domestic partisanship and general unease – not only in the United States but also in other countries – about the pace and nature of globalization. In addition, the multilateral trading system struggled to regain its footing following the tumultuous World Trade Organization (WTO) Ministerial meeting that took place in Seattle in 1999.

Despite rising protectionist sentiments during the 1990s, Republican and Democratic administrations successfully negotiated – and Congress ultimately approved – two significant trade pacts, the North American Free Trade Agreement and the Uruguay Round Agreement (which created the WTO). In the seven years following the approval of the Uruguay Round, however, there was only limited activity on either the bilateral or multilateral trade fronts. This was due in part to Congress' failure to extend fast-track negotiating authority, which had previously ensured that trade agreements could be submitted to a straight up-or-down vote. By the beginning of 2001, the United States had implemented only three free trade agreements (FTAs), the last of which entered into force in 1994. Throughout the 1990s, other countries continued to negotiate preferential bilateral and regional trade agreements while the United States remained on the sidelines – at a potential cost to long-term U.S. economic strength and security.

President Bush took office with a vision that knocking down barriers to trade could help alleviate poverty, generate prosperity, and promote economic and political freedom around the world. The Administration has acted on the President's vision.

The terrorist attacks on September 11, 2001 dealt a severe blow to the world's economic health. In an effort to help revitalize the global economy and defy those who advocate political repression and economic isolationism, the United States and other WTO Members joined together to launch the first round of multilateral trade liberalization talks under the auspices of the WTO. Throughout the Doha Development Agenda negotiations, the United States has led efforts to achieve an ambitious, comprehensive, and balanced agreement that will foster continued global economic growth and development and lift millions of people out of poverty.

The President also committed early in his Administration to work with Congress to reinvigorate U.S. engagement in the broader trade arena. In 2002, working with Congress, the Bush Administration secured Trade Promotion Authority (TPA), which reinstated the ability of the President to submit trade agreements for a straight up-or-down vote. President Bush quickly put TPA to work for the American people and embarked on an aggressive agenda to negotiate gold standard trade agreements at the

multilateral, regional, and bilateral levels, as well as to focus and expand U.S. trade enforcement activities to ensure that our trading partners lived up to their commitments.

Today, the United States is party to FTAs with 20 countries in every corner of the world (14 in force, 3 approved by Congress but not yet in force, and 3 concluded but not yet approved by Congress). These agreements bring real benefits to American workers, farmers, ranchers, manufacturers, and service providers. U.S. exports to the 11 trade partners with which the U.S. implemented FTAs between 2001 and 2007 grew over 70 percent faster on average than did U.S. exports to the rest of the world. Moreover, although our FTA-partner countries accounted for only 7 percent of the global economy in 2007 (excluding the United States), they were the destination for 41 percent of total U.S. exports. Increased imports from these countries have provided consumers with more choices and better prices while providing U.S. companies with high-quality, low-cost inputs to increase their production, productivity, and competitiveness. These agreements have also reinforced the U.S. commitment to critical allies and regions of particular geo-strategic importance in the Americas, Middle East, and Asia-Pacific region.

The Bush Administration has complemented its ambitious bilateral and multilateral agendas with a rigorous enforcement program designed to ensure U.S. trade partners comply with their various trade agreement commitments. Since the Administration took office in 2001, 25 WTO cases brought by the United States have been concluded, a number that is comparable to other major users of the system following the initial rush of pent up cases launched upon establishment of the WTO. The United States has won or settled favorably 24 of those cases. In addition, several important WTO dispute settlement proceedings are ongoing, involving the commitments of major trading partners such as China, India, and the European Union. While the Bush Administration prefers to resolve disputes by engaging trade partners in robust dialogue, USTR has demonstrated its willingness to use all enforcement tools at its disposal when dialogue fails to yield sufficient results.

### **Working with Congress**

In 2007, the President reached out to the new Democratic Congressional Leadership in an effort to rebuild America's bipartisan consensus on trade policy and to continue delivering important trade policy objectives for the American people. Only through a unified bipartisan pro-trade approach can we expect to take on the economic populism and protectionist rhetoric that threatens our economic health and global leadership.

The Administration worked with congressional leaders to achieve the Bipartisan Agreement on Trade Policy of May 10, 2007. The strong bipartisan votes in the House and Senate in support of the Peru Trade Promotion Agreement in late 2007 marked the first step in realizing the promise of the May 10th agreement. The Administration will continue to work with Congress to secure prompt consideration of the agreements with Colombia, Panama, and Korea in 2008. Each of the three pending FTAs deserves a vote, and the process should commence without further delay with consideration of the Colombia FTA. Failure by Congress to approve these agreements will not create a single job in the United States, will not promote enhanced labor protections anywhere, and will not prevent the extinction of one endangered species. Furthermore, rejection of these agreements would discredit and undermine staunch allies in Latin America and Asia, two regions of vital national security and economic interest to the United States. In 2008, Congress has an historic chance to build on the bipartisanship that led to overwhelming approval of the FTA with Peru by providing strong votes in support of the FTAs with Colombia, Panama, and Korea. The Bush Administration urges congressional leaders to commence this process in earnest by undertaking consideration of the Colombia FTA as expeditiously as possible.

## **Avoiding Economic Isolationism and Fear in the Years Ahead**

Despite a reinvigorated trade agenda, a strong record on enforcement, and significant progress in restoring bipartisan support for trade, rising sentiments of protectionism and economic isolationism within the United States threaten the economic well-being both of our country and the rest of the world. The Administration is committed to responding vigorously to these sentiments by working with Congress to advance a pro-trade agenda that promotes economic prosperity and by addressing the changes and disruptions that can follow from increased globalization.

The benefits of free and fair trade and of a robust trade policy are shared by the millions of American workers and farmers whose jobs are supported by trade, as well as among the millions of American households reaping the benefits of an increasingly open and transparent global economy. Since completion of the Uruguay Round and NAFTA implementation in 1994, U.S. private sector employment has increased over 21 percent, accounting for more than 20 million net new jobs. The annual rate of unemployment in the United States dropped from 6.1 percent in 1994 to 4.6 percent in 2007. Productivity (real output per hour worked) for U.S. business sector workers increased at a healthy average annual rate of 2.4 percent during those 13 years and real compensation per hour grew by nearly 24 percent.

During this same period, U.S. manufacturing output grew 47 percent and our exports of manufactured goods increased over 100 percent. As a reflection of U.S. economic success, data from the World Bank show that per capita real income in the United States in 2005 exceeded that in other high income countries by nearly 47 percent. Such high income countries account for just over 15 percent of the world's population. In addition, the American consumer has benefited immeasurably from access to a wider assortment of high quality goods attainable at prices that are more competitive than ever.

Despite this record of sustained economic progress and prosperity, critics continue to promote the myth that trade is the root of all economic ills. Close scrutiny of the facts, however, does not support their assertions. A recent study conducted by the President's Council of Economic Advisers revealed that no more than 3 percent of all job disruptions can be attributed to trade. The study pointed to other factors such as productivity increases, new technologies and innovation, and domestic competition as accounting for the remaining 97 percent of job displacement. As international trade is the cause of only a fraction of the jobs lost in this country, protectionist or isolationist approaches cannot address these disruptions nor create the new better jobs of the future. Moreover, to attempt to wall off the United States from foreign competition and "protect" U.S. workers would only serve to cripple the U.S. economy and potentially induce a global trade war and world economic slowdown.

Legitimate concerns many Americans have about their economic security are, in fact, rarely related to trade, and we therefore must not embrace policy prescriptions that would injure the vast majority of workers who benefit from trade. To the extent that trade does contribute to economic insecurity, protectionist proposals to address these insecurities made to date do not solve the problems and, likely would exacerbate them.

Nevertheless, we can and should address the disruptions directly attributable to trade policy. Together with Congress, the President has pledged to work to improve the Trade Adjustment Assistance (TAA) program and help trade-affected workers and farmers access the training and reemployment services they need to return to work quickly. TAA reform would complement the President's ambitious American Competitiveness Initiative, which is designed to ensure U.S. competitiveness in innovation through investment that strengthens education and encourages entrepreneurship, and research and development. The continued economic strength of the United States is dependent on the continued competitiveness of its workers, farmers, and businesses. The Administration and Congress must work together to ensure that all Americans have the training and opportunity to compete in the global marketplace.

Many critics have also pointed to the trade deficit as a sign of economic weakness. The question to ask is how much of the trade deficit is a result of trade policy itself and what, if anything, does the deficit's size tell us about the global economy? There are many causes of the U.S. trade imbalance – from fuel prices, to currency exchange rates, to disparate savings rates with our trading partners, to strong growth in the United States and relatively sluggish growth among some of our trading partners who would be natural consumers of U.S. products and services. As some U.S. trading partners have enjoyed stronger growth in the last two years, their growth has helped generate a rapid expansion of U.S. exports that has contributed to a steady decline in the trade imbalance. In 2007, U.S. exports grew more than twice as fast as imports (over 12 percent versus less than 6 percent) and the trade deficit dropped by over 6 percent. As a share of GDP, the deficit dropped from 5.7 percent in 2006 to 5.1 percent in 2007. Gradual reduction of the U.S. trade and current account deficits through export expansion is the path most consistent with sustained long-term growth of the U.S. economy and personal incomes.

The Bush Administration is convinced that, in the years ahead, the United States must continue to boldly lead international efforts to open markets and increase economic integration – and continue the economic policies of the last six decades which have produced the most diverse, innovative, productive, open and prosperous economy in history. The pursuit of these policies – embraced by Republican and Democratic Administrations and Congresses alike – has created a strong foundation on which to build prosperity and freedom for future generations. With improved growth performance in the global economy, the future expansion and prosperity of our manufacturers, service providers, workers and farmers will be strongly influenced by the degree to which they have access to 95 percent of the world's consumers who reside outside our borders.

Globalization and the increasing interdependency of global markets are irreversible forces that will march on with or without us. USTR estimates that 300 regional trade agreements are currently in force worldwide, with more than 100 having been implemented since 2002. In the Asia Pacific region alone, the number of free trade agreements has more than doubled in this same period – from 23 in 2002 to 51 in 2007.

While many of these agreements do not constitute high standard, comprehensive agreements of the type that the United States has negotiated, they unquestionably afford preferential trading positions to the companies and workers of the countries involved. As a result, they threaten to place U.S. stakeholders at a relative disadvantage in accessing many of the world's most dynamic markets. That is why the Administration is committed to pursuing agreements that provide enhanced market access and strong investment protections to the thousands of U.S. companies, investors, workers, service providers and farmers whose ongoing success hinges on the ability to effectively compete in an increasingly integrated global economy. Whether negotiating gold standard FTAs, Bilateral Investment Treaties, an ambitious conclusion to the WTO Doha Round, or intellectual property protection through initiatives such as the Anti-Counterfeiting Trade Agreement, the Bush Administration remains committed to liberalizing global trade and investment flows that hold the promise of improving standards of living both here at home and throughout the global economy.

As we confront an economic slowdown brought about by challenges in the housing and credit markets, traditional drivers of growth such as consumption and investment are being adversely affected. In this environment, strong export growth is playing an important role in supporting the U.S. economy. In 2007, U.S. exports of goods and services accounted for 42 percent of overall U.S. GDP growth. Real exports have increased by 17 percent in the past two years, reaching an all-time high of nearly 12 percent of U.S. GDP. Figures such as these provide ample evidence that, if we are to be successful in ensuring economic growth for the long-term, an open trade policy that supports faster growing exports will play a prominent role.

Going forward, numerous challenges will confront U.S. policymakers in the international trade arena. As tariffs are reduced, more complex barriers arise that can interfere with the free and fair movement of goods and services. As the U.S. economy's labor force shifts toward knowledge-intensive services industries, the bilateral, regional, and multilateral rules of services trade become even more important. As new technologies and innovations rapidly generate new products and services which could not have even been imagined a few decades ago, trade policy must adapt and evolve to changing circumstances to ensure that trade liberalization continues unabated. Moreover, as technology and innovation generate new sources of energy and engineered commodities that hold the promise of addressing vexing issues such as global energy demand, climate change and hunger, trade policymakers must develop and employ the tools to ensure the dissemination of these critical technologies and services. Ultimately, policymakers will be tasked with demonstrating that legitimate concerns involving health, product safety and national security can and must be addressed in the context of free and open markets that expand economic growth and alleviate global poverty. Over the last seven years, the United States has set the stage for continued negotiations and development of trade policies that not only adapt to but also expand the benefits that technology and innovation offer.

The Bush Administration's ambitious trade-liberalizing agenda of the last seven years reinvigorated U.S. trade policy and expanded U.S. leadership across the globe both to open markets and to ensure trade partners complied with their commitments. Other elements of the Administration's pro-trade agenda, such as trade capacity building in developing nations and preference programs like the Africa Growth and Opportunity Act (AGOA), also contributed to furthering our global role and responsibilities. Whether through leadership in trade liberalizing agreements or trade-related self-help programs, the United States has continued to wield this extremely effective form of "soft power" around the world.

The report that follows summarizes some of the highlights of the last seven years, provides the details of some key developments in 2007, and sets out the Administration's trade policy goals for 2008. The Administration is committed to concluding its important trade objectives for 2008, while setting the stage for future bipartisan accomplishments that will continue to expand the free flow of commerce in the years ahead.

## **WTO and other Multilateral Affairs**

The World Trade Organization Doha Development Agenda has been at the center of Administration trade policy since the multilateral negotiating round was launched in Doha, Qatar in 2001. President Bush has personally and actively led U.S. efforts to press the Doha Round forward, including in international fora such as the United Nations General Assembly, during innumerable bilateral encounters, and at various leaders' gatherings such as the Group of Eight (G8) and Asia Pacific Economic Cooperation (APEC). A successful conclusion of the Round remains a once-in-a-generation opportunity to help lift tens of millions of people out of poverty by spurring economic opportunity across the globe. The launch of the WTO Doha Round just a few months after the September 11, 2001 terror attacks brought the United States and other WTO Members back together. By launching the Round, the WTO membership affirmed its commitment to trade liberalization as a vital element to global economic growth and development. The Members agreed that an open trading system dedicated to the rule of law advances global security and alleviates political tyranny and poverty.

Since the beginning of the Round, the United States has led the effort to move the Doha Development Agenda forward toward a successful final agreement and to rally other WTO Members to stay focused on achieving an ambitious market-opening outcome. The litmus test for a successful Doha outcome remains a result that generates meaningful new trade flows and new economic opportunities for citizens around the world – in agriculture, industrial goods, and in services. As has been the case in each of the preceding

eight global negotiating rounds since the end of World War II, U.S. leadership will be essential to achieving a Doha success.

In early 2007, the United States stepped forward, engaging with India, Brazil, and EU in a G4 process aimed at moving the Doha negotiations toward solutions in agriculture, industrial goods, and services that could contribute to the broader multilateral process moving forward into the final phase of the overall negotiations. While some technical results were achieved in agriculture, the G4 process broke down mid-year, primarily over industrial tariff cuts by emerging economies, and the central focus of the Doha Round returned to the multilateral process in Geneva, where, as 2008 begins to unfold, the Doha negotiations face another critical juncture.

As President Bush noted in his State of the Union address, the United States is committed to concluding a strong Doha Round in 2008, and will provide the leadership necessary to achieve this objective. We look forward to each of our key trading partners making similar contributions to ensure success.

### **The Americas**

The United States and many of its neighbors in the Western Hemisphere have entered a new era of economic cooperation and stability in the last seven years. We have concluded a number of free trade agreements that have created real economic opportunity for people throughout the Americas. As a result, deeper and stronger trade and investment relationships are complementing political changes undertaken by courageous leaders in Central and South America. Meanwhile, the North American Free Trade Agreement (NAFTA) continues to benefit the United States and its closest neighbors, as trade flows between Canada, Mexico, and the United States have increased by 210 percent since the agreement entered into force to the benefit of all three nations, and Canada and Mexico represent the largest markets for U.S. exports.

The U.S.-Chile Free Trade Agreement was the first concluded under the new Trade Promotion Authority (TPA) obtained by the Bush Administration in 2002. Since the agreement came into force in 2004, U.S. goods exports to Chile have increased by \$5.2 billion (193 percent) and U.S. goods imports from Chile have increased by \$5.3 billion (143 percent).

The United States has created economic opportunity for people in the Caribbean region through the Caribbean Basin Initiative (CBI), which was expanded in 2002 and in 2006 when additional preferences were provided to Haiti through the HOPE Act. In addition, President Bush signed into law the Andean Trade Promotion and Drug Eradication Act (ATPDEA) in 2002, extending and expanding product coverage of trade preferences for Andean countries.

Another key accomplishment in the Americas was the conclusion of the Dominican Republic – Central America – United States Free Trade Agreement (CAFTA-DR), which Congress approved in 2005. Many of the signatory countries were in the throes of civil war and economic chaos just 15 years ago. Now, both two-way trade with the United States and intra-regional trade are creating opportunities for people in these six countries and strengthening the establishment of political stability and peace in the region.

In 2007, our mutually beneficial commercial relationships in the region continued to expand as Congress approved the U.S.-Peru Trade Promotion Agreement (PTPA) with overwhelming bipartisan support. Reforms Peru has undertaken in the last six years have helped a half million Peruvians escape poverty. The PTPA will build on this success and fortify reforms that Peru's leaders have put in place. Also, we are working to ensure that agreements with Colombia and Panama will also receive strong bipartisan votes in 2008.

The agreements with Peru, Colombia, and Panama will give U.S. products duty-free access to markets with a combined population of 79 million people. Upon entry into force of the agreements, roughly 80 percent of U.S. exports of consumer and industrial goods will enter these countries duty-free immediately, with the remainder to become duty-free over time. In terms of agricultural products, U.S. farm exports to these countries could increase by nearly \$1.7 billion per year. The agreements will also remove barriers to U.S. service suppliers, provide a secure, predictable legal framework for investors, and protect intellectual property.

For many years, most U.S. imports from these countries have received duty-free treatment thanks largely to preference programs such as the Andean Trade Preference Act (ATPA), Caribbean Basin Initiative (CBI), and the Generalized System of Preferences (GSP). As the benefits of these programs have taken root, the democratically-elected leaders of Peru, Colombia, and Panama embraced the additional benefits that would flow from locking in preferential access to the largest market in the world and making trade a two-way street. The leaders of these countries appreciate how the FTAs will be catalysts for making their countries more attractive to foreign and local investors, create economic opportunity, and help enhance economic competitiveness. The economic arguments for congressional approval and implementation of these agreements are compelling as the agreements level the playing field for American workers, farmers, ranchers, and service providers.

Implementing the agreements provide equally compelling foreign policy benefits. Our friends and allies in the region share our belief that democracy and prosperity are best advanced through transparency and open markets. Many of these nations lead by example as their success demonstrates to others in the region that market-oriented economies, political freedom, transparency, and respect for the rule of law will help create a better life for their people. The leaders of Peru, Colombia, and Panama deserve our support for embracing that philosophy and rejecting models of government that restrict political and economic liberty.

Colombia is a case in point. Colombia's courageous leaders, in partnership with the United States through Plan Colombia, have taken bold steps to stem the power of drug cartels and terrorists. By doing so, they have dramatically reduced violence throughout the country. In seven years, Colombia went from the cusp of being a failed state to a place where families can once again live in peace and where investors and entrepreneurs can succeed. Congressional approval of the Colombia Trade Promotion Agreement is vital to continue this positive trend.

In Panama, democracy has taken root and foreign investment and U.S. exports are flowing in at a rapid pace. With the canal that links two oceans, Panama occupies a unique place in international trade. Congressional approval of the Colombia and Panama FTAs is among the Administration's top priorities for 2008.

## **Africa**

Over the last seven years, the Administration has strengthened the U.S.-African trade and investment relationship on several fronts. The implementation of the African Growth and Opportunity Act (AGOA), approved by Congress with broad bipartisan support in 2000, is the cornerstone of the Bush Administration's trade and investment policy toward sub-Saharan Africa and has helped increase U.S. two-way trade with sub-Saharan Africa. During the 2001-2007 period, U.S. non-oil imports from AGOA countries more than doubled, from \$1.4 billion in 2001 to \$3.4 billion in 2007. Several non-oil sectors have experienced sizable increases, including apparel, chemical products, footwear, machinery products, electronics, toys, sportswear, fruits, nuts, and cut flowers.

AGOA has also helped spark opportunities for U.S. businesses. Under AGOA, Africans are seeking U.S. inputs, expertise, and joint-venture partnerships, resulting in increased U.S. exports and investment. U.S. exports to sub-Saharan Africa have more than doubled since AGOA was launched, totaling over \$14 billion in 2007.

Under the annual U.S.-Sub-Saharan Africa Trade and Economic Cooperation Forum, known informally as “the AGOA Forum,” hundreds of U.S. and African businesses and organizations have delved into ways to further expand trade and investment in sub-Saharan Africa. The most recent of the six AGOA Forums was held in Accra, Ghana in July 2007.

More broadly, the Administration has given its full support to further integrating African countries into the global economy by encouraging their fuller participation in the WTO and by urging deeper and stronger trade ties with each other. These initiatives include the signing of six Trade and Investment Framework Agreements (TIFA) with African countries and regional organizations: the Common Market for Eastern and Southern Africa (COMESA), Liberia, Mauritius, Mozambique, Rwanda, and the West African Economic and Monetary Union (UEMOA). In 2007, the Administration launched Bilateral Investment Treaty (BIT) negotiations with Rwanda, which concluded with the President’s signature in February 2008. The United States continued to explore the possibility of launching a BIT negotiation with Gabon.

In November 2006, the United States and the five Southern African Customs Union (SACU) countries agreed to pursue a Trade, Investment, and Development Cooperation Agreement (TIDCA) that could help lead to a U.S.-SACU FTA in the longer term.

For these initiatives to succeed they must coincide with technical assistance in building the infrastructure of commerce. The United States devoted nearly \$1.2 billion to trade capacity building (TCB) activities in sub-Saharan Africa over the last seven fiscal years, including \$505 million in fiscal year 2007, up 26 percent from 2006.

In 2008, USTR will continue its efforts to expand trade and investment with sub-Saharan Africa using the full range of tools described above as well as the Trade Advisory Committee on Africa (TACA), which had its inaugural meeting in March 2007. The TACA advises USTR on trade and economic policy matters with respect to the countries of sub-Saharan Africa. Its members are drawn from distinguished representatives of the private sector and civil society who have expertise in Africa’s trade and development.

The Administration is committed to continuing to work with Congress and private sector stakeholders to strengthen U.S.-African trade and investment in 2008 and to lay the foundation for more robust trade in the years ahead.

## **South Asia**

Since taking office in January 2001, the Bush Administration has made the transformation of the United States-India relationship a top priority in South Asia. The United States and India maintain one of the world’s fastest growing major bilateral trade relationships, and we are on track to meet the goal established by the two leaders in 2005 of doubling bilateral trade to approximately \$60 billion by 2008.

Following Prime Minister Singh’s historic visit to Washington in July 2005, India and the United States created an Economic Dialogue as a vehicle for enhancing bilateral economic cooperation. Among the elements of the Economic Dialogue is the U.S.-India Trade Policy Forum, co-chaired by the U.S. Trade Representative and India’s Commerce Minister. The Trade Policy Forum (TPF) includes an umbrella

forum under which multiple departments and ministries in both countries cooperate in efforts to address trade policy priorities in services, investment, intellectual property rights, tariff and non-tariff barriers, and agriculture. In 2008, the Administration will continue to pursue more bilateral trade and investment with India, including through exploratory discussions of a possible Bilateral Investment Treaty.

Another top priority for the Administration has been to build a relationship with Pakistan as a strategic partner for the long term. In the aftermath of 9/11, Pakistan has been a critical partner on the front line in the fight against al Qaeda and the struggle to counter extremism. Our task is even more important today as the Pakistani people look to elections and a democratic transition in the wake of the tragic death of Benazir Bhutto. U.S. economic support for Pakistan and our growing bilateral trade relationship have been important contributors to Pakistan's significant economic growth and development in the years since 2001. In pursuit of these goals, in 2003 the United States and Pakistan signed a TIFA and held meetings in 2005 and 2006. The next meeting is scheduled to be held in the spring of 2008.

In addition to these activities, in March 2006, President Bush announced the Reconstruction Opportunity Zones (ROZ) initiative which would allow certain items produced in designated zones within Afghanistan and the border regions of Pakistan duty-free entry into the United States. This initiative is designed to support counter-terrorism efforts by spurring job creation and investment in these sensitive geographic areas. The Administration is working with Congress to put in place enabling legislation.

In addition to ROZs, the United States normalized trading relations with Afghanistan, extended benefits under the Generalized System of Preferences (GSP), and signed the United States-Afghanistan TIFA in 2005. With U.S. support, Afghanistan has also begun the process of accession to the WTO.

### **Southeast Asia/Pacific**

Under the Bush Administration, the United States has significantly stepped up its engagement with the commercially and strategically significant Southeast Asian region. It completed bilateral FTAs with Singapore and Australia and launched negotiations with Malaysia and Thailand. Since the United States-Singapore FTA entered into force on January 1, 2004, two-way trade surged 44 percent through 2007, and Singapore is now the United States' tenth largest export market. The United States-Australia FTA has helped boost our bilateral goods trade by 28 percent – to \$28 billion in 2007 – since the agreement entered into force in January 2005. In 2006 (the latest available data), our two-way trade in services totaled \$13.9 billion, a 28 percent increase from 2004.

The United States also launched FTA negotiations with Thailand in 2004 and with Malaysia in 2006. Negotiations with Thailand were suspended in 2006 because of political developments and negotiations with Malaysia are ongoing. The Administration will seek to conclude an FTA with Malaysia in 2008 and to reengage on our bilateral agenda with Thailand following the recently held Thai elections.

On the regional front, in 2002, President Bush announced the Enterprise for ASEAN Initiative, which sought to deepen bilateral ties with the members of the Association of Southeast Asian Nations (Brunei Darussalam, Burma, Cambodia, Indonesia, Laos, Malaysia, Philippines, Singapore, Thailand, and Vietnam). Under this initiative, the Administration also signed TIFAs with five Southeast Asian countries, adding to the two previously concluded. The Administration utilizes TIFAs to monitor implementation of trade agreements, address bilateral issues, and launch new initiatives that will further strengthen our relationships with ASEAN countries. In addition, in 2006 the United States negotiated a TIFA with ASEAN, promoting U.S.-ASEAN trade and regional integration. The first Ministerial meeting under this agreement was held in November 2007.

Trade between the United States and ASEAN nations has grown significantly during the past decade, and this bloc was the fifth largest export market for the United States in 2007, with U.S. exports nearly reaching \$61 billion. In addition, U.S. direct investment in ASEAN countries reached \$99 billion in 2006 (latest available data), up 13 percent from the previous year.

Trade also continued to serve as a catalyst for political reconciliation and reform in Vietnam and Cambodia. After years of negotiations and congressional approval of Permanent Normal Trade Relations, Vietnam entered the WTO in 2007. In June 2007, the United States signed a bilateral TIFA with Vietnam intended as a vehicle to support Vietnam's efforts to implement its WTO commitments and to further deepen bilateral trade and investment relations. U.S. exports to Vietnam totaled \$1.8 billion in 2007, a 66 percent increase over 2006.

The United States supported Cambodia's accession into the WTO in 2004 and signed a TIFA with that nation in 2006. In 2007, the first ever visit by a U.S. Trade Representative to Cambodia took place.

In 2006 and 2007, the United States has also worked with countries in the region to address specific issues in international trade. The United States and Indonesia concluded an agreement to combat illegal logging associated with trade, the first of its kind for both countries. The agreement is designed to promote forest conservation by combating illegal logging and to help ensure that Indonesia's legally-produced timber and wood products continue to have access to markets in the United States and elsewhere.

The United States also concluded agreements with Indonesia and the Philippines to enhance bilateral cooperation to prevent illegal transshipment of textiles and apparel to the United States and to better distinguish between legitimate transactions and those that are intended to circumvent trade rules and procedures.

With the proliferation of FTAs in the Asia-Pacific region, the United States will seek out ways to maintain its leadership and presence in this region and to encourage regional integration in a manner that benefits the United States. The United States announced on February 4, 2008, that it will join negotiations on investment and financial services set to begin in March among Singapore, Chile, New Zealand, and Brunei, known as the "P4" group of countries. These four countries have negotiated their own FTA, the Trans-Pacific Strategic Economic Partnership, based largely on the United States' FTAs with Singapore and Chile. While the Trans-Pacific Strategic Economic Partnership Agreement entered into force in 2006, the investment and financial services chapters remain to be negotiated. As it begins these negotiations, the United States will also begin a detailed consultation with Congress and private stakeholders to determine whether it should participate in the full Trans-Pacific Strategic Economic Partnership to further regional economic integration with like-minded countries committed to high-standard agreements.

### **China; Hong Kong, China; and Taiwan**

The transformation in the size and complexity of U.S. trade relations with China, already evident in the 1990s, accelerated and emerged as the subject of intense public scrutiny after China entered the WTO in December 2001. The Administration has handled the historic changes in trade and investment issues with China with great care and determination – first by negotiating rigorous and appropriate terms for China's entry into the WTO, and then by working constructively with China as it sought to phase in its WTO commitments over the next five years. Our more recent efforts, after the conclusion of China's five-year transition period as a new WTO member, have emphasized holding China fully accountable as a mature member of the international trading system.

The United States and China currently have a robust, mutually-beneficial trade relationship, though that relationship needs to be more balanced. Since 1990, bilateral trade in goods between the United States and China has increased by an astounding 1800 percent. Over the past six years alone, bilateral goods trade has nearly tripled, services trade has more than doubled, and investment flows remain strong.

Thanks to its commercial engagement with other countries, China's economy has grown by nearly 10 percent a year for the past 20 years, and many millions of people have been lifted out of poverty. Meanwhile, China has also emerged as an enormous, rapidly growing market for U.S. goods and services, helping to sustain strong U.S. economic growth rates. U.S. exports of manufactured goods, agricultural products, and services have grown an average of 22 percent per year since China joined the WTO. China became the United States' third largest export market in 2007 and is among the fastest growing major export markets for the United States in the world.

This does not, however, obscure the persistent and significant challenges that have accompanied deeper economic engagement with China. The Administration conducted an interagency top-to-bottom review of trade with China and submitted a report in February 2006 which concluded that, positive developments notwithstanding, the relationship lacked "equity, balance, and durability."

The report signaled U.S. intentions to address what could become an untenable situation. The United States continues to press for more progress by China in fully implementing its WTO obligations in areas such as intellectual property rights enforcement, barriers to market access, persistent government intervention in the economy, and lack of transparency in its legal and commercial procedures.

The Administration has used dialogue whenever possible. In December 2007, top Administration officials and their Chinese counterparts participated in the 18th U.S.-China Joint Commission on Commerce and Trade (JCCT) meeting, followed by the Third U.S.-China Strategic Economic Dialogue meeting. During the JCCT meeting, China agreed to take additional steps to ensure market opportunities for U.S. exporters, such as by eliminating redundant testing requirements on medical equipment makers. Prior accomplishments of the JCCT included several commitments relating to IPR protection and enforcement, such as China's agreement to preload legal operating system software on all computers produced in China, and China's agreement to accede to the WIPO (World Intellectual Property Organization) Internet Treaties. In previous meetings, China also committed to suspend problematic mandatory national standards on wireless encryption, to finalize biotechnology approvals for U.S. soybeans and corn, and to take steps to improve transparency in its legal regime. But dialogue alone has not been sufficient to address all of our concerns.

Since March 2006, the United States has brought four formal WTO cases related to China's trade practices, for a total of five since the Administration took office. These cases demonstrate the Administration's resolve not only to discuss issues with China but also to use all available tools to enforce the rules. Far from indicating a failure in our trade relationship with China, these cases illustrate that we have moved into a new, more mature stage as trading partners, using neutral, legal mechanisms to resolve differences. WTO dispute settlement is designed to prevent trade wars rather than fuel them.

The first WTO case, brought in March 2004, challenged China's discriminatory tax treatment of imported semiconductors and, like the prohibited subsidies WTO case discussed below, was resolved through a settlement where China removed the offending measures. (The United States prepared but did not have to bring another case involving a paper product – kraft linerboard – when China dropped unjustified antidumping duties in January 2006.) In March 2006, the United States, together with Canada and the European Union, initiated a WTO case to examine China's regulations imposing local content requirements in the auto sector through discriminatory charges on imported auto parts. WTO panel proceedings in that dispute are underway, and the Administration is optimistic about its outcome.

In a case involving China's continued use of WTO-prohibited subsidies, the United States' resort to dispute settlement spurred changes in China's policies. In February 2007, the United States, followed by Mexico, requested consultations with China on China's use of a dozen illegal subsidies. Most were tied to exports, giving an unfair competitive advantage to Chinese products and denying U.S. manufacturers the chance to compete fairly with them in the United States and in third country markets. The remaining subsidies, known as "import substitution" subsidies, encouraged companies in China to purchase Chinese-made goods instead of imports. These subsidies were designed to give Chinese-made goods a significant edge in the Chinese market over high quality, fairly priced goods from the United States and other countries. Following two rounds of consultations, the case moved to the establishment of a dispute resolution panel in August. In November, however, the United States and China reached an agreement to terminate the subsidies by January 2008. The outcomes of this case and the kraft linerboard case show that President Bush's policy of serious dialogue and resolute enforcement is delivering concrete results.

In April 2007, the United States initiated a WTO case challenging deficiencies in China's legal regime for protecting and enforcing copyrights and trademarks on a wide range of products, and a case challenging China's restrictions on the importation and distribution of products from copyright-intensive industries. In 2008, the United States will continue to pursue its rights at the WTO in the cases that are still pending, and will seek additional action, as needed, to ensure China's compliance with its WTO obligations.

The most important goal is one that both countries share and which both must rise to meet: the successful battle against economic retrenchment. In China, economic retrenchment has taken the form of shielding parts of China's economy from the very market forces that have allowed it to grow so rapidly. The sixth annual report on China's progress in meeting its WTO accession commitments, issued by USTR in December 2007, noted a potential trend toward a more restrictive trade regime. China continues to use its regulatory and other policies to develop so-called "national champions" in some sectors and tilt the playing field against foreign competitors.

This has been evident in the promotion of homegrown technology through biased national standards and the emergence of regulators acting as competitors. The United States also has made clear its concerns with China's increasingly restrictive investment regime.

In addition, the United States has expressed disappointment that China has not yet made a meaningful contribution to the successful conclusion of the Doha Round, even though it has become one of the largest trading nations in the world. In the United States, meanwhile, China has become the chief focus of the economic anxiety many Americans are experiencing at this time of rapid globalization and change. There has been an increase in legislative proposals to impose tariffs on Chinese goods and other "get tough" measures. Many of these proposals are ill-conceived. It is doubtful that any of them would actually assist the American workers, farmers, and entrepreneurs they purport to help, and may in fact harm them.

So long as the overall benefit of engaging with China is evident, and the Administration's mix of serious dialogue and resolute enforcement is producing concrete results, Congress should proceed with caution on legislation aimed at China. From aerospace to financial services to agriculture, the United States must be careful not to abandon future opportunities that come from economic engagement with China because of the current challenges in our relationship.

In this time of rapid change and closer integration of participants in the global trading system, it is imperative for the United States, as a veteran trading power, and China, as a major new actor, to champion the benefits of the free and fair flow of commerce.

Hong Kong, China is a special administrative region of the People's Republic of China and is a duty-free port with few barriers to trade in goods and services and few restrictions on foreign capital flows and investment. The Administration continues to engage Hong Kong by seeking needed improvements in intellectual property rights protection, the lifting of Hong Kong's restrictions on U.S. beef imports and less restrictive food labeling regulations.

The United States and Taiwan have continued to engage in robust work under our bilateral trade and investment framework agreement (TIFA) to reduce barriers in our bilateral economic relationship. In particular, we are conducting work in the areas of investment, taxation, intellectual property rights, pharmaceuticals, and customs cooperation related to textiles and apparel trade aimed at expanding our already substantial trade and investment ties. We are also seeking to address obstacles to U.S. agriculture exports, beef and pork in particular, by urging Taiwan to adopt policies that are based on science and consistent with international standards.

### **North Asia, Japan, and APEC Affairs**

This region is home to some of the United States' largest and most promising commercial relationships, and the Administration has made great strides in recent years in establishing deeper and stronger ties with countries there.

Japan is the world's second largest economy, with an annual GDP of nearly four and a half trillion dollars. This is about 8 percent of the world's GDP. Our two countries share a respect for democracy and freedom and both have expanded trade relationships in Asia and around the globe. Japan is the United States' fourth largest trading partner, with two-way goods trade of \$208 billion in 2007. The Administration has steadily worked to promote economic reforms to open this large and prosperous country to more U.S. goods and services.

In 2001, the United States and Japan entered into the Economic Partnership for Growth as a comprehensive approach to help aid Japan's economic recovery after years of low or negative growth and to open and promote economic reform in the Japanese economy. Over the past seven years, the Partnership has proven to be a valuable, flexible vehicle to promote reform measures in a wide range of sectors that are helping create new opportunities for businesses and benefits for consumers in Japan.

Also in 2007, the United States signed a Mutual Recognition Agreement (MRA) with Japan for testing and certification of telecommunications equipment, which enters fully into force in 2008. This agreement will lower costs and increase the speed of marketing for equipment traded between the two economies, factors critical for the success of the high-tech industry.

In the past year, the Administration also continued to press Japan for additional measures to open its market to competition and increase the transparency of trade and commercial policies. Work remains to be done to establish the kind of robust trade and investment relationship fitting of the world's first and second largest economies, such as further reforms to open trade in areas such as wireless services and products, information technology, health care, distribution, and in agriculture – including access to Japan's market for all U.S. beef and beef products from animals of all ages.

With regard to beef, the United States will continue to urge Japan and other countries in Asia, notably China and Korea, to fully re-open their markets to U.S. beef. The international scientific body that evaluates these concerns and sets international standards – the World Organization for Animal Health (OIE) – has provided the clear science-based view that U.S. beef is safe.

Overall, even with challenges, United States-Japan trade ties are stronger as a result of the Administration's efforts over the last seven years. There are even increasing calls today for the United States and Japan to explore a bilateral FTA. Given the size and complexities of our economies and the U.S. policy of concluding comprehensive FTAs, this would be the most ambitious undertaking in our bilateral economic history. In the interim, the United States will continue to urge Japan to make regulatory reforms, open its agricultural sector, and assume a more constructive role in the Doha negotiations.

Perhaps one of the most prominent examples of new trade relationships that are shaping the future of international commerce is the United States-Korea Free Trade Agreement (KORUS FTA), signed June 30, 2007, after 10 intense months of negotiations. This landmark agreement is the most commercially significant free trade agreement the United States has concluded in 15 years. It will provide the United States with preferential access to the 11th largest economy in the world and strengthen our bilateral partnership as Korea undertakes economic reforms that will help it stay competitive in the years ahead.

Korea is a nearly \$1 trillion economy and the United States' seventh largest goods trading partner. Our two countries already have an \$83 billion two-way goods trade relationship. Congressional approval of the KORUS FTA will provide U.S. manufacturers, farmers, ranchers, service providers, and workers access to a fast-growing market of nearly 49 million consumers with per capita incomes of roughly \$20,000 a year.

Within three years of entry into force, 94 percent of trade in consumer and industrial goods will become duty-free. Nearly two-thirds or \$1.9 billion of our trade in agricultural products will become duty-free immediately upon entry into force. The agreement would give meaningful market access to U.S. service providers and provide strong protections for investors and intellectual property rights. In addition the agreement would significantly improve the business environment in Korea through strong investment and intellectual property right protections, state-of-the-art competition policy provisions, and groundbreaking transparency and regulatory due process obligations. The agreement also contains strong and unprecedented commitments and enforcement capabilities that will eliminate tariffs and non-tariff barriers in Korea, enabling U.S. automakers to compete on a level playing field in this large and growing market.

In addition to these solid economic benefits, the KORUS FTA will strengthen a strategic alliance forged in war and growing in peace. As Korea and other Asian nations establish strong trade and investment ties, the KORUS FTA will serve the United States' vital interest in maintaining and expanding our partnerships in Asia.

Korea's leaders saw the opportunities that would come from preferential access to the world's largest market and were willing to make the tough decisions needed to achieve the kind of comprehensive, high-standard free trade agreement the United States pursues. As Korea grows as an economic power in Asia, the United States must make good on its commitments to this vital ally. In 2008, the Administration will work closely with Congress on the approval of the KORUS FTA.

On a regional basis, the Administration continues to promote trade and investment liberalization among APEC member economies (Australia; Brunei; Canada; Chile; China; Hong Kong, China; Indonesia; Japan; Korea; Malaysia; Mexico; New Zealand; Papua New Guinea; Peru; the Philippines; Russia; Singapore; the United States; Taiwan; Thailand; and Vietnam). Together, these economies account for 56 percent of global GDP and 49 percent of global trade. The United States exported \$695 billion in goods to APEC economies in 2007. In 2007, APEC furthered its regional economic integration agenda (REI) by announcing that it will intensively explore the prospect of a Free Trade Area of the Asia-Pacific (FTAAP). This announcement came after years of work in APEC to promote the development of high-quality free trade agreements.

In addition, in 2007, APEC again provided strong support to the Doha Round of multilateral talks. APEC economies also agreed to further reduce trade transaction costs by 5 percent by 2010, as part of APEC's long-standing trade facilitation agenda. The United States led APEC efforts this year to improve IPR border enforcement, to address the growing problem of notorious marketplaces that sell infringing goods, and to advance work on reducing tariffs on environmental goods and services. In addition, the United States worked with its APEC partners to strengthen product import safety.

### **Europe, Russia, and Central Asia**

The United States and Europe, especially the 27 member European Union (EU), are bound by a history of close relations and commitment to open markets. The over \$2.2 billion-a-day relationship in trade in goods and services is at the center of our common pursuit of prosperity, cooperation and stability. Throughout the last seven years, the Administration has worked actively to strengthen the trans-Atlantic trade and investment relationship in many ways, from a broad range of regulatory cooperation activities, to an agreement to facilitate bilateral trade in wine, to joint efforts on enhanced IPR cooperation, and through shared U.S.-EU leadership in the WTO negotiations of the Doha Development Agenda (DDA).

In April 2002, under the auspices of the Transatlantic Economic Partnership, the United States and European Commission reached agreement on "Guidelines for Regulatory Cooperation and Transparency," setting forth specific principles that regulators will follow in bilateral discussions on regulatory issues. At the April 2007 United States.-EU Summit, President Bush and his EU counterparts launched the Framework for Advancing Transatlantic Economic Integration, with the goal of fostering cooperation and reducing trade and investment barriers through a multi-year work program in such areas as regulatory cooperation, intellectual property rights, investment, secure trade, financial markets, and innovation. Building upon the 2005 United States.-EU Initiative to Enhance Economic Integration and Growth, this new Framework also established a cabinet-level Transatlantic Economic Council (TEC) to oversee the Framework implementation and help resolve barriers to trade and investment, with input from transatlantic stakeholders. In November 2007, senior Administration and EU officials conducted the first meeting of the TEC to review progress under the Framework since its launch. USTR and other agencies will continue to work closely with their European counterparts to advance priority activities under the Framework in 2008.

The United States has also worked to expand our trade and investment ties with Russia and other countries of the former Soviet Union. We have worked closely with both Russia and Ukraine on their accessions to the WTO. In addition, the United States-Russia Intellectual Property Rights Working Group meets quarterly to discuss Russia's implementation of our bilateral agreement on IPR. USTR will continue to engage regularly with Russian officials to facilitate and encourage economic relationships between our countries.

The United States also signed a multi-party TIFA with all five Central Asian nations (Kazakhstan, Kyrgyz Republic, Tajikistan, Turkmenistan, and Uzbekistan) in 2005 and has held three annual TIFA meetings in this format. In 2007, we signed a bilateral TIFA with the Republic of Georgia and held a successful initial meeting.

### **Middle East**

President Bush's deeply-held view that trade is an essential tool to promote freedom and cooperation is particularly applicable to the Middle East. In May 2003, the President proposed the Middle East Free Trade Area (MEFTA) and moved with resolve to establish stronger bilateral trade ties with countries throughout the region, each at their respective level of development and integration into the global trading

system. Among MEFTA's key goals are the promotion of greater regional cooperation and the advancement of opportunities to further integrate countries in this part of the world into the international community.

Since the United States-Bahrain FTA entered into force on August 1, 2006, U.S. exports to Bahrain in 2007 have increased 64 percent, while U.S. imports from Bahrain in 2007 have increased 48 percent. Since the United States-Morocco FTA entered into force in January of 2006, U.S. exports to Morocco have increased 156 percent, while Moroccan exports to the U.S. increased 45 percent.

The United States has been actively engaging other Middle Eastern countries, as well. The Administration cooperated extensively with Saudi Arabia to complete that country's accession to the WTO in 2005. Including Saudi Arabia, the United States has in place TIFAs with 10 countries in the region (Saudi Arabia, Egypt, Yemen, Kuwait, the United Arab Emirates, Qatar, Algeria, Tunisia, Iraq, and Lebanon). The bilateral TIFA Councils established under these agreements allow the United States to work with trading partners to promote market access, liberalization of investment rules, intellectual property protection, and, where applicable, accession to the WTO.

In support of the Administration's broader efforts to support the stabilization, reconstruction and economic development of Iraq, the United States normalized trade relations with Iraq in 2004, extended GSP benefits, and signed a TIFA in 2005. The United States is also providing technical assistance in Iraq's bid to accede to the WTO.

Under the MEFTA rubric, the United States will continue to utilize FTA Joint Committees, TIFA Councils and other mechanisms (such as Bilateral Investment Treaties and the successful Qualifying Industrial Zone programs between Israel and Jordan, and Israel and Egypt) to enhance bilateral trade and investment relations with countries of this critical region, as well as to support regional economic contact and cooperation.

## **Agriculture**

The Administration has opened markets for U.S. agricultural exports through bilateral and regional agreements, and multilateral negotiations and dispute settlement. The free trade agreement (FTA) agriculture packages we have negotiated since 2000 offer substantial new access for farmers and ranchers in Western Hemisphere (Chile, CAFTA-DR countries, Peru, Colombia, and Panama), Middle Eastern (Morocco, Bahrain, and Oman), and Asian (Singapore, Australia, and Korea) markets. These packages provide for the elimination of both traditional barriers to agricultural trade, *e.g.*, tariffs and quantitative restrictions, and regulatory obstacles, *e.g.*, non-science-based sanitary and phytosanitary (SPS) measures and unjustified technical standards. Taken together, our most recently negotiated FTAs with Peru, Colombia, Panama, and Korea have the potential to generate over \$3 billion in additional farm exports when fully implemented.

With respect to regulatory barriers, the Administration has secured recognition of the equivalence of the U.S. meat and poultry inspection systems (by Peru, Colombia, Panama, Vietnam, and Central American countries), as well as import rules consistent with international standards, such as on Bovine Spongiform Encephalopathy (BSE) (in Canada, Peru, Colombia, Panama, Guatemala, Honduras, Jamaica, Barbados, the Philippines, Indonesia, Jordan, Bahrain, Kuwait, Oman, Saudi Arabia, and the United Arab Emirates).

We also have advanced agricultural trade goals through World Trade Organization (WTO) negotiations and dispute settlement. The Doha Round has been and remains a top Administration priority. In the context of WTO accessions, the U.S. Government has reached agreements with Russia (\$1 billion export market for U.S. agricultural products) addressing long-standing issues, including plant inspections,

trichinae, and biotechnology, that have impeded trade in a wide array of U.S. agricultural goods. When Vietnam joined the WTO, tariffs on more than 75 percent of U.S. agricultural exports were bound at rates of 15 percent or less (down from average applied rates of 27 percent), thereby reducing barriers to products ranging from cotton to meat and dairy to horticulture. Ukraine's accession to the WTO also will provide expanded market access for several U.S. agricultural products, including poultry, pork, and beef.

In WTO dispute settlement, we have prevailed in a wide variety of cases, including: Europe's moratorium on approvals for agricultural biotechnology, and ban on the use of growth promoting hormones in beef; Japan's unjustified phytosanitary restrictions on U.S. apples; Canada's grain handling and transportation practices, and export subsidies on dairy products; Mexico's soft drink tax, and antidumping orders on U.S. rice; and Turkey's import restrictions on U.S. rice.

In addition, the U.S. Government has concluded three agreements on wine, including one with Europe, an understanding with Mexico resolving long-standing issues in sweeteners trade, and an arrangement with Canada on trade in potatoes. We also have negotiated a rice agreement with Korea that provides guaranteed market access for 50,000 metric tons of U.S. rice annually, allows U.S. exporters to compete for additional quantities under the global portion of Korea's rice quota, and requires Korea to distribute a growing share of U.S. rice to consumers, rather than selling it for industrial use.

Looking forward, we remain focused on securing congressional approval of the Colombia, Panama, and Korea FTAs, and on reaching agreement on modalities for the Doha Round agriculture negotiations. At the same time, we are pursuing new market openings for U.S. agricultural exports in bilateral and plurilateral negotiations and high-level dialogues, including with China, Japan, India, Malaysia, and Europe, and working to ensure the full and faithful implementation of agriculture-related commitments in existing agreements such as the NAFTA and other FTAs. Finally, the elimination of non-science-based SPS measures and other unjustified regulatory barriers will remain a centerpiece of our agricultural trade strategy.

## **Manufacturing**

While the United States remains the largest producer and consumer of manufactured goods, 95 percent of the world's consumers live outside our borders, many in countries with rapidly growing demand for manufactured goods. Foreign markets are critical to maintaining the strength of U.S. manufacturing and to its future success. Additionally, by expanding opportunities for trade, U.S. citizens and manufacturers enjoy a variety of reasonably-priced products and inputs to production. Manufactured goods account for 61 percent of total U.S. goods and services exports worldwide. The United States exported \$982 billion in manufactured goods in 2007, an increase of 10 percent over 2006. Since 2002, U.S. exports of manufactured goods have grown by \$376 billion, an increase of 62 percent.

Free trade agreements boost U.S. manufacturing exports with partner countries. For example, since the entry into force of the U.S.-Chile FTA on January 1, 2004, U.S. exports of manufactured goods have increased by 190 percent through 2007 (annualized) – from \$2.5 billion to \$7.2 billion. Since entry into force of the U.S.-Australia FTA on January 1, 2005, U.S. manufactured goods exports to Australia have increased by 32 percent through 2007. In the Doha Round non-agricultural market access (NAMA) negotiations, the United States is seeking an ambitious outcome that lowers tariffs and non-tariff barriers for manufactured goods and results in real market-opening and opportunities for growth for U.S. exporters. In addition to across-the-board reductions in tariff rates for all industrial products, the U.S. is seeking full tariff elimination for chemicals, electronics and electrical products, forest products, health care (pharmaceuticals and medical devices), gems and jewelry, and sports equipment.

Ensuring full implementation of U.S. trade agreements is one of the Administration's strategic priorities. The Administration has held its trading partners fully accountable to WTO and FTA rules by engaging in dialogue to resolve potential disputes. We have also not hesitated to bring legal action under our trade agreements when dialogue does not produce results. Trade enforcement actions brought by the United States in this administration benefit U.S. companies and workers by bringing down barriers to U.S. exports and addressing unfair practices. Among the many manufacturers that have benefited from strong enforcement of our trade agreements are auto parts producers, aircraft producers, steelmakers, textile mills and paper producers.

The United States has been pursuing a number of trade initiatives concerning manufactured goods that have led to increasing U.S. exports. For example, the Information Technology Agreement (ITA) which provides for the elimination of duties on information technology products continues to support growing U.S. exports of these important products. U.S. ITA exports reached \$189 billion in 2006, an increase of 54 percent since 2001, and account for 11.4 percent of U.S. manufactured goods exports. The United States continues to actively encourage the addition of new ITA members. Since 2001, 14 additional countries have joined the ITA, which now totals 70 members.

Under the 2005 Multi-Chip Packages (MCP) Agreement, Japan, Korea, Taiwan, the European Union and the United States agreed to eliminate tariffs on MCPs (also known as multi-chip integrated circuits). MCPs are an evolutionary new high-tech semiconductor technology used in small computer products such as cell phones, digital cameras and hand-held personal digital assistants (PDAs). The MCP Agreement has expanded opportunities and improved sales for U.S. firms and workers in the \$4.2 billion global market (2004), which is expected to almost double by 2008.

## **Services**

Trade policy under the Bush Administration has reflected the critical importance of the services sector in the U.S. economy. As the largest component of the U.S. economy, private service producing industries account for almost 70 percent of U.S. GDP, and 84 percent of GDP growth. Services are also the largest driver of job creation in the United States, with 8 out of every 10 Americans employed in the sector. Since 1990, the service sector has created nearly 40 million new jobs across a range of sectors and employs more workers and account for more business sales than any other sector.

The United States is the world's leading services supplier, with total exports and sales by foreign affiliates approaching \$1 trillion per year. International trade in services is important to the continued expansion of our economy, and international markets offer huge opportunities for U.S. service firms and their employees. Services trade liberalization yields tangible benefits not only for the broader U.S. economy, but for individual Americans – by one estimate, total elimination of global barriers to trade in services would raise U.S. annual income by over \$460 billion, or more than \$6,000 per family of four.

In order to harness these opportunities, the United States has pursued rules-based services trade and investment liberalization in the WTO through WTO accession agreements and ongoing DDA negotiations, through bilateral free trade agreements, and in other regional venues. We have developed a unified market access strategy across all negotiating fora, pressing for the removal of barriers to core infrastructure services – including financial services, telecommunications, computer and related services, express delivery, energy services and distribution – the liberalization of which improves the competitiveness of both the services and goods sectors. As a result, WTO accession agreements, FTAs, and Bilateral Investment Treaties (BITs) concluded during the Bush Administration included provisions to reduce and eliminate barriers to U.S. providers of these core infrastructure services.

The United States is continuing to pursue services and investment liberalization in ongoing bilateral FTA and BIT negotiations. The United States has also championed broad infrastructure service liberalization in the context of the DDA. An acceptable final DDA package must include an ambitious result on services.

In the context of the DDA, the United States has advocated that services liberalization is a “win/win” proposition for both developed and developing countries. In many developing countries, the service sector accounts for the largest share of total economic output and is the fastest growing component of GDP. Service sector growth is associated with rising per-capita income. According to World Bank data, elimination of barriers to trade in services would result in nearly \$900 billion in annual income gains by developing countries. In addition to creating jobs and supporting growth in the service sector, services trade supports manufacturing and agriculture by reducing production costs, enhancing productivity gains, and facilitating product distribution.

Service industries harness rapid technological change in ways that are constantly altering the economic and social landscape. For example, the convergence of computer technology, telecommunications networks, and audiovisual services is fundamentally altering the way people access information and entertainment across the world. As such changes blur the distinctions between “traditional” service sectors and create wholly new ones, it is important that the rules-based trading system accommodate and facilitate such developments. The Administration is working with our trading partners to ensure that convergence issues are addressed in a systematic and comprehensive manner.

## **Investment**

In the highly integrated global economy in which we live, investment is inextricably linked to trade policy. In that light, the Administration has recognized the importance of maintaining an open investment policy which keeps both inbound and outbound investment flowing. Foreign-owned companies operating in the United States provide employment to 5.1 million Americans and contribute \$540 billion to U.S. GDP. These companies are responsible for 19 percent of U.S. exports, and account for 14 percent of total research and development performed by businesses in the United States. American workers employed by foreign-owned companies are paid 26 percent more than the national average for private-sector firms. Foreign investment creates and sustains high-paying jobs in all 50 states and particularly in the manufacturing sector, which accounts for one-third of the jobs supported by U.S. affiliates of foreign companies.

Investment abroad is equally important to our economy. U.S. companies earned \$310 billion from their overseas investments in 2006, more than a 100 percent increase from 2002. In that period, half of these profits were brought back to the United States.

The Administration will continue its efforts to enhance the benefits of international investment by pressing for the removal of barriers to U.S. investment through free trade agreements and Bilateral Investment Treaty (BIT) negotiations, as well as through Trade and Investment Framework Agreements (TIFAs). The Administration concluded a BIT with Rwanda in February 2008, and is near completion of BIT negotiations with Pakistan. We will also continue exploratory BIT discussions with China, India, and other countries, and seek to engage countries such as Brazil, Russia, Indonesia, Vietnam, and Egypt to engage in exploratory BIT discussions. These initiatives will help increase economic efficiency and real incomes in the United States, provide important protections for U.S. investors, and expand exports of U.S. goods and services abroad.

We will also continue to play an active role as a member of the Committee on Foreign Investment in the United States (CFIUS), both in CFIUS case reviews and in securing successful implementation of the

Foreign Investment and National Security Act of 2007 (FINSA), the comprehensive CFIUS reform legislation. While the United States must carefully review the national security implications of foreign investment consistent with the Exon-Florio Amendment as amended by FINSA, we must ensure that it is done in a manner consistent with the United States' open investment policy, which welcomes investors from around the world.

The Administration is also using our open investment policy to forge a coherent and effective approach to "sovereign investment" – investments made by government-controlled investors (such as sovereign wealth funds and state-owned enterprises) that are gaining increasing influence in international business and finance. Sovereign investment raises a number of important policy issues, including those concerning national security, financial stability, and protectionism. The United States is working closely with other countries – both those that make and those that receive sovereign investments – to anticipate and manage these challenges. We have called on the IMF and World Bank to develop "best practices" for sovereign wealth funds, to highlight sovereign investors' own responsibilities and promote strong international standards of transparency and corporate governance. We are also working bilaterally and through the OECD to encourage countries that receive significant sovereign investment – like the United States – to maintain open, transparent, and non-discriminatory investment policies. We will vigorously continue our efforts in this regard.

### **Intellectual Property Rights**

America's economic success increasingly rests on knowledge, creativity, and the goods and services that flow from them. Accordingly, enhancing the protection and enforcement of intellectual property rights (IPR) around the world has been a key priority of the Administration's trade policy. This focus has taken on particular urgency as rapidly developing technologies bring new opportunities for American creators and innovators, as well as new challenges from increasingly sophisticated IPR thieves.

The free trade agreements negotiated during this Administration have set a new international standard for strong IPR protection and enforcement, in line with the high standards reflected in U.S. law. The IPR chapters of our FTAs establish high-standard provisions governing the protection of copyrights, patents, trademarks and other forms of IPR, and they commit FTA partners to establish solid enforcement mechanisms to make sure those protections are upheld in practice.

In 2007, the United States, Japan, the European Union and other key trading partners announced they are taking a major step in the fight against counterfeiting and piracy by seeking to negotiate an Anti-Counterfeiting Trade Agreement (ACTA). ACTA represents a vision to establish a leadership agreement among countries sharing a common determination to strengthen enforcement against piracy and counterfeiting activity that robs innovators and endangers consumers. Beyond ACTA, the Administration is seeking out opportunities to address the global IPR infringement challenge through the G8, APEC, the OECD, the WTO's Council for Trade-Related Aspects of Intellectual Property Rights, and other fora.

The Administration has used a diverse array of other trade policy tools to protect U.S. intellectual property overseas. Among them are WTO accession negotiations with Russia and other trading partners, TIFA negotiations, bilateral discussions of IP issues, the "Special 301" process, U.S. preference programs, and dispute settlement. For example, the Administration has actively used the Special 301 provision of U.S. trade law to call attention to shortcomings in IPR protection among U.S. trading partners and to engage those partners in efforts to bring about improved performance. In 2007, the Administration's actions under Special 301 included elevating Chile from the "Watch List" to the "Priority Watch List," following a special review that identified shortcomings in a number of critical areas of IPR protection and enforcement. Russia, Brazil, Pakistan, and the Czech Republic have been the subject of ongoing Special 301 reviews during the course of the year. The Special 301 report in 2007 also

included an extensive review of IPR issues in China, including efforts being undertaken at the provincial level.

### **Eliminating Barriers to Trade in Other Multilateral Fora**

The United States worked with its trading partners through the international system over the last seven years to ensure free and fair trade flows affecting many specific sectors. For example, in the steel sector, the United States worked with the Organization for Economic Cooperation and Development (OECD) Steel Committee and the North American Steel Trade Committee (NASTC), in WTO accession negotiations, and with countries bilaterally to reduce inefficient excess steel capacity worldwide and to establish greater disciplines on subsidies and other market distorting practices affecting global steel trade. In 2006, the Administration initiated a cooperative steel dialogue with China, under the U.S.-China Joint Commission on Commerce and Trade (JCCT), in an effort to increase China's adoption of market-oriented policies regarding the steel sector.

The United States also worked within APEC to establish an APEC Chemical Dialogue, in which officials and industry representatives from Member Economies discuss issues including chemical sector liberalization, facilitation, capacity building, regulatory policy, and best practices for the benefit of APEC economies, human health and safety, and the environment. APEC economies also launched the Life Sciences Innovation Forum, which brings together scientific, health, trade, economic and financial considerations to address the key challenges of infectious and chronic disease and aging populations in the APEC region. This activity included assisting economies in developing an environment that attracts investment and supports innovation in life sciences, for both pharmaceuticals and medical devices.

### **Enforcement**

The Administration believes the United States can compete in any market so long as the rules of international trade are effectively enforced. Public support for trade depends on whether stakeholders are confident that the playing field is even and that the government is standing up for U.S. interests. To that end, resolute enforcement has been a hallmark of U.S. trade policy. The Administration has not hesitated to use the tools at its disposal in cases involving a range of countries.

In the first year of the Administration, the United States engaged Canada on such issues as softwood lumber and the fairness of Canadian Wheat Board marketing policies and Mexico on its discriminatory tax on high fructose corn syrup and telecommunications practices. In 2004, the United States challenged Europe's subsidies for aircraft giant Airbus, its prohibition on agricultural products made from biotechnology, and its customs procedures. In 2003, the United States brought a successful challenge against Europe's discriminatory regime for geographical indications. Similarly, in 2003 the United States brought a successful challenge against Mexico's antidumping duties on U.S. rice and a challenge against Egypt's excessive tariffs on textiles. The following year, the United States prevailed in a WTO case involving Japan's treatment of U.S. apples, which was brought to the WTO in 2002, and in a case brought by the Administration against Turkey's import barriers to U.S. rice. These cases produced real results for American exports. In January 2007, we welcomed Mexico's repeal, in response to a successful WTO case brought by the Administration, of its 20 percent tax on soft drinks and other beverages made with sweeteners other than cane sugar. As noted earlier, in November the Administration avoided a drawn out legal battle with China after that country agreed to terminate subsidies prohibited by the WTO. In August, we initiated arbitration proceedings under the 2006 Softwood Lumber Agreement (SLA) to determine Canada's obligations in applying an import surge mechanism and anti-circumvention provisions.

In addition, as noted earlier, the United States brought three new WTO cases against China in 2007, challenging prohibited subsidies, deficiencies in China's IPR enforcement regime, and market access restrictions affecting products from copyright-sensitive industries. The United States continues to pursue a case that arose over China's use of discriminatory charges aimed at imported auto parts. And the United States challenged India's application of excessive duties on a wide range of products.

In addition to challenging the policies and actions of our trading partners, the Administration has defended U.S. trade laws at the WTO. For example, in December, a WTO panel again found in favor of the United States in a case involving the "zeroing" method for calculating anti-dumping duties in administrative reviews in a case brought by Mexico. The case marked the third time a WTO panel has found that "zeroing" in assessment proceedings is not prohibited by the WTO Antidumping Agreement.

In all, the Bush Administration has won or successfully settled 96 percent of the cases it has taken to the WTO. When it comes to defending cases brought against us, we prevailed or reached productive settlements almost half the time. In 2008, we will continue our resolute pursuit of U.S. interests.

## **Labor**

The Bipartisan Trade Promotion Authority (TPA) Act President Bush signed in 2002 required for the first time that FTAs have provisions in the core text obligating signatory countries to effectively enforce their labor laws and to subject those provisions to enforceable dispute settlement. This was a major step forward from previous grants of so-called fast-track trade authority with respect to recognizing the trade-related aspects of labor policies.

Negotiations of FTAs under TPA led to significant labor reform by U.S. FTA partners. For example, in preparation for negotiation of our FTA, Morocco passed labor reforms that had languished for over 20 years. Bahrain removed bans on labor unions existing since the 1970's and passed legislation guaranteeing collective bargaining and union organizing rights. In addition, Oman enacted laws that recognized trade union and collective bargaining rights for the first time in its history and raised the minimum age for employment from 13 to 15.

In the course of passage and implementation of the Dominican Republic-Central America Free Trade Agreement (CAFTA-DR), the ILO conducted a review of laws and practices of the Central American countries and these countries issued *Building on Progress: Strengthening Compliance and Enhancing Capacity* (better known as the "white paper") in which each committed to enforce its own labor laws and adhere to international labor standards. The Administration has honored commitments to Congress during consideration of CAFTA-DR to fund labor capacity building programs, devoting \$20 million a year to these efforts beginning in FY 2005.

The Administration built on this solid record with the Bipartisan Agreement on Trade Policy of May 10, 2007, which established the strongest-ever labor protections in trade agreements. As a result of that bipartisan agreement, FTA partners Peru, Colombia, Panama, and Korea will adopt and maintain in their laws the fundamental labor rights recognized in the *ILO Declaration on Fundamental Principles and Rights at Work and its Follow-Up (1998)*. Under the agreements, they will also be required to enforce effectively their labor laws. These labor obligations will be subject to dispute settlement with the same potential remedies as commercial obligations.

In 2008, the Administration will continue to work with Congress and U.S. trading partners to address any concerns with labor rights in Colombia, Panama, and South Korea so that those agreements can receive bipartisan support.

## Environment

In the course of the past seven years, the Administration has taken unprecedented steps to link wise environmental stewardship to trade in bilateral and regional free trade agreements, and in multilateral initiatives. The Trade Act of 2002 established for the first time that enforcement of environmental laws would be among the core objectives in the negotiation of free trade agreements. As a result, the FTAs concluded during this Administration demonstrate that good trade policies can encourage sound environmental policies. In cases where developing country trading partners might lack the resources for robust enforcement of environmental laws, such as the CAFTA-DR countries, the Administration adopted models of cooperation and capacity building to assist them.

The Peru FTA includes a groundbreaking environment chapter addressing biodiversity, as Peru is one of the few “mega-diverse” countries. The Environment Chapter also requires the establishment of an independent secretariat to receive public submissions on environmental enforcement matters. The Peru FTA Environment Chapter also includes a first-ever Annex on Forest Sector Governance. This Annex recognizes the environmental and economic consequences of trade associated with illegal logging and illegal trade in wildlife. The Annex lays out concrete steps to enhance forest sector governance in Peru and promote legal trade in timber products.

On the multilateral front, the United States endorsed the launch of the Doha Round with the inclusion of first-ever “win-win-win” mandates that promise gains for trade, environment, and development in such areas as fish subsidies, trade liberalization for environmental goods and services, and the WTO’s relationship with multilateral environmental agreements (MEAs). Also in 2007, the United States introduced a groundbreaking proposal to strengthen WTO rules on fisheries subsidies, a key part of the Doha environmental negotiating mandate. Under the U.S. proposal, all subsidies that contribute to marine fishing fleet overcapacity and over-fishing would be prohibited -- a clear “win-win-win” for trade, the environment, and sustainable development.

In addition, the United States developed and introduced, with the European Union, a WTO proposal for an innovative new environmental goods and services agreement (EGSA) and a commitment by all WTO Members to remove barriers to trade in a specific set of climate-friendly technologies and services (*e.g.*, solar panels, fuel cells, and wind turbines). The proposal was prompted by President Bush’s initiative earlier in 2007 to seek an agreement with major economies on a new international climate strategy. A recent World Bank study on climate and clean energy technologies suggests that by removing tariffs and non-tariff barriers to key technologies, trade in these products could increase by an additional 7 percent to 14 percent. A corresponding increase in the use of such technologies and services could contribute importantly to global efforts to address climate change and energy security. To build support for our proposal, the Administration will continue to lead work in APEC on environmental goods and services, including hosting another workshop featuring private sector advice, and establishing an APEC environmental goods and services database. APEC Leaders endorsed this work and urged its continuation.

Among the bilateral highlights in 2007 were the conclusion of Memoranda of Understanding with both Indonesia and China to combat illegal logging. The interim agreement with China establishes a framework for both immediate cooperation and the negotiation of a more detailed bilateral agreement to be concluded by the Fourth U.S.-China Strategic Economic Dialogue in June 2008. The MOU, and eventually the more detailed agreement, will also provide important support for third countries seeking to manage their forests in a sustainable manner by further closing markets to timber that has been illegally harvested.

The MOU with Indonesia establishes a working group under the existing United States-Indonesia TIFA to share information on timber trade, including information on illegally-produced timber products, and provide for cooperation in law enforcement activities. The United States committed \$1 million to fund related projects, such as training for customs and law enforcement officials, assistance for Indonesia's efforts to develop legality standards (including methods to distinguish legal from illegal timber), and enhancing partnerships with NGOs and the private sector. Forests are a major factor in the global effort to address climate change, with deforestation worldwide accounting for approximately 20 percent of greenhouse gas emissions.

In 2007, the link between trade and environmental policy was strengthened in the Bipartisan Agreement on Trade Policy of May 10. Pursuant to that agreement, the United States worked with its FTA partners Peru, Colombia, Panama, and Korea to include in those FTAs provisions that require each country to adopt, maintain and implement laws, regulations and all other measures to fulfill obligations covered under multilateral environmental agreements (MEAs). The obligations in the Environment Chapter of each agreement are subject to the same dispute settlement provisions as those in any other chapter.

Also in 2007, the United States led efforts to reform and revitalize the International Coffee Organization (ICO), concluding a new International Coffee Agreement (ICA) in September. As a result of the new agreement, the ICO will be able to demonstrate the role of international commodity organizations in facilitating international trade and sustainable development in economic, social and environmental terms and in a manner consistent with market principles.

In 2008, the United States will continue its leadership in Doha negotiations to include in the final agreement disciplines on fisheries subsidies

### **Development and Trade Capacity Building**

Under the Bush Administration, United States' global economic growth development objectives, particularly with poorer developing economies, were integrated with trade and investment objectives into a unified trade and economic growth strategy and discussed by experts in bilateral and multilateral negotiating fora. Integral to the Administration's goal of accelerating growth and economic reform in the developing world and, most importantly, in its poorest regions, are the four U.S. preference programs (the Generalized System of Preferences, the African Growth and Opportunity Act (AGOA), the Caribbean Basin Initiative, and the Andean Trade Preference Act) through which eligible products enter the United States duty-free from 131 beneficiary developing countries. In 2007, the Administration also worked to implement enhancements to AGOA that were granted to "lesser-developed" countries by the Africa Investment Incentive Act (AIIA), which President Bush signed on December 20, 2006.

Although U.S. imports under the preference programs comprise just 5 percent of total U.S. imports, the trade under these programs has grown sharply since 2002 and now constitutes a significant share of imports from many beneficiary countries. The Administration is employing many ways to increase the trade under preference programs and distribute their benefits, especially to lesser- and least-developed beneficiaries. These efforts include giving seminars via videoconferences or in-country, distributing export analyses, posting website guides in multiple languages, and working with individual exporters on how to expand their preference use. In the case of AGOA, the Administration is strengthening U.S. trade relations with sub-Saharan African countries by holding an annual ministerial level forum with AGOA-eligible countries.

For the first time, U.S. free trade agreements with developing countries establish trade capacity building committees that are charged with developing programs to assist with the implementation of the obligations of the agreements and with the transition to liberalized trade resulting from the agreements,

known as trade capacity building (TCB). These committees have already begun to meet under the CAFTA-DR, and will begin meeting for the Peru, Colombia and Panama FTAs as soon as they have entered into force.

This early strategy by the Bush Administration of incorporating trade capacity building into its bilateral trade negotiations, and making increased trade an objective of its development work, was adopted in the WTO in the form of the “Aid for Trade” initiatives, including the “Integrated Framework”. These WTO programs assist poorer developing country members to identify and meet the challenges and opportunities presented by trade. Four WTO Aid for Trade meetings were held in 2007; including three regional sessions followed by a global review at WTO headquarters that specifically focused on improving the integration of trade in the development plans of developing countries and in the assistance provided by donor countries.

In 2008, the United States and other WTO Members will continue to work together on Aid for Trade efforts, which not only provide technical assistance, but also help create the legal, administrative, and physical infrastructure that developing countries need to fully participate in the global marketplace. TCB is an important element of the U.S. development assistance framework and is provided by a number of U.S. government agencies. The two primary implementers of U.S. TCB efforts are the U.S. Agency for International Development (USAID) and the Millennium Challenge Corporation (MCC). Their broad work is complemented by more than twenty U.S. government agencies providing assistance in their areas of specialization. TCB is also an integral part of a number of trade agreements and programs, including AGOA and free trade agreements like CAFTA-DR, Peru, and Colombia. As the largest single donor of TCB assistance, the United States is proud to lead these TCB efforts.

Complementing these efforts was the establishment in 2004 of the Millennium Challenge Corporation (MCC), which has committed \$5.5 billion in project investments to date that encompasses more than \$3.4 billion in trade-related investments. MCC assistance is uniquely grant-based and is directed solely toward poorer developing countries. MCC has committed this financial support, principally for infrastructure, to 16 qualifying countries in Africa, Latin America, the Caucasus, and Asia/Pacific during the MCC’s four years of operations. USTR is a member of the MCC Board of Directors and encourages MCC funding that helps these poorest countries take advantage of global trade opportunities.

### **Working with State and Local Governments and Private Sector Advisory Committees**

USTR considers the statutory private sector advisory committee system and outreach to state and local governments and other domestic stakeholders to be an integral part U.S. trade policy. Over the past seven years, the Bush Administration has made significant strides to improve the consultation process with advisory committees, and to broaden outreach and communication efforts with States, localities, and the public. In the year ahead, we will continue our efforts to increase transparency in the advisory committee system by posting online updated rosters of advisors and the organizations and interests they represent, and increasing our public outreach efforts to groups around the country regarding the President's 2008 trade agenda.

During the Bush Administration, USTR has streamlined and updated the statutory advisory committee system created by Congress in 1974 to meet the needs of the 21st century economy. USTR created a first-ever secure encrypted advisor website to allow cleared advisors from around the country to review documents and provide advice to the U.S. government in real-time. USTR established plenary sessions of industry and agriculture committees, respectively, to allow greater exchange of ideas and information across sectors and established monthly teleconferences for advisory Chairs, to allow greater exchange of ideas and information across all committees. USTR appointed public health representatives to key

industry and agriculture committees and established a new Trade Advisory Committee for Africa to provide advice on trade policy issues and to promote Africa's economic development.

Under the Bush Administration, USTR has also significantly expanded the membership of Intergovernmental Policy Advisory Committee (IGPAC) to include state and local associations, state government points of contact, and regulatory experts in order to broaden the geographical representation and technical expertise and advice to the U.S. Government on trade issues affecting the states. USTR established monthly joint teleconferences for IGPAC and 50 State points of contact to allow greater exchange of ideas and information. USTR also expanded outreach to States and localities by participating in major State and local association meetings such as the National Governors Association, Western Governors Association, National Conference of State Legislatures, National Association of Attorneys General, Council of State Governments, U.S. Conference of Mayors, and others, and meeting with individual State and local officials around the country.

### **Conclusion**

In this final report by the Bush Administration, it is important to separate legitimate concerns about trade's impact on individuals, families, and communities from the myths. Globalization will continue, and the United States has been a tremendous beneficiary of a more open global economy. Our trading partners will continue to negotiate trade agreements bilaterally and regionally with or without us. They will not take a time out, and neither can we. Leaders in both parties in Congress and the Administration must work together to secure the benefits and address the challenges presented by globalization. The United States cannot afford to retreat from the global economy, nor can it succeed unless a genuinely bipartisan trade policy based on economic openness is embraced.

Susan C. Schwab  
United States Trade Representative  
March 1, 2008

**2007 ANNUAL REPORT**  
*OF THE*  
**PRESIDENT OF THE UNITED STATES**  
*ON THE*  
**TRADE AGREEMENTS PROGRAM**



## **II. THE WORLD TRADE ORGANIZATION**

### **A. Introduction**

At the core of U.S. trade policy is a steadfast support of the rules-based multilateral trading system. Working through the World Trade Organization (WTO), the United States remains in a leadership role in securing the reduction of trade barriers in order to expand global economic opportunity, raise standards of living, and reduce poverty. The WTO Agreement also provides the foundation for high standard U.S. bilateral and regional agreements that make a positive contribution to a dynamic global trading system based on the rule of law. This chapter outlines the work of the WTO in 2007 and the work ahead in 2008 – including on 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 work under the DDA and provides a review of the implementation and enforcement of the WTO Agreement. It also covers the critical accession negotiations to expand the WTO's membership to include new Members seeking to reform their economies and join the rules-based global trading system. In 2007, Tonga and Vietnam acceded to the WTO and Cape Verde was approved for membership by the General Council.

The DDA is the ninth successive 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 of the rules governing world trade, a U.S. priority that reflects the imperative of continued multilateral trade liberalization as part of the foundation that ensures stability and growth in a dynamic world economy.

Throughout 2007, the United States worked to advance the Doha trade negotiations and the implementation of the WTO Agreement. After the July 2006 suspension of the negotiations due to deadlocks in the negotiations on agriculture and industrial goods, the United States led the way over the following months in breathing new life into the Doha Round, resulting in an informal Geneva resumption of negotiations in Geneva before the close of the year. In early 2007, the United States stepped forward again, engaging with India, Brazil, and EU in a “G4” process aimed at moving the Doha negotiations toward solutions in agriculture and industrial goods that could contribute to the broader multilateral process and achieve the needed breakthrough modalities in these areas that would allow moving forward into the final phase of the overall negotiations. While some technical results were achieved, the G4 process broke down in mid-2007 and the central focus of the Doha Round returned to the multilateral process in Geneva. As 2008 begins to unfold, the negotiations face a critical juncture as never before.

### **B. 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 for work in on-going 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 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 2007 General Council, Ambassador Muhamad Noor of Malaysia. Through formal and informal processes, the Chairman of the General Council, along with WTO Director-General Pascal Lamy, 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).

As 2007 began, WTO Members were working to overcome the deadlock in negotiations that marked 2006. Members continued to work towards agreement on modalities – the key variables that would define the depth of tariff cutting and the extent of so-called flexibilities in agriculture and non-agricultural market access (NAMA), and set the stage for schedules and texts to be put on the table over the ensuing months in order to start the final stage of negotiations. As a result of U.S. leadership, momentum had been built, as 2006 closed, through a broadly-based informal engagement process. That process focused on working with key trading partners to revive the multilateral negotiations by putting them on a path toward an ambitious, market-opening result. At the core of this effort were so-called “quiet conversations” by senior officials and technical experts taking place in Geneva and elsewhere, allowing new ideas for breaking the Doha Round impasse to be fully explored. At a January 31, 2007 meeting of the TNC, Director-General Lamy called for a “full resumption” of negotiations, while emphasizing that discreet contacts between delegations would continue to be necessary and useful to achieving progress.

Discussions outside the formal negotiating process coalesced by April with participation of the United States, Brazil, the EC and India in a “G4” process, the results of which would be fed into the multilateral process to stimulate agreement by all WTO Members. As with the quiet discussions which preceded them, the G4 discussions were to look behind the “headline” numbers (*e.g.*, the overall average tariff cut applicable to developed and developing countries) and focus on specific sensitivities and concrete priorities. The first discussions took place in Delhi, India in April, and continued in nearly weekly meetings between senior officials or ministers through June. In parallel with G4 discussions over that time, various groupings of Members, including the G33 developing countries, Caricom, and the Cairns Group, held ministerial meetings that reinforced their commitment to completing the Round. And in May, the Chair of the Agriculture Negotiating Group, Crawford Falconer, issued two papers that served to stimulate discussions on various issues in the agriculture negotiations.

The G4 efforts resulted in some progress in exploring and mapping out potential solutions for breaking the deadlock in agriculture, including with regard to agricultural market access, subsidies, and export competition. At the same time, significant gaps in ambition remained — not just among the G4 but also with regard to other key Members. Further, Brazil and India hardened their positions toward a less than ambitious result on industrial tariffs. That hardening resulted in the breakdown of the G4 process in Potsdam on June 21, 2007. In those meetings, which began on June 19 and were intended to last a week, Brazil and India advocated for a co-efficient to be used under the formula for cutting advanced developing country tariffs on industrial goods that would result in reducing only a small number of the currently applied tariffs. After the Potsdam breakdown, USTR Susan C. Schwab traveled immediately to Geneva to meet with Director-General Lamy, key negotiating group chairs, and various other Members to discuss next steps. A meeting of the TNC was called, and it was agreed that forthcoming texts by Agriculture and Non-agricultural market access (NAMA) Chairs would be the key next step in the negotiations. As a result, the focus of the negotiations shifted from the G4 process to a multilateral, Chair-led process.

Even before the Chairs’ texts were issued, on June 25, 2007, a number of developing countries including Chile, Colombia, Costa Rica, Hong Kong China, Mexico, Peru, Singapore, and Thailand separated themselves from the hard-line NAMA position taken by Brazil and India, issuing a paper proposing a more ambitious “middle ground” in the NAMA tariff-cutting coefficients and flexibilities.

The Agriculture and NAMA Chairs issued their texts on July 17, 2007. During informal negotiating group sessions and a July 27 formal TNC meeting the Chairs and Members stressed that the texts were draft, not negotiated, were not agreed, and would be revised as a result of Members' input. Most Members welcomed the texts as a starting point for further negotiation, although most Members, including the United States, had concerns with various aspects of the texts. Some developing countries complained that both texts were unbalanced, but the NAMA text drew substantial criticism, including several assertions that the text was not a basis for further negotiations. At the TNC meeting, many Members welcomed an announcement by the Chair of the Rules Negotiations that he planned to put forward a Chairman's text when the Agriculture and NAMA Chairs put forward their next revised texts. A significant number of Members, including the United States, emphasized the need for a strong outcome to the services negotiations to be an integral part of any Doha result. Most Members noted their willingness to return to the negotiating table for intense work starting in early September.

September began with a statement from the APEC Economic Leaders meeting in Sydney. The 21 Leaders, whose economies account for roughly half of the world's trade, expressed a clear and very strong commitment to conclude a Doha Round agreement that will deliver new trade flows in agriculture, manufactured goods, and services. They pledged to exercise "the political will, flexibility and ambition to ensure that the Doha round negotiations enter their final phase" and called on their trading partners to do the same. The Leaders at APEC also were unambiguous in their commitments to resume the negotiations "on the basis of the draft texts tabled by the chairs of the negotiating groups on agriculture and non-agricultural market access."

Following through on the APEC commitment, the United States publicly stated in Geneva that it was prepared to negotiate within the range of subsidy reductions in the draft agriculture text, provided that the other leading nations did the same with respect to new market access for agricultural and industrial goods. However, Argentina, India, Argentina, South Africa, and Brazil in their statements at that time – and in subsequent statements – appeared to signal an unwillingness to negotiate within the texts' ranges, as well as a desire to nullify market-opening commitments through loopholes.

November and December were marked by continuing resistance to the Chair's texts by Brazil, India, South Africa, Argentina, and China. Although these countries claimed to speak for all developing countries in resisting the Chairs' texts, on December 13, 2007 the so-called "middle-ground" developing countries (Chile, Colombia, Costa Rica, Hong Kong China, Israel, Mexico, Pakistan, Peru, Singapore, and Thailand) issued a paper supporting the NAMA Chair's text and pressing for a more ambitious tariff-cutting outcome.

On November 30, 2007, the Chair of the Rules negotiating group issued texts on antidumping, subsidies and countervailing measures, and fisheries subsidies.

### **Prospects for 2008**

The negotiations under the DDA begin the year with intensive discussions on the various Chairs' texts. Following extensive discussions in January, the Chairs of the Agriculture and NAMA negotiating groups issued revised texts and the Chair of the Services negotiating group issued a report. Members will continue to face the challenge of how to deliver on the core Doha market access mandate, not only in agriculture but also in industrial goods and services. The United States will continue to work with other WTO Members in pursuit of a successful conclusion to the DDA that opens new markets and creates meaningful new trade flows. The challenge in 2008 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**

The WTO provides multilateral disciplines and rules on agricultural trade policies and serves as a forum for further negotiations on agricultural trade reform. The WTO is uniquely situated to advance the interests of U.S. farmers and ranchers, because only the WTO can impose disciplines on the entire broad range of agricultural producing and consuming Members. For example, absent a WTO Agreement on Agriculture, there would be no limits on the EU's subsidization practices or firm commitments for access to Japan's market. Negotiations in the WTO provide the best means to expand incomes, and thereby demand for agricultural products, and to open global markets for U.S. farm products and reduce subsidized competition. The United States has long advocated fundamental reform of all trade-distorting measures by all WTO Members.

Negotiations in the Special Session of the Committee on Agriculture are conducted under the mandate agreed 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.

Substantive discussions on agriculture at Hong Kong focused on export subsidies, where Members agreed to an end date for export subsidies in 2013. Members further narrowed some of their key differences in other areas, including a commitment to a sectoral negotiation on cotton in which trade-distorting domestic support for cotton would be cut deeper and more quickly than for other commodities (with the actual numbers subject to negotiation) and a commitment that developed country Members would eliminate tariffs on cotton exports from the least-developed country Members.

Negotiations in 2006 focused on specifying how far and how fast tariffs and trade-distorting domestic support would be reduced, and how to phase in the elimination of export subsidies. Major differences existed among Members. Despite intensive negotiations and additional special negotiating sessions among WTO Members, agreement was not reached, and in July, WTO Director-General Lamy formally suspended the negotiations. The United States led the way over the following months to re-invigorate the negotiations, resulting, before the end of 2006, in an informal Geneva consensus that led to a formal resumption of the negotiations on February 7, 2007.

## **Major Issues in 2007**

In early 2007, the United States engaged in discussions on agriculture with Brazil, the European Union and India as part of the broader "G4" process. The G4 process aimed at moving the Doha negotiations toward solutions on agriculture and industrial goods that could contribute to the broader multilateral process. During the spring and early summer, the United States also participated in the informal discussions of Doha Round agriculture issues that were convened in various venues in Geneva by Ambassador Crawford Falconer as Chair of the Agriculture Negotiations. In these discussions, the United States continued working to achieve a high level of ambition in all three pillars: market access in developed and developing countries, export competition and trade-distorting domestic support.

When the G4 process broke down in June 2007, the central focus of the Doha negotiations returned to the multilateral process in Geneva. Ambassador Falconer tabled his draft text on agriculture in July on his own initiative, attempting to reflect progress in the negotiations and to narrow differences.

Reflecting to some degree the state of play in the agriculture negotiations, one concern with the draft text was the uneven handling across the three "pillars" in agriculture. While the domestic support and export competition pillars sections of the text were highly developed, many key topics in the market access pillar remained conceptual at best – with regard to both developed and developing country market access. For example, much more work was needed on critical elements such as the precise provisions for Special Products and the Special Safeguard Mechanism, and details concerning the implementation of Sensitive Product treatment.

Furthermore, while the United States remains committed to work with Members to ensure treatment for cotton, consistent with the Hong Kong Ministerial Declaration, the draft text on cotton failed to take into account reductions to cotton-specific support relative to other commodities through the general formula. The United States has stated consistently that one cannot determine the application of the Hong Kong text until one knows the outcome from the basic disciplines and continues to believe that the only path forward is through that sequence.

After a preliminary exchange of views on the draft text in July, Ambassador Falconer undertook numerous discussions and consultations through the remainder of 2007 on all aspects of his draft text, with considerable focus on the outstanding market access issues. The intensive process enabled the Chair to produce additional working documents on specific topics for Members' review and further consideration in his "Room E" consultations.

### **Prospects for 2008**

Immediately after the New Year, Ambassador Falconer will continue his intensive consultations on the agriculture text. 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 to undertake new multi-sectoral services negotiations. The Doha Declaration of November 2001, recognizing the work already undertaken in the services negotiations, directed Members to conduct negotiations with a view to promoting the economic growth of all trading partners and set deadlines for initial market access requests and offers. These negotiations for new General Agreement on Trade in Services (GATS) commitments are 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 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 their domestic markets. The Hong Kong Declaration provided a framework for intensifying the

negotiations, with the goal of expanding the sectoral and modal coverage of commitments and improving their quality. The work of the CTS-SS resumed in March 2007 after a hiatus resulting from the suspension of the negotiations in July 2006.

### **Major Issues in 2007**

The United States continued to engage actively in bilateral negotiations, pressing Members for a high level of ambition for services liberalization, particularly in key sectors such as financial, telecommunication, computer, energy, distribution, express delivery, environmental, and audiovisual services. The United States renewed its active participation in the “plurilateral process,” through which Members joined together to develop collective market access requests for 21 sectors and issues of particular interest. In February 2006, the United States joined in co-sponsoring 13 of these requests in the following 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. The U.S. continued to pursue its objectives in 2007. Despite substantive discussions and a frank exchange of views, the results of the overall plurilateral process were disappointing, with few Members indicating they would make improvements in their next revised offers.

As the overall negotiations progressed, the United States and other Members encouraged the Chair to hold consultations with Members on the elements necessary for a draft services text. The United States pursued a strong statement of ambition for services market access, on par with that in the agriculture and non-agricultural goods negotiations, including improvements that respond to bilateral and plurilateral requests; a binding of current levels of liberalization and new market access in key service sectors; elimination of barriers to establishment, such as foreign equity requirements; and removal of limitations on the cross-border supply of services.

Issues concerning Mode four (movement of natural persons) and development continue to be a prominent fixture in CTS-SS discussions. With respect to Mode 4, the United States has emphasized that few Members have matched our existing level of commitments. Nevertheless, it is clear that some developing country Members see new and improved Mode four commitments from developed country Members, including the United States, as a critical element to the successful conclusion of the services negotiations.

The United States recognizes the importance of modalities for the special treatment of least-developed country Members in the negotiations on trade in services (LDC Modalities) and the need to expedite consultations on an LDC mechanism pursuant to paragraph nine of Annex C of the Hong Kong Ministerial Declaration. Regarding development in general, the United States has consistently supported flexibility for the LDC Members, while noting that trade liberalization in services is important to sustainable economic development. Access to cutting-edge technology, management knowledge, and investment through liberalized services markets is critical for developing countries. The Internet, express delivery, cellular communication, and other services are growth accelerators that create new industries and transform traditional ones – reducing production costs, enhancing productivity gains, facilitating product distribution, and providing the major source of jobs in the global economy today and for decades to come.

### **Prospects for 2008**

The United States will continue to pursue aggressively its critical market access objectives, including opening up foreign markets to our world-class service providers by getting Members to remove equity limitations, quantitative restrictions, and other barriers to trade in services. A substantial amount of work

is underway in the Council for Trade in Services—see Section G—and the United States will continue to seek a high level of ambition.

### 3. Negotiating Group on Non-Agricultural Market Access

#### Status

In the NAMA negotiations, which cover industrial goods and fish and fish products, the United States is seeking significant new competitive opportunities for U.S. businesses through cuts in applied tariff rates and the reduction of non-tariff barriers. The Hong Kong Ministerial Conference in December 2005 locked in the progress that had been made in the NAMA negotiations since the July 2004 Framework Agreement. Members reaffirmed the goal of reducing or eliminating tariff peaks, high tariffs, and tariff escalation. Members also agreed that further liberalization of tariffs should be achieved through a harmonizing (Swiss) tariff cutting formula that would cut the highest tariffs the most. The Hong Kong Ministerial text also recognized the work that was done on moving forward discussions on sectoral tariff elimination initiatives and the important efforts to reduce or eliminate non-tariff barriers (NTBs).

In June 2006, the NAMA Chairman tabled a paper that linked the Hong Kong Ministerial text with Members' positions on the various NAMA elements in order to indicate for Members the gaps where there is no agreement. The suspension of the Doha Round in July 2006 halted efforts to narrow the gaps and find consensus on these issues.

As NAMA discussions resumed in January 2007, Members returned to the issues identified by the Chairman and refocused on structuring a NAMA package that achieves the trade liberalizing objectives of the Doha mandate for industrial goods. A new text tabled by the NAMA Chairman in July 2007 proposed the mechanism for finalizing a NAMA agreement, indicating the achievements of ongoing negotiations on specific NAMA issues, and identifying areas that are still unresolved. The text demonstrated progress in the efforts to finalize the elements of the tariff cutting formula and flexibilities for developing countries and noted developments in discussions on sectoral initiatives and NTBs.

The outcome of these negotiations is crucial for trade in industrial goods, which accounts for over 75 percent of total global trade in goods and more than 90 percent of total U.S. goods exports. In 2007, U.S. exports of industrial goods grew to \$982 billion – almost 11 times the level of U.S. agricultural exports. This figure is up 10 percent from 2006 and up 128 percent from 1994.

The Doha Round provides an opportunity to lower tariffs in key markets like India and Egypt, which still retain ceiling tariff rates as high as 150 percent. Likewise, gains from tariff rate reductions made as a result of the Doha Round will accrue to developing country Members, which currently pay over 70 percent of duties collected to other developing countries.

#### Major Issues in 2007

In 2007, Members focused on a number of substantive elements of the Hong Kong Ministerial Declaration in order to finalize the mechanism for tariff liberalization in NAMA: (1) the elements of a

<b>Tariff Profiles</b>		
Simple Average Tariffs as reported by the World Trade Organization		
<u>Markets</u>	<u>WTO Maximum Tariffs</u>	<u>2005 Applied Tariffs</u>
United States	3.9	3.9
EU	4.0	4.0
Argentina	30.6	10.5
Brazil	29.8	11.0
China	9.0	9.0
Egypt	30.4	12.5
India	43.7	19.5
Philippines	24.6	5.6
South Africa	18.6	9.9

tariff-cutting formula and specifics on the level of ambition to be achieved by developed and developing country Members; (2) flexibilities to be provided for least-developed country (LDC) Members, poor and revenue-strapped Members just above the LDC level, and other developing country Members; (3) a sectoral tariff component; and (4) work on non-tariff barriers. Final consensus on these issues continued to be elusive.

The key U.S. NAMA objective is to achieve an ambitious outcome that results in significant real market access through cuts in applied tariff rates in both developed and key developing country Member markets. The United States therefore supports a combination of tariff cuts applying a Swiss formula with dual coefficients<sup>1</sup> and sectoral tariff initiatives to most effectively achieve the objectives laid out in the Doha mandate. The United States also believes that all the elements of the Framework must be considered in tandem. There is an inextricable link between discussions on the formula, flexibilities, and sectors.

In discussions leading up to the Chairman's July 2007 text and in response to it, the formula coefficients and flexibility options were a primary area of discussion. With regard to coefficients, Members discussed options that reflect the appropriate levels of ambition, through the depth of tariff cuts they will produce, for developed and developing countries. The Chair's text proposed a coefficient between 19 and 23 for developing countries and 8 or 9 for developed countries.

Approximately thirty countries are expected to apply the developing country coefficient.<sup>2</sup> These countries include the 10 members of the so-called NAMA-11<sup>3</sup> which advocates for a high developing country coefficient in the formula and expanded flexibilities for developing countries, as well as the members of Middle Ground group<sup>4</sup>, which supports stronger market opening results. Also among the countries applying the developing country coefficient are the four Recently Acceded Members (RAMs)<sup>5</sup> that are not considered small, vulnerable economies or Very Recently Acceded Members (VRAMs).

Discussions also continued on flexibilities, or special and differential treatment for developing country Members, including "less than full reciprocity," with a number of specific and general approaches under consideration. Decisions on the levels of flexibility for developing countries will be integrally linked to the outcome of negotiations on the formula and sectoral agreements.

- Work is proceeding on the following tariff sectoral initiatives, proposed by various Members:
- chemicals;
  - electronics/electrical products;
  - fish and fish products;
  - forest products;
  - healthcare products (pharmaceuticals and medical equipment);
  - autos and related parts;
  - bicycles and related parts;
  - gems and jewelry;
  - sports equipment;
  - textiles, clothing and footwear;
  - hand tools;
  - raw materials;
  - toys; and
  - environmental goods.

<sup>1</sup> 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. The coefficient represents the tariff rate ceiling for industrial goods.

<sup>2</sup> 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.

<sup>3</sup> Argentina, Brazil, Egypt, India, Indonesia, Namibia, Philippines, South Africa, Tunisia, and Venezuela.

<sup>4</sup> WTO Members affiliated with the Middle Ground group include: Chile; Colombia; Costa Rica; Hong Kong, China; Israel; Mexico; Pakistan; Peru; Singapore; and Thailand.

<sup>5</sup> China; Chinese Taipei; Croatia; and Oman.

Small, vulnerable economies, whose share of world trade in industrial goods is less than 0.1 percent, as well as Members that have low levels of tariff bindings<sup>6</sup> (the so-called “Paragraph six countries”) have raised concerns regarding their contributions to a final outcome and will be required to make smaller commitments. In addition, several developing country Members continue to raise their concerns with the potential erosion of preferences or loss of government revenue due to tariff cuts.

Further progress was made on sectoral tariff initiative discussions in 2007. The United States continued efforts to inform other Members of the benefits of sectoral liberalization and began developing specific flexibility options for developing country Members based on sensitivities they raised in sector-specific discussions. The U.S. worked with other sponsors of sectoral initiatives to refine sectoral proposals and begin drafting the structure of individual sectoral agreements. Members have formally and informally proposed several sectors that are being considered for such agreements.

Non-tariff barriers remain an integral and equally important component of the NAMA negotiations. In line with the Hong Kong Ministerial Declaration, WTO Members continued to consider how NTBs could be addressed horizontally (*i.e.*, across all sectors), vertically (*i.e.*, pertaining to a single sector), and through a bilateral request/offer process. In 2007, the United States tabled a draft text for a proposed agreement to facilitate and harmonize labeling requirements for textiles, clothing, and footwear and travel goods as well as a proposal to address barriers to trade in remanufactured products. The United States also tabled bilateral requests of other WTO Members on a variety of NTB issues.

### **Prospects for 2008**

In 2008, work will focus on concluding the NAMA work within the overall Doha Round agreement, including the details of the Swiss formula and coefficients to be employed, the appropriate balance of flexibilities to be provided to developing country Members, the structure and participants for individual sectoral agreements, and agreements on specific NTBs. The United States continues to seek an ambitious approach that will deliver real market access in key developed and developing country Member markets, while supporting elements of flexibility for developing country Members that does not operate to undermine the overall ambition. 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 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) antidumping (often including similar issues relating to countervailing duty remedies); (2) subsidies, including fisheries subsidies; and (3)

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<sup>6</sup> Cameroon; Congo; Cote d’Ivoire; Cuba; Ghana; Kenya; Macao, China; Mauritius; Nigeria; Sri Lanka; Suriname; and Zimbabwe.

regional trade agreements. Since the Rules Group began its work in 2002, Members have submitted over 200 formal papers and over 150 elaborated informal proposals to the Group.<sup>7</sup> In 2004, the Group began a process of in-depth discussions of proposals in informal session to deepen the understanding of the technical issues raised by these proposals. In 2005, the Rules Chairman began holding a series of plurilateral consultations with smaller groups of interested Members, in order to have more intensive and focused technical discussions on elaborated proposals. In 2005, the Chairman also established a Technical Group as part of the Rules Group's work to examine in detail issues relating to antidumping questionnaires and verification outlines.

At the Hong Kong Ministerial Conference in December 2005, Ministers directed the Rules Group to intensify and accelerate the negotiating process in all areas of its mandate, on the basis of detailed textual proposals, and to complete the process of analyzing proposals as soon as possible. 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 accordance with the Hong Kong Declaration, the Rules Group accelerated its work in early 2006, and had completed analysis of most submitted proposals when work on the Doha Round was suspended in July 2006. Work in the Rules Group resumed in late 2006, and continued in 2007, focusing on in-depth analysis of several new or revised textual proposals submitted.

In November 2007, the Chairman of the Rules Group, Ambassador Guillermo Valles Galmés of Uruguay, issued draft consolidated texts on antidumping and on subsidies and countervailing measures, including fisheries subsidies. The texts were in the form of proposed revisions to the existing WTO Agreements on Antidumping and Subsidies and Countervailing Measures. Shortly after the text was issued, the United States publicly stated that it was very disappointed with important aspects of the draft text, but believed that it provided a basis for further negotiations.

The Rules Group held a meeting in December 2007 to discuss Members' initial reactions to the text. At this meeting, nearly all Members who commented expressed their disappointment with the text, but none rejected it as a basis for further work. The Chairman scheduled additional meetings in January and February 2008 for more in-depth review of the text by Members and stated his intention to circulate revised drafts of the text when he has sufficient basis to do so.

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, in July 2006, the Rules Group approved a draft decision for the provisional application of a "Transparency Mechanism for Regional Trade Agreements." In addition, the Rules Group has explored the establishment of further standards governing the relationship of RTAs to the global trading system.

### **Major Issues in 2007**

*Antidumping:* Since the Rules Group had largely completed its analysis of the outstanding antidumping proposals by June 2006, the antidumping discussions in 2007 focused on a few new proposals. While China and Egypt submitted new antidumping proposals in 2007, the proposal which engendered by far the most discussion in the Rules Group, was the one made by the United States in June 2007 to address the issue of offsets for non-dumped comparisons in antidumping proceedings, often referred to as the "zeroing" issue.

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<sup>7</sup> Both sets of Rules papers are publicly available on the WTO website: the formal papers may be found using the "TN/RL/W" document prefix, and the elaborated informal proposals may be found using the "TN/RL/GEN" prefix.

In submitting its zeroing proposal, the United States noted its strong disagreement with recent dispute settlement findings by the WTO Appellate Body regarding zeroing, and emphasized that zeroing must be addressed in the WTO Rules negotiations, so that the issue is resolved by rules agreed to by WTO Members.

Although it did not submit any new proposals in 2007, a group calling itself the “Friends of Antidumping Negotiations” (FANs) has been very active in the Rules Group since the beginning of the negotiations, generally seeking to impose limitations on the use of antidumping remedies. The FANs group consists of Brazil, Chile, Colombia, Costa Rica, Hong Kong China, Israel, Japan, Korea, Mexico, Norway, Singapore, Switzerland, Chinese Taipei, Thailand, and Turkey. Most of the FANs were strongly critical of the U.S. zeroing proposal.

In addition to submitting its zeroing proposal, the United States continued working to build support for proposals it had previously submitted, including those on issues such as injury causation, anticircumvention, new shipper reviews, and facts available, as well as a number of proposals to improve transparency and due process in antidumping proceedings. The United States also continued to be a leading contributor to the technical discussions aimed at deepening the understanding of Members of the issues raised in the Rules Group, drawing upon extensive U.S. experience and expertise as both a user of trade remedies and as a country whose exporters are often subject to other Members’ use of trade remedies. In addition to presenting its own submissions, the United States has remained actively engaged in addressing the submissions from other Members, carefully scrutinizing and vigorously questioning the technical merits of the issues they have raised, as well as seeking to ensure that the Doha Round mandate for the Rules negotiations is fulfilled.

The Chairman’s text issued in November 2007 addressed many of the antidumping issues raised by U.S. proposals, including zeroing, injury causation, anticircumvention, new shipper reviews, facts available and transparency and due process, but in many cases the text treated those issues in a very different fashion than did the U.S. proposal. With respect to zeroing, the Chairman’s text addressed important aspects of the U.S. proposal, by providing that zeroing would be permitted in reviews and in transaction-to-transaction and “targeted dumping” comparisons in antidumping investigations, but also provided, contrary to the U.S. proposal, that zeroing would not be permitted in average-to-average comparisons in investigations.

At the December Rules Group meeting, the United States expressed its preliminary views about the text, and voiced specific concerns about the text’s treatment of such issues as sunset reviews and zeroing in investigations. A number of Members, with Japan and India being the most vocal, submitted a joint statement at the December meeting expressing their unhappiness that the Chair’s text addressed the U.S. zeroing proposal at all and urged that zeroing should not be permitted.

*Subsidies/CVD:* In 2007, the United States, Australia, and India submitted textual proposals on subsidies issues. Most notably, the United States submitted a textual proposal to expand the prohibited category of subsidies. Currently, only two types of subsidies are prohibited by the SCM Agreement: export subsidies and import-substitution subsidies. However, serious market and trade distortions can also result from other types of subsidies. To strengthen the subsidies rules, the United States proposed expanding the current prohibition to include other types of subsidies, such as those listed in the now-lapsed “dark amber” category of subsidies, as well as other forms of egregious government intervention. The U.S. textual proposal also included a requirement that Members notify the WTO Committee on Subsidies and Countervailing Measures of any intended provision of equity capital as well as other transparency measures for all government-controlled companies.

The Chair's November draft text makes only relatively modest changes to the existing SCM Agreement. The text does include an important clarification to the existing rules by firmly establishing the "benefit-to-recipient" approach to the calculation of subsidy benefits, a position long advocated by the United States. In addition, the text includes enhanced disciplines on natural resources pricing and "dual pricing" practices, another issue of long-standing interest to the United States. Other areas of subsidies rules addressed within the Chair's text include: serious prejudice, state-owned banking practices, subsidy calculation methodologies, benefit pass-through, and export credits. Notably absent from the Chair's text were changes to the CVD provisions corresponding to proposals that were incorporated into the Chair's text for the AD Agreement on issues of common relevance. The Chair explained that such changes in the CVD provisions were not made because further technical discussions were needed.

In its initial comments on the Chair's text in December, the United States noted generally that the text would appear to result in little strengthening of the current general subsidy disciplines, despite the Doha negotiating mandate to clarify and improve the rules and address trade-distorting practices. The United States further commented that the text regrettably does not reflect the U.S. proposal on prohibited subsidies or other proposals that would significantly strengthen the rules, such as the reinstatement of the Article 6.1 "dark amber" provisions. The United States urged the Chair to rectify these deficiencies in subsequent versions of the text. The United States also strongly advocated that the process of determining which provisions of the AD draft text be considered for inclusion in the SCM Agreement start as soon as possible, given that the validity and appropriateness of each potential change would need to be assessed in light of the object and purpose of the SCM Agreement.

*Fisheries Subsidies:* The United States continues to believe that the fisheries subsidies negotiations provide an historic opportunity for the WTO to play its part in addressing environmental issues of global significance as well as traditional trade concerns. In March 2007, the United States submitted a significant proposal for legal text, based on a "top down" approach – a broad ban of subsidies to enterprises engaged in marine wild capture fishing, with narrowly targeted exceptions for subsidies that generally do not contribute to fleet overcapacity and overfishing (such as subsidies for marine conservation, disaster relief, early retirement and retraining for fishers, and vessel decommissioning under appropriate conditions). The United States also proposed new fishery-specific criteria for serious prejudice and text for provisions on anti-circumvention, notifications, review, transitional arrangements and consultations, and dispute settlement. Further, while not offering specific text on the issue, the United States expressed interest in exploring flexibility under appropriate conditions for programs that, by virtue of the small benefits conferred, would not contribute to overcapacity and overfishing but might nevertheless be inconsistent with the prohibition. Concerning the appropriate treatment of developing countries, the United States supported further work on proposals by Argentina and Brazil that would allow some otherwise-prohibited subsidies to developing country fishing fleets subject to a number of conditions related to environmental sustainability and fisheries management.

The United States proposal was generally well received, with many delegations stating that the proposal or significant parts of it could serve as the basis for further work. However, Japan, Korea, Chinese Taipei, and the European Communities, which have generally resisted stronger rules, continued to express reservations about the U.S. approach. Japan, Korea, and Chinese Taipei subsequently submitted a revision of their earlier proposal, centered on a "bottom up" approach (a narrow list of specific prohibitions combined with an expansive list of subsidies that would become non-actionable). Much of the remaining work of the Rules Negotiating Group centered on technical discussions of a joint proposal from Brazil and Argentina concerning special and differential treatment. The Brazil and Argentina approach, premised on the "top down" approach, sought to further develop sustainability criteria that should apply to exceptions from the broad prohibition for developing countries.

The Chair's November draft text draws upon the U.S. proposal in significant respects, although it adopted the "bottom up" approach rather than the "top down" approach supported by the United States and other Friends of Fish (including Argentina, Australia, Chile, Ecuador, Iceland, New Zealand, and Peru), as well as Brazil. The text includes a specific prohibition of almost all types of subsidies that contribute to fleet overcapacity and overfishing in wild marine capture fisheries. The text also provides for a limited list of general exceptions available to all Members and additional exceptions for developing countries, all of which would remain actionable under the existing SCM Agreement. In addition, the text contains provisions concerning fisheries management systems, peer review through the UN Food and Agricultural Organization (FAO), notification and surveillance, dispute settlement, and transition arrangements.

In the initial discussion of the Chair's text in December, Members supported using the text as the basis for further work. While expressing disappointment that the text did not adopt the "top down" approach, the United States and other Friends of Fish praised its level of ambition and said they would work to further improve it. The opponents of stronger disciplines – Japan, Korea, Chinese Taipei, and the European Communities – objected to the inclusion of a number of items in the prohibition (for example, fisheries infrastructure, processing, and operational costs, particularly fuel). Several developing countries, including Brazil, argued that the conditions placed on developing countries were too prescriptive and that the benefits conferred were too limited.

*Regional Trade Agreements:* The discussions on regional trade agreements in the Rules Group have focused on ways in which the WTO rules governing customs unions and free trade agreements, and economic integration agreements for services, might be clarified and improved.

In February 2007, the Rules Group held an informal meeting to discuss the implementation of the "Transparency Mechanism for Regional Trade Agreements" (WT/L/671). The General Council approved this provisional transparency mechanism in December 2006 to improve the transparency of RTAs. The General Council agreed that during the initial year of implementation, Members, with the assistance of the WTO Secretariat, would try to pinpoint any legal aspects that arise in the course of implementation. In December 2007, the Chair of the Rules Group concluded that the transparency mechanism is continuing to evolve, with minor adjustments to be made to its operations.

### **Prospects for 2008**

The Rules Group will meet in 2008 for more in-depth review of the draft texts by Members. The Chairman has stated his intention to circulate revised drafts of the texts when he has a sufficient basis to do so.

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. Concerning fisheries subsidies, the United States will continue to press for an ambitious outcome and work to further improve and refine many of the provisions included in the Chair's draft text.

On RTAs, the transparency mechanism will continue to evolve, with minor adjustments made to its operations. An initial substantive review of the mechanism, as foreseen by the Chair of the General Council, may take place but the exact timing of this review is yet to be determined. The United States will continue to advocate 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 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 2007**

The work of the Trade Facilitation Negotiating Group (TFNG) continued to have as its hallmark in 2007, 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 emergence within the TFNG of leadership from Members representing significant emerging markets, including India, the Philippines, Egypt, and China which, by working closely with the United States and others 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 played an important role on this issue.

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 these 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.

During 2007, the TFNG stepped up its work on addressing the challenge of implementing the results of the negotiations that will face many developing country Members. The WTO and assistance organizations, including the U.S. Agency for International Development, began training exercises with

developing country Members to help them to undertake assessments of their individual situations regarding capacity and how to progress toward implementing the proposals submitted. There has also been intensified work on issues related to technical assistance, such as a potential role for a future Committee. Informally, it is already 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. A similar dynamic emerged toward taking up how to address “special and differential” treatment as part of the negotiating outcome, with concrete and creative proposals emerging out of informal joint cooperative work by various developed and developing country Members.

As the 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. Each of our 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.

The proposals by Members for specific new and strengthened WTO commitments submitted thus far to the Trade Facilitation negotiations 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. Notably, the submission of many of these proposals, as well as their initial discussions within the negotiating group, has featured alliances not traditionally seen at the WTO. Examples include a U.S. joint proposal with Uganda (calling for elimination of consularization formalities and fees) and a joint proposal with India (proposing a cooperation mechanism for customs facilitation and compliance).

The work of the TFNG during 2007 was characterized by intensive, Member-driven, text-based negotiations. Members submitted and revised textual proposals in an effort to narrow differences and build support. The approach of crafting a draft text through a “bottom up” Member-driven process, rather than through a chair-issued text, continued to enjoy strong support among Members. Among the proposals discussed, the TFNG devoted considerable time and attention to proposals on special and differential treatment and trade-related technical assistance.

### **Prospects for 2008**

2008 will likely bring a continuation of the NGTF’s text-based, Member-driven “focused drafting mode,” in a process aimed at achieving a timely conclusion of text-based 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. It is possible that some further specific proposals may be submitted, but it is likely that much of the work will involve the consideration of the proposals listed below as part of a process leading to refinement and, ultimately, articulation of some into an agreed text.

## **MEASURES PROPOSED BY WTO MEMBERS RELATED TO GATT ARTICLES V, VIII, AND X<sup>8</sup>**

- A. Publication and Availability of Information
  - Publication of Trade Regulations and Penalty Provisions
  - Internet Publication
  - Notification of Trade Regulations
  - Establishment of Enquiry Points/SNFP/Information Centers
- B. Time Periods between Publication and Implementation
- C. Consultation and Comments on New and Amended Rules
- D. 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
  - Import Alerts/Rapid Alerts
  - Detention
  - Test Procedures
- G. Fees and Charges Connected with Importation and Exportation
  - General Disciplines on Fees and Charges Imposed on or in Connection with Importation and Exportation
  - 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
  - Non-discrimination
  - Periodic Review of Formalities and Requirements
  - Reduction/Limitation of Formalities and Documentation Requirements
  - Use of International Standards
  - Uniform Customs Code
  - Acceptance of Commercially Available Information and of Copies
  - Automation
  - Single Window/One-time Submission
  - Elimination of Pre-Shipment Inspection
  - 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
  - Pre-arrival Clearance

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<sup>8</sup> As set out in the report of the Negotiating Group on Trade Facilitation to the Trade Negotiations Committee (TN/TF/3; November 21, 2005), endorsed by the Ministers at the December 2005 Hong Kong Ministerial and included in Annex E of the Hong Kong Ministerial Declaration. *See also* WTO Negotiations on Trade Facilitation: Compilation of Members' Textual Proposals (TN/TF/W/43/Rev.13; November 5, 2007).

- Expedited Procedures for Express Shipments
- Risk Management /Analysis, Authorized Traders
- Post-Clearance Audit
- Separating Release from Clearance Procedures
- 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
- Disciplines on Transit Formalities and Documentation Requirements
- Improved Coordination and Cooperation
- Operationalization and Clarification of Terms
- Quota-free Transit Regime

### **MEASURES RELATED TO COOPERATION BETWEEN CUSTOMS AND OTHER AUTHORITIES ON TRADE FACILITATION (TF) AND CUSTOMS COMPLIANCE**

Exchange and Handling of Information

### **MEASURES RELATED TO SPECIAL & DIFFERENTIAL (S&D) TREATMENT, TECHNICAL ASSISTANCE & CAPACITY BUILDING (TACB), CAPACITY ASSESSMENT AND OTHER IMPLEMENTATION MATTERS**

Implementation Mechanism of TF Commitments Including Key Elements for Technical Assistance

Implementation Mechanism for S&D and TACB Support

## **6. Committee on Trade and Environment, Special Session**

### **Status**

Following the 2001 WTO Ministerial Conference at Doha, the Trade Negotiations Committee (TNC) established a Special Session of the Committee on Trade and Environment (CTE) 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 2007

In 2007, the CTE in Special Session (CTESS) had an intense schedule of formal and informal meetings, which focused primarily on DDA sub-paragraphs 31(ii) and 31(iii) of the negotiating mandate. Members made excellent progress on paragraph 31(ii) concerning the procedures for information exchange and observership for MEAs. Based on the broad support for a paper put forward by the United States in early 2007 (TN/TE/W/70), the CTESS Chair developed “elements of a draft text” for delegations to consider and discuss. While there remain a few minor differences of view, Members have largely agreed on the major elements of future procedures to exchange information with MEA secretariats, as well as a short set of flexible, non-exhaustive criteria for WTO committees to consider when reviewing observership requests from MEA secretariats.

Members continued in 2007 to intensify their discussions under paragraph 31(iii) on environmental goods, seeking to clarify the scope of the mandate and move closer to a result in the negotiations. Since the negotiations began, nine Members have put forward lists of environmental goods that should be addressed in the negotiations, including the United States, which proposed a list of 155 products in July 2005. The products included in Members’ lists (such as air pollution filters and solar panels) have been compiled in the WTO Secretariat’s *Synthesis of Submissions on Environmental Goods*.<sup>9</sup> More recently, in an effort to advance the negotiations and focus their scope, the United States, together with nine other Members, developed a set of 156 products for tariff liberalization that could offer a basis for convergence among a wider group of delegations. The proposal, tabled in April 2007<sup>10</sup>, covers a broad variety of products, including air pollution control technologies, renewable energy technologies, and wastewater treatment equipment. The United States and the European Communities followed-up on this proposal with an even more ambitious and innovative proposal in November 2007 that calls upon WTO Members to eliminate tariffs and other trade barriers to climate-friendly technologies and services on a priority basis and lays the groundwork for a broader, ground-breaking WTO agreement on environmental goods and services (EGSA).<sup>11</sup> While many Members noted their interest in these more focused proposals, discussions also continued on India’s “alternative” approach to multilateral tariff-cutting negotiations, described as the national “Environmental Project Approach.” In addition, Brazil proposed a traditional “request-offer” negotiation as the means to an outcome on environmental goods, whereby individual WTO Members would make requests of other Members based on agricultural and/or industrial products of interest. Members raised questions about the operability and transparency of such a proposal. There continues to be, at this stage, a divergence of views among Members as to how the work should proceed in the CTESS, and how the CTESS should interface with other negotiating groups where environmental goods and services market access are also under discussion.

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 noted their interest in continuing experience-based discussions and have resisted premature consideration of potential results in the negotiations. The same majority of Members have opposed outcomes that go beyond the sub-paragraph 31(i) mandate by altering Members’ WTO rights and obligations.

## Prospects for 2008

In 2008, the CTESS is expected to move toward fulfillment of all aspects of the mandate under Paragraph 31 of the Doha Declaration, taking into account the progress made in related negotiating groups. Under sub-paragraph 31(i), Members are expected to wrap up their discussions of national

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<sup>9</sup> This compilation is contained in document TN/TE/W/63, which is available on the WTO website, [www.wto.org](http://www.wto.org).

<sup>10</sup> JOB(07)54

<sup>11</sup> JOB(07)193. A summary of the proposal is available on USTR’s website, [www.ustr.gov](http://www.ustr.gov).

experiences in the negotiation and implementation of STOs set out in MEAs, including drawing any lessons that might be learned from such experiences. The United States continues to view this experience-based exchange as the best way to explore the relationship between WTO rules and STOs contained in MEAs and maintains that these experiences should form the basis for an outcome in the negotiations. Discussions under sub-paragraph 31(ii) are likely to become more concrete and text-based in the coming year, as many Members feel that this is an area that is ready for progress. 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 will remain the primary forum for discussing the importance of liberalization in both environmental goods and services in order to secure concrete benefits associated with access to state-of-the-art environmental technologies that promote sustainable development. The United States will continue to show leadership in advancing a robust outcome in the negotiations, including further development of an EGSA, which can open markets for environmental goods and advance Members' environmental and development policies.

## **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: (i) 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; (ii) 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 Chairman of the Special Session of the DSB (DSB-SS); and (iii) 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 2007**

The DSB-SS met eight times during 2007 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 United States has advocated two proposals. One would expand transparency and public access to dispute settlement proceedings. The proposal would open WTO dispute settlement proceedings to the public for the first time 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. For example, the current dispute settlement rules do not provide for suspending appeal proceedings to allow parties additional time to seek to negotiate a settlement. The U.S. proposal would provide for the ability to obtain such a suspension. Similarly, under the current rules parties are required to accept findings in reports that may detract from a resolution of a dispute, for example because they are not necessary or helpful to resolve the dispute. The U.S. proposal would provide opportunities to delete such findings so that reports would be more closely aimed at resolving particular disputes.

### **Prospects for 2008**

In 2008, Members will continue to work to complete the review of the DSU. Members will be meeting several times over the course of 2008.

## **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 topic is the only issue before the Special Session of the TRIPS Council.

### **Major Issues in 2007**

During 2007, the TRIPS Council Special Session held several informal consultations on implementation of Article 23.4 of the TRIPS Agreement, working to facilitate discussion on a multilateral notification and registration system for certain GIs. There was no significant shift, during the course of the year, in currently-held positions among WTO Members, 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 upon this document in May 2007, with an addendum detailing the various arguments and questions raised by proponents of these proposals (TN/IP/W/12/Add. 1). In a July 2007 report to the TNC (TN/IP/17), the Chairman 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).

The United States, together with Argentina, Australia, Canada, Chile, Colombia, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Japan, Namibia, New Zealand, the Philippines, 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. 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 GIs obligations 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 is reflected in a June 2005 document in the form of draft legal text that 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 beyond 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 be automatically protected as a GI throughout the world with very few permissible grounds for objection. 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.

A third proposal, from Hong Kong, China, remains on the table. This proposal is aimed at establishing a system under which a registration should be accepted by participating Members' domestic courts, tribunals, or administrative bodies as *prima facie* evidence: (a) of ownership; (b) that the indication is within the definition of GIs under Article 22.1 of the TRIPS Agreement; and (c) that it is protected in the country of origin. The intention is that the issues will be deemed to have been proved unless evidence to the contrary is produced by the other party to the proceedings before domestic courts, tribunals, or administrative bodies when dealing with matters related to GIs. In effect, a presumption that could be rebutted is created in favor of owners of GIs in relation to the three issues identified above. Although this proposal has been discussed in the Special Session, it has not been endorsed by supporters of either the Joint Proposal or the EU proposal.

### **Prospects for 2008**

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 Trade Negotiations Committee (TNC) in February 2002, to fulfill the Doha 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 WTO Agreements and, ultimately, full integration into the multilateral trading system. 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 WTO agreements. 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, 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 turned their focus in the CTD-SS to 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.

### Major Issues in 2007

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. In 2007, the Chairman of the CTD-SS continued 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 reported that there has been very little development on these proposals. However, some of the Chairs of the negotiating bodies indicated 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 7 of the 16 remaining Agreement-specific proposals. These proposals cover issues relating to the scope for action relating to government subsidies, balance-of-payments adjustment and infant industry protection under Article XVIII (two proposals); access to WTO waivers for non-LDC developing country Members; transition periods under the SPS Agreement; and

allocation of Import Licenses to developing country Members. No consensus on these proposals emerged during the discussions in 2007. The nine remaining Agreement-specific proposals that have been set aside at the instruction of the Chair will not be addressed until new ideas or new language is tabled.

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.” In 2007, the possible elements of a Monitoring Mechanism continued to be discussed. During formal and informal meetings, Members have continued to emphasize the need for the mechanism to be simple, practical, and forward-looking. There continues to be disagreement among Members as to whether the mechanism requires a new bureaucratic structure to function and whether the scope of the mechanism should be broadened to include monitoring the implementation and effectiveness of special and differential provisions.

### **Prospects for 2008**

In 2008, work will continue on the remaining S&D proposals and on the underlying issues inherent in them. As in 2007, much of the practical work on S&D in 2008 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.

## **C. 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 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 2007**

The WGTDF held one formal meeting in 2007. The Members discussed whether it was prudent to revisit issues previously discussed due to recent global events or whether there were new topics that should be discussed.

At this meeting, the United States and other Members continued to stress the importance that the Working Group avoid venturing into discussions and work already covered by the mandates of the IMF and World Bank as well as other relevant bodies of the WTO.

## **Prospects for 2008**

In 2008, the WGTDF will examine whether it has exhausted its mandate concerning the relationship between trade, debt, and finance, and make 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 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.” In fulfillment of that mandate, the Trade Negotiations Committee (TNC) established the Working Group on Trade and Transfer of Technology (WGTTT), under the auspices of the General Council, which would report on its progress to the 2003 Ministerial Conference at Cancun. The WGTTT met four times in 2007, continuing its Doha Ministerial mandate to examine the relationship between trade and the transfer of technology. 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.” Members have not reached consensus on any recommendations.

### **Major Issues in 2007**

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 under the TRIPS Agreement promote the transfer of technology by private firms, rather than hindering such transfer, as the paper suggested.

During these discussions, the United States and other Members consistently argued that market-based trade and investment are the most efficient means of promoting technology transfer and that governments should generally not require 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. The United States and other Members suggested that developing country Members take steps to enhance their ability to absorb foreign technologies and described how technical assistance could promote technology transfer and absorption. Finally, the United States and other Members expressed the view that many of the issues raised should be discussed in WTO bodies with expertise on the particular subject matter.

During 2007, the Chair of the working group encouraged Members to share their experiences with technology transfer initiatives. The Philippines made a presentation on its experience with technology

generation and its transfer. The presentation stressed that the successful transfer of technology played an important role in stimulating the formation and growth of advanced technology entrepreneurial start-ups, contributed to increased revenues of existing firms, and made a positive contribution to the country's economic development. In addition, improved allocation of resources among economic sectors and industries, as well as the generation and adaptation of technology, resulted in better organization of firms, which led to greater competitiveness, growth, and productivity across the economy. Members agreed that this presentation was useful and the Chair encouraged other Members to make similar presentations.

In October 2005, India, Pakistan, and the Philippines submitted a new paper, also entitled “Steps that Might be Taken within the Mandate of the WTO to Increase Flows of Technology to Developing Countries.” This paper continued to be the focus of much of the WGTTT’s discussion in 2007, including a number of question-and-answer discussions. The submission focused on: expanding technical assistance under the TRIPS Agreement; encouraging multinational firms to perform science and technology development work in developing countries; discouraging use of allegedly restrictive business practices by technology owners; and enhancing mobility of scientists and technicians under the GATS Agreement. Although this paper raises some of the same concerns as previous submissions, the United States and other Members expressed appreciation for the pragmatic tone and viewed it as a good basis for further discussions. The United States and other developed country Members noted the extent to which the technical assistance issues raised in this paper may already be addressed under the existing programs. Further, Members urged a discussion of ways in which measurement of restrictions on FDI and technology transfer could be built into the consideration of the proposals tabled.

### **Prospects for 2008**

As of this writing, no WGTTT meetings have been scheduled in 2008. It is expected that other Members will follow up on the Philippines’ discussion of its national experience by making similar presentations of their own, and that the group will continue its examination of issues raised in the October 2005 India/Pakistan/Philippines paper.

## **3. Work Program on Electronic Commerce**

### **Status**

Pursuant to the Hong Kong Ministerial Declaration, Members are working to reinvigorate the Work Program on Electronic Commerce. To that end, Members are considering development-related issues and the trade treatment, *inter alia*, of electronically delivered software. In addition, the moratorium on imposing customs duties on electronic transmission, first agreed to in 1998, continues until the next Ministerial Conference.

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 2007**

The Work Program on Electronic Commerce remains an item in the Doha mandate. There have been no follow-up dedicated discussions since the meeting in November 2005 during which Members examined

two issues raised by the United States – the trade treatment of electronically delivered software and the customs duties moratorium on electronically transmitted products. No sessions of the Work Program were held in 2007.

### **Prospects for 2008**

The United States remains committed to advancing meaningful trade policies that promote the growth of electronic commerce. Indeed, the focus of work in all negotiating groups has been to advance market openings in key information technology product and service sectors. Market access for these products and services will further encourage the expansion of electronic commerce. The United States continues to support extending the current practice of not imposing customs duties on electronic transmissions and is in the process of examining ways to make the moratorium permanent and binding in the future. Furthermore, the United States will work to focus Members' attention on the growing importance of maintaining a liberal trade environment for electronically-delivered software. Depending on progress in the overall Doha Round in 2008, Members would renew their efforts under the Work Program to work toward those objectives.

## **D. 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. However, no ministerial-level conference was held in 2007 due to the pressing work of the Doha Round negotiations. The General Council and Ministerial Conference consist of representatives of all WTO Members.

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 their work is reviewed in the Working Group on Trade, Debt, and Finance and the Working Group on Trade and Transfer of Technology sub-sections of Section C.

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.

### **Major Issues in 2007**

Throughout 2007, 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 2007, however, the main focus of work in the DDA negotiations was in the individual negotiating groups and reports on those groups are set out in other sections of this chapter.

Ambassador Muhamad Noor Jacob of Malaysia served as Chairman of the General Council in 2007. In addition to work on the DDA, activities of the General Council in 2007 included:

*Accessions:* Capping over six years of work, the General Council approved the terms of accession for Cape Verde in December 2007 (see section on Accessions in Section J.6). The General Council also approved requests from Comoros and Liberia to initiate accession negotiations.

*Aid for Trade:* In November 2007, the General Council held its first annual debate on Aid for Trade, which served as the final segment of a global review of Aid for Trade. This review was aimed at taking stock of what was happening on Aid for Trade, identifying what should happen next, and improving WTO monitoring and evaluation of this issue (see section on Aid for Trade in Section J.7).

*China Transitional Review Mechanism:* In December, the General Council concluded its sixth annual review of China's implementation of the commitments that China made in its Protocol of Accession. The United States and other Members commented on China's progress as a WTO Member, while also raising concerns in areas such as intellectual property rights enforcement, and urged China to make further progress toward the institutionalization of market mechanisms, fairness, transparency, and predictability in its trade regime.

*Bananas:* Several banana-producing Latin American Members continued to register complaints regarding the effect of enlargement and tariffication of quotas under the EU banana regime. Under Article XXVIII, a WTO Member that considers it has a "substantial interest" that is not being recognized by the relevant Member may refer the matter to the General Council for a formal determination. The General Council considered these complaints over the course of 2007, but the issue remains unresolved.

*Jones Act Review:* Paragraph three of GATT 1994 mandates the General Council to conduct a review every two years to ascertain whether the original conditions creating the need for the exemption under this paragraph "still prevail." That exemption applies to certain statutory provisions (collectively referred to as the "Jones Act") that the United States notified to the WTO that prohibit foreign-built or repaired ships from engaging in the coastwise trade (*i.e.*, cabotage). The United States would lose this exemption if the Jones Act were amended to become less WTO-consistent. The General Council conducted its fifth review of Paragraph three in December 2007. During this review, a number of WTO Members raised concerns about the impact of the Jones Act on their commercial interests. The General Council took note of the statements made during this year's review and agreed that the next review would begin in 2009.

*Waivers of Obligations:* The General Council adopted waiver extension requests for the U.S. preference program for the Former Trust Territory of the Pacific and for Mongolia's accession commitment on export of raw cashmere. It also adopted the waivers for the Harmonized System 1996, 2002, and 2007

changes to WTO schedules of tariff concessions. Annex II contains a detailed list of Article IX waivers currently in force.

### **Prospects for 2008**

The General Council is expected to be more active in 2008 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.

## **E. 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 European Union and the United States, respectively.

### **Major Issues in 2007**

In 2007, the CTG held five formal meetings in January, March, May, July, and November. 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 2007:

*Waivers:* The CTG approved several requests for waivers, including those related to the implementation of the Harmonized Tariff System and renegotiation of tariff schedules, and the United States' request for an extension of the waiver for the Former Trust Territory of the Pacific Islands. In addition, the CTG took up waiver requests for which discussions are continuing: 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 EU's request for an extension of its Africa, Caribbean, and Pacific (ACP) group banana tariff rate quota; and Senegal's request for an extension of its waiver for continued use of minimum values for customs valuation purposes.

*China Transitional Review:* On November 23, the CTG conducted the sixth 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 (see Chapter III Section E on China for a more detailed discussion of China's implementation of WTO commitments).

*Textiles:* The CTG met several times to review a proposal by small exporting Members 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 that had characterized this sector for so long.

## **Prospects for 2008**

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 Agriculture 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 Agriculture Agreement. In many cases, the Agriculture 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 LDC and net food-importing developing country (NFIDC) Members.

Since its inception, the Agriculture 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 Agriculture 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 Agriculture Committee, Members have, for the most part, complied with the agricultural commitments that they undertook in the WTO. However, there have been important exceptions where U.S. agricultural trade interests have been adversely affected by other Members' agricultural policies. In these situations, the Agriculture Committee has frequently served as an indispensable tool for resolving conflicts before they become formal WTO disputes.

### **Major Issues in 2007**

The Agriculture Committee held three formal meetings in March, September, and November 2007 to review progress on the implementation of commitments negotiated in the Uruguay Round. At those 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, 40 notifications were subject to review during 2007. The United States participated actively in the review process and raised specific issues concerning the operation of Members' agricultural policies. The Committee proved to be an effective forum for raising issues relevant to the implementation of Members' commitments. For example, the United States used the review process to raise concerns about Japan's state trading enterprises and the distribution and marketing of imported rice, as well as Nigeria's import bans on certain agricultural products and its use of reference prices for custom valuation purposes instead of actual declared values. The United States also raised concerns about the European Union's low pork quota fill and their pork tariff-rate quota (TRQ) administration, as well as Tunisia's low quota fill for almonds, other tree nuts, snack food, confectionary products, processed fruits and vegetables, and raisins and Tunisia's TRQ administration including value-added taxes (VAT). In addition, the United States used the review process to raise concerns about reports that Thailand's allocation of some tariff-rate quotas, for soybeans, soybean meal, corn, skimmed milk, and fresh potatoes for example, are subject to a domestic purchase requirement by the quota recipients.

The United States also raised questions concerning how China allocates TRQs for cotton; the Dominican Republic's TRQ administration and the fact that no trade had entered under its chicken quota; and elements of domestic support programs used by Brazil, Canada, and the EU.

During 2007, the Agriculture Committee addressed a number of other agricultural implementation-related issues, 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 TRQs in accordance with the General Council's decision regarding the administration of TRQ regimes in a transparent, equitable, and non-discriminatory manner; (3) annual monitoring of the Marrakesh NFIDC decision on food aid; 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.

Also during 2007, the Committee conducted the sixth annual Transitional Review Mechanism for China, which is required as part of that country's Protocol of Accession. The United States asked about China's VAT exemptions and export VAT rebates and stated the need for more transparency in China's TRQ administration for bulk agricultural commodities, specifically mentioning cotton.

### **Prospects for 2008**

The United States will continue to make full use of the Agriculture 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 any other trade-distorting practices by WTO Members. In addition, the Committee will continue to monitor and analyze the impact of the possible negative effects of the reform process on least-developed and NFIDCs in accordance with the Agriculture Agreement.

## **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 MA Committee reports to the Council on Trade in Goods.

### **Major Issues in 2007**

The MA Committee held two formal meetings in April and October 2007 to discuss the following topics: (1) the ongoing review of WTO tariff schedules to accommodate updates to the Harmonized Tariff System (HTS) tariff nomenclature; (2) the WTO Integrated Data Base; and (3) finalizing consolidated schedules of WTO tariff concessions in current HTS nomenclature. The Committee also conducted its sixth annual Transitional Review of China's implementation of its WTO accession commitments.

*Updates to the HTS nomenclature:* The MA Committee examines issues related to the transposition and renegotiation of the schedules of certain Members that adopted the HTS in the years following its introduction on January 1, 1988. Since then, the HTS nomenclature has been modified in 1996, 2002, and 2007. Using agreed examination procedures, Members have the right to object to any proposed nomenclature change affecting bound tariff 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 HTS 1996 changes, but Argentina and Panama continue to require waivers.

In 2005, the MA Committee agreed to new procedures using the Consolidated Schedule of Tariff Concessions (CTS) database and assistance from the Secretariat for the introduction into Members' schedules and verification of the 373 amendments that took effect on January 1, 2002 (HTS 2002). Work on this conversion to HTS 2002, which is essential to laying the technical groundwork for analyzing tariff implications of the DDA negotiations, continued throughout 2007.

In January 2007, the Committee began the process of the transposition of Members' schedules to HTS 2007, and at its meeting of April 4, 2007, the Committee discussed the WTO Secretariat's procedures and timelines for this work.

*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. In 2007, the Committee granted requests from three intergovernmental organizations and NGOs for access to the IDB and CTS databases.

*Consolidated Schedule of Tariff Concessions (CTS):* 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; HTS 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.

*China Transitional Review:* In October 2007, the MA Committee conducted its sixth 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 quotas on raw materials and value-added tax exemptions.

## **Prospects for 2008**

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 HTS 2002 revision. In addition, the Committee will continue to organize and conduct the conversion of Members' schedules to HTS 2007.

## **3. Committee on the Application of Sanitary and Phytosanitary Measures**

### **Status**

The Agreement on the Application of Sanitary and Phytosanitary Measures (the SPS Agreement) establishes rules and procedures that ensure that WTO Members' SPS measures address human, animal, and plant health concerns, do not arbitrarily or unjustifiably discriminate between Members' agricultural and food products, are not disguised restrictions on trade, and are not more trade restrictive than necessary. SPS measures protect against risks associated with plant or animal borne pests and diseases as well as additives, contaminants, toxins, and disease-causing organisms in foods, beverages, and feedstuffs.

Fundamentally, the SPS Agreement provides that SPS measures be based on science; be based on risk assessment; and, in cases where no international standard exists or the proposed measure is not substantially the same as the relevant international standard and may have a significant trade impact, notified to the WTO SPS Secretariat for distribution to other Members in sufficient time for Members to comment before final decisions are made, except in cases of emergency when standards can be immediately implemented. The SPS Agreement provides for each Member to adopt a level of protection it considers appropriate with respect to SPS risk consistent with the obligations described above.

The Committee on the Application of Sanitary and Phytosanitary Measures (the SPS Committee) is a forum for consultation on Members' existing and proposed SPS measures, the implementation and administration of the SPS Agreement, technical assistance, and the activities of the international standard setting bodies recognized in the SPS Agreement. These international standard setting bodies are: the Codex Alimentarius Commission, for food; the World Organization for Animal Health (OIE), for animal health; and the International Plant Protection Convention (IPPC), for plant health. The SPS Committee also discusses specific provisions of the SPS Agreement, including: transparency in Members' development and application of SPS measures (Article 7); equivalence (Article 4); regionalization (Article 6); technical assistance (Article 9); and special and differential treatment (Article 10). There is no consensus that the current text of the SPS Agreement needs to be changed and some members indicate that prevailing SPS issues and concerns generally stem from the failure of Members to implement fully existing obligations under the SPS Agreement. With this view in mind, the Committee has undertaken focused discussions on various articles of the SPS Agreement. These discussions have provided Members the opportunity to share experiences regarding implementation of SPS measures and to develop procedures to assist Members in meeting specific SPS obligations.

For example, the SPS Committee has elaborated procedures or guidelines regarding notification of SPS measures, the "consistency" provisions under Article 5.5 of the SPS Agreement, equivalence, and transparency regarding the provisions for special and differential treatment.

Participation in the SPS Committee is open to all WTO Members. In addition, representatives from a number of international intergovernmental organizations are invited to attend Committee meetings as observers on an *ad hoc* basis. A partial list of such observers includes: the Food and Agriculture Organization (FAO); the World Health Organization (WHO); the Codex Alimentarius Commission; the IPPC; the OIE; the International Trade Center; and the World Bank.

### **Major Issues in 2007**

In 2007, the SPS Committee met on three occasions in March, June, and October. Members have increasingly utilized SPS Committee meetings to raise concerns regarding new and existing SPS measures of other Members. For example, in 2007, the United States raised concerns with measures imposed by India on dairy products and its avian influenza restrictions, China's and El Salvador's zero tolerance for salmonella on raw meat and poultry, and Australia's restrictions on apple imports. In addition, Members treat Committee meetings as a forum for exchanging views and experiences regarding the implementation of various provisions of the SPS Agreement, such as transparency, regionalization, and equivalence. Members also provide information to the SPS Committee on efforts to declare areas of their country free from specified pests and diseases. The United States views these steps as positive developments, as they demonstrate a growing familiarity with the provisions of the SPS Agreement and increasing recognition of the value of the SPS Committee as a venue to discuss SPS-related trade issues among Members.

*BSE - TSE*<sup>12</sup>: The SPS Committee devoted considerable time to discussing Members' measures restricting trade as a result of incidents of animal diseases, including trade in beef and beef products due to BSE-related concerns. U.S. beef and other bovine-related exports were severely restricted by several Members after the detection of a single imported cow in Washington State in 2003 infected with the disease and two additional cases (one in 2005 in Texas, and one 2006 in Alabama). At each of the meetings, the United States updated Members with regard to its BSE surveillance program that indicates BSE prevalence in the United States is extremely low. The United States encouraged all Members who have BSE-related measures in place that unjustifiably restrict trade in U.S. beef and beef products to remove them based on the available scientific evidence clearly demonstrating the safety of U.S. beef and cattle. Other Members joined the United States by noting concerns that many Members' restrictions did not appear to be based on the international standard established by the OIE and that no scientific justification was provided by Members banning imports of beef and beef products. The United States expects that BSE will continue to be an issue raised in the SPS Committee.

*Avian Influenza*: During the 2007 SPS Committee meetings, several WTO Members reported on their efforts to control and eradicate avian influenza (AI) and the resulting restrictions on trade in poultry. Members expressed concerns with the restrictions implemented by certain other Members on trade in poultry that either did not appear to be based on the international standards established by the OIE or did not appear to adhere to the regionalization provisions of the SPS Agreement or otherwise justified by a science-based risk assessment. In response to the U.S. intervention on India's specific restrictions at the October meeting, the delegate from the OIE further reiterated that India's restrictions were not based on international standards or science and urged India to review its measures and international obligations.

*Notifications*: The SPS notification process is becoming increasingly important for trade and has also provided a means for Members to report on determinations of equivalence and special and differential treatment. In 2007, the United States and other Members expressed concern about the failure of some Members to notify SPS measures which could have significant effects on trade. The United States made

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<sup>12</sup> Bovine Spongiform Encephalopathy and Transmissible Spongiform Encephalopathy.

311 SPS notifications to the WTO Secretariat in 2007 and submitted comments on 61 SPS measures notified by other Members.

*Regionalization:* The SPS Committee held informal meetings on regionalization in advance of each formal Committee meeting in 2007. Regionalization can be an effective means to reduce restrictions on trade due to animal and/or plant health concerns. In many cases, country-wide import prohibitions can be reduced to state- or county-wide prohibitions, depending on the characteristics of the pest or disease at issue as well as other factors. Some Members expressed concerns with the time Members require to make regionalization decisions and to publish the appropriate regulations, and are seeking to establish timeframes for decision-making. Due to the unique circumstances of the pest or disease in question, environmental factors, the SPS infrastructure, and other significant issues, the United States believes the OIE and IPPC Commissions are the appropriate bodies to consider the need and utility of timeframes. The United States is working with Members on both sides of the timeframe issue to develop a consensus approach to the regionalization debate in the Committee. The SPS Committee will continue to discuss this issue. The United States expects to present a draft guidance document to the Committee on behalf of the small working group in early 2008.

*China's Transitional Review Mechanism:* The United States participated in the SPS Committee's sixth review of China's implementation of its WTO obligations as provided for in paragraph 18 of the Protocol on the Accession of the People's Republic of China. The United States submitted questions regarding China's notification and transparency procedures; the scientific basis for specific SPS measures which restrict U.S. exports; risk assessment procedures; and control, inspection and approval procedures. Other Members also provided written comments and questions and offered comments during the review. China responded orally during the review and restated its commitment to implement fully the provisions of the SPS Agreement.

### **Prospects for 2008**

The SPS Committee will hold three meetings in 2008, and informal sessions are anticipated in advance of each formal 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. The Committee will also continue to serve as an important venue for Members to exchange information on SPS-related issues, including BSE, AI, food safety measures, and technical assistance.

The United States anticipates that the SPS Committee will also focus on furthering priorities identified in the third review, such as the implementation of transparency, regionalization, and the provision of technical assistance under 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. The SPS Committee will also discuss the proliferation of private and commercial standards and how best to enhance the *ad hoc* consultation provisions of the Agreement for all members.

## **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 Council on Trade in Goods (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 2007**

The TRIMS Committee held one formal meeting during 2007.

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. A revised version of these proposals, circulated in April 2007, was discussed at informal meetings on June 20, 2007 and October 26, 2007.

As was the case for the previous versions, one proposal argued that Members should interpret and apply the TRIMS Agreement in a manner that supports WTO-consistent measures taken by African Members to safeguard their balance of payments. A second proposal argued that LDC or other low-income Members experiencing balance-of-payments difficulties should be permitted to maintain measures inconsistent with the TRIMS Agreement for periods of not less than six years. The final proposal would require the CTG to grant new requests from certain African Members for the extension of transition periods or for fresh transition periods for the notification and elimination of TRIMS.

In response to these proposals, the United States and other Members argued that any TRIMS imposed for balance-of-payments purposes must follow existing WTO rules on balance-of-payments safeguards. The United States also argued that it would not be appropriate to adopt fixed time periods for maintaining TRIMS in response to balance-of-payments crises given the varying nature of such crises and that, given the lack of requests for TRIMS extensions from LDC Members to date, it was not clear that a policy of automatically granting requests for longer TRIMS transition periods was warranted.

The Committee Chair reported to the General Council that the revised version of these proposals had not led Members closer to a consensus. The TRIMS Committee is expected to continue these discussions in 2008.

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 sixth annual review in 2007 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 and to convey to China, in a multilateral setting, the concerns that it has regarding Chinese practices and/or regulatory measures that may not be in accordance with China’s WTO commitments. During the November meeting of the TRIMS Committee, U.S. questions focused on China’s foreign investment policies, and, in particular, China’s new mergers and acquisitions regulations, China’s automobile industrial policy, and China’s steel policy. U.S. questions also continued to focus on China’s Foreign

Investment Catalogue. U.S. agencies are analyzing China's policies and its responses to U.S. questions in an effort to decide whether and how to pursue these issues during future meetings of the CTG or the TRIMS Committee.

### **Prospects for 2008**

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<sup>13</sup>**

### **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 2007**

The Committee on Subsidies and Countervailing Measures (the SCM Committee) held three formal meetings in 2007, in April, October, and December. The Committee continued to review and clarify the consistency of Members' domestic laws, regulations, and actions with the SCM Agreement's requirements. During the October meeting, the Committee held its sixth review of China's implementation of the SCM Agreement, pursuant to the Transitional Review Mechanism provided by China's protocol of WTO accession. Other issues addressed in the course of the year included: a further extension of the transition period for the phase-out of export subsidies for certain developing country Members, the examination of specific export subsidy program extension requests, the updating of the methodology for Annex VII(b) of the SCM Agreement and consideration of new members for the Permanent Group of Experts. 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) measures which meet the definition of a subsidy and which are specific to certain recipients within the territory of the notifying Member. Notifications of CVD legislation and actions, as well as subsidy notifications, were reviewed and discussed by the SCM Committee at the meetings in April and October.

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 Agreement. At the end of 2007, 87 WTO Members (counting the 27 member states of the European Union as one) have notified that they currently

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<sup>13</sup> For further information, see also the Joint Report of the United States Trade Representative and the U.S. Department of Commerce, *Subsidies Enforcement Annual Report to the Congress*, February 2008.

have CVD legislation in place, or have notified that they have no such legislation; 35 Members have not, as yet, made a notification. In 2007, the Committee reviewed the notifications of CVD laws and regulations of Albania, Chinese Taipei, the EU, India, Japan, Mexico, New Zealand, Nigeria, Panama, Turkey, and the United States.<sup>14</sup>

As for CVD measures, five Members were notified of CVD actions taken during the latter half of 2006 and six Members were notified of actions taken in the first half of 2007. Specifically, the SCM Committee reviewed actions taken by Australia, Brazil, Canada, Chile, EU and the United States. The Committee also examined 4 new and full 2007 subsidy notifications and 15 new and full 2005 subsidy notifications. Notably, the Committee continued the review of China's first new and full subsidy notification, originally submitted in April 2006 (see *China Transitional Review* below). Unfortunately, numerous Members have never made a subsidy notification to the WTO, although many are lesser developed country Members.

While not reviewed in the 2007 Committee meetings, the United States submitted its 2005 new and full subsidies notification, detailing more than 40 federal programs and nearly 400 state programs. This notification will be reviewed by the SCM Committee in 2008.

*China Transitional Review:* At the October meeting, the SCM Committee undertook, pursuant to the Protocol on the Accession of the People's Republic of China, the sixth annual Transitional Review with respect to China's implementation of its WTO obligations in the areas of countervailing measures, subsidies, and pricing policies.

Following increasing pressure from the United States and other WTO members, China finally submitted its long-overdue subsidies notification to the WTO's Subsidies Committee in April 2006. Although the notification reported on over 70 subsidy programs, it is notably incomplete, as it failed to notify any subsidies provided by China's state-owned banks or by provincial and local government authorities. In addition, while China notified several subsidies that appear to be prohibited, it did so without making any commitment to withdraw them, and it failed to notify other subsidies that appear to be prohibited. The United States has devoted significant time and resources to monitoring and analyzing China's subsidy practices, and these efforts helped to promptly identify very significant omissions in China's subsidy notification. In accordance with SCM Committee procedures, the United States submitted extensive written questions and comments on China's subsidies notification in July 2006, as did several other Members, including the EU, Japan, Canada, Mexico, Australia, and Turkey. Although China responded in writing to these submissions in the fall of 2007, very little new information was provided. More generally, in the context of the Transitional Review, the United States raised subsidy issues with respect to China's: (1) textile and steel industries; (2) state-owned bank and state-owned asset management company practices; and (3) government support policies for the restructuring of state-owned enterprises in China's northeast regions (see *People's Republic of China*, under *Bilateral and Regional Negotiations* below, for further details).

*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. Article 27.4 of the SCM Agreement allows for the SCM Committee to grant an extension of this deadline. If the Committee does not affirmatively sanction a continuation, the export subsidies must be phased out within two years.

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<sup>14</sup> 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.

To address the concerns of certain small developing country Members, a special procedure within the context of Article 27.4 of the SCM Agreement was adopted at the Fourth Ministerial Conference in 2001. Members meeting all the qualifications for the agreed-upon special procedures were eligible for annual extensions for a five-year period through 2007, in addition to the two years referred to under Article 27.4. Antigua and Barbuda, Barbados, Belize, Costa Rica, Dominica, 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.<sup>15</sup> These requests were approved by the SCM Committee each year.

In April 2006, the Members which benefited from the special procedures agreed to in 2001 requested a further extension through the year 2018. After numerous informal meetings, the SCM Committee decided to recommend to the General Council that it extend the transition period until 2013 under similar special procedures as those that had previously been in place, with a two-year phase-out period ending in 2015. An important outcome of these negotiations, insisted upon by the United States and other developed and developing countries, was that the beneficiaries have no further recourse to extensions beyond 2015. The SCM Committee also decided to recommend that certain less developed countries that have not graduated from Annex VII of the SCM Agreement and that participated under the earlier special procedures be allowed to take advantage of the extension from the date of graduation through the available remaining period. The General Council adopted the recommendation of the SCM Committee in July 2007.

Specific export subsidy program extension requests under the newly agreed upon procedures were made in 2007 by all of the developing country Members listed above. These requests required, *inter alia*, a detailed examination of whether the applicable standstill and transparency requirements had been met. In total, the SCM Committee conducted a detailed review of more than 40 export subsidy programs. At the end of the process, all of the requests under the new special procedures were granted.

*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).<sup>16</sup> A country automatically “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 2007.<sup>17</sup>

*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 Agreement articulates three possible roles for the PGE: (i) to

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<sup>15</sup> Bolivia, Honduras, Kenya, and Sri Lanka are all listed in Annex VII of the SCM Agreement and thus may continue to provide export subsidies until their “graduation”. Therefore, these Members only reserved their rights under the special procedures in the event they graduated during the five-year extension period contemplated by the special procedures.

<sup>16</sup> 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, 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 Annex VII(b) on January 20, 2001.

<sup>17</sup> See G/SCM/110/Add.4.

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 three 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 further provides for the Committee to elect the experts to the PGE, with one of the five experts being replaced every year. In the beginning of 2007, the members of the Permanent Group of Experts were: Mr. Yuji Iwasawa (Japan) and Mr. Asger Petersen (Denmark). The SCM Committee has been unable to reach a consensus as to the appointment of new members to succeed Mr. Hyung-Jin Kim (Korea), Mr. Terence P. Stewart (United States), and Professor Okan Aktan (Turkey), whose terms expired in 2005, 2006, and 2007, respectively. At the regular fall meeting, the SCM Committee Chairman announced his intention to hold consultations with Members on this matter.

### **Prospects for 2008**

In 2008, the United States will devote special attention to the subsidy notifications submitted to and considered by the SCM Committee. The United States will also continue to focus on China’s subsidy programs and the Transitional Review Mechanism to ensure that China meets its obligations under its Protocol of Accession and the SCM Agreement. As noted above, in 2008 the SCM Committee will review the United States’ subsidy notification, which will likely entail an exchange of written questions and answers, and an extensive discussion at the SCM Committee’s spring meeting. Finally, the United States is prepared to work with the Chairman of the SCM Committee to resolve the impasse with respect to the PGE membership.

## **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 2007**

The Valuation Agreement is administered by the Committee on Customs Valuation (the Customs Valuation Committee), which held two formal meetings in 2007. 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 2007.

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.

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, can be the foundation 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.

While many developing country Members undertook timely implementation of the Agreement, the Customs Valuation Committee continued throughout 2007 to address various individual Member requests for either a transitional reservation for implementation methodology, or for a further extension of time for overall implementation. Each decision has included an individualized benchmarked work program toward full implementation, along with requirements to report on progress and specific commitments on other implementation issues important to U.S. export interests. No Members maintain an extension of the delay period in accordance with the provisions of paragraph 1, Annex III. One Member (Sri Lanka) maintains reservations that have been granted under paragraph 2, Annex III for minimum values, and one Member (Senegal) has requested an extension of a waiver for the application of minimum values granted under Article IX of the WTO Agreement.

An important part of the Customs Valuation Committee's work is the examination of implementing legislation. As of October 2007, 74 Members had notified their national legislation on customs valuation; 50 Members have not yet notified their national legislation on customs valuation. During 2007, the Committee concluded the examinations of the legislations of the Former Yugoslav Republic of Macedonia and Swaziland. At the Committee's October 2007 meeting, the Committee undertook its examination of the custom valuation legislations of Egypt, Saudi Arabia, and Tanzania, and continued its examination of the legislation of Thailand. The Committee's examination of these Members' customs valuation legislation will continue in 2008.

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 Egypt, Nigeria, Indonesia, and Thailand.

In 2007, the Customs Valuation Committee concluded China's Sixth Transitional Review in accordance with the Protocol of Accession of the People's Republic of China to the WTO. During 2007, the United States again sought clarifications 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. The U.S. delegation continued to urge China to work to establish uniformity in the administration of its customs valuation regime and its adherence to WTO customs valuation rules.

The Customs Valuation Committee's work throughout 2007 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 2008**

The Customs Valuation Committee's work in 2008 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 Program (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. The HWP continued throughout 2007 and will continue into 2008.

The ROO Agreement is administered by the Committee on Rules of Origin (the ROO Committee), which met formally once in 2007, 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 2007**

As of the end of 2007, 77 Members notified the WTO concerning non-preferential rules of origin. In these notifications, 35 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-seven Members have not notified non-preferential rules of origin.

Eighty-four Members have notified the WTO concerning preferential rules of origin, of which 80 notified their preferential rules of origin and 4 notified that they did not have preferential rules of origin. Forty Members have not notified preferential rules of origin.

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. Significant 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 WTO origin 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 the U.S. Trade Representative. 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 the U.S. Department of Agriculture, the U.S. Department of Commerce, U.S. Customs and Border Protection (formerly the U.S. Customs Service), and the U.S. Trade Representative.

In addition to the October 2007 formal meeting, the ROO Committee conducted several informal consultations related to the HWP negotiations. The Committee's work in 2007 proceeded in response to the July 28, 2006 General Council extension of the deadline for completion of work on the 94 core policy issues by July 31, 2007. 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.

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 nine 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 impediments. 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.

### **Prospects for 2008**

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 nine 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 2008, the ROO Committee will focus on technical issues, including the technical aspects of the overall architecture of the HWP product-specific rules, through informal consultations as well as bilateral and small-group meetings. 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 product standards, mandatory technical regulations, and the procedures (such as testing or certification) used to determine whether a particular product meets such standards or regulations. The aim of the TBT Agreement is to prevent the use of technical requirements as unnecessary barriers to trade.

Although the TBT Agreement applies to a broad range of industrial and agricultural products, sanitary and phytosanitary (SPS) measures and specifications for government procurement are covered under separate agreements. TBT Agreement rules help to distinguish legitimate standards and technical regulations from protectionist measures. Standards, technical regulations, and conformity assessment procedures are to be developed and applied on a nondiscriminatory basis, developed and applied transparently, and should be based on relevant international standards and guidelines, when appropriate.

The Committee on Technical Barriers to Trade (the TBT Committee)<sup>18</sup> serves as a forum for consultation on issues associated with the implementation and administration of the TBT Agreement. The role of the TBT Committee includes discussions and/or presentations concerning specific standards, technical

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<sup>18</sup> 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 international intergovernmental 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.

regulations and conformity assessment procedures proposed or maintained by a Member that are creating adverse trade consequences and/or are perceived to be violations of the Agreement. It also includes an exchange of information on Member government 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 standards, technical regulations, and conformity assessment procedures, and to provide written comments for consideration on those proposals before they are finalized. Members are also required to establish a central contact point, known as an inquiry point that is responsible for responding to requests for information on technical requirements or making the appropriate referral.

The National Institute of Standards and Technology (NIST) serves as the U.S. inquiry point. NIST maintains a reference collection of standards, specifications, test methods, codes, and recommended practices. This reference material includes U.S. Government agencies' regulations and standards and standards of U.S. and foreign non-governmental standardizing bodies. The inquiry point responds to requests for information concerning federal, state, and non-governmental standards, regulations, and conformity assessment procedures. Upon request, NIST will provide copies of notifications of proposed regulations from foreign governments received under the TBT Agreement. NIST also will provide information on central contact points for information maintained by other WTO Members. NIST refers requests for information concerning standards 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).<sup>19</sup> 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.8*. 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. As a result of the TBT Agreement, interested parties in the United States have the right to receive information on proposed standards, technical regulations, and conformity assessment procedures being developed by other Members. The TBT Agreement also provides an

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<sup>19</sup> Before 2000, the numbering of notifications of proposed technical regulations and conformity assessment procedures read: "G/TBT/Notif./..." (followed by a number).

opportunity for interested parties to influence the development of such measures by taking advantage of the opportunity to provide written comments on drafts. 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 the operation of the provisions on transparency are ongoing. Other disciplines and obligations, such as the prohibition of discrimination and the call for measures not to be 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, which has perhaps alleviated the need for more dispute settlement undertakings. 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. Four such reviews have now been completed (G/TBT/5, G/TBT/9, G/TBT/13 and G/TBT/19). 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, and good regulatory practice.

### **Major Issues in 2007**

The TBT Committee met three times in 2007, March (G/TBT/M/41), July (G/TBT/M/42), and November (G/TBT/M/43). At each of these meetings, Members made statements informing the Committee of measures they had taken to ensure the implementation and administration of the TBT Agreement. They also used Committee meetings to raise concerns about specific technical regulations or conformity assessment procedures that affected, or had the potential to affect, trade adversely and were perceived to create unnecessary barriers to trade. The number of specific trade concerns brought to the attention of the TBT Committee set a record in 2007 with some 39 different concerns raised with regard to Members' implementation and administration of the TBT Agreement. Environmental regulations and proposals (*e.g.*, the EU's "Registration, Evaluation, Authorization and Restriction of Chemicals (REACH)" and "Energy Using Product (EuP) Directive", and China's "Pollution Control of Electronic Information Products" (also known as China RoHS)) continue to draw significant attention in the Committee.

Following the adoption of the Fourth Triennial Review in November 2006, in 2007, the Committee initiated an exchange of experiences on the future work items identified in the Fourth Triennial Review, including good regulatory practice, conformity assessment procedures, transparency, technical assistance, and special and differential treatment.

At its March 2007 meeting, the TBT Committee completed the Twelfth Annual Review of the Implementation and Operation of the TBT Agreement (G/TBT/21/Rev.1 and Corr.1) and the Twelfth Annual Review of the Code of Good Practice for the Preparation, Adoption, and Application of Standards. This work was based on the following background documents: a list of standardizing bodies that have accepted the Code in 2006 (G/TBT/CS/1/Add.11), a list of standardizing bodies that have accepted the Code since January 1, 1995 (G/TBT/CS/2/Rev.13 and Corr.1), and the Twelfth edition of the WTO TBT Standards Code Directory prepared by the ISO/IEC Information Centre.

The Fifth Special Meeting on Procedures for Information Exchange was held on November 7-8, 2007. The meeting addressed issues relating to: publication practices, notification practices, the use of electronic tools, and technical cooperation and the work of inquiry points. At the meeting, the U.S.

Inquiry Point offered the Inquiry Points of other WTO Members the use of the U.S. software program to manage incoming and outgoing notifications. Forty-one people from 22 different Inquiry Points have registered in response to this offer thus far.

At the November meeting, the TBT Committee also completed the Sixth Annual Transitional Review mandated in the Protocol of Accession of the People's Republic of China. The United States (G/TBT/W/279), Japan (G/TBT/W/278), and the EU (G/TBT/W/281) submitted written comments and questions. China's submission is contained in G/TBT/W/282. The Committee's report of the Review is contained in G/TBT/22.

During the 2007 meetings of the TBT Committee, representatives of the Codex, IEC, ISO, ITC, OECD, OIML, and UNIDO (observers to the Committee) updated the Committee on their activities relevant to its work, including on technical assistance.

### **Prospects for 2008**

The TBT Committee will continue to monitor implementation of the TBT Agreement by Members. The number of specific trade concerns raised in the Committee appears to be increasing. Aside from the specific trade concerns, the Committee will continue work on the future work items identified in the Fourth Triennial Review, including planning for a technical assistance workshop. Discussion of new issues will be driven by Member statements and submissions. In 2008, U.S. priorities are likely to continue to focus on good regulatory practice, transparency, and technical assistance. On March 18-19, 2008, the TBT Committee will host a Workshop on Good Regulatory Practice that is intended to deepen the understanding of the contribution of good regulatory practice to the implementation of the TBT Agreement.

## **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 2007**

In 2007, the Antidumping Committee held meetings on April 24-25 and October 22-23. 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 2007:

*Notification and Review of Antidumping Legislation:* To date, 71 Members have notified that they currently have antidumping legislation in place and 27 Members have notified that they maintain no such legislation. In 2007, the Antidumping Committee reviewed notifications of new or amended antidumping legislation submitted by Argentina, Armenia, China, Colombia, European Communities, India, Japan, Mexico, New Zealand, Panama, Chinese Taipei, Turkey, and the United States. 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 2007, 28 Members notified that they had taken antidumping actions during the latter half of 2006, whereas 25 Members did so with respect to the first half of 2007 (by comparison, 29 Members notified that they had not taken any antidumping actions during the latter half of 2006, and 19 Members notified that they had taken no actions in the first half of 2007). 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 2006 were issued as "G/ADP/N/153/..." and the semi-annual reports for the first half of 2007 were issued as "G/ADP/N/158/..."). At its April and October 2007 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 2007 meeting, the Antidumping Committee undertook, pursuant to the Protocol on the Accession of the People's Republic of China, its sixth annual Transitional Review with respect to China's implementation of the Antidumping Agreement. Several Members, including the United States, presented written and oral questions to China with respect to China's

antidumping laws and practices, and the United States also presented a statement at the meeting addressing both substantive and procedural concerns with respect to China's practices. China orally provided information in response to the U.S. statement and the other comments and questions at the meeting.

*Working Group on Implementation:* The Working Group held meetings in April and October 2007. Beginning in 2003, the Working Group has held discussions on four agreed-upon 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; and (4) judicial, arbitral or administrative reviews under Article 13. 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 2007, the Working Group discussed a draft recommendation prepared by the WTO Secretariat on the conduct of verifications. Given that no Members submitted new papers on any of these four topics in 2007, at the October meeting there was a discussion of whether the Working Group should move on to consider new topics. Members decided that the Group would continue its discussion of the first two topics, regarding Articles 2.2 and 2.4.1 of the Agreement, but would also begin discussing a new topic: "Article 3.2 – How do Members determine whether there has been a significant price undercutting by dumped imports?"

*Informal Group on Anticircumvention:* In 2007, the Informal Group held meetings in April and October. The Informal Group continued its useful discussions on the first three items of the agreed framework of: (1) what constitutes circumvention; (2) what is being done by Members confronted with what they consider to be circumvention; and (3) to what extent can circumvention be dealt with under the relevant WTO rules, and what other options may be deemed necessary.

In the Informal Group, Members have submitted papers and made presentations outlining scenarios based on factual situations that their investigating authorities face, and exchanged views on how their respective authorities might respond to such situations. Moreover, those Members, such as the United States, that have legislation intended to address circumvention, have responded to inquiries from other Members as to how such legislation operates and the manner in which certain issues may be treated. One new paper was submitted in the Informal Group in 2007, a paper by New Zealand regarding "bundling" of invoices to circumvent antidumping duties, which was discussed at both the April and October meetings.

## **Prospects for 2008**

Work will proceed in 2008 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 2008. 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 2008, the Working Group will continue its discussion of two topics that it has been discussing since 2003: (1) export prices to third countries vs. constructed value under Article 2.2 of the Antidumping Agreement; and (2) foreign exchange fluctuations under Article 2.4.1, while beginning discussion of a new topic: (3) Article 3.2 – How do Members determine whether there has been a significant price undercutting by dumped imports? In addition, the Working Group will continue its discussion of the draft recommendation on the conduct of antidumping verifications.

The work of the Informal Group on Anticircumvention will also continue in 2008 according to the framework for discussion on which Members agreed, with the discussion of New Zealand's submission on "bundling" of invoices to continue. 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 2008.

## **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 of the Agreement. The Import Licensing Committee also receives questions from Members on the licensing regimes of other Members, whether they have been notified to the Import Licensing Committee or not. The 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 Import Licensing Committee 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 sixth review concerning its import licensing procedures was conducted at the October 2007 meeting of the Import Licensing Committee.

The Import Licensing Agreement establishes rules for all Members that use import licensing systems to regulate their trade, and sets guidelines for what constitutes a fair and non-discriminatory application of such procedures. Its provisions establish disciplines to protect Members from unreasonable requirements or delays associated with a licensing regime.

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*, and do not directly address the WTO consistency of the underlying measures). The notification requirements and the system of regular Committee reviews seek to increase the transparency and predictability of Members' licensing regimes.

The Import Licensing 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 2007**

At its meetings in April and October 2007, the Import Licensing Committee reviewed 80 submissions from 49 Members,<sup>20</sup> including initial or revised notifications, completed questionnaires on procedures, and questions and replies to questions. This count represented a significant increase both in the number of notifications submitted to the Committee, and in the number of Members notifying. The Chairman reported that by the end of 2007, two additional Members (Kuwait and Thailand) had made initial notifications, and that only 21 of 124 Committee Members had never submitted a notification to the Committee, including newly acceded members Tonga and Vietnam.<sup>21</sup> This number brings the percentage of Members with at least an initial notification to over 80 percent. Despite this progress, the Chairman and some 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 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.

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. We continued to press Brazil to provide information on its quotas on and non-automatic licensing system for imports of certain lithium compounds, *i.e.*, lithium carbonate and lithium hydroxide, noting that these measures appear to be part of a system of restrictions that had not been notified to the Committee. Brazil reported that this issue remains under review by the Brazilian government, but was unable to provide any additional information. The United States presented further comments on Indonesia's non-automatic licensing system for selected textile products, noting that the system clearly restricted potential imports and appeared not to be consistent with WTO rules. Indonesia's responses to previous questions, simply claiming that the system was one of automatic licensing since a decision on

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<sup>20</sup> The Members making submissions were: Argentina, Armenia, Australia, Barbados, Brazil, Cameroon, Canada, Chile, China, Colombia, Congo, Costa Rica, Dominica, European Communities, Gambia, Grenada, Guatemala, Haiti, India, Indonesia, Israel, Japan, Korea, Kuwait, Kyrgyz Republic, Macao, China, Malaysia, Mauritius, Mexico, Nigeria, Peru, Philippines, Saint Lucia, Saudi Arabia, Singapore, Thailand, Trinidad and Tobago, Tunisia, Turkey, and the United States.

<sup>21</sup> The EU and its member states are recorded by the Committee as a single Member for the purposes of submissions to the Committee. The Members that have never submitted a notification in this Committee are Angola, Belize, Botswana, Cambodia, Central African Republic, Congo, Djibouti, Egypt, Guinea, Guinea Bissau, Lesotho, Mauritania, Mozambique, Myanmar, Nepal, St. Vincent & the Grenadines, Sierra Leone, Solomon Islands, Tanzania, Tonga, and Vietnam.

the application was made within 10 days, were not helpful. In addition, importers faced onerous reporting requirements on their import requirements and plans. This was not consistent with WTO provisions. The United States continues to press for removal of the system.

The United States also voiced concern that Argentina's non-automatic procedures for certain footwear and toys establish a pre-release verification mechanism to monitor and control imports of such goods and to verify technical requirements, but does not appear to be either necessary or applied to similar domestic goods. While thanking Argentina for its notification of the measures, the United States noted that these requirements also appear to act as quantitative import restrictions, asked for further information and suggested their elimination. The United States asked for additional information on how import licences on footwear were allocated to both foreign and domestic producers and on how the verification procedure was administered by domestic agencies, noting that the processing time for applications for imported footwear was taking up to three times longer than provided for in the regulations. Argentina had also not yet provided requested information on the same system applied to imported toys. The United States also asked for information on import licences required for certain tariff lines corresponding to the toy sector. The licences were non-automatic and there was no information available on how applications for these licences were considered.

At its October meeting, the Committee conducted, pursuant to the Protocol on the Accession of the People's Republic of China, its sixth annual Transitional Review of China's implementation of its WTO accession commitments in the area of import licensing procedures. The United States was the only delegate that engaged China at this meeting. He pressed China once again for information on its licensing system for poultry and on import of bulk agriculture commodities. China explained that the purpose of the import registration system for poultry was to collect statistics and to prevent and control potential bird influenza. The registration certificates were granted automatically if the application forms were completed correctly. His delegation did not find the system unnecessary, nor trade restrictive. Concerning the draft administrative measure of reporting information publication on import of bulk agriculture commodities, China stated that the intent of this measure was to strengthen market transparency in the sector to prevent price fluctuation and to provide market access to small- and medium-sized new enterprises. He also noted that the draft measure was not yet enforced and that his delegation would welcome Members' comments to be dealt with bilaterally.

### **Prospects for 2008**

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 administration of current obligations. As tariffs are liberalized, it becomes more critical that Members use import licensing procedures properly, particularly in the administration of agricultural TRQs, and to 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 application of safeguard measures, technical regulations, and sanitary requirements applied to imports as well. The Import Licensing Committee also will continue to be the point of first 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. As demonstrated by the U.S. complaint against Turkey concerning its regulation of rice imports (DS334, discussed in section H of this Chapter), these discussions may be the introduction to further dispute settlement cases.

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, and 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 2007**

During its two regular meetings in April and October 2007, 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 a new or amended legislative text from Panama.

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, from the following Members: Jordan on ceramic tiles; Moldova on cane or beet sugar; South Africa on lysine; and Turkey on frames and mountings for spectacles and on travel goods.

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; Chile on powdered milk, liquid milk, and gouda cheese; Jordan on footwear; South Africa on lysine; and Turkey on motorcycles.

The Safeguards Committee reviewed Article 12.1(c) notifications regarding a decision to apply a safeguard measure from the following Members: Argentina on compact discs; Chile on powdered milk, liquid milk, and gouda cheese; Jordan on footwear; Panama on PVC films; South Africa on lysine; and

Turkey on motorcycles. It also reviewed Article 12.1(c) notifications regarding a decision to extend a safeguard measure from the Philippines on float glass, on figured glass, and on glass mirrors.

The Safeguards Committee reviewed Article 12.4 notifications, regarding the application of a provisional safeguard measure, from the following Members: Chile on powdered milk, liquid milk, and gouda cheese; Panama on PVC films; and South Africa on lysine.

The Safeguards Committee received notifications from the following Members of the termination of a safeguard investigation with no definitive safeguard measure imposed: from Jordan on ceramic tiles and the Philippines on sodium tripolyphosphates.

*China Transitional Review:* At the October 2007 meeting, the Safeguards Committee undertook, pursuant to the Protocol on the Accession of the People's Republic of China, its sixth annual Transitional Review with respect to China's implementation of the Safeguards Agreement. Given that China reported no new safeguards legislation or safeguards actions taken in the past year, the United States did not submit any questions, and the discussion was very brief.

*Implementation:* At the April 2007 meeting, the Safeguards Committee discussed various issues pertaining to Article 9.1 of the Safeguards Agreement, concerning the exclusion of developing country Members from the application of safeguard measures when certain criteria are met. At the April 2007 meeting, the Committee also discussed Brazil's safeguard measure with respect to toys, with the United States raising questions about developments since the expiration of that measure in June 2006.

### **Prospects for 2008**

The Safeguards Committee's work in 2008 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 Article XVII 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 2007**

The WP-STE held one formal meeting in October 2007. At the meeting, the Working Party reviewed 29 notifications: new and full notifications reporting 2006 data for Canada; Chile; Colombia; European Communities; Japan; Macao, China; Qatar; Saudi Arabia; Singapore; Chinese Taipei; Turkey; the United States; Zambia; and Zimbabwe, new and full notifications reporting 2004 data for Australia; Canada; Chile; Colombia; the European Communities; and Zambia, updating notifications reporting 2003 and 2002 data for Canada; Chile; and the European Communities, and new and full as well as updating notifications reporting 2000 and 1999 data for Canada. The Working Party also adopted its Annual Report to the Council for Trade in Goods for the year 2007.

## **Prospects for 2008**

The WP-STE is scheduled to meet in October 2008. Prior to this meeting, the United States will submit a new and full notification of its STEs to the Working Party for review. The United States' STEs include the Commodity Credit Corporation, Isotopes Production and Distribution Program, Power Administrations, and Strategic Petroleum Reserve.

As part of the agriculture negotiations in the WTO, the United States proposed specific disciplines on export agricultural STEs that would increase transparency, improve competition and tighten disciplines for these entities. In 2008, the WP-STE will contribute to the ongoing discussion of these and other state trading issues through its review of new notifications and its examination of what further information could be submitted as part of the notification process to enhance transparency of STEs.

## **F. Council for 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 neighboring 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 through civil actions for infringement and, at least in regard to copyright piracy and trademark counterfeiting, in criminal actions and actions at the border. 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 implement fully the obligations of the TRIPS Agreement by January 1, 1996, and developing country Members generally had to achieve full implementation by January 1, 2000. 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 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 five and seven 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 country 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 2007**

In 2007, the TRIPS Council held three formal meetings, generally accompanied by informal “special session” consultations on the establishment of a multilateral system for notification and registration of GIs for wines and spirits called for in Article 23.4 of the TRIPS Agreement (see separate discussion of this topic under section B of this Chapter, “Council for Trade-Related Intellectual Property Rights, Special Session,” and below). In addition to continuing its work reviewing the implementation of the Agreement, the TRIPS Council’s work in 2007 focused on TRIPS 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:* The TRIPS Council during 2007 continued to devote time to reviewing the TRIPS Agreement’s implementation by developing country Members and newly acceding Members, as well as to providing assistance to developing country Members so they can implement fully the TRIPS Agreement. In particular, the TRIPS Council continued to urge developing country Members to respond to the questionnaires already answered by developed country Members regarding their protection of GIs and implementation of the TRIPS Agreement’s enforcement provisions, and to provide detailed information on their implementation of Article 27.3(b) of the TRIPS 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 TRIPS 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 intellectual property rights in China, and provides a forum for addressing the concerns of U.S. interests in this process. 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 intellectual property rights.

During 2007, the TRIPS Council undertook reviews of the implementing legislation of Saudi Arabia, Mauritius, and Swaziland, 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 six of the Doha Declaration on the TRIPS Agreement and Public Health”, in light of the statement read out by the General Council Chairman) 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 Chair preserve all substantive aspects of the August 30, 2003 solution and do not alter the substance of the previously agreed solution. The United States was the first Member to submit its acceptance of the amendment to the WTO. At the end of 2007, a total of 13 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 2007 meeting, the TRIPS Council reviewed

implementation of the August 30, 2003 solution. Several members commented on the importance of the solution and reported on preparations to formally accept the amendment.

*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 intellectual property rights (IPR) by requesting consultations with China. On September 25, 2007, the WTO Dispute Settlement Body established a panel to consider the dispute. The U.S. panel request alleges breaches of various provisions of the TRIPS Agreement related to three aspects of China's IPR regime. First, the request challenges quantitative thresholds in China's criminal law that must be met in order to start criminal prosecutions or obtain criminal convictions for copyright piracy and trademark counterfeiting. These thresholds give pirates and counterfeiters in China a safe harbor to avoid criminal liability. Second, the panel request addresses the rules for disposal of IPR-infringing goods seized by Chinese customs authorities. Those rules appear to permit goods to be released into commerce following the removal of fake labels or other infringing features, when WTO rules dictate that these goods normally should be kept out of the marketplace altogether. Third, the panel request addresses the apparent denial of copyright protection for works poised to enter the market but awaiting Chinese censorship approval. It appears that Chinese copyright law provides the copyright holder with no right to complain about copyright infringement (including illegal/infringing copies and unauthorized translations) before censorship approval is granted.

During 2007, the United States continued to monitor EU compliance with a 2005 ruling of the WTO Dispute Settlement Body (DSB) 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 the compliance of WTO Members with 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 Article 23-level protection 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 Chair should report to the TNC on the issues related to 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 Chair 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. Consistent with this mandate, the Director-General appointed a Deputy Director-General to hold a number of such consultations with Members on the issue of extension.

Throughout 2007, 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 TRIPS 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 TRIPS Article 27.3(b) (permitting Members to except from patentability plants and animals and biological processes for the production of plants and animals). Most developing country Members have chosen not to provide such information and have raised topics that fall outside the scope of Article 27.3(b).

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.

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. While some Members continue to press for amending the TRIPS Agreement, the TRIPS Council's deliberations in 2007 generally tended toward constructive questioning and information-sharing on these matters. This approach has clarified a number of points of divergence and convergence, and has tracked more closely the debate suggested by the United States to discuss proposals based on whether or not they achieve the objectives purportedly sought, rather than presupposing any particular outcome.

*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/496/Add.5). In addition, and in accordance with a November 29, 2005 Decision of the TRIPS Council, two LDC Members (Uganda and Sierra Leone) submitted information on their priority needs with regard to technical cooperation related to their implementation of the TRIPS Agreement.

*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 2007, the United States provided an updated report on specific U.S. government institutions and incentives, as required.

*Enforcement:* The United States, together with other Members including the EU, Japan, and Switzerland, continued in 2007 to promote a discussion within the TRIPS Council of experiences in implementing the enforcement provisions of the TRIPS Agreement. The United States has noted that such a discussion is particularly valuable in light of the growing global problems surrounding counterfeiting and piracy of intellectual property. At the February 2007 meeting of the TRIPS Council, the United States made a presentation on its experience with border enforcement measures. A number of Members have resisted a substantive discussion of enforcement in the TRIPS Council.

### **Prospects for 2008**

In 2008, 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 2008 continue to be to:

- resolve differences through consultations and use of dispute settlement procedures, where appropriate;
- continue its efforts to ensure that developing country Members fully implement the Agreement;
- 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.

## **G. 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 three and four of Article IX of the Marrakesh Agreement Establishing the WTO; 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 Article 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 2007**

The CTS met four times in 2007 – in March, June, October, and November. The CTS elected the delegate from Barbados as its new Chairperson.

The Committee on Regional Trade Agreements recommended a new format for notification of regional trade agreements. The CTS discussed the new format, which includes notifications under GATS Article V, and circulated a draft decision document for Members' consideration. The United States and other Members supported the proposed changes. In addition, Australia, the United States, and other Members continued to raise issues related to the certification of the EC-25 schedule of commitments pursuant to GATS Article XXI and the procedures outlined in S/L/80 and S/L/84.

In March and October, the CTS held the second and third meetings dedicated to the second Review of Air Transport Services. In accordance with paragraph five of the Annex on Air Transport Services, the CTS is to review periodically, at least every five years, developments in the air transport sector and the operation of the annex.

As part of China's Transitional Review Mechanism, the CTS held its sixth annual review of China's implementation of its WTO commitments in November 2007. 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), GATS Article V (economic integration), and GATS Article VII (recognition). Armenia, Bolivia, and Switzerland made notifications under Article III.3. Notifications pursuant to GATS Article V were made by Honduras; Guatemala; Jordan and Singapore; Japan and Malaysia; United States, Guatemala, Honduras, El Salvador and Nicaragua; EFTA States and the Republic of Korea; Costa Rica and Mexico; United States and the Kingdom of Bahrain; Brazil, on behalf of Mercosur; the United States, the Dominican Republic, El Salvador, Honduras, Nicaragua and Guatemala; Panama and Singapore; India and Singapore; and Brunei Darussalam, Chile, New Zealand and Singapore. Switzerland made a notification pursuant to GATS Article VII.

### **Prospects for 2008**

The CTS will continue discussions pursuant to the Air Annex 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 2007**

The CTFS met twice in 2007 – in June and November. In June 2007, the Committee elected the delegate from Australia as the new Chairperson.

Brazil, Jamaica, and the Philippines are the only remaining participants in the negotiations on the 1997 Financial Services Agreement that have not yet ratified their commitments from those negotiations and accepted the Fifth Protocol (which is necessary for these commitments to enter into effect under the GATS). Members continue to urge those three countries to take the necessary steps to accept the Fifth Protocol as quickly as possible. At the request of the Chair, the three countries provided some information on the status of their domestic ratification efforts in both meetings.

In November 2007, as part of China's Transitional Review Mechanism, the CTFS carried out its sixth 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 a report from UNCTAD on Expert Meeting on Trade and Development Implications of Financial Services and recent developments in financial services trade.

### **Prospects for 2008**

The CTFS will continue to use the broad and flexible mandate of the CTFS to discuss various issues, including ratification of existing commitments and 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.

The Working Party shall report its recommendations to the CTS not later than the conclusion of the DDA services negotiations.

At the December 2005 Hong Kong Ministerial Conference, Ministers directed their negotiators 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, and called upon Members to develop text. Thereafter the pace of negotiations increased dramatically until the suspension of negotiations in July 2006. At the time of the suspension there remained very significant disagreement among proponents of the many proposals under consideration.

### **Major Issues in 2007**

Following the resumption of negotiations in January 2007, the WPDR Chair issued an informal note on possible new disciplines for domestic regulation in April 2007. The informal Chair's note was based on intensive consultations with Members during 2006 and early 2007 and 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. Members welcomed the Chair's informal note as a step forward and agreed that it could serve as the basis for further informal discussion.

For the remainder of 2007, Members met in regular informal sessions and consultations with the Chair. During these sessions Members engaged in intensive review and revision of the proposed disciplines with a view to producing an accepted negotiating text that would reflect majority views on major threshold issues. In general, Members felt these review sessions were successful.

During the 2007 review sessions, the United States engaged actively and constructively with other Members and continued to negotiate on the basis of its June 2006 position paper on the WPDR ([http://www.ustr.gov/assets/Trade\\_Sectors/Services/asset\\_upload\\_file142\\_1037.pdf](http://www.ustr.gov/assets/Trade_Sectors/Services/asset_upload_file142_1037.pdf)). The United States believes that the horizontal or sector-specific application of any new disciplines should depend on the nature of the proposed disciplines and that strong disciplines are not feasible on a horizontal basis. For that reason, the United States' priority in 2007 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 other intrusive disciplines that could have negative implications for Members' rights to regulate.

### **Prospects for 2008**

The WPDR will likely continue to work in informal and *ad hoc* meetings and through consultations, and it is expected that the Chair will circulate a revised note sometime in the first half of 2008.

## **3. Working Party on GATS Rules**

### **Status**

The Working Party on GATS Rules (WPGR) continues to discuss the possibility of new disciplines on emergency safeguard measures, government procurement, and subsidies in the context of the GATS.

## **Major Issues in 2007**

The WPGR held formal meetings in April, July, and September of 2007 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). In April 2007, the WPGR elected the delegate from Pakistan as its new Chairperson.

Regarding emergency safeguard measures, Members continued discussion 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. 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 European Communities 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 discussed an informal communication from Hong Kong, China and Mexico and a follow-up document from Hong Kong, China on non-actionable subsidies. Members also discussed a note from the Secretariat that compiled information on subsidies found in Trade Policy Review (TPR) reports. The Chairperson reported on consultations undertaken in response to Member's request on obstacles to sharing information as called for under Article XV of the General Agreement on Trade in Services. The United States has questioned whether a meaningful information exchange or a discussion of non-actionable subsidies is possible in the absence of an agreed definition of subsidies in the services context.

## **Prospects for 2008**

Members will continue to explore possible avenues for concluding the negotiations on rule-making. Such negotiations will involve more 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 services activities, in particular in new or evolving services.

### **Major Issues in 2007**

In 2007, the CSC met in June and September. The CSC addressed classification issues, scheduling issues, editorial conventions for the submission of revised offers, and the relationship between old and new commitments. In June 2007, the CSC elected the delegate from the Czech Republic as its new Chairperson.

*Classification:* The CSC discussed classification issues related to computer and related services and distribution services. The European Communities circulated an informal document that outlined the classification it uses for distribution services in its preferential trade agreements. Several Members, including the United States, raised concerns with this classification system, and discussions are ongoing. The European Communities, supported by other Members, also provided a communication on the scope of coverage of computer and related services.

*Relationship between old and new commitments:* Discussions continued on the relationship between existing schedules and the new commitments resulting from the current negotiations.

### **Prospects for 2008**

Work will continue on technical issues and other issues that Members raise. The CSC will likely continue to examine classification issues pertaining to other service sectors. Once the Doha Round concludes, the CSC will work to review offers for consistency with negotiated outcomes.

## **H. 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 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 2007**

The DSB met 19 times in 2007 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 eight 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 2007, the DSB approved by consensus a number of additional names for the roster. 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 Trade Related Aspects of Intellectual Property (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 2007.

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 dispute 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 Agreement on Subsidies and Countervailing Measures (SCM Agreement)); (3) members of the WTO Secretariat assisting a panel or assisting in a formal arbitration proceeding; (4) the Chairman 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 and Ms. Jennifer Hillman as members of the Appellate Body for four years commencing on December 11, 2007 and to appoint Mr. Shotaro Oshima and Ms. Yuejiao Zhang as members of the Appellate Body for four years commencing on June 1, 2008. The names and biographical data for the Appellate Body members during 2007 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 the 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; and Mr. Baptista's term runs from December 18, 2007 to December 17, 2008.

In 2007, the Appellate Body issued five reports, two of which involved the United States as a party and are discussed in detail below.

*Dispute Settlement Activity in 2007:* During the DSB's first thirteen years in operation, WTO Members filed 369 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, and 14 in 2007). During that period, the United States filed 77 complaints against other Members' measures and received 107 complaints on U.S. measures. Several of these complaints involved the same issues (three U.S. complaints against others and 22 complaints against the United States). A number of disputes

commenced in earlier years remained active in 2007. 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 2008**

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 2008, 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 2008.

### **a. Disputes Brought by the United States**

In 2007, 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 2007 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.

#### *Argentina – Patent and Test Data Protection for Pharmaceuticals and Agricultural Chemicals (DS171, 196)*

On May 6, 1999, the United States filed a consultation request challenging Argentina's failure to provide a system of exclusive marketing rights for pharmaceutical products and to ensure that changes in its laws and regulations during its transition period do not result in a lesser degree of consistency with the provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights (the TRIPS Agreement).

Consultations were held on June 15, 1999 and again on July 27, 1999. On May 30, 2000, the United States expanded its claims in this dispute to include new concerns that have arisen as a result of Argentina's failure to implement fully its remaining TRIPS obligations that came due on January 1, 2000. These concerns include Argentina's failure to protect confidential test data submitted to government regulatory authorities for pharmaceuticals and agricultural chemicals; its denial of certain exclusive rights for patents; its failure to provide such provisional measures as preliminary injunctions to prevent infringements of patent rights; and its exclusion of certain subject matter from patentability. Consultations continued until April 16, 2002, when the two sides agreed to settle 8 of the 10 issues in the dispute. Argentina and the United States notified a settlement of these issues to the DSB on May 31, 2002. The United States reserved its rights with respect to the remaining issues, and the dispute remains in the consultation phase with respect to these issues.

#### *Brazil – Measures on Minimum Import Prices (DS197)*

The United States requested consultations with Brazil on May 31, 2000, regarding its customs valuation regime. U.S. exporters of textile products have reported that Brazil uses officially-established minimum reference prices both as a requirement to obtain import licenses and/or as a base requirement for importation. In practice, this system works to prohibit the importation of products with declared values below the established minimum prices. This practice appears inconsistent with Brazil's WTO obligations, including those under the Agreement on Customs Valuation. The United States participated

as an interested third party in a dispute initiated by the EU regarding the same matter, and decided to pursue its own case as well. The United States held consultations with Brazil on July 18, 2000, and continues to monitor the situation.

*Canada – Provisional Anti-Dumping and Countervailing Duties on Grain Corn from the United States (DS338)*

On March 17, 2006, the United States requested consultations with Canada regarding Canada's December 2005 imposition of preliminary antidumping and countervailing duties on imports of grain corn from the United States. The United States alleged that the preliminary injury determination of the Canadian International Trade Tribunal (CITT) failed to address several factors, such as the volume and price of imports, and expressly decided not to analyze the evidence before it with respect to causation. In addition, Canada's antidumping and countervailing duty statutes appeared to authorize the imposition of duties in situations even in the absence of a specific finding that subsidized or dumped imports had caused injury to Canada's domestic industry. Canada and the United States held consultations on this matter on April 7, 2006. On April 18, 2006, the CITT issued a final negative injury determination in the matter, and all provisional duties were refunded. The CITT's negative final determination was upheld by Canada's Federal Court of Appeal on June 5, 2007.

*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 auto parts to rates that are significantly below China's tariffs on finished vehicles, China implemented regulations that impose a charge on imported automotive parts equal to the tariff on complete automobiles, if the final assembled vehicle in which the parts are incorporated fails to meet certain local content requirements. The United States is concerned that these regulations impose a tax on U.S. automotive parts beyond that allowed by WTO rules and result in discrimination against U.S. auto parts. These regulations appear inconsistent with several WTO provisions including Articles II and III of the GATT 1994 and Article XVII 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.

*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 issues of concern included: (1) the thresholds that must be met in order for certain acts of trademark counterfeiting and copyright piracy to be subject to criminal procedures and penalties; (2) the disposal by Chinese customs authorities of goods that infringe intellectual property rights and that have been confiscated by those authorities, in particular, the disposal of such goods following removal of their infringing features; (3) the denial of copyright and related rights protection and enforcement to creative works of authorship, sound recordings, and performances that have not been authorized for publication or distribution within China; and (4) the scope of coverage of criminal procedures and penalties for unauthorized reproduction or unauthorized distribution of copyrighted works. The Chinese measures at issue appear to be inconsistent with China's obligations under several provisions of the *Agreement on Trade-Related Aspects of Intellectual Property Rights* (the TRIPS Agreement).

The United States and China held consultations on June 7-8, 2007, but they did not resolve the dispute. On August 13, 2007, the United States requested the establishment of a panel with respect to issues (1) through (3) in the consultation request, 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.

*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.

*China – Prohibited Subsidies (WT/DS358)*

On February 2, 2007 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 three of the *Agreement on Subsidies and Countervailing Measures*, Article III:4 of the *General Agreement on Tariffs and Trade 1994* and Article two 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 the import substitution and export subsidies challenged by

the United States by January 1, 2008. The agreement also commits China to not re-introduce 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.

*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. On July 2, 1996, the following panelists were selected, with the consent of the parties, to review the U.S. claims: Mr. Thomas Cottier, Chairman; Mr. Jun Yokota and Mr. Peter Palecka, Members. 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 which 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. While discussions with the EU to resolve this matter are continuing, no resolution has been achieved yet. On November 3, 2003, the EU notified the WTO of its plans to make permanent the ban on one hormone, oestradiol.

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.

*European Union – Protection of Trademarks and Geographical Indications for Agricultural Products and Foodstuffs (DS174)*

EU Regulation 2081/92, *inter alia*, discriminates against non-EU products and nationals with respect to the registration and protection of geographical indications for agricultural products and foodstuffs; it also protects geographical indications to the detriment of TRIPS-guaranteed trademark rights. The United States therefore considered this measure inconsistent with the EU's obligations under the TRIPS Agreement and the GATT 1994. The United States requested consultations regarding this matter on June 1, 1999 and on April 4, 2003, requested consultations on the additional issue of the EU's national treatment obligations under the GATT 1994. Australia also requested consultations with respect to this measure. When consultations failed to resolve the dispute, the United States requested the establishment of a panel on August 18, 2003. A panel was established on October 2, 2003, to consider the complaints of the United States and Australia. On February 23, 2004, the Director-General composed the panel as follows: Mr. Miguel Rodriguez Mendoza, Chair; and Mr. Seung Wha Chang and Mr. Peter Kam-fai

Cheung, Members. On April 20, 2005, the DSB adopted the panel report, which found that the EU's regulation on food-related geographical indications (GIs), EC Regulation 2081/92, is inconsistent with the EU's obligations under the TRIPS Agreement and the GATT 1994. This finding results from the long-standing U.S. complaint that the EU GI system discriminates against foreign products and persons – notably by requiring that EU trading partners adopt an “EU-style” system of GI protection – and provides insufficient protections to trademark owners. The WTO panel agreed that the EU's GI regulation impermissibly discriminates against non-EU products and persons. The panel also agreed with the United States that Europe could not, consistent with WTO rules, deny U.S. trademark owners their rights; it found that, under the regulation, any exceptions to trademark rights for the use of registered GIs were narrow, and limited to the actual GI name as registered. The panel recommended that the EU amend its GI regulation to come into compliance with its WTO obligations. The EU, the United States, and Australia (which filed a parallel case) agreed that the EU would have until April 3, 2006, to implement the recommendations and rulings. On April 10, 2006, the EU announced that it had issued a new regulation, which came into force on March 31, 2006, that implements the DSB's recommendations and rulings. The United States continues to monitor the situation.

#### *European Union – Provisional Safeguard Measure on Imports of Certain Steel Products (DS260)*

On May 30, 2002, the United States requested consultations with the EU concerning the consistency of the EU's provisional safeguard measures on certain steel products with the GATT 1994 and with the WTO Agreement on Safeguards. Consultations were held on June 27 and July 24, 2002, but did not resolve the dispute. Therefore, on August 19, 2002, the United States requested that a WTO panel examine these measures. The panel was established on September 16, 2002.

#### *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 biotechnology foods. After approving a number of biotechnology products up 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 biotechnology 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 biotechnology product applications, and (3) the product-specific bans adopted by six EU member states (Austria, France, Germany, Greece, Italy, and Luxemburg). 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, Chairman; 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 Luxemburg 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 biotechnology 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.

*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 European Union (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.

### *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, or 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.

### *European Communities — Subsidies on Large Civil Aircraft (WT/DS347)*

On January 31, 2006, the United States requested a second set of 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 Articles III:4 and XVI:1 of the GATT 1994. On April 6, 2006, the United States filed a request for a panel. The Panel was established on May 9, 2006. The U.S. request challenges several types of EU subsidies that appear to be prohibited, or actionable, or both. On July 17, 2006, the Deputy Director-General composed the panel as follows: Mr. Tim Groser, Chair; and Mr. Mario Matus and Mr. Eduardo Pérez Motta, Members. At the request of the United States, the Panel suspended its work on October 9, 2006, in order to allow the DS316 panel to complete its work first. The authority for establishment of that panel lapsed on October 7, 2007, pursuant to Article 12.12 of the DSU.

### *India – Alcohol Tariffs (WT/DS360)*

On March 6, 2007, the United States requested consultations with the government of India regarding India's additional customs duty and extra-additional customs duty on imports from the United States. The dispute involves alcoholic beverages as well as a number of other products for which India imposes customs duties in excess of bound rates set forth in its Schedule to the GATT 1994. Specifically, in its WTO Schedule, India committed to maintaining ordinary customs duties 150 percent *ad valorem* or less and that it would not impose other duties or charges on imports of alcoholic beverages. India, however, has imposed ordinary customs duties on imports of alcoholic beverages from the United States that result in ordinary customs duties on these imports as high as 550 percent. These duties, therefore, appear inconsistent with India's obligation under Article II:1(a) and (b) of the GATT 1994 not to apply ordinary customs duties or other duties or charges in excess of those set forth in its WTO Schedule or to accord less favorable treatment to imports than set forth in its WTO Schedule. India imposes these customs duties by levying an "additional customs duty" and an "extra-additional customs duty" in addition to and on top of a "basic customs duty" on imports of alcoholic beverages. The extra-additional customs duty also appears inconsistent with Article II:1(a) and (b) of the GATT 1994 with respect to a number of imports other than alcoholic beverages, likewise resulting in imposition of customs duties that exceed those set forth in India's WTO Schedule. These products include certain agricultural products such as milk, raisins, and orange juice, as well as various other products.

The United States and India held consultations on April 13, 2007 in Geneva. The European Union (EU) was joined in the consultations. These consultations failed to result in a mutually satisfactory resolution to this dispute and on May 24, 2007, the United States requested the establishment of a panel. The DSB considered this request at its meetings of June 4 and June 20, 2007, and established the Panel on June 20 with standard terms of reference. Australia, Chile, the EU, Japan, and Vietnam reserved third party rights in the dispute. On July 3, 2007, the parties agreed on the panelists, as follows: Mr. Luzius Wasescha, Chair, and Mr. Mateo Diego-Fernández and Mr. Bruce McRae, members.

The establishment of the Panel in this dispute (WT/DS360) followed the establishment of a panel on April 24, 2007 to consider similar claims raised by the EU against the additional and extra-additional customs duties on imports of wine and distilled spirits (WT/DS352). On July 3, 2007, the United States along with the EU and India agreed to have the same panelists, working procedures, and schedule for both disputes, but to have separate panel reports. However, on July 13, 2007, the EU requested, pursuant to DSU Article 12.12, that the panel in DS352 suspend its work and the panel granted that request on July 16, 2007. This did not affect the work of the panel requested by the United States.

#### *Mexico – Definitive Antidumping Measures on Beef and Rice (DS295)*

On June 16, 2003, the United States requested consultations on Mexico’s antidumping measures on rice and beef, as well as certain provisions of Mexico’s Foreign Trade Act and its Federal Code of Civil Procedure. The specific U.S. concerns included: (1) Mexico’s injury investigations in the two antidumping determinations; (2) Mexico’s failure to terminate the rice investigation after a negative preliminary injury determination and its decision to include firms that were not dumping in the coverage of the antidumping measures; (3) Mexico’s improper application of the “facts available;” (4) Mexico’s improper calculation of the antidumping rate applied to non-investigated exporters; (5) Mexico’s improper limitation of the antidumping rates it calculated in the beef investigation; (6) Mexico’s refusal to conduct reviews of exporters’ antidumping rates; and (7) Mexico’s insufficient public determinations. The United States also challenged five provisions of Mexico’s Foreign Trade Act. The United States alleged violations of various provisions of the Antidumping Agreement, the SCM Agreement, and the GATT 1994. Consultations were held the summer of 2003. The United States requested the establishment of a panel on the measure on rice and the five measures of the Foreign Trade Act on September 19, 2003, and the DSB established a panel on November 7, 2003. The United States is continuing to monitor developments surrounding the beef antidumping measures.

On June 6, 2005, the panel issued its final report siding with the United States on all of the major claims in dispute. Specifically, the panel found that Mexico improperly: (1) based its injury analysis on outdated information and failed to examine half of the injury data it collected; (2) applied its antidumping measure to two U.S. exporters that were not dumping; (3) applied an adverse “facts available” margin to a U.S. exporter that had no shipments during the period of investigation; and (4) applied “facts available” margins to U.S. exporters and producers that it did not even investigate. The panel also found that six provisions of Mexico’s antidumping and countervailing duty law are inconsistent “as such” with the WTO Antidumping Agreement and the SCM Agreement.

On July 20, 2005, Mexico appealed the findings in the panel report. The Appellate Body issued its final report on November 29, 2005. The Appellate Body upheld all but one of the panel’s findings relating to the antidumping measure, and it upheld all of the panel’s findings relating to the provisions of Mexico’s antidumping and countervailing duty laws.

The one finding that the Appellate Body reversed went to the question of whether Mexico had properly applied “facts available” margins to U.S. exporters and producers it did not investigate, and the Appellate Body found on different grounds that Mexico had not acted properly in this respect. Accordingly, the

bottom line did not change. The DSB adopted the panel and Appellate Body reports on December 20, 2005. On September 11, 2006, Mexico revoked the antidumping measure on rice, thereby implementing the DSB's recommendations and rulings with respect to that measure. In December 2006, Mexico amended the Foreign Trade Act to address the inconsistencies that the WTO had identified with respect to the law.

#### *Mexico – Tax Measures on Soft Drinks and Other Beverages (DS308)*

On March 16, 2004, the United States requested consultations with Mexico regarding its tax measures on soft drinks and other beverages that use any sweetener other than cane sugar. These measures apply a 20 percent tax on soft drinks and other beverages that use any sweetener other than cane sugar. Soft drinks and other beverages sweetened with cane sugar are exempt from the tax. Mexico's tax measures also include a 20 percent tax on the commissioning, mediation, agency, representation, brokerage, consignment, and distribution of soft drinks and other beverages that use any sweetener other than cane sugar. Mexico's tax measures work, *inter alia*, to restrict U.S. exports to Mexico of high fructose corn syrup, a corn-based sweetener that is directly competitive and substitutable with cane sugar.

The United States considers these measures to be inconsistent with Mexico's national treatment obligations under Article III of the GATT 1994. Consultations were held on May 13, 2004, but they failed to resolve the dispute.

The United States requested the establishment of a panel on June 10, 2004, and the DSB established a panel on July 6, 2004. On August 18, 2004, the parties agreed to the composition of the panel as follows: Mr. Ronald Saborío Soto, Chair; and Mr. Edmond McGovern and Mr. David Walker, Members. On October 7, 2005, the panel circulated its report. The panel concluded that Mexico's beverage tax is inconsistent with Articles III:2 and III:4 of GATT 1994 and rejected Mexico's defense that the tax is justified as necessary to secure U.S. compliance with the North American Free Trade Agreement. The panel found that the beverage tax discriminates against U.S. sweeteners, including high-fructose corn syrup, by subjecting beverages made with any sweetener other than cane sugar to a 20 percent tax whereas beverages made with cane sugar are tax-exempt. On December 6, 2005, Mexico appealed the findings in the panel report, and on March 6, 2006, the Appellate Body issued its report. The Appellate Body rejected Mexico's appeal and affirmed that Mexico's tax is inconsistent with its WTO obligations. The DSB adopted the panel and Appellate Body's findings on March 24, 2006, and the United States and Mexico agreed on a reasonable period of time for Mexico to bring the tax into conformity with its WTO obligations of no later than January 1, 2007, or if Mexico's Congress enacted legislation to repeal the tax in December 2006, no later than January 31, 2007. Mexico repealed the tax effective January 1, 2007.

#### *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.

## **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 2007 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-à-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, Chairman; 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, Chairman; Mr. Yanyong Phuangrath 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 – Countervailing Duty Measures Concerning Certain Products from the European Communities (DS212)*

On November 13, 2000, the EU requested WTO dispute settlement consultations in 14 separate U.S. countervailing duty proceedings covering imports of steel and certain other products from member states of the EU, all with respect to the Department of Commerce’s “change in ownership” (or “privatization”) methodology that was challenged successfully by the EU in a WTO dispute concerning leaded steel products from the United Kingdom. Consultations were held December 7, 2000. Further consultations were requested on February 1, 2001 and held on April 3, 2001. A panel was established at the EU’s request on September 10, 2001. In its panel request, the EU challenged 12 of the 14 U.S. countervailing duty proceedings, as well as Section 771(5)(F) of the Tariff Act of 1930.

The WTO Director-General composed the panel on November 5, 2001, as follows: Mr. Gilles Gauthier, Chairman; Ms. Marie-Gabrielle Ineichen-Fleisch and Mr. Michael Mulgrew, Members. On July 31, 2002, the panel circulated its final report.

In a prior dispute concerning leaded bar from the United Kingdom, the EU successfully challenged the application of an earlier version of Commerce’s methodology, known as “gamma.” In this dispute, the panel found that Commerce’s current “same person” methodology (as well as the continued application of the “gamma” methodology in several cases) was inconsistent with the SCM Agreement. The panel also found that section 771(5)(F) of the Tariff Act of 1930 – the “change of ownership” provision in the U.S. statute – was WTO-inconsistent. The United States appealed, and the Appellate Body issued its report on December 9, 2002. The Appellate Body reversed the panel with respect to section 771(5)(F), finding that it did not mandate WTO-inconsistent behavior. The Appellate Body affirmed the panel’s findings that the “gamma” and “same person” methodologies are inconsistent with the SCM Agreement, although it modified the panel’s reasoning.

On January 27, 2003, the United States informed the DSB of its intention to implement the DSB’s recommendations and rulings in a manner that respects U.S. WTO obligations. U.S. implementation proceeded in two stages. First, Commerce modified its methodology for analyzing a privatization in the context of the countervailing duty law. Commerce published a notice announcing its new, WTO-consistent methodology on June 23, 2003. Second, Commerce applied its new methodology to the 12 determinations that had been found to be WTO-inconsistent. On October 24, 2003, Commerce issued revised determinations under section 129 of the URAA. As a result of this action, Commerce: (1) revoked two countervailing duty orders in whole; (2) revoked one countervailing duty order in part; and (3) in the case of five countervailing duty orders, revised the cash deposit rates for certain companies.

On November 7, 2003, the United States informed the DSB of its implementation of the DSB’s recommendations and rulings.

On March 17, 2004, the EU requested consultations regarding Commerce’s new change of ownership methodology. The EU contended that Commerce countervails the entire amount of unamortized subsidies, even if the price paid for the acquired firm was only \$1 less than the fair market value. With respect to Commerce’s revised determinations, the EU complained about the three sunset reviews in which Commerce declined to address the privatization transactions in question on what essentially were “judicial economy” grounds. With respect to a fourth sunset review, the EU challenged Commerce’s analysis of the sale of shares to employees of the company in question. Consultations took place on May

24, 2004. A panel was established on September 27, 2004. The original three panelists agreed to serve on the compliance panel.

On August 17, 2005, the panel circulated its report. With respect to one determination, the panel did not find that Commerce's application of the privatization methodology was inconsistent with U.S. WTO obligations. The panel did find that Commerce should have applied the privatization methodology in two other determinations relating to certain cut-to-length carbon steel plate from Spain and the United Kingdom, where Commerce simply assumed the benefit of the subsidy was extinguished by the privatization; in addition, the panel found that Commerce should have taken into account new record evidence presented during the redetermination proceeding. The panel also found that the USITC was not obliged to revisit its sunset determination on likelihood of injury. The DSB adopted the panel report on September 27, 2005, at which meeting the United States stated its intention to comply with the findings.

On May 26, 2006, Commerce issued revised determinations with respect to certain cut-to-length carbon steel plate from Spain and the United Kingdom. The Department revoked the countervailing duty orders in place with respect to *Cut-to-Length Carbon Steel Plate from Spain* and *Cut-to-Length Carbon Steel Plate from the United Kingdom* on October 4, 2006 and February 2, 2007, respectively. In addition, following a separate sunset review initiated in 2005, Commerce revoked the order with respect to the United Kingdom in October 2006. Also, following a separate sunset review, the USITC issued a determination that revocation of the antidumping duty order on cut-to-length carbon steel plate from Spain would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

#### *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, President Bush 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.

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. On September 1, 2007, Japan once again renewed its retaliatory duties.

## *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 four 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, counter-cyclical, 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, President Bush 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, Chairman; 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 counter-cyclical 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 counter-cyclical 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.

*United States – Sunset Reviews of Antidumping Measures on Oil Country Tubular Goods from Argentina (DS268)*

On October 7, 2002, Argentina requested consultations with the United States regarding the final determinations of Commerce and the USITC in the sunset reviews of the antidumping duty order on oil

country tubular goods (OCTG) from Argentina, issued on November 7, 2000 and June 2001, respectively, and Commerce's determination to continue the antidumping duty order on OCTG from Argentina, issued on July 25, 2001. Consultations were held on November 14, 2002, and December 17, 2002. Argentina requested the establishment of a panel on April 3, 2003. The DSB established a panel on May 19, 2003. On September 4, 2003, the Director-General composed the panel as follows: Mr. Paul O'Connor, Chairman; and Mr. Bruce Cullen and Mr. Faizullah Khilji, Members. In its report circulated July 16, 2004, the panel agreed with Argentina that the waiver provisions prevent Commerce from making a determination as required by Article 11.3 and that Commerce's Sunset Policy Bulletin is inconsistent with Article 11.3 of the Antidumping Agreement. The panel rejected Argentina's claims that the USITC did not correctly apply the "likely" standard and did not conduct an objective examination. Further, the panel concluded that statutes providing for cumulation and the time-frame for continuation or recurrence of injury were not inconsistent with Article 11.3.

On August 31, 2004, the United States filed a notice of appeal. The Appellate Body issued its report on November 29, 2004. The Appellate Body reversed the panel's finding against the Sunset Policy Bulletin and upheld the other findings described above. The DSB adopted the panel and Appellate Body reports on December 17, 2004.

Argentina requested arbitration in order to determine the reasonable period of time for the United States to implement the recommendations and rulings of the DSB. The arbitrator awarded the United States 12 months, until December 17, 2005. On August 15, 2005, Commerce published proposed regulations to implement the finding that the waiver provisions were inconsistent with Article 11.3. Commerce published the final regulations on October 28, 2005, effective October 31, 2005. On December 16, 2005, Commerce issued the redetermination of the sunset review in question.

On March 6, 2006, Argentina requested the establishment of a panel to evaluate whether the United States complied with the recommendations and rulings of the DSB, and a panel was established on March 17, 2006. On November 30, 2006, the panel, comprising the original panelists, circulated its report. The panel concluded that the United States had not brought its measures into compliance. The panel concluded that the redetermination was not consistent with the Antidumping Agreement. The panel also concluded that the United States was obliged to amend the statute, rather than simply the regulations, and that as a result the statute and regulations were inconsistent with the Antidumping Agreement. The United States appealed, challenging the panel's findings concerning the waiver provisions. On April 12, 2007, the Appellate Body issued its report, agreeing with the United States that the waiver provisions had been brought into compliance.

On May 21, 2007, Argentina filed a request for authorization to suspend concessions under Article 22.2 of the DSU. On June 1, 2007, the United States objected to Argentina's request, thus referring the matter to arbitration under Article 22.6 of the DSU. The original panelists agreed to serve as arbitrators.

As a result of the second sunset review on oil country tubular goods, the antidumping duty order was revoked. On June 4, 2007, Argentina made a statement to the DSB that it welcomed news of the May 31, 2007, decision by the USITC to find that revocation of the order would not lead to the continuation or recurrence of injury. On June 21, 2007, the United States and Argentina filed a joint request to suspend the arbitration, and on June 26, 2007, the arbitrator suspended the proceedings.

#### *United States – Anti-dumping Measures on Cement from Mexico (DS281)*

On January 31, 2003, Mexico requested consultations regarding a variety of administrative determinations made in connection with the antidumping duty order on gray portland cement and cement clinker from Mexico, including seven administrative review determinations by Commerce, the sunset determinations

of Commerce and the USITC, and the USITC's refusal to conduct a changed circumstances review. Mexico also referred to certain provisions and procedures contained in the Tariff Act of 1930, the regulations of Commerce and the USITC, and Commerce's Sunset Policy Bulletin, as well as the URAA Statement of Administrative Action. Mexico cited a host of concerns, including case-specific dumping calculation issues; Commerce's practice of zeroing; the analytical standards used by Commerce and the USITC in sunset reviews; the U.S. retrospective system of duty assessment, including the assessment of interest; and the assessment of duties in regional industry cases. Consultations were held April 2-4, 2003. Mexico requested the establishment of a panel on July 29, 2003, and the DSB established a panel on August 29, 2003. On September 3, 2004, the Director-General composed the panel as follows: Mr. Peter Palecka, Chair, and Mr. Martin Garcia and Mr. David Unterhalter, Members.

On January 13, 2006, Mexico requested that the panel suspend its proceedings until further notice. The panel agreed to this request. On March 6, 2006, Mexico and the United States entered into an agreement to promote bilateral trade in cement. This agreement also provides for resolution of the WTO dispute. On January 14, 2007, since the panel had not been requested to resume its work, the authority for the establishment of the panel lapsed, in accordance with Article 12.12 of the DSU. On May 16, 2007, the United States and Mexico notified the DSB that they had reached a mutually agreed solution.

#### *United States – Anti-dumping Measures on Oil Country Tubular Goods (OCTG) from Mexico (DS282)*

On February 18, 2003, Mexico requested consultations regarding several administrative determinations made in connection with the antidumping duty order on oil country tubular goods from Mexico, including the sunset review determinations of Commerce and the USITC. Mexico also challenged certain provisions and procedures contained in the Tariff Act of 1930, the regulations of Commerce and the USITC, and Commerce's Sunset Policy Bulletin, as well as the URAA Statement of Administrative Action. The focus of this case appeared to be on the analytical standards used by Commerce and the USITC in sunset reviews, although Mexico also challenged certain aspects of Commerce's antidumping methodology. Consultations were held April 2-4, 2003. Mexico requested the establishment of a panel on July 29, 2003, and the DSB established a panel on August 29, 2003. On February 11, 2003, the following panelists were selected, with the consent of the parties, to review Mexico's claims: Mr. Christer Manhusen, Chair; Mr. Alistair James Stewart and Ms. Stephanie Sin Far Man, Members. On June 20, 2005, the panel circulated its report. The panel rejected Mexico's claim that certain aspects of the U.S. administrative review procedures are inconsistent with U.S. WTO obligations, as well as Mexico's claims regarding the USITC's laws and regulations regarding the determination of likelihood of injury and the likelihood determination itself. The panel did find that the Sunset Policy Bulletin and Commerce's likelihood determination itself were inconsistent with Article 11.3 of the Antidumping Agreement.

On August 4, 2005, Mexico filed a notice of appeal regarding the panel's findings on likelihood of injury. The United States appealed the panel's findings regarding the Sunset Policy Bulletin. On November 2, 2005, the Appellate Body issued its report. The report upheld the panel's findings rejecting Mexico's claims regarding likelihood of injury. In addition, the Appellate Body reversed the panel's findings that the Sunset Policy Bulletin breaches U.S. obligations. The DSB adopted the panel and Appellate Body reports on November 28, 2005. Commerce issued a redetermination on June 9, 2006. Mexico filed a consultation request on August 21, 2006, contending that the United States failed to bring its measure into compliance. Consultations were held on August 31, 2006.

On April 12, 2007, Mexico filed a request for the establishment of a compliance panel, and on April 24, 2007, the compliance panel was established. The original panelists agreed to serve on the compliance panel.

As a result of the second sunset review on oil country tubular goods, the antidumping duty order was revoked. On July 5, 2007, Mexico requested the panel, pursuant to Article 12.12 of the DSU, to suspend the proceedings, and on July 11, 2007, the panel informed the DSB that it had suspended the proceedings until further notice.

*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, Chairman; 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 Chairperson 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, Chairperson; 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. 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.

*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 EC requested consultations with the United States concerning its compliance with the recommendations and rulings of the DSB. The EC and the United States held consultations on July 30, 2007. On September 13, 2007, the EC 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 and will serve as the panelists: Mr. Felipe Jaramillo, Chair, and Ms. Usha Dwarka-Canabady and Mr. Scott Gallacher, members.

*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 time frame 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 Peña 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. 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, Chairman, 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.

*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 February 20, 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 December 24, 2007.

*United States – Antidumping Measure on Shrimp from Ecuador (DS335)*

On November 17, 2005, Ecuador requested consultations with respect to Commerce’s imposition of definitive antidumping duties on certain frozen warmwater shrimp from Ecuador. Specifically, Ecuador has alleged that Commerce’s use of a “zeroing” methodology is inconsistent with Article VI of the GATT 1994 and several provisions of the Antidumping Agreement. Consultations were held on January 31 and March 3, 2006. Ecuador filed a request for the establishment of a panel on June 6, 2006, and a panel was established on July 19, 2006. On September 26, 2006, the parties agreed to the following panelists: Mr. Alberto Dumont, Chair, and Ms. Deborah Milstein and Ms. Stephanie Sin Far Man, Members.

On January 30, 2007, the panel circulated its report, finding the use of zeroing in this particular investigation to have breached the Antidumping Agreement. On February 20, 2007, the DSB adopted the report. The Department of Commerce recalculated the dumping margins. The recalculated margins were below *de minimis*, and the Department revoked the antidumping duty order.

*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.

*United States — Final Anti-dumping 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.

*United States — Customs Bond Directive for Merchandise Subject to Anti-Dumping/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.

*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 4 antidumping investigations, 35 administrative reviews, and 1 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 EC agreed on November 27, 2007, that Ms. Andrea Marie Brown would replace her.

*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 – Agriculture Subsidies (Canada) (WT/DS357)*

On January 8, 2007, Canada requested consultations with the United States alleging (1) serious prejudice to the interests of Canada within the meaning of Articles five and six of the SCM Agreement in that subsidies to U.S. corn producers had caused price suppression for corn in Canada; (2) that certain U.S. export credit guarantee programs confer export subsidies in contravention of the SCM Agreement and the Agreement on Agriculture, and (3) that the U.S. exceeded its commitments regarding the Total Aggregate Measurement of Support in favor of domestic producers of agricultural products in several years from 1999 to 2005. Consultations were held on February 7, 2007.

Canada requested a panel with respect to points (2) and (3) on June 7, 2007. On November 8, 2007, Canada submitted a revised request that covered point (3) only, and on November 15, 2007, Canada withdrew its June 7 request. On December 17, 2007, the DSB established a single panel to hear both Canada's revised claims and Brazil's claims in DS365, discussed below.

### *United States – Agriculture Subsidies (Brazil) (WT/DS365)*

On July 11, 2007, Brazil requested consultations with the United States alleging (1) that the U.S. exceeded its commitments regarding the Total Aggregate Measurement of Support in favor of domestic producers of agricultural products in several years from 1999 to 2005 and (2) that certain U.S. export credit guarantee programs confer export subsidies in contravention of the SCM Agreement and the Agreement on Agriculture. Consultations were held on August 22, 2007.

Brazil requested a panel on November 8, 2007 with respect to point (1) only. On December 17, 2007, the DSB established a single panel to hear both Brazil's claims and Canada's claims in DS357, discussed above.

### *United States – Preliminary Anti-Dumping and Countervailing Duty Determinations on Coated Free Sheet Paper from China (WT/DS368)*

On September 14, 2007, the government of China (GOC) requested WTO consultations concerning preliminary antidumping and countervailing duty determinations by the Department of Commerce in the coated free sheet paper investigations. China claimed that (1) the determinations that the countervailed subsidies were "specific" or limited to certain industries or companies, (2) the "benefit" calculation for a government loan program, (3) the calculation of the amount of subsidy, and (4) the calculation of the amount of dumping were inconsistent with U.S. obligations under the WTO Agreement. Consultations were held on October 12, 2007. On November 20, 2007, the ITC determined that a U.S. industry is neither materially injured nor threatened with material injury by reason of imports of coated free sheet paper from China. Accordingly, no final antidumping or countervailing duty order was issued.

## **I. 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 cover 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 relevant 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 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."

## Major Issues in 2007

During 2007, the TPRB reviewed the trade regimes of Argentina; Australia; Bahrain; Canada; Central African Republic; Cameroon; Chad; Costa Rica; European Union; Gabon; India; Indonesia; Japan; Macao, China; Organization of Eastern Caribbean States (Antigua and Barbuda, Dominica, Grenada, St. Kitts and Nevis, St. Lucia, and St. Vincent and the Grenadines); Panama; Peru; Thailand; and Turkey. Central African Republic, Chad, and Panama underwent their first reviews. Two of these Members – Central African Republic and Chad – are LDCs.

From its inception in 1998 to the end of 2007, the TPRM has conducted 248 reviews, covering 133 out of 151 Members (counting the EU as twenty-five) and representing some 97 percent of world trade.

While each review highlights the specific issues and measures concerning the individual Member, certain common themes emerged during the course of the 2007 reviews. 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: preferences, rationalization, and the gap between applied and bound rates;
- customs clearance procedures and valuation;
- import and export restrictions and licensing procedures;
- the use of contingency measures such as anti-dumping and countervailing duties;
- technical and sanitary measures and their relationship to market access;
- standards and their equivalence with international norms;
- intellectual property rights legislation and enforcement;
- government procurement policies and practices;
- state involvement in the economy and privatization programs;
- trade-related investment policy issues;
- incentive measures;
- sectoral trade-policy issues, particularly liberalization in agriculture and certain services sectors;
- GATS commitments; and
- development issues, including technical assistance in implementing the WTO Agreements.

The Trade Policy Review Body's Report to the Singapore Ministerial Meeting suggested that Members pay greater attention to LDCs in preparing the TPRB timetable. A 1999 appraisal of the TPRM's operation also drew attention to this matter. Overall, by the end of 2007, the TPRB had reviewed 27 of the 32 least developed Members of the WTO.

Increasingly, Trade Policy Reviews 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 enabling them better to comply and integrate into the multilateral trading system. In some cases, the reviews have spurred better interaction between government agencies.

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 2007, the seminars for the Central African Republic and Madagascar focused on preparation for such reviews.

### **Prospects for 2008**

The TPRM will continue to be an important tool for monitoring Members' adherence to WTO commitments and an effective forum in which to encourage Members to meet their obligations and to adopt further trade liberalizing measures. In June 2008, the next trade policy review of the United States is scheduled to take place.

## **J. 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 (sub-paragraph 32(i)); the TRIPS Agreement and the environment (sub-paragraph 32(ii)); labeling for environmental purposes (sub-paragraph 32(iii)); capacity-building and environmental reviews (paragraph 33); and discussion of the environmental aspects of the Doha negotiations (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 CTESS (discussed in section B.6 of this chapter).

#### **Major Issues in 2007**

In 2007, the CTE met twice, in June and December. In general, Members have been less active in meetings of the CTE, given the increased workload and intensified negotiating schedule of the CTESS. That said, the United States has continued its active role in CTE discussions, as discussed below.

- *Market Access under Doha Sub-Paragraph 32(i):* Members considered how the CTE could move the discussion forward in a more structured way, and, more specifically, in the format of Members' experience-sharing, particularly with respect to market access concerns of developing country Members. Attention was also given to specific sectors, including illegal logging. The CTE received information regarding regional workshops on environmental requirements related to trade in electronic goods and organic agricultural products, as well as other work being conducted by the UN Conference on Trade and Development (UNCTAD).
- *The TRIPS Agreement and the Environment under Doha Sub-Paragraph 32(ii):* Discussions under this item continued to focus, as they had prior to the Doha Ministerial Conference, on whether there may be any inherent conflicts between the TRIPS Agreement and the Convention on Biological Diversity (CBD) with respect to genetic resources and traditional knowledge. Several suggestions for structuring further discussions under this agenda item include studying the effects, if any, of trade and intellectual property rights regimes on biodiversity and exploring funding for biodiversity protection and technology transfer.

- *Labeling for Environmental Purposes under Doha Sub-Paragraph 32(iii)*: Discussions under this agenda item continued to reflect a lower level of interest. However, there was increased interest in the success of voluntary, performance-based eco-labeling schemes, such as the U.S. Energy Star Program.
- *Capacity Building and Environmental Reviews under Doha Paragraph 33*: Many developing country Members stressed the importance of benefiting from technical assistance related to WTO negotiations on trade and environment, particularly given the complexity of some of these issues. Members held discussions with respect to national environmental reviews, and the Secretariat informed the CTE of its trade and environment technical assistance activities undertaken in 2007 and planned for 2008.
- *Discussion of Environmental Effects of Negotiations under Doha Paragraph 51*: Discussions under this agenda item continued to focus on developments in other areas of negotiations, based on the updates from relevant WTO divisions regarding the environment-related issues in the Doha negotiations on Agriculture, Market Access for Non-agricultural Products, WTO Rules, and Services (WT/CTE/GEN/8/Suppl.1, WT/CTE/GEN/9/Add.1, WT/CTE/GEN/10/Suppl.1 and WT/CTE/GEN/11/Suppl.1, respectively).

### **Prospects for 2008**

It is expected that the CTE will continue to focus its attention on paragraphs 32, 33, and 51 of the Doha Declaration, and that these discussions may become more structured in 2008.

## **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, two additional sub-groups of the CTD have been established, 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 trading system, technical cooperation and training, commodities, market access in products of interest to developing countries, and the special concerns of the 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 establishment 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 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 2007**

The CTD in Regular Session held six formal sessions in March, May, July, October, November and December 2007. Activities of the CTD and its subsidiary bodies in 2007 included:

*Duty-Free, Quota-Free Market Access for LDCs Members:* The work of the CTD in 2007 included reviews of papers submitted by the United States, Canada and Japan on steps each had taken to implement the Hong Kong decision to provide DFQF market access to the LDCs Members. The U.S. papers contain a summary of the U.S. domestic legal and consultative process for implementing the DFQF decision (WT/COMTD/W/149/Add.1, Add.2 and Add.4). During these reviews, the LDC Group expressed appreciation to those developed country Members that had fulfilled their obligations under the Decision, and called for the provision of enhanced DFQF market access from others.

*Transparency of Preferential Trading Arrangements:* In 2007, the CTD reviewed notifications by Members under the Enabling Clause concerning regional trade agreements (RTAs) and Generalized System of Preferences (GSP) programs. Two notifications by the United States concerning its GSP scheme (WT/COMTD/N/1/Add.4 and Add.5) were considered. A central theme in discussions in the CTD over the course of 2007 was the need for greater transparency of recently-notified RTAs and GSP programs, including the China-ASEAN Framework Agreement on Comprehensive Economic Cooperation, the Asia-Pacific Trade Agreement, and the GSP program of the EU. In each case, Members sought to obtain additional information on the terms of these arrangements from the parties in order to better understand how their own trade might be affected. To date, there have been no RTAs notified to the CTD under the new transparency mechanism for RTAs that was implemented in accordance with the December 2006 General Council decision.

In December 2006, the General Council invited the CTD to review the transparency of GSP programs and other preferential agreements under its mandate. Brazil and India circulated a non-paper (JOB(07)/142) in October 2007, which was considered by the Committee at its October meeting. The Chairman encouraged the proponents to reflect on the questions and comments that had been raised by Members on the non-paper, and to start thinking of revising and updating its content. The General Council encouraged the Committee to consider the matter and report back by July 2008 for appropriate action, as necessary, and informal meetings will continue to take place on the subject.

*Trade-Related Technical Assistance and Training (TRTA):* In 2007, the Secretariat produced the first biennial technical assistance and training plan (the plan had been developed on an annual basis in previous years). This was done as a result of ongoing discussions with Members to create a more predictable and well-thought plan for TRTA (as opposed to the earlier one-year plans). It is envisioned that a multi-year plan will translate into more predictable and stable funding for WTO TRTA. The Biennial Technical Assistance and Training Plan 2008-2009 was adopted at the November meeting.

*Other CTD Issues:* The CTD considered presentations on a wide range of traditional and non-traditional issues in the trade and development nexus. These issues included commodity dependence and the growth of developing country participation in the global economy. 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/162) highlighting salient features concerning the participation of developing economies in the global trading system.

*Dedicated Session on Small Economies:* Following on work of the CTD in the Dedicated Session (CTD-DS) to identify the unique characteristics and problems of Small Economies in the trading system, in 2007, the CTD-DS continued to monitor the progress of the small economies' proposals in the negotiating and other bodies. In addition to an informal meeting, the Dedicated Session held one formal meeting in December where the Secretariat presented an updated compilation paper of the small economies' negotiating proposals to assist the Dedicated Session with its monitoring role.

*LDC Subcommittee:* The Subcommittee held three meetings in 2007 where it mainly focused on the implementation of the WTO Work Program for the LDCs adopted by Members in 2002. The subjects discussed included: market access for LDCs; trade-related technical assistance and capacity-building initiatives for LDCs; assistance to LDCs in the diversification of their production and export base; and accession of LDCs.

### **Prospects for 2008**

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, both developed and developing, to provide DFQF market access to the LDC Members. In addition, the CTD's examination of RTAs between developing country Members is likely to increase with the implementation of the new transparency mechanism.

## **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, any Member imposing restrictions for balance-of-payments 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 balance of payments 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 the balance-of-payments.

### **Major Issues in 2007**

During 2007, no Member imposed new balance-of-payments restrictions. The Committee met to consult with Bangladesh under Article XVIII:B in May 2007 to discuss its remaining restrictions on salt, chicks, and eggs. The government of Bangladesh declared that it would remove these restrictions by the end of 2008, and on this basis, the Committee concluded that Bangladesh had met its obligations.

The BOP Committee also met in November to conduct its sixth annual review under China's Transitional Review Mechanism. In light of China's balance-of-payments position, there was little discussion.

### **Prospects for 2008**

Should other Members resort to new BOP measures, WTO rules require a thorough program of consultation with this Committee. The United States expects 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. The United States, as the Member with the largest share of world trade, makes the largest contribution to the WTO budget. The assessed contribution of each Member is based on the share of that Members' trade in goods, services, and intellectual property. For the 2008 budget, the U.S. assessed contribution is 14.106 per cent of the total budget assessment, or Swiss Francs (CHF) 25,094,574 (about \$22 million). Details required by Section 124 of the Uruguay Round Agreements Act on the WTO's consolidated budget for 2008 and 2009 are provided in Annex II.

### **Major Issues in 2007**

- *WTO Facilities:* In July the General Council agreed to increase funding for construction of a new WTO Annex, to be financed through a 50-year interest-free loan from the Swiss authorities. The WTO Secretariat has outgrown the main WTO building and the new annex was intended to replace temporary facilities that have been needed to house those staff and functions that do not fit in the main building. In 2006, the Director-General brought to Members' attention new alternative possibilities that had opened up that are closer to the main WTO building and could be more cost effective. In 2007, the Budget Committee examined these propositions and, in December 2007, the General Council agreed to authorize the Director-General to negotiate with the host country authorities to reach a mutually agreed solution to the long term needs of the WTO, *i.e.*, on a single site based on the renovation and extension of the current site of the WTO's headquarters and within the funding limits that had been agreed in connection with the WTO Annex project. The Budget Committee will work in close consultation with the Director-General on these negotiations in 2008.
- *Appellate Body Remuneration:* In December 2007, the Budget Committee proposed, and the General Council agreed, to increase the remuneration of Appellate Body Members (for retainer and daily fees) by 10 percent in 2008 and 5 percent in 2009, with annual adjustments thereafter, based on the Geneva Price Index. Appellate Body remuneration has only been increased once, in 2004, since its inception.

- *Security Enhancement Program:* In December 2004, the General Council agreed to fund the Secretariat's proposed Security Enhancement Program. This multi-year plan is designed to meet the new realities of the post-9/11 world by, among other things, improving controls on the entrance of goods, vehicles and people to the WTO facilities as well as by improving the technology available to monitor the WTO's facilities and grounds. Implementation of the program will conclude during the 2008-2009 biennium.
- *Critical Review of the Structure of the WTO Secretariat:* The Director-General has been conducting a critical review of the structure of the WTO Secretariat with a view to streamlining it. Implementation of the reform plan is expected to result in future savings. However, in the short term, financial resources will be needed to bridge a liquidity gap. Therefore, in December 2005, the General Council agreed to a specific allotment of Swiss Francs 500,000 for 2005 and a further Swiss Francs 500,000 for 2006 to meet this need. Developments in 2006 and 2007 made it impossible for the Director-General to complete the critical review. Therefore, it was agreed that Swiss Francs 1,500,000 would be made available from a surplus in the 2006 budget for this purpose. Any funds left at the end of 2008 will be returned to the WTO accounts.

### **Prospects for 2008**

The Budget Committee will continue to monitor the financial and budgetary situation of the WTO on an ongoing basis. The Budget Committee will consider whether any adjustments will be needed to the budget for the second half of the 2008-2009 biennium and will actively work with the Director-General on the negotiations for new and improved facilities for the WTO. It will also be regularly consulted and kept informed of all aspects concerning the finalization and implementation of the restructuring plan and security enhancements.

## **5. Committee on Regional Trade Agreements**

### **Status**

The Committee on Regional Trade Agreements (the 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 10 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 2007**

As of November 1, 2007, 385 RTAs have been notified to the GATT or WTO. Of the notified agreements, 197 are currently in force. Of the RTAs in force, 125 have been notified GATT Article XXIV agreements; 22 have been notified Enabling Clause agreements;<sup>22</sup> and 50 have been notified 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.

Prior to the adoption of the transparency mechanism, the CRTA had completed the factual 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, 8 agreements have been examined (all in 2007). A total of 64 RTAs remain to be reviewed, comprising 36 RTAs for which the factual presentation is still to be done and 28 RTAs (mostly with non-WTO Members) for which the factual presentation is on hold.

In June 2007, the WTO Secretariat circulated the factual presentation of the United States-Australia FTA. The United States attended the 47th Session of the CRTA in which the USAFTA was discussed, and responded to all questions (written and oral); the factual examination was completed during the 47th Session of the CRTA in September 2007.

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<sup>22</sup> Consistent with past practice, RTAs notified under the Enabling Clause continue to be reviewed in the Committee on Trade and Development.

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. In this context, the Chair of the CRTA, in concert with the Chair of the Negotiating Group on Rules, reported that Members considered that there was not yet enough experience for the review.

### **Prospects for 2008**

In 2008, seventeen RTAs are scheduled for consideration in the CRTA, including the United States-Bahrain Free Trade Agreement and the United States-Morocco Free Trade Agreement. Factual presentations of these RTAs are currently under preparation by the WTO Secretariat.

## **6. Accessions to the World Trade Organization**

### **Status**

During 2007 significant progress was recorded in accession negotiations for a number of countries seeking WTO Membership. Vietnam became the 150th WTO Member on January 11, 2007, and the Kingdom of Tonga followed on July 27, 2007. Concluding 14 years of effort, Ukraine substantially completed its negotiations in 2007, and saw its accession package approved on February 5, 2008. Russia showed new energy in its multilateral negotiations, working intensively with the United States and the EU to revise its draft Working Party report, and with the WTO Secretariat to consolidate nearly 60 bilateral agreements on market access into GATT and GATS Schedules of Specific Concessions. Kazakhstan and Montenegro also took active stances in both bilateral and multilateral negotiations, advancing their negotiations towards possible conclusion in 2008.

Comoros and Liberia applied for accession in 2007, followed by Equatorial Guinea in February 2008. All three of these new applicants are LDCs, bringing the number of countries in negotiations to 29, over one-third of which are LDCs.<sup>23</sup> Accession applicants are welcome in all formal WTO meetings as observers. There were no other new requests for observer status during 2007.<sup>24</sup>

The Working Parties of Azerbaijan, Bhutan, Bosnia, Cape Verde, Iraq, Laos, Lebanon, Montenegro, Serbia, Ukraine, and Yemen met formally and informally throughout 2007 to review the trade regimes of the respective applicants. All except Iraq have initiated market access negotiations. The formal and informal Working Party meetings in 2007 for Cape Verde and Ukraine had a different character, as these accessions were nearing completion and the draft Working Party report (WPR) text, including Protocol commitments, was under negotiation and domestic legislative implementation of WTO rules was underway.

Eight of the 29 applicants (Afghanistan, Bahamas, Comoros, Equatorial Guinea, Iran, Liberia, Libya, and Sao Tome and Principe) have not yet submitted initial descriptions of their trade regimes, the action necessary to activate their Working Parties and begin negotiations. The Working Parties of Andorra, Belarus, Seychelles, Sudan, and Uzbekistan remained dormant, and Vanuatu continued to decline to accept the accession package approved by the Working Party in 2001. The Working Parties of Algeria, Ethiopia, Kazakhstan, Russia, Samoa, and Tajikistan did not meet in 2007, but work continued on their

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<sup>23</sup> 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).

<sup>24</sup> The Holy See is a permanent observer and will not apply for accession.

accessions. Ethiopia submitted responses to Members' questions on its Memorandum on the Foreign Trade Regime at the beginning of 2008 and Kazakhstan, Russia, and Samoa worked to revise their working party reports and complete their bilateral market access negotiations seeking to move their accession negotiations to the final stage. Working Party meetings for all of these countries are likely during 2008. 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.

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 establish an appropriate level of initial WTO obligations, and to address outstanding trade issues covered by WTO in a multilateral context.

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. At the conclusion of its work, the Working Party transmits the agreed results of the negotiations to the General Council. Accession negotiations involve a detailed review of the applicant's entire trade regime by the Working Party and bilateral negotiations for market access of goods and services. Applicants are expected to undertake trade liberalizing specific commitments on market access for industrial and agricultural goods, as well as for services based on requests from Working Party Members, to make necessary legislative changes to implement WTO institutional and regulatory requirements, and to eliminate existing WTO-inconsistent measures. Most accession applicants take these actions on WTO rules prior to accession.<sup>25</sup>

The terms of accession developed with Working Party Members in bilateral and multilateral negotiations are recorded in an accession "protocol package" consisting of a 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. The Working Party adopts the completed protocol package containing the negotiated terms of accession and transmits it with its recommendation for approval to the General Council or Ministerial Conference. After General Council approval, accession applicants normally submit the package to their domestic authorities for acceptance. Thirty days after the WTO receives the applicant's instrument accepting the terms of accession the applicant becomes a WTO Member.

As a matter of course, 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 and the Commercial Law Development Program (CLDP) of the U.S. Department of Commerce.

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<sup>25</sup> As outlined below, negotiations with LDC applicants are subject to the special procedures and guidelines of the 2002 Decision on the Accession of Least-Developed Countries (WT/L/508).

This assistance can include short-term technical expertise focused on specific issues, *e.g.*, Customs, IPR, or TBT, 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.*, Armenia, Bulgaria, Cape Verde, Estonia, Georgia, Jordan, Kyrgyz Republic, Latvia, Lithuania, Macedonia, Moldova, Nepal, Russia, Ukraine, and Vietnam. Most of these countries had U.S.-provided resident experts for some portion of the process.

Current accession applicants where the United States has provided a resident or other long-term WTO expert for the accession process include: Afghanistan, Algeria, Azerbaijan, Bosnia and Herzegovina, Ethiopia, Iraq, Lebanon, Montenegro, and Serbia; in addition a U.S.-funded WTO expert resident in the Kyrgyz Republic provides resident WTO accession assistance to Kazakhstan and Tajikistan.

### **Major Issues in 2007**

For the second year, work on the accessions focused on the efforts of some applicant countries, *e.g.*, Russia, Ukraine, Cape Verde, and to a lesser extent Kazakhstan, to make decisive progress on their accessions. All four moved aggressively during the year to conclude bilateral market access negotiations, and Ukraine and Cape Verde intensified efforts to enact legislation to implement the WTO Agreement in their respective domestic legal regimes and to complete the accession process. Members continued to give most attention to those accessions demonstrating progress on market access and legislative implementation, as well as to LDC accessions when those applicants showed interest in completing the negotiations. Work on the negotiations of other accession applicants moved forward, but more slowly as efforts to complete the Doha Development Agenda took priority.

*Ukraine:* Ukraine completed its accession negotiations in 2007, and its accession package was approved by the General Council in February 2008. This was a major accomplishment and an historic event for Ukraine, whose recent status as an independent country was only two years older than its 14 year old bid to join the WTO. Ukraine is by far the largest of the former Soviet Republics to date to conclude its accession negotiations. The terms of accession accepted by Ukraine are broadly liberalizing, including fully bound tariffs at an average rate of less than 5 percent on industrial goods, and less than 12 percent on agricultural products. Ukraine's services schedule is one of the most comprehensive in the WTO, granting nondiscriminatory access to foreign service-suppliers in almost every sector. In addition, Ukraine substantially revised its trade regime, enacting more than 40 laws and regulations in 2007 to implement WTO obligations, including in the areas of customs fees and valuation, import and export restrictions, technical barriers to trade, sanitary and phytosanitary measures, subsidies, trade remedies, and intellectual property rights protection, as well as to provide for the significant liberalization of market access for goods and services.

The United States has strongly supported Ukraine's accession bid from its inception in December 1993, providing Ukraine's first Working Party Chairman and comprehensive technical assistance all the way through the negotiations. But while the terms of accession reflect significant U.S. participation in the negotiating process, Ukraine's commitments are based on its own wide-ranging economic reforms and strategic decision to use the WTO accession process in support of longer term objectives for closer economic integration with the European Union. President Bush signed a proclamation terminating application of title IV of the Trade Act of 1974 (the Jackson-Vanik Amendment) to Ukraine in March 2006, thereby granting products of Ukraine permanent normal trade relations treatment, and ensuring that the United States would be able to establish full WTO relations with Ukraine when it becomes the 152nd WTO Member later in 2008. This will mark the beginning of a new era in the political and economic relationship between the two countries, and promises expanding economic opportunities and cooperation.

*Russia:* Building on the successful conclusion of the bilateral market access agreement between Russia and the U.S. in the context of Russia's WTO accession at the end of 2006, the United States and Russia intensified work on the remaining multilateral issues and requirements for Russia's WTO Membership during 2007. The principal focus of multilateral work was to revise the draft Working Party report text. By early 2008, with full U.S. participation, most of the remaining draft texts, including those on TRIPS, TBT, and SPS, had been revised and presented to WP members for review. Eventually, a consolidated revision of the report will be issued, allowing WP members to resume WP deliberations on Russia's Protocol of Accession. Russia also turned to compiling a legislative action plan for completing its implementation of WTO provisions, *e.g.*, in the areas of TRIPS, customs valuation, and SPS. In some cases, *e.g.*, the Law on Technical Regulations and Part IV of the Civil Code, it was necessary to make further changes to laws whose recent amendments conflicted with WTO provisions. Russia continued bilateral negotiations with the handful of Members with which it had not yet signed market access agreements (Saudi Arabia, United Arab Emirates, and Georgia), and initiated technical work with the WTO Secretariat to consolidate its goods and services market access bilateral agreements when those negotiations are completed.

*Kazakhstan:* Kazakhstan continued to focus on its bilateral negotiations on market access for goods and services during 2007, completing agreements with a number of Members, but not with the United States. Bilateral negotiations continue on a number of issues, including tariffs, services, SPS barriers to trade, and the operation of state owned and state controlled enterprises. In 2008, Kazakhstan will move to complete market access negotiations with the United States and others, pursue legislative implementation of WTO provisions, and attempt to complete negotiation of its draft WP report and Protocol of Accession.

*Cape Verde.* This LDC, slated to lose this status in 2008, successfully completed its market access negotiations and finalized its accession negotiations at the end of 2007. Council approval of the terms of access on December 17, 2007, which made Cape Verde the first sub-Saharan country to accede to the WTO through negotiation. As a result of the negotiations, Cape Verde has pledged to substantially revise the legal basis for its trade regime to bring it into conformity with WTO provisions. In addition, Cape Verde has undertaken market access commitments that bind every tariff line, provide for liberal market access for trade in services, and confirm elimination of agricultural export subsidies. Cape Verde will be the first LDC to join the tariff Agreements on Information Technology (ITA) and on Trade in Civil Aircraft (ATCA), with zero duties to be phased in over 6-10 years. The terms of its accession to the WTO were developed accordingly within the guidelines of the 2002 WTO General Council Decision on Accessions of Least-Developed Countries (WT/L/508), which mandate special consideration of these countries' problems and vulnerabilities during the negotiations. However, the terms achieved in this accession are quite good even for a non-LDC. They represent a tangible contribution to the Doha Development Agenda and demonstrate the role that can be played by the WTO in building trade capacity and helping countries incorporate trade liberalization into their development programs.

*LDC Accessions:* WTO Members continued to emphasize a need for accelerating the accession process of LDCs, and in making WTO accession more accessible to these applicants. Discussions continued in various WTO fora on how the WTO guidelines on LDC accessions are being implemented. The accession negotiations for all LDC accession applicants are guided by the simplified and streamlined procedures developed for these 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, laying out a progressive action plan for implementation of WTO rules. The market access schedules and protocols of accession developed under these guidelines reflect the need to address realistically the difficulties faced by LDCs 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. The United States and other developed WTO Members have sought to support the

transitional goals established in the accession process with LDCs with technical assistance to meet the benchmarks included in the protocol commitments. In this way, the accession process becomes a development tool and an opportunity to mainstream trade in their development programs, to build trade capacity, and to provide a better economic environment for investment and growth.

### **Prospects for 2008**

Russia, Montenegro, Azerbaijan, and Kazakhstan have indicated that they would like to complete their work on WTO accession, if not become Members, prior to the end of the year. Work with Russia and Kazakhstan has already intensified. Montenegro is completing its legislative implementation of WTO provisions, and we have made additional technical assistance available to Azerbaijan. Efforts to advance the accessions of LDCs will also continue. Among the LDCs, Bhutan and Samoa have signaled their hope to complete their accessions during 2008.

For any applicant, the pace of the accession process is largely self-determined. Those that submit usable documentation on a timely basis, make necessary legal changes to implement WTO provisions, and move rapidly to negotiate acceptable market access commitments maximize their opportunities for progress and bring momentum to the negotiations overall.

## **7. Aid for Trade**

The Hong Kong Ministerial Declaration created a new WTO framework in which to discuss and prioritize Aid for Trade. Aid for Trade is an effort to connect the trade priorities of developing countries with trade capacity building assistance – to help those countries implement trade commitments. At Hong Kong, WTO Members agreed on the need to operationalize Aid for Trade efforts to improve the efficacy and efficiency of these efforts amongst WTO Members and other international organizations.

Ministers at Hong Kong also agreed to pursue the enhancement of the Integrated Framework (IF) for trade-related technical assistance for least-developed countries (both WTO Members and non-Members), as a subset of Aid for Trade designed exclusively for that set of countries. The IF is a multi-organization (including the WTO, World Bank, IMF, UNCTAD, UNDP, 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.

Task forces were created to address Aid for Trade questions and the enhancement of the IF. These Task Forces submitted their reports in late 2006. The General Council asked the Director-General to manage the follow-up to these reports.

2007 saw an active agenda to implement many of the Task Force's recommendations. In the fall of 2007, the WTO Secretariat and its regional development bank partners sponsored regional discussions of Aid for Trade in Lima, Peru; Manila, Philippines; and Dar es Salaam, Tanzania. A global review of Aid for Trade, incorporating the results of the regional discussions, was held in Geneva in November 2007 with high-level attendance from trade, finance, and development officials.

The IF Task Force recommended the creation of an independent secretariat to manage the Integrated Framework, to intensify in-country support and coordination among LDC participants and for a scaling up of resources to support IF programs. Active discussions among donor countries, IF participating agencies, and least developed countries began in September 2006 on the implementation of the enhanced IF, and continued through much of 2007. The new Enhanced Integrated Framework (EIF) was formally launched in May and is expected to be fully operational in early 2008.

## **Prospects for 2008**

Work on Aid for Trade during 2008 will focus on technical issues and best practices in delivery of trade-capacity building assistance and prioritization of trade in national development plans. We expect the selection of an executive director for the IF Secretariat by mid-year and a fully operational IF during the same timeframe.

## **K. 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.<sup>26</sup>

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 35 signatories to the Aircraft Agreement: The United States; Canada; the European Communities; Austria; Belgium; Bulgaria; the Czech Republic; Denmark; Estonia; Finland; France; Germany; Greece; Hungary; Ireland; Italy; Latvia; Lithuania; Luxembourg; the Netherlands; Poland; Portugal; Romania; the Slovak Republic; Spain; Sweden; the United Kingdom; Chinese Taipei; Egypt; Georgia; Japan; Macao, China; Malta; Norway; and Switzerland.

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 2007**

The Aircraft Committee held one regular meeting on November 7, 2007. At this meeting, the Committee considered the status of the 1979 Agreement on Trade in Civil Aircraft under the WTO, and the matter of updating of the HS Codes used in the Product Coverage Annex in the light of the new 2007 HS Codes, and requested the Secretariat to prepare a technical note on this matter for consideration at the Aircraft Committee's next regular meeting. 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.

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<sup>26</sup> 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](http://www.wto.org/english/tratop_e/civair_e/civair_e.htm).

## **Prospects for 2008**

The Aircraft Committee agreed to meet once, in the fall of 2008. The United States will continue to encourage observers,<sup>27</sup> including Albania, Croatia, and Oman, to become signatories pursuant to their respective protocols of accession, 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 four 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 WTO Members are subject 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; and the United States (collectively the GPA Parties).

As of the end of 2007, nine Members are in the process of acceding to the GPA: Albania, China, Chinese Taipei, 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: Armenia, Croatia, the Former Yugoslav Republic of Macedonia, Mongolia, and Saudi Arabia.

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.

With the addition of Saudi Arabia in December 2007, 20 WTO Members, including those in the process of acceding to the GPA, have observer status in the GPA Committee: Albania, Argentina, Armenia, Australia, Cameroon, Chile, China, Chinese Taipei, Colombia, Croatia, Georgia, Jordan, Kyrgyz Republic, Moldova, Mongolia, Oman, Panama, Saudi Arabia, Sri Lanka, and Turkey. Three intergovernmental organizations (IMF, OECD, and UNCTAD) also have observer status.

### **Major Issues in 2007**

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

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<sup>27</sup> As of December 31, 2007, those WTO Members with observer status in the Aircraft Committee are: Albania, Argentina, Australia, Bangladesh, Brazil, Cameroon, China, Colombia, Croatia, Gabon, Ghana, India, Indonesia, Israel, the Republic of Korea, Mauritius, Nigeria, Oman, Saudi Arabia, Singapore, Sri Lanka, Trinidad and Tobago, Tunisia, and Turkey. In addition, the Russian Federation, IMF, and UNCTAD are also observers.

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.

During 2007, the GPA Committee held six meetings (in February, April, June, October, November, and December) during which Parties focused primarily on completion of the revision of the GPA text, in particular: 1) verification of the linguistic consistency of the English, French, and Spanish versions of the revised text; 2) the development of the final provisions of the revision; and 3) the development of arbitration procedures and indicative criteria for use in facilitating the resolution of disputes relating to the elimination of government control or influence when a Party proposes the withdrawal of an entity from its GPA Annexes.

With respect to the negotiations under GPA Article XXIV:7 that are aimed at expanding procurement covered by the Agreement, very little progress was made during 2007. Only two additional offers were submitted: a revised offer from Korea and an initial offer from Iceland. As of the end of 2007, 10 Parties had submitted initial offers (the United States, Canada, the European Communities, Iceland, Israel, Japan, Korea, Norway, Singapore, and Switzerland), but only 3 Parties had submitted revised offers (the United States, Japan, and Korea).

The GPA Committee dedicated discussions at three informal meetings on Jordan's accession to the GPA (in April, June, and October). During 2007, Jordan submitted its third revised offer.

### **Prospects for 2008**

The GPA Committee has tentatively scheduled six meetings for 2008, with the first set for February, with the aim of completing the revision of the GPA. It also anticipates concluding Jordan's accession to the GPA.

Beginning with the first meeting of 2008, the United States and the other Parties will commence negotiations with China on its accession to the GPA.

## **3. Committee of Participants on the Expansion of Trade in Information Technology Products**

### **Status**

The Information Technology Agreement (ITA) was concluded at the WTO's First Ministerial Conference at Singapore in December 1996. For original participants, the Agreement eliminated tariffs as of January 1, 2000 on a wide range of information technology products. As of November 2007, the ITA had 43 participants (covering 70 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.<sup>28</sup> The Agreement covers a wide range of information technology products including computers and computer peripheral equipment, electronic components including semiconductors, computer software,

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<sup>28</sup> ITA participants are: Albania; Australia; Austria; Bahrain; Canada; China; Costa Rica; Croatia; Cyprus; Dominican Republic; Egypt; El Salvador; European Communities (on behalf of 27 Member States); Georgia; Guatemala, Hong Kong, China; Honduras, Hungary; Iceland; India; Indonesia; Israel; Japan; Jordan; Korea; Krygyz Republic; Macao, China; Malaysia; Malta; Mauritius; Moldova; Morocco; New Zealand; Nicaragua, Oman; Panama; Philippines; Saudi Arabia; Singapore;; Switzerland (on the behalf of the customs union of Switzerland and Lichtenstein); Chinese Taipei; Thailand; Turkey; Vietnam; and the United States.

telecommunications equipment, semiconductor manufacturing equipment, and computer-based analytical instruments.

### **Major Issues in 2007**

The WTO Committee on the Expansion of Trade in Information Technology Products held four meetings in 2007. Work continued on classification divergences of ITA products and the Non-Tariff Measures (NTMs) Work Program as well as on drafting a list of conformity assessment procedures for the EMC/EMI pilot project. The Committee membership appointed a new Chairperson, Khalid Emara of Egypt. Also, Ukraine committed to join the ITA as part of its WTO accession. A two-day symposium was held on March 28-29 to celebrate the 10-year operation of the Information Technology Agreement (ITA) with approximately 200 participants representing governments, industry, and consumers from around the world. This was the third symposium organized by the WTO on information technology products.

The Committee also held discussions in 2007 on U.S. proposals to maintain duty-free treatment for ITA covered products. Several ITA participants including the United States; Japan; Singapore; Hong Kong, China; Korea; Chinese Taipei; Malaysia; Canada; Thailand; and the Philippines have expressed concerns about measures by the European Communities that no longer provide or guarantee duty-free treatment for certain products, such as set-top boxes with a communication function, LCD computer monitors, and multifunction printers. The United States submitted a paper outlining its specific concerns about each of these products in January. Producers of the products affected by the EC measures also gave a demonstration of these products during the January meeting. Despite these discussions, the European Commission continued to adopt measures applying duties on these products in 2007.

### **Prospects for 2008**

The next meeting of the Committee has yet to be scheduled. The Chair has indicated he would organize further informal consultations on U.S. proposals to maintain duty-free treatment for ITA covered products. Participants also remain active in discussions on updating the ITA product list from HS1996 to HS2007 nomenclature.

# 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. Since then, U.S. exports of goods to Australia have increased steadily, growing 8 percent to \$19 billion in 2007. Australia is currently the 15th largest export market for U.S. goods. Two-way annual goods trade in 2007 was \$27.7 billion and two-way services trade in 2006 (latest data available) was \$13.9 billion, an increase of approximately 113 percent and 144 percent respectively since 1994. U.S. exports of private commercial services to Australia were \$9.1 billion in 2006, while U.S. imports of services were \$4.8 billion. In 2006, the United States enjoyed a bilateral goods and services trade surplus with Australia of \$14 billion.

U.S. exports of agricultural products to Australia totaled approximately \$665 million in 2007. Top U.S. agricultural exports included pork, fresh fruit, pet foods, and processed fruit and vegetables. The FTA also established a new forum for scientific cooperation between U.S. and Australian authorities, which has been meeting since 2005 to address specific bilateral animal and plant health matters based on science and with a view to facilitating trade.

The FTA also further ensured a secure, predictable legal framework for U.S. investors operating in Australia. The stock of U.S. foreign direct investment (FDI) in Australia in 2006 was \$122.6 billion, up 6 percent from 2005. U.S. FDI in Australia is concentrated largely in the non-bank holding companies, manufacturing, finance, mining, and banking sectors. A factor in the large increase was the reclassification of assets in Australia to U.S. ownership of a large media group.

The second annual FTA Review took place July 2007 in Sydney. The discussions focused on pharmaceutical market transparency, mutual recognition of professional services, government procurement, and trade in agriculture products. Implementation of the provisions of the FTA continued to proceed on track during 2007. To meet its FTA commitments, Australia joined the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty in July 2007. It also implemented amendments to the Australian Copyright Act in 2007, which are an important step forward in preventing the circumvention of technological protection measures (TPM) used in the protection of copyrights in Australia.

### 2. Morocco

The United States and Morocco signed a Free Trade Agreement (FTA) on June 15, 2004. The U.S. Congress subsequently approved the Agreement, and in August 2005 President Bush signed the implementing legislation. The Moroccan Parliament passed the Agreement in early 2005 and 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 Administration's effort to promote more open and prosperous Middle Eastern societies and to establish a Middle East Free Trade Area (MEFTA) by 2013. The FTA supports the significant economic and political reforms that are underway in Morocco, and creates

improved commercial and market opportunities for U.S. exports to Morocco by reducing and eliminating trade barriers.

Since the implementation of the FTA, the U.S. goods trade surplus with Morocco has risen to nearly \$700 million in 2007, nearly doubling the level of \$357 million in 2006. U.S. goods exports in 2007 were \$1.3 billion, up 53 percent from the previous year. Corresponding U.S. imports from Morocco were \$648 million, up 24 percent. Morocco is now the 64th largest export market for U.S. goods.

In 2006 and 2007, U.S. and Moroccan experts discussed FTA implementation issues including the implementation of tariff-rate quotas, sanitary standards for U.S. exports of beef and poultry, and the interpretation of rule of origin requirements. These discussions will continue along with an expected Joint Committee meeting in the coming year.

### **3. Chile**

The United States-Chile Free Trade Agreement, which took effect January 1, 2004, continues to fuel the growth in bilateral trade between the United States and Chile. In 2007, U.S. exports to Chile increased by 17 percent to \$8.0 billion, while U.S. imports from Chile decreased by 6 percent to \$9.0 billion.

The United States-Chile FTA eliminates tariffs and opens markets, reduces barriers for services, provides cutting-edge 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.

The fourth meeting of the United States-Chile Free Trade Commission was held on November 29-30, 2007, during which the two countries evaluated progress on implementation of the agreement during 2007. The Commission reviewed the operation of the specialized committees established under the Agreement and concluded that good progress had been made. Convening during 2007 were the Committees on Trade in Goods, Sanitary and Phytosanitary issues, and Technical Barriers to Trade. The Committee on Trade in Goods met on three occasions and discussed common guidelines, advance rulings, changes to the rules of origin and tariffs as a result of changes to the Harmonized System, liberalization of the rules of origin, and tariff acceleration.

Concerns about degradation in Chile's protection of intellectual property rights (IPR) were reflected in the January 2007 decision to place Chile on the Special 301 Priority Watch List. There are substantive deficiencies in IPR laws and regulations as well as overall inadequate IPR enforcement. The predominant concerns involve patent and test data protection in the pharmaceutical sector and copyright piracy of movies, music and software. The United States will continue to work with Chile to improve enforcement and ensure full implementation of the FTA.

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. Activities that have been conducted since the Agreement went into effect include the exchange of information on U.S. experience with the application of information technology to judicial proceedings, U.S. methodologies for collecting and using labor data in policy-making, and a training seminar for Chilean labor judges conducted by Department of Labor Administrative Law Judges in the context of the International Seminar on the Modernization of the Labor Justice system.

## 4. Singapore

The United States-Singapore Free Trade Agreement (FTA), the first comprehensive U.S. FTA with an Asian nation, has been in force since January 1, 2004. Since the FTA entered into force in 2004, exports from the United States to Singapore have increased 65 percent. Singapore is the United States' 14th largest trading partner, with two-way trade in goods totaling \$46 billion in 2007. U.S. exports are concentrated in machinery and electrical machinery, aircraft, optic and medical instruments and oil and have experienced steady growth since the Agreement entered into force.

Two-way trade in services was \$10.5 billion in 2006. U.S. foreign direct investment to Singapore was \$60 billion in 2006 and increased by 10.9 percent from levels in 2005.

In May 2007, U.S. and Singaporean government officials met in Singapore for the third annual review of the FTA, noting that implementation of the FTA remained on track. They welcomed the growth in bilateral trade and investment since the FTA came into force. Officials discussed implementation issues in areas such as telecommunications and other service sectors, as well as ways to improve the transparency of rule-making in services sectors, and the enforcement of IPR provisions in the FTA. In accordance with its FTA commitments, Singapore enacted Phase III of its Competition Act in 2007.

The United States and Singapore continued their cooperative efforts in the WTO, as well as their joint efforts to promote trade and intra-regional integration in Southeast Asia through both APEC and ASEAN.

## 5. Jordan

In 2007, the United States and Jordan continued to benefit from their extensive economic partnership, including the United States-Jordan Free Trade Agreement (FTA), which went into effect in December 2001. While the FTA is a key part of the United States-Jordan economic relationship, it is just one component of close bilateral economic cooperation that began in earnest with joint efforts on Jordan's accession to the World Trade Organization (WTO) in 2000. U.S. efforts to support Jordan's rapid and successful WTO accession were followed on the bilateral front by the conclusion of the United States-Jordan Trade and Investment Framework Agreement and a Bilateral Investment Treaty.

Qualifying Industrial Zones (QIZs) are another important example of successful United States-Jordanian efforts to boost Jordan's economic growth and promote peace in the Middle East. Established by Congress in 1996, the QIZ initiative allows 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 economic activity. In 2002, Jordanian exports under the QIZ agreement to the United States were \$369 million; by 2006 they reached \$1 billion, and in the first 11 months of 2007 they were \$802 million.

These various measures have played a significant role in boosting overall United States-Jordanian economic ties. U.S. goods exports in 2007 were \$879 million, up 35 percent from the previous year. Corresponding U.S. imports from Jordan were \$1.4 billion, down 5 percent. While QIZ products continue to account for over 70 percent of Jordanian exports to the United States, FTA-related exports continue to increase steadily. The growth in Jordan's FTA exports, which comprise a broader range of products than those exported by Jordanian QIZs, demonstrates the important role played by the FTA in helping Jordan diversify its economy.

In 2006, the United States and Jordan established a Labor Working Group and held senior level meetings to discuss Jordanian labor enforcement issues related to its FTA commitments in this area. USTR

continues to engage senior Jordanian officials, the private sector, and the International Labor Organization (ILO) to address labor issues in Jordan. USAID recently contributed \$2.7 million to the ILO to begin a “Better Factories” project aimed at monitoring and improving labor conditions in QIZ apparel factories.

## **6. Israel**

The 1985 U.S.-Israel Free Trade Agreement (FTA), the first FTA signed by the United States, continues to serve as a foundation for expanding trade and investment between the United States and Israel.

U.S. goods exports in 2007 were \$13.0 billion, up 18 percent from the previous year. U.S. goods imports from Israel were \$19.0 billion, up 8 percent. Israel is currently the 19th largest export market for U.S. goods. U.S. exports of private commercial services (*i.e.*, excluding military and government) to Israel were \$3.0 billion in 2006 (latest data available), and U.S. imports were \$2.3 billion. Sales of services in Israel by majority U.S.-owned affiliates were \$1.0 billion in 2005 (latest data available), while sales of services in the United States by majority Israel-owned firms were \$474 million. The stock of U.S. foreign direct investment (FDI) in Israel was \$10.0 billion in 2006 (latest data available), up from \$8.4 billion in 2005. U.S. FDI in Israel is concentrated largely in the manufacturing, information, professional, scientific, and technical sectors.

The United States and Israel convened in October 2007 the latest meeting of the Joint Committee (JC) established under the FTA to manage implementation of the agreement. The JC meeting reviewed a range of bilateral issues, including intellectual property rights, standards, and sanitary and phytosanitary matters, which will be discussed in greater detail in 2008.

In 1996, the two sides, recognizing that the FTA had not served to liberalize some aspects of bilateral agriculture trade, 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. The 2004 agreement is scheduled to expire at the end of 2008. At the JC meeting in October 2007, the two sides initiated discussions on launching a new round of ATAP negotiations, which will commence early in 2008.

## **7. Central America and the Dominican Republic**

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.

In August 2005, President Bush signed the implementing legislation for the CAFTA-DR. During 2006, the agreement entered into force for the United States and El Salvador, Guatemala, Honduras, and Nicaragua. The CAFTA-DR entered into force for the Dominican Republic on March 1, 2007. Costa Rica approved the CAFTA-DR through a national referendum on October 7, 2007. However, the agreement has not yet entered into force for Costa Rica, pending their adoption of implementing legislation and regulations.

In 2007, the CAFTA-DR Parties agreed to amend several textiles-related provisions of the CAFTA-DR, including, in particular, changing the rules of origin to require the use of U.S. or regional pocket bag fabric in originating apparel. The textiles amendments have not entered into force.

The CAFTA-DR is the first free trade agreement between the United States and a group of smaller developing economies. This regional trade agreement will contribute to the transformation of a region that until recently was consumed by internal strife and border disputes. This historic agreement will create new economic opportunities by eliminating tariffs, opening markets, promoting transparency, and establishing state-of-the-art rules for 21st century commerce. It will facilitate trade and investment among the signatory countries and further 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 \$22.1 billion in 2007. Combined total two-way trade in 2007 between the United States and Central America and the Dominican Republic was nearly \$41 billion.

Under the CAFTA-DR, more than 80 percent of U.S. exports of consumer and industrial goods enter the Central American parties and the Dominican Republic duty-free, including yarns and fabrics, information technology products, agricultural and construction equipment, paper products, chemicals, and medical and scientific equipment. Remaining duties on consumer and industrial goods will be phased-out within 10 years.

Additionally, more than half of U.S. farm exports to Central America and the Dominican Republic receive duty-free treatment under the agreement, including high quality cuts of beef, cotton, wheat, soybeans, certain fruits and vegetables, processed food products, and wine. Remaining duties on nearly all U.S. farm products will be phased-out within 15 years to 20 years. U.S. farm products that will benefit from improved market access include pork, beef, poultry, rice, fruits and vegetables, corn, processed products, and dairy products.

Under the agreement, the United States provides duty-free treatment to nearly all Central American and Dominican Republic goods. Duty-free treatment for certain agricultural goods will be phased in over time, with the exception of sugar, where liberalization is being provided through a slowly expanding tariff-rate quota.

Under the CAFTA-DR, the Central American Parties and the Dominican Republic committed to provide, subject to very few exceptions, substantial market access across a broad range of services sectors, including financial services, telecommunications, express delivery, computer and related services, distribution services, professional services, advertising, audiovisual services, construction and engineering services, and energy services. The agreement disciplines the use of regimes to protect local dealers from competition, reducing significant barriers to distribution in the region. U.S. financial service suppliers will have rights to establish subsidiaries, joint ventures, or branches for banks and insurance companies on a non-discriminatory basis. The Costa Rican insurance market will be liberalized in a phased approach to give U.S. insurance suppliers full access to the market by 2011.

The CAFTA-DR provides for improved standards for the protection and enforcement of a broad range of intellectual property rights, which are consistent with U.S. and international standards, as well as emerging international standards. The agreement also includes strong protections for digital products such as software, music, text, and video.

The agreement helps to establish a secure, predictable legal framework for U.S. investors, establishes strong anti-corruption obligations in matters affecting trade or investment, and guarantees U.S. firms transparent procurement procedures and non-discriminatory treatment in purchases of goods and services by Central American and Dominican Republic government entities.

The agreement also includes strong labor and environment obligations. In particular, each Party commits not to fail to effectively enforce its domestic labor and environment laws, through a sustained or recurring course of action or inaction, in a manner affecting trade between the Parties. Moreover, each Party must ensure that its domestic law provides access to fair, equitable, and transparent proceedings for the enforcement of labor and environment laws. The Parties recognize the importance of cooperation to help ensure the capacity of the Central American Parties and the Dominican Republic to meet their labor and environment obligations under the agreement. The labor chapter establishes a labor cooperation and capacity building mechanism to guide these efforts. In a parallel agreement, the CAFTA-DR Environmental Cooperation Agreement, the Parties established a framework for environmental cooperation. More broadly, the CAFTA-DR establishes a Committee on Trade Capacity Building to coordinate capacity building activities and to assist each Central American Party and the Dominican Republic to implement the agreement and adjust to liberalized trade.

For a description of capacity building activities in the CAFTA-DR Parties, see:

- Section IV.B.5.i (labor)
- Section IV.A.2 (environment)
- Section VI.A.5 (general)

## **8. Bahrain**

On May 21, 2003, the United States and Bahrain announced their intention to negotiate a Free Trade Agreement (FTA). Bahrain's Parliament approved and the King of Bahrain ratified the FTA in July 2005. The U.S. Congress enacted legislation approving and implementing the FTA in December 2005, and the President Bush signed the legislation on January 11, 2006. The FTA entered into force on August 1, 2006.

The United States-Bahrain FTA generates export opportunities for the United States, creating jobs for U.S. farmers and workers, while supporting Bahrain's economic and political reforms and enhancing 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, and U.S. farmers have gained access to a new market for meats, fruits and vegetables, cereals, and dairy products. 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 U.S.-Bahrain FTA will also promote President Bush's policy of advancing economic reforms and liberalization in the Middle East and to establish a Middle East Free Trade Area (MEFTA) by 2013. The United States-Bahrain Bilateral Investment Treaty (BIT), which took effect in May 2001, covers investment issues between the two countries.

## **9. Panama**

The United States and Panama launched negotiations on a free trade agreement in April 2004 and concluded the negotiations in December 2006. The two governments signed the United States – Panama Trade Promotion Agreement (TPA) on June 28, 2007. Panama approved the TPA on July 11, 2007. The United States has not yet approved the agreement.

The TPA represents an historic development in our relations with Panama and achieves the goal expressed by Congress in the Caribbean Basin Trade Partnership Act, to conclude comprehensive, mutually advantageous free trade agreements with beneficiary countries of the Caribbean Basin Initiative trade preference program.

The TPA will create significant new opportunities for American workers, farmers, businesses, and consumers by eliminating barriers to trade with Panama. Approximately 88 percent of U.S. exports of consumer and industrial goods will become duty-free immediately when the TPA enters into force. All remaining tariffs on consumer and industrial goods will be eliminated within 10 years. By value, more than 60 percent of current U.S. farm exports to Panama will become duty-free immediately when the TPA takes effect. Duties on other U.S. agricultural products will be phased out within 15 years to 20 years.

Panama also implemented an expansive bilateral agreement reached with the United States on regulatory barriers to agricultural trade. Under this agreement, Panama recognized the equivalence of the U.S. meat and poultry inspection systems and of the U.S. regulatory system for processed food products, and agreed to provide access for all U.S. beef and beef products (including pet food), and all U.S. poultry and poultry products, consistent with international standards. Finally, Panama formalized its recognition of the U.S. beef grading system and cuts nomenclature, eliminated its onerous product registration procedures, and agreed to an automatic and cost-free registration process for the small group of U.S. agricultural products not exempted from this process.

The TPA will either open or lock in existing access to Panama's services markets in such priority U.S. services export sectors as financial services, telecommunications, express delivery, computer and related services, distribution services, professional services, advertising, audiovisual services, education and training, tourism, construction and engineering, energy services, and environmental services. The TPA will also help ensure a stable legal framework for U.S. investors in Panama. Except for certain specified exceptions, the agreement will commit Panama to allow U.S. investors to establish, acquire, and operate investments in Panama on the same basis as Panama's own investors or other foreign investors.

The TPA provides that U.S. suppliers will be permitted to bid on procurement above certain thresholds of most Panamanian government entities, including key ministries and state-owned enterprises, on the same basis as Panamanian suppliers. In particular, U.S. suppliers will be permitted to bid on procurement by the Panama Canal Authority, including for the \$5.25 billion Panama Canal expansion project, which is expected to begin in 2008 and to be completed in 2014.

The TPA includes important disciplines relating to intellectual property rights, electronic commerce, customs administration, and dispute settlement. The TPA also includes strong labor and environment provisions, which fully reflect the Bipartisan Agreement on Trade Policy of May 10, 2007.

The United States had a goods trade surplus with Panama of \$3.4 billion in 2007 and is Panama's largest trading partner. Total goods trade between the United States and Panama was \$4.0 billion in 2007. Panama is a growing market for U.S. products. U.S. goods exports to Panama increased 39 percent from 2006 to 2007.

## **10. United Arab Emirates**

The United States and the United Arab Emirates (UAE) initiated negotiation of a comprehensive bilateral Free Trade Agreement (FTA) in March 2005. Despite significant progress in a number of substantive areas, by early 2007, the two sides realized that conclusion of the negotiations would not be possible within the timeframe set by Trade Promotion Authority legislation (which expired on July 1, 2007).

Since early 2007, U.S. and UAE officials have inaugurated an enhanced “Trade and Investment Framework Agreement (TIFA)-Plus” forum in which they will pursue additional opportunities for strengthening trade and investment ties – building on the progress made during the FTA talks. The first meeting of the TIFA-Plus process took place in June 2007.

## **11. Oman**

On November 15, 2004, the Administration formally notified Congress of its intent to negotiate a Free Trade Agreement (FTA) with Oman. After seven months of negotiations, the completed FTA was signed on January 19, 2006. The U.S. Congress enacted legislation approving and implementing the Agreement in September 2006, and President Bush signed the legislation on September 26, 2006. The Omani government is working to enact the necessary implementing legislation and regulations; the FTA is expected to enter into force in 2008.

The U.S.-Oman FTA will build on existing FTAs to promote President Bush’s initiative to advance economic reforms and openness in the Middle East and the Persian Gulf and to establish a Middle East Free Trade Area (MEFTA) by 2013. 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.

## **12. Thailand**

The United States suspended Free Trade Agreement (FTA) negotiations with Thailand in 2006 following the dissolution of the Thai Parliament and the subsequent military-led coup. In December 2007, Thailand held Parliamentary elections, which are expected to result in the formation of a democratically-elected government in early 2008. The United States will continue to monitor and evaluate the political situation in Thailand and to consider appropriate steps to further strengthen our economic relations.

Although FTA negotiations were suspended, the United States continued to meet with Thai government officials during the year to discuss bilateral issues as well as ways to advance the Asia-Pacific Economic Cooperation (APEC) agenda and the WTO Doha Development Agenda negotiations. The serious deterioration of intellectual property rights (IPR) protection in Thailand led the United States to elevate Thailand to the Special 301 Priority Watch List of countries in 2007. The United States will continue to press the Thai government to strengthen its IPR regime and increase enforcement. The United States also raised concerns with the Thai government and in the WTO Customs Valuation Committee regarding its customs valuation practices and will continue to work with the Thai government to address its concerns on this issue.

## **13. Republic of Korea**

After eight formal negotiating rounds, the first of which took place in June 2006, the United States and the Republic of Korea successfully concluded the negotiation of a free trade agreement on April 1, 2007. On June 30, 2007, the United States and Korea signed United States-Korea Free Trade Agreement (KORUS FTA), with United States Trade Representative Susan C. Schwab signing on behalf of the United States and Korea’s Trade Minister Kim Hyun-chong signing on behalf of Korea.

The KORUS FTA is the most commercially significant free trade agreement the United States has concluded in nearly 15 years, providing preferential access for U.S. businesses, farmers, ranchers,

services providers, and workers to the United States' seventh largest export market by eliminating tariffs and non-tariff measures on a wide range of U.S. manufactured and agricultural goods, and addressing market access limitations and other barriers that restrict trade in services.

In addition to strengthening our economic partnership, the KORUS FTA will help to solidify the two countries' long-standing alliance and underscore the U.S. commitment to, and engagement in, the Asia-Pacific region.

As stated by President Bush, the KORUS FTA will “promote economic growth and the creation of better paying jobs in the United States, and help American consumers save money while offering them greater choices. The agreement will also further enhance the strong United States-Korea partnership, which has served as a force for stability and prosperity in Asia.”

For more details regarding the KORUS FTA, please see Section F in this chapter.

## **14. Malaysia**

The United States and Malaysia launched Free Trade Agreement (FTA) negotiations in March 2006, and six rounds of negotiations have been held to date. Progress has been made, although significant challenges remain. An FTA with Malaysia would encourage additional trade and investment, further deepening our already strong economic partnership – with nearly \$44 billion in two-way trade in goods in 2007, \$2.5 billion in two-way trade in services in 2006, and \$12.5 billion in foreign direct investment in 2006. The United States is the largest destination for Malaysian goods and is Malaysia's second-largest source of imports.

An FTA would reduce and eliminate trade barriers between the United States and Malaysia, increasing trade in manufactured goods and agricultural products. An FTA also would create opportunities in such sectors as telecommunications, financial services, energy, healthcare, and professional services. All of these are areas where Malaysia intends to further enhance its competitiveness.

In addition to trade, an FTA would encourage greater liberalization of investment between the United States and Malaysia. U.S. investors already are the largest source of investment in Malaysia, and liberalization of Malaysia's investment regime would support the further development of the supply and processing chains between U.S. and Malaysian companies, promoting high-paying jobs in both countries. An FTA also would strengthen the framework necessary to enhance future trade and investment.

While Malaysia already has taken some steps to strengthen its intellectual property rights (IPR) and customs regimes, including the inauguration of a dedicated IPR Court, the United States will seek to include FTA provisions that align Malaysia's intellectual property and customs regimes with the standards reflected in other recent free trade agreements negotiated by the United States.

More broadly, the United States seeks to strengthen cooperation with Malaysia in multilateral and regional fora, and reinforce a strong U.S.-ASEAN relationship, advancing our commercial and strategic interests in Asia. Malaysia is currently the United States' 16th largest goods trading partner. U.S. exports to Malaysia are concentrated in electrical and non-electrical machinery, optical and medical instruments, iron and steel, and aircraft.

## 15. Colombia

The United States and Colombia signed the United States-Colombia Trade Promotion Agreement (U.S.-Colombia TPA) in November 2006 and a Protocol of Amendment in June 2007. The Colombian Congress approved the agreement and protocol in 2007. The Administration will seek prompt Congressional approval of the agreement in 2008.

The U.S.-Colombia TPA will help bolster one of our country's strongest allies in the region. In 2000, much of Colombia was controlled by three terrorist groups and ruthless narcotics trafficking cartels. With U.S. assistance through Plan Colombia, the Colombian people are transforming their nation. They have achieved solid progress in economic growth, social development, and in reducing violence. Murders are down 40 percent since 2002, kidnappings are down 76 percent, and terror attacks are down by 61 percent. In addition, violence against trade unionists, among other groups, has dropped significantly. In 1999, the Colombian government instituted new programs to provide protection to roughly 10,000 members of vulnerable groups. The largest of these programs provides protection to almost 7,000 individuals, including over 1,300 trade unionists.

Real progress has been made but challenges remain. The people of Colombia are addressing these problems aggressively and decisively, but need the continued support of the United States. This agreement is a critical tool to provide jobs and economic alternatives for displaced persons, demobilized combatants and those seeking alternatives to narcotics trafficking.

Approval of the U.S.-Colombia TPA will be a critical signal of the United States' support for the Colombian people, who have chosen to strengthen ties with the United States in the belief that reciprocal market access will contribute to the overall growth and development of their country.

The U.S.-Colombia TPA will also provide the United States substantial commercial benefits. Colombia is a growing export market of approximately 42 million consumers for U.S. goods in Latin America. The United States' two-way trade with Colombia reached \$17.6 billion in 2007, making Colombia our fourth largest trading partner in Latin America. U.S. goods exports to Colombia totaled \$8.6 billion in 2007, an increase of 28 percent from 2006. The International Trade Commission estimates that the U.S.-Colombia TPA will increase U.S. exports to Colombia by \$1.1 billion and U.S. GDP by \$2.5 billion.

In 2007, 92 percent of U.S. imports from Colombia entered the United States duty-free under our most-favored nation tariff rates and various preference programs. Colombia's trade weighted average applied tariff rate on U.S. imports was 11.1 percent, while the equivalent U.S. rate on imports from Colombia was only 0.1 percent.

Our trade agreement with Colombia will further open this dynamic and growing economy. Colombia will provide immediate duty-free access for over one-half of its imports of U.S. agricultural products and over 80 percent of U.S. industrial and consumer products, with all remaining tariffs phased out over defined periods. Colombia is already the largest market for U.S. agricultural exports in South America. U.S. farmers and ranchers will benefit particularly from the immediate elimination of duties on high quality beef, cotton, wheat, soybeans, and many fruits and vegetables including apples, pears, peaches, and cherries. While negotiating the terms of the U.S.-Colombia TPA, the United States and Colombia also reached other agreements, under which Colombia reopened its market to U.S. beef and beef products for human consumption when accompanied by a sanitary certificate issued by the U.S. Department of Agriculture's Food Safety and Inspection Service (FSIS).

In addition, the agreement will remove barriers to U.S. services, provide a secure, predictable legal framework for investors, and strengthen protection for workers and the environment. This agreement includes state-of-the-art provisions relating to intellectual property rights, electronic commerce, customs administration and trade facilitation, and dispute settlement. The agreement also includes labor and environment provisions, which fully reflect the Bipartisan Agreement on Trade Policy of May 10, 2007.

## **16. Peru**

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 President Bush signed into law the United States-Peru Trade Promotion Agreement Implementation Act. The PTPA will enter into force once Peru has taken the necessary steps to ensure implementation of its obligations.

The United States has a vested interest in the security, stability, and success of the Andean region, and stands to gain substantially from establishing stronger political and economic ties with Peru. The PTPA will eliminate tariffs and trade barriers for U.S. manufacturers, workers, farmers and investors, allowing U.S. products and services to compete more effectively with those of other countries in the region. Additionally, the Agreement will aid in promoting economic growth and prosperity in Peru by attracting new investment and more jobs. More importantly, the Agreement will support and enhance the democratic and free market reforms that Peru has undertaken in recent years.

The United States' two-way trade with Peru doubled over the last four years to \$9.3 billion in 2007, with U.S. goods exports to Peru reaching \$4.1 billion. In 2007, 97 percent of U.S. imports from Peru entered the United States duty-free under our most-favored nation tariff rates and various preference programs.

Under the terms of the U.S.-Peru TPA, 80 percent of U.S. exports of consumer and industrial products to Peru will become duty-free immediately, with remaining tariffs phased out over 10 years. More than 90 percent of current U.S. farm exports will gain immediate duty-free access to Peru. Tariffs on most of the remainder of U.S. farm products will be phased out within 15 years, with all tariffs eliminated in 17 years. Peru has also agreed to eliminate its price band system on trade with the United States, and has addressed a number of significant sanitary and phytosanitary (SPS) and technical regulation issues that had impeded or stopped U.S. exports of beef, pork, poultry, and rice. In addition, the agreement will remove barriers to U.S. services, provide a secure, predictable legal framework for investors, and strengthen protection for intellectual property, workers, and the environment.

The PTPA is the first to incorporate the labor and environmental protections set out in the Bipartisan Agreement on Trade Policy of May 10, 2007.

The PTPA includes an enforceable reciprocal obligation for the countries to adopt and maintain in their laws and practice the principles concerning the fundamental labor rights as stated in the 1998 ILO Declaration on Fundamental Principles and Rights at Work, including a prohibition on the worst forms of child labor. There is also an obligation to effectively enforce labor laws related to those rights and to working conditions. These labor obligations are subject to the same dispute settlement procedures and enforcement mechanisms as commercial obligations.

The Agreement commits the parties to effectively enforce their own domestic environmental laws and adopt, maintain, and implement laws, regulations, and all other measures to fulfill obligations under seven multilateral environmental agreements. All obligations in the environment chapter are subject to the same dispute settlement procedures and enforcement mechanisms as commercial obligations. The chapter

includes a groundbreaking Annex on Forest Sector Governance and provides for concrete steps that the parties will take to enhance forest sector governance in Peru and promote legal trade in timber products. The chapter includes provisions recognizing the importance of conserving and protecting biodiversity, and creates a public submissions process with an independent secretariat for environmental matters to ensure that views of civil society are appropriately considered. There is also an environmental cooperation agreement that provides a framework for undertaking environmental capacity building in Peru.

The U.S.-Peru TPA provides for improved standards for the protection and enforcement of a broad range of intellectual property rights, which are consistent with both U.S. standards of protection and enforcement and emerging international standards. Such improvements include state-of-the-art protections for digital products such as U.S. software, music, text, and video; stronger protection for U.S. patents, trademark and test data, including an electronic system for the registration and maintenance of trademarks; and further deterrence of piracy and counterfeiting by criminalizing end-user piracy.

## **17. 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. NAFTA created the world's largest free trade area, which now links 440 million people producing \$16 trillion worth of goods and services. The dismantling of trade barriers and the opening of markets has led to economic growth and rising prosperity in all three countries. The closer economic relationship promoted by NAFTA also includes supplemental labor and environmental agreements. The NAFTA has dramatically improved our trade and economic relations with our neighbors. The net result of these efforts is more economic opportunity and growth, greater fairness in our trade relations, and better protection of worker rights and the environment in North America.

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 more than doubled between 1993 and 2007, from \$142 billion to \$385 billion, higher than U.S. export growth of 140 percent to the rest of the world over the same period.

By dismantling barriers, NAFTA has led to increased trade and investment, growth in employment, and enhanced competitiveness. From 1994 to 2005, cumulative foreign direct investment in the NAFTA countries has increased by over \$1.8 trillion. Increased investment has brought more and better-paying jobs, as well as lower costs and more choices for consumers and producers.

### **b. Elements of NAFTA**

#### **i. Operation of the Agreement**

The NAFTA's central oversight body is the NAFTA Free Trade Commission (FTC), chaired jointly by the U.S. Trade Representative, the Canadian Minister for International Trade, and the Mexican Secretary of Economy. 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 August 2007, in Vancouver, Canada. At the meeting, the FTC agreed to develop a work plan to enhance North American competitiveness. The Commission also agreed to undertake work to facilitate trade in four specific industry sectors: swine, steel, consumer electronics, and chemicals. Finally, the FTC launched an analysis of the free trade agreements that each country has negotiated subsequent to the NAFTA, beginning with those in the western hemisphere.

## **ii. Rules of Origin**

On July 1, 2007, the NAFTA partners implemented liberalizing changes to the NAFTA rules of origin. These changes cover approximately \$15 billion in annual trilateral trade. At its August 2007 meeting, the FTC agreed on another set of liberalizing changes to the NAFTA rules of origin. The changes cover over \$100 billion in annual trilateral trade. The NAFTA partners will work to implement these new rules in 2008. This work demonstrates that NAFTA continues to provide benefits to businesses, consumers, workers, and farmers.

## **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 2007. Several pending submissions from previous years were addressed by the U.S. and Mexican NAOs. In August 2007, the U.S. NAO released its public report of review of U.S. Submission 2005-03 (Hidalgo), requesting consultations with the Mexican NAO on several issues relating to labor law enforcement. The U.S. NAO declined for review U.S. Submission 2006-01 concerning freedom of association and occupational safety and health for mine workers in Mexico. In October 2007, the Mexican NAO requested responses from the U.S. NAO to questions related to two submissions filed in Mexico, the first concerning H2-B Visa workers (filed in 2005) and the second concerning the collective bargaining rights of public sector employees in North Carolina (filed in 2006).

In 2007, as part of its research program, the NAALC Secretariat released a report on High Performance Work Systems in North America as well as the third edition of Labor Markets in North America, describing economic conditions and the characteristics of the labor market in the three countries. In addition, as part of its cooperative activities program, the Secretariat hosted a tri-national workshop on Mine Safety and Health issues in Guadalajara, Mexico in October, 2007.

## **iv. NAFTA and the Environment**

A further supplemental accord, the North American Agreement on Environmental Cooperation (NAAEC), seeks to ensure that trade liberalization and efforts to protect the environment are mutually supportive. The NAAEC created the Commission for Environmental Cooperation (CEC), which is composed of: (a) the Council, made up of the Environmental Ministers from the United States, Canada, and Mexico; (b) the Joint Public Advisory Committee, made up of five private citizens from each of the NAFTA Parties; and (c) the Secretariat, made up of professional staff, located in Montreal, Canada. At the 2007 Council Session in Morelia, Mexico, the Council reviewed the work of the CEC, established the

organization's goals for the coming year and, *inter alia*, reaffirmed their interest in addressing trade and environment in an integrated manner. Specific information on the CEC's activities can be found in 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 NAAEC. The Border Environment Cooperation Commission (BECC) and the North American Development Bank (NADBank) are working with more than 130 communities throughout the United States-Mexico border region to address their environmental infrastructure needs. In June of 2007, the combined Board of Directors for the NADBank and the BECC took steps to improve operations and to better serve the infrastructure needs of border communities. As of September 30, 2007, the NADBank had authorized \$891.2 million in loans and/or grant resources to partially finance 108 infrastructure projects certified by the BECC with an estimated cost of \$2.79 billion.

## **B. Regional Initiatives**

### **1. Free Trade Area of the Americas (FTAA)**

As agreed at the Fourth Summit of the Americas of November 2005 ("Mar del Plata Summit"), the government of Colombia undertook consultations to facilitate the exploration of the two positions put forth at the Summit. The vast majority of leaders in the hemisphere, including President Bush, called for a continuation of the FTAA negotiations and the resumption of trade meetings. Other leaders indicated that the conditions did not yet exist for the achievement of the FTAA. All 34 leaders agreed to explore these two positions in light of the outcome of the December 2005 World Trade Organization (WTO) ministerial meeting. Colombia's consultations were aimed to facilitate a meeting of trade officials; however, there was no agreement on the timing of a meeting and the FTAA negotiations remained suspended during 2006 and 2007.

### **2. U.S. - ASEAN Trade and Investment Framework Agreement (TIFA)**

The ten-member ASEAN group of countries collectively is the United States' fifth largest trading partner and trade continues to grow steadily, with \$172 billion in two-way goods trade in 2007. With rapidly growing economies and a collective population of around 500 million, the ASEAN market provides significant potential opportunities for U.S. companies.

In October 2002, President Bush announced the Enterprise for ASEAN Initiative (EAI), which is intended to strengthen U.S. trade and investment ties with ASEAN both as a region and bilaterally. Under the EAI, the United States offered the prospect of bilateral free trade agreements (FTAs) with ASEAN countries that are committed to the economic reforms and openness inherent in an FTA with the United States. Any potential FTA partner must be a WTO member and have a TIFA with the United States. Since the launch of the EAI, the United States concluded an FTA with Singapore in 2003 and began FTA negotiations with Thailand and Malaysia. The United States concluded TIFAs with Brunei, Cambodia and Vietnam, adding to its existing TIFAs with Indonesia and the Philippines. For ASEAN countries with which we are not negotiating an FTA, the United States is using regular meetings under our TIFAs to address bilateral trade issues, further deepen our trade and investment ties, and coordinate regional and multilateral trade issues.

In August 2006, the United States and ASEAN concluded a Trade and Investment Framework Agreement. This regional TIFA represents the commitment by both the United States and ASEAN countries to build upon the already strong trade and investment ties between us and to promote ASEAN

regional economic integration. The TIFA includes a work plan, under which the two sides are working on priority projects. In November 2007 Ambassador Susan C. Schwab met with ASEAN Trade Ministers to assess the progress made on the existing TIFA work plan projects: an ASEAN Single Window for Customs Clearance; development of an ASEAN harmonized pharmaceutical regulatory regime; and development of a framework equivalency work plan on irradiation to facilitate agriculture trade. In addition to noting the completion of the SPS project, the participants discussed the development of new cooperative projects for the coming year including a joint agreement to pursue ASEAN-wide participation in the plurilateral Multi-Chip Integrated Circuit Agreement (MCP) and other projects.

### **3. Middle East Free Trade Area (MEFTA)**

In May 2003, President Bush proposed the MEFTA initiative, a plan of graduated steps for Middle Eastern nations to increase trade and investment with the United States and others in the world economy. The first step is to work closely with peaceful nations that want to become members of the World Trade Organization (WTO) in order to facilitate their accession. As these countries implement domestic reform agendas, institute the rule of law, protect property rights (including intellectual property), and create a foundation for openness and economic growth, the United States will pursue specific strategies to enhance trade and investment relations with them, each strategy tailored to the relevant country's level of development. In particular, the United States will expand and deepen economic ties through Trade and Investment Framework Agreements (TIFAs), Bilateral Investment Treaties (BITs), comprehensive Free Trade Agreements (FTAs), and other measures as appropriate. Bilateral FTAs with Israel, Jordan, Morocco, Bahrain, and Oman have already been concluded (see relevant FTA sections above).

In 2007, USTR continued to work with trading partners in the region to implement the MEFTA initiative. The United States and the United Arab Emirates decided early in 2007 that the timing was not conducive to concluding their FTA negotiations and have since sought to pursue trade and investment enhancement through their "TIFA-Plus" process; the first meeting of this new format was held in June. The United States continues actively to support the WTO accession efforts of Lebanon, Algeria, and Yemen, and has also taken steps to reinvigorate dialogues with other key trading partners in the region, including Egypt and Saudi Arabia.

### **4. Asia-Pacific Economic Cooperation Forum**

#### **Overview**

The Asia-Pacific Economic Cooperation (APEC) forum has been instrumental in advancing regional and global trade and investment liberalization since it was founded in 1989. It has provided a forum for Leaders to meet annually since 1993, when APEC Leaders met at Blake Island in the United States. President Bush has called APEC the "premier forum in the Asia-Pacific region for addressing economic growth, cooperation, trade and investment."

The United States worked closely with Australia, the APEC Chair in 2007, to lead APEC economies in pursuing an ambitious trade and investment liberalization agenda.

APEC helped to advance the World Trade Organization Doha Development Agenda (WTO/DDA) negotiations, promote regional economic integration, strengthen intellectual property rights (IPR) protection and enforcement, spotlight the need for work on food and product import safety, advance trade in environmental goods and services, and set high standards for FTAs. The United States will work with Peru, the APEC Chair in 2008, to develop concrete actions in these areas.

The 21 APEC economies collectively account for 46 percent of world trade and 56 percent of global GDP. The growth in U.S. goods exports to APEC clearly demonstrates the benefits of open markets and trade liberalization. Since 1994, U.S. exports to APEC economies increased by 99 percent. In 2006, the U.S. goods and services trade with APEC economies totaled \$2.1 trillion, an increase of nearly 11 percent from 2005.

## **2007 Activities**

### **WTO Leadership**

APEC economies continued to exercise leadership in the WTO. In September 2007, APEC Leaders issued a strong statement pledging to demonstrate the “political will, flexibility and ambition to ensure the Doha Round negotiations enter their final phase” in 2007. Furthermore, they pledged to take steps to “resume negotiations on the basis of the draft texts tabled by the chairs of the negotiating groups on agriculture and non-agricultural market access.” APEC Leaders defined a successful Doha agreement as one that “delivers real and substantial market access improvement for agricultural and industrial goods and for services.”

### **Advancing Trade Liberalization in the APEC Region**

*Promoting Regional Economic Integration/Free-Trade Area of the Asia Pacific:* In 2007, the United States continued work to deepen its economic trans-Pacific ties through APEC. At the summit of APEC Economic Leaders in Sydney, Australia, the United States promoted, and leaders endorsed, a 25-page Regional Economic Integration Report (REI Report) that included numerous agreed actions designed to keep APEC in the middle of the trend toward economic integration in the Asia-Pacific. Enshrined in this report is a mandate for APEC to intensively explore the prospects for a Free Trade Area of the Asia-Pacific (FTAAP) as a long-term prospect. Further, as economic developments in the Asia-Pacific are drawing economies closer together, a growing number of trade arrangements have emerged. To embrace the challenges and opportunities involved in these developments, the United States will work closely in 2008 with the other APEC economies to advance the agreed actions in the REI Report so as to ensure that APEC remains at the forefront of the trend toward economic integration in the Asia-Pacific region.

*Free Trade Agreements (FTAs) and Regional Trade Agreements (RTAs):* In 2007, APEC continued to address the growing number of FTAs and RTAs in the region and the need to ensure that APEC economies’ agreements are trade-promoting and reflect high standards. In 2005, APEC economies agreed on “model measures” or key elements that should be included in trade facilitation chapters of high-quality FTAs/RTAs. In 2006, work was completed on model measures for six additional FTA/RTA chapters, including trade in goods, technical barriers to trade, transparency, government procurement, cooperation, and dispute settlement. In 2007, an additional three sets of model measures were agreed upon – sanitary and phytosanitary measures, electronic commerce, and rules of origin.

*Fostering Food and Product Import Safety:* APEC economies highlighted the importance of addressing the emerging and serious problem of food and product import safety in 2007. APEC Leaders and Ministers established a clear mandate in Sydney to expand APEC’s existing work program for harmonizing food safety regulations with international standards to all traded products. In this regard, APEC economies agreed in 2007 to deepen cooperation, improve on current standards and practices, and strengthen scientific risk-based approaches to food and other product safety to facilitate trade and ensure the health and safety of consumers.

*Intellectual Property Rights Protection and Enforcement:* APEC is one of the world’s most dynamic economic regions, and intellectual property rights (IPR) protection and enforcement have contributed to

innovation, investment, and growth among the Asia-Pacific member economies. APEC continues to be at the forefront of combating piracy and counterfeiting in this region.

In 2007, APEC adopted a number of U.S.-championed proposals to improve IPR border enforcement and streamline the patent application process. In addition, APEC Leaders and Ministers highlighted the need for work to address the growing problem of notorious markets that sell infringing goods and combat satellite and cable signal theft which costs copyright owners and the cable and broadcast industries significant revenues. The United States also worked through APEC and encouraged its members – some of whom have major IPR enforcement challenges – to put in place legal regimes and enforcement systems to better address these serious issues.

*Environmental Goods and Services:* The United States launched an initiative in 2007 on environmental goods in APEC. The work is focused on building a better understanding throughout the Asia-Pacific region of cutting-edge environmental technologies and to promote momentum for WTO trade liberalization in environmental goods and services. APEC Leaders underscored the importance of this work and also called on member economies to advance this work during 2008.

*Technology Choice:* In 2007, the United States expanded membership in the Pathfinder Initiative on the APEC Technology Choice Principles by one economy, bringing the total membership in this initiative to 15 economies. China, Korea, Indonesia, Thailand, Brunei, and Russia have yet to join. The United States will continue to advance this initiative in 2008, which is designed to promote principles of technology choice in a market-opening, trade-liberalizing manner that spurs the cycle of innovation and opportunity, and promotes economic development across the region. To encourage competition and promote efficiency, it is essential that market forces are allowed to determine the availability, commercialization, and use of technologies.

*Trade Facilitation:* APEC Leaders endorsed an action plan in 2007 that includes a commitment to achieving a 5 percent decrease in trade transaction costs by 2010. This commitment builds on the success of APEC's first five-year action plan that resulted in a 5 percent reduction in trade transaction costs by 2006. In 2008, the United States will work with APEC economies to carry forward the APEC mandate of further reducing trade transaction costs, while also continuing to work on the single window initiative (launched in September 2006) and the development of an Investment Facilitation Action Plan by 2010 (launched in September 2007) to reduce impediments to cross-border investment flows in the Asia-Pacific region.

### **Private Sector Involvement**

*The APEC Business Advisory Council:* The APEC Business Advisory Council (ABAC) was extremely active in 2007, offering recommendations and participating in government-business dialogues to advance several key APEC priorities including the WTO/DDA negotiations, high-quality FTAs, trade facilitation, IPR protection and enforcement, and climate change.

*Life Sciences Innovation Forum:* In 2007, the fifth Life Sciences Innovation Forum (LSIF) examined the challenges of aging demographics and the associated rise in chronic disease in the APEC region, as well as ways of addressing these in an integrated way that brings together economic (including trade), financial, science and health policy considerations. As one way to begin addressing this challenge, APEC Ministers called on the LSIF to undertake in 2008 a multidisciplinary study on the role of, and returns on, investment in health systems and to examine ways of sustaining innovation in the region. In addition, APEC Ministers supported LSIF's ongoing capacity-building work to help economies harmonize their regulatory regimes for pharmaceuticals and medical devices with international best practices and to provide training to combat the counterfeiting of drugs and medical devices.

*Automotive and Chemical Dialogues:* The Automotive and Chemical Dialogues are public-private sector dialogues in which government officials and senior industry representatives work together to map out strategies for increasing integration and liberalizing trade in the automotive and chemical sectors in the APEC region.

In 2007, the Automotive Dialogue continued its work with the APEC Sub-Committee on Customs Procedures to facilitate customs procedures for low-risk shippers through the use of expedited clearance. In other customs-related work, the Customs Import Automation Product in the Philippines was implemented. This initiative will also be linked to the Philippine National Single Window and ASEAN Single Window projects of the Philippine Bureau of Customs. The Automotive Dialogue held a seminar on intellectual property rights in November 2007, and has begun planning for a second such seminar. The Automotive Dialogue also sponsored a Road Safety Summit to highlight the industry's efforts to promote enhanced road safety. A Data Collection Workshop will be held in 2008 as a follow-up to the Road Safety Summit. The Dialogue continues its work in the areas of emerging fuels and environmental issues.

The Chemical Dialogue continued to express concern with the potential adverse impact of the EC's proposed chemical regulations (REACH). The Chemical Dialogue also shared information and raised awareness about chemical industry and individual government concerns with other product-related environmental regulations, and continued work to standardize labeling of chemicals through adoption of the UN Globally Harmonized System of Classification and Labeling (GHS), simplify Rules of Origin for chemicals, and contribute to APEC discussions on Emergency Response.

## **C. The Americas**

### **1. Canada**

#### **a. Softwood Lumber**

The Softwood Lumber Agreement (SLA) was signed on September 12, 2006, and entered into force on October 12, 2006. Pursuant to a settlement of litigation, the U.S. Department of Commerce revoked the antidumping and countervailing duty orders on imports of softwood lumber from Canada (the settlement ended a large portion of the litigation over trade in softwood lumber). Upon revocation of the orders, U.S. Customs and Border Protection ceased collecting cash deposits, and returned previously-collected deposits, with interest, to the importers of record.

The SLA provides for unrestricted trade in softwood lumber in favorable market conditions. When the lumber market is weak, Canadian exporting provinces can choose either to collect an export tax that ranges from 5 percent to 15 percent as prices fall or to collect lower export taxes and limit export volumes. The SLA also includes provisions that address potential Canadian import surges, provide for effective dispute settlement, and monitor administration of the agreement through the establishment of a Softwood Lumber Committee. The Committee met in February 2007 and October 2007 and the United States and Canada discussed a range of SLA implementation issues and Canadian provincial assistance programs for softwood lumber industries.

On March 30, 2007, the United States requested formal consultations with Canada to resolve concerns regarding several Canadian federal and provincial programs, as well as Canada's interpretation of the agreement's provisions adjusting softwood lumber export levels, including the level triggering the agreement's mechanisms on import surges. After formal consultations failed to resolve these concerns, on August 8, 2007 the United States requested international arbitration under the terms of the agreement

to compel Canadian compliance with its obligations relating to export volume caps, proper application of the import surge mechanism, and anti-circumvention.

## **b. Agriculture**

Canada is the largest market for U.S. food and agricultural exports. For fiscal year 2007 (October 2006 to September 2007), U.S. agricultural exports to Canada grew by nearly 14 percent to a record-breaking \$13.2 billion.

As a result of the 1998 U.S.-Canada Record of Understanding on Agricultural Matters (ROU), the U.S.-Canada Consultative Committee on Agriculture (CCA) and the Province/State Advisory Group (PSAG) were formed to provide fora to strengthen bilateral agricultural trade relations and to facilitate discussion and cooperation on matters related to agriculture. During 2007 the CCA met twice on issues covering livestock, fruits and vegetables, seed, processed food and plant trade, as well as pesticide and animal drug regulations and biotechnology. The most recent meeting, which was held in December 2007, reinforced the close working relationship between the two governments, as well as their respective agricultural sectors.

Progress was made in 2007 concerning Canada's long-standing, non-tariff barriers that prohibit the entry of bulk shipments of fruits and vegetables in packages exceeding certain standard sizes, with the implementation of the Technical Arrangement Concerning Trade in Potatoes between the United States and Canada. This arrangement will provide U.S. potato producers with predictable access to Canadian Ministerial exemptions necessary to import potatoes. The arrangement, when fully implemented in year 3, will allow a 60-day forward contract between U.S. growers and Canadian processors to serve as sufficient evidence of a shortage in Canadian potatoes. In addition to addressing U.S. concerns about Canada's procedures for granting Ministerial exemptions for potato imports, the arrangement will phase-in a shift in quality inspections for potatoes to the destination of the shipment and will phase-out spot-check inspections along the northeastern Canadian border crossing. The United States will initiate rulemaking to allow some Canadian specialty potatoes that do not currently meet U.S. quality standards for size to enter the U.S. market.

Progress was also made in 2007 concerning U.S. beef and beef products access to Canada when the government of Canada agreed in June 2007 to allow full market access for imports of all U.S. beef and beef products from animals of all ages, consistent with the guidelines of the World Organization for Animal Health.

## **c. Intellectual Property Rights**

In 2007, Canada enacted legislation that criminalizes illicit recording of motion pictures in theaters. Canada also played a constructive role in developing the scope of the Anti-Counterfeiting Trade Agreement (see discussion in Chapter IV). Canada participated as a third party in WTO consultations regarding China's protection and enforcement of intellectual property rights, and Canada participated constructively in the Security and Prosperity Partnership of North America (SPP) Intellectual Property Rights Working Group.

Canada is a member of the World Intellectual Property Organization (WIPO) and adheres to several international agreements, including the Paris Convention for the Protection of Industrial Property (1971) and the Berne Convention for the Protection of Literary and Artistic Works (1971). Canada is also a signatory to the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty (together the WIPO Treaties), which set standards for intellectual property protection in the digital environment.

Canada has not yet ratified these two WIPO Treaties. Canada has indicated it is preparing legislation to provide stronger copyright protection. However, no bill was introduced in Parliament in 2007.

U.S. intellectual property owners remain concerned about Canada's weak border measures and general enforcement efforts. The lack of *ex officio* authority for Canadian Customs officers makes it difficult for them to seize shipments of counterfeit goods. To perform a civil seizure of a shipment under the Customs Act, the rights holder must obtain a court order, which requires detailed information on the shipment.

## **2. Mexico**

Mexico is the United States' third-largest single-country trading partner and has been among the fastest-growing major export markets for goods since 1993, with U.S. exports up 228 percent over the period. The NAFTA has fostered this relationship by virtue of the Agreement's comprehensive, market-opening rules. It is also creating a more equitable set of trade rules as trade barriers in Mexico are reduced and eliminated.

### **a. Agriculture**

North American agricultural trade has grown significantly since the NAFTA was implemented. Mexico is currently the United States' second-largest agricultural export market. For 2007, U.S. agricultural exports to Mexico increased 19 percent above the 2006 level, to nearly \$13 billion.

On January 1, 2008, the United States and Mexico removed the final tariffs and quotas under the NAFTA, joining North America in free trade (all tariff cuts between the United States and Canada and between Canada and Mexico have already been implemented). Both the United States and Mexico completed the tariff phase-out without any delay.

December 31, 2007 marked the end to safeguard measures Mexico had put in place on U.S. chicken leg quarters. As of January 1, 2008 there are no tariffs or trade-related restrictions on U.S. chicken leg quarter imports into Mexico.

The United States has worked to open the Mexican market to U.S. agricultural products. In September 2006, Mexico had banned U.S. spinach from entering Mexico due to an outbreak of E. coli in spinach produced in California. In November 2007, the Mexican Secretariat of Health informed the U.S. Department of Agriculture that Mexico would lift the ban on imports of U.S. spinach. In June 2004, the Mexican Congress approved a measure requiring that the inspection of imported live animals take place in Mexico, despite the lack of a protocol for returning live animals or adequate inspection facilities in Mexico. The lack of such facilities has hampered the importation of live animals. On July 25, 2007, Mexico published modifications under its new Animal Health Law which included a provision that allows inspections for live animals to resume on the U.S. side of the border.

Areas of concern with regard to U.S. access for livestock and livestock products to Mexico, however, remain. The full reopening of all trading partners' markets to U.S. beef and beef products from animals of all ages in a manner consistent with international guidelines regarding Bovine Spongiform Encephalopathy (BSE) set by the World Organization for Animal Health (OIE) remained a top priority of the Administration. OIE guidelines provide for conditions under which all beef and beef products from animals of all ages can be safely imported with regard to BSE from "controlled risk" countries, such as the United States, when certain Specified Risk Materials, defined by the OIE, are removed. Mexico continues to ban U.S. beef and beef products from animals over thirty months of age and the United States will continue to work to achieve the full reopening of Mexico's market in a manner consistent with

international standards. The United States is also concerned about actions that the Mexican government is taking, or proposing to take, that would effectively restrict U.S. pork exports to Mexico, including the December 2007 closing of a number of Mexican ports of entry to U.S. pork and pork products with no notice or consultation.

#### **b. Intellectual Property Rights (IPR)**

Despite a fairly extensive set of IPR laws and an increase in the number of seizures and arrests during the past few years, the extent of IPR violations in Mexico remains significant. Monetary sanctions and other penalties, when imposed, are minimal and largely targeted at the bottom-tier of the piracy chain, for example, the small-scale vendors of infringing materials, who are numerous and easily replaced.

A bill proposing to give the Procuraduría General de la República (PGR) the power to prosecute intellectual property crimes *ex officio* (i.e., without first receiving complaints from rights holders or their legal representatives) was approved by the Mexican Senate in April 2007 and is awaiting action in the Chamber of Deputies, Mexico's lower house.

In August 2007, the United States, Mexico, and Canada agreed on an Intellectual Property Action Strategy, which aims to combat counterfeiting and piracy by focusing on enhancing detection and deterrence, expanding public awareness and outreach efforts, and measuring the scope and magnitude of counterfeiting and piracy in North America. Mexico also played a constructive role in developing the scope of the Anti-Counterfeiting Trade Agreement (see discussion in Chapter IV).

### **3. Brazil and the Southern Cone**

#### **a. MERCOSUR (Argentina, Brazil, Paraguay, and Uruguay)**

The Common Market of the South, referred to as "MERCOSUR" from its Spanish acronym, is the largest trade bloc in Latin America. As a customs union, MERCOSUR applies a common external tariff (CET) to products of nonmembers. Its original members (Argentina, Brazil, Paraguay, and Uruguay) make up over one-half of Latin America's gross domestic product. On December 9, 2005, Venezuela joined MERCOSUR as a full member, but the Brazilian and Paraguayan legislatures have yet to approve Venezuela's accession. Venezuela also has yet to make certain policy changes that will grant it full voting rights.

On December 30, 2005, Bolivia was invited to join as a full member. Bolivia is currently an associate member along with Peru, Colombia, Ecuador and Chile. Associate members benefit from certain preferential access to MERCOSUR markets, but maintain their own external tariff policies.

MERCOSUR became operative on January 1, 1995, and covers some 85 percent of intra-MERCOSUR trade, with each member allowed to maintain a list of sensitive products that remain outside the duty-free arrangement. Full CET product coverage, originally scheduled for implementation in 2006, has not occurred.

#### **b. Argentina**

The United States exported goods valued at an estimated \$5.8 billion to Argentina in 2007, an increase of 21 percent from 2006. U.S. imports from Argentina were roughly \$2.2 billion, an increase of 9 percent from 2006.

Argentina's lack of adequate and effective intellectual property protection remains a source of friction in the bilateral trade relationship. Argentina has been on the Special 301 Priority Watch List since 1996. Although cooperation has improved between Argentina's enforcement authorities and the U.S. copyright industry, and the Argentine Customs authority has taken steps to improve enforcement, the United States encourages stronger IPR enforcement actions to combat the widespread availability of pirated and counterfeit products.

### **c. Brazil**

The United States exported goods valued over \$24 billion to Brazil in 2007. Brazil's market accounts for 23 percent of U.S. exports to Latin America and the Caribbean, excluding Mexico, and 60 percent of U.S. goods exports to MERCOSUR.

In 2007, consistent with U.S. statutory provisions and after extensive analysis including comments received from the public, the Administration determined that certain products from Brazil (ferrozirconium, and brakes and brake parts) can compete effectively in the U.S. market. As a result, the Administration revoked Brazil's competitive need limitation (CNL) waivers necessary for duty-free treatment of these products under the U.S. Generalized System of Preferences.

Brazil has achieved important progress in enhancing the effectiveness of intellectual property enforcement, particularly with respect to pirated audio-visual goods. Nonetheless, shortcomings in some areas of IPR protection and enforcement continue to represent barriers to U.S. exports and investment.

### **d. Paraguay**

The United States exported goods valued at an estimated \$1.2 billion to Paraguay in 2007, an increase of 34 percent from 2006. U.S. imports from Paraguay were roughly \$70 million, an increase of 18 percent from 2006.

With a population of just over six million, Paraguay is one of the smaller markets in Latin America. Paraguay is a major exporter of, and a transshipment point for, pirated and counterfeit products in the region, particularly to Brazil.

In 2007, the U.S.-Paraguay Joint Committee on Trade and Investment met to discuss a wide range of issues including efforts to develop Paraguay's biofuels capacity, negotiation of a revised version of the Intellectual Property Rights (IPR) Memorandum of Understanding (MOU) (see later paragraph), ongoing cooperation toward a strategic plan for Paraguay to develop non-traditional exports, and other issues concerning our bilateral and multilateral trade agenda.

Paraguay's president has declared the fight against piracy and counterfeiting and contraband a national priority. However, serious concerns over the lack of effective border enforcement remain, most notably because Paraguay continues to be a transshipment point for pirated and counterfeit goods to Brazil and other neighboring markets.

Paraguay's efforts to improve IPR performance are guided in part by the MOU with the United States, concluded following Paraguay's 1998 designation as a Priority Foreign Country under the Special 301 provisions of the Trade Act of 1974. Implementation of the MOU is subject to ongoing monitoring under U.S. trade law. The MOU details Paraguayan commitments to implement institutional and legal reforms and to strengthen intellectual property rights enforcement and prosecution. In addition, Paraguay agreed to ensure that its government ministries use only authorized software.

In December 2007, the United States and Paraguay agreed to revise and update the MOU. This revised MOU is valid through the end of 2009.

#### **e. Uruguay**

Uruguay has the smallest population among MERCOSUR members (3.5 million). U.S. exports to Uruguay increased by 28 percent to \$618 million in 2007, while imports decreased by 4 percent to \$493 million.

The U.S.-Uruguay commercial relationship has seen significant growth in the past several years. In 2002, Uruguay and the United States created a Joint Commission on Trade and Investment (JCTI) to exchange ideas on a variety of bilateral economic topics and signed a Bilateral Investment Treaty in November 2006.

In January, 2007, the two governments signed a Trade and Investment Framework Agreement (TIFA), and have utilized the framework to exchange ideas on a variety of economic topics, including customs issues, intellectual property protection, investment, labor, and the environment.

#### **f. Chile**

The United States-Chile Free Trade Agreement entered into force on January 1, 2004 and provides the framework for our bilateral trade relations. Developments in 2007 with respect to the United States-Chile FTA are discussed in Chapter III, section A.

### **4. The Andean Community**

#### **a. Trade Promotion Agreements**

The United States has concluded Trade Promotion Agreements with Peru and Colombia. See Chapter III, Section A, for a description of these agreements and their status.

#### **b. Andean Trade Preference Act**

One of the ways the United States conducts its trade relationship with the Andean countries is in the framework of the unilateral trade preferences of the Andean Trade Preference Act (ATPA), as amended by the Andean Trade Promotion and Drug Eradication Act (ATPDEA). Congress enacted the ATPA in 1991 in recognition of the fact that regional economic development is necessary in order for Bolivia, Colombia, Ecuador, and Peru to provide economic alternatives to the illegal drug trade, promote domestic development, and thereby solidify democratic institutions.

The original ATPA expired in 2001. The ATPDEA, which was signed into law on August 6, 2002 as part of the Trade Act of 2002, restored the benefits of the ATPA, providing for retroactive reimbursement of duties paid during the lapse in the program. In addition, while the original ATPA excluded from duty-free treatment products in several sectors including textiles, apparel, footwear, articles of leather, and tuna in airtight containers, the ATPDEA expanded the list of items eligible for duty-free treatment by about 700 products.

The most significant expansion of benefits in the ATPA, as amended by the ATPDEA, was in the apparel sector. Apparel assembled in the region from U.S. fabric, fabric components or components knit-to-shape in the United States may enter the United States duty-free in unlimited quantities. Apparel assembled

from Andean regional fabric or components knit-to-shape in the region may enter duty-free subject to a cap. The cap was set at 2 percent of total U.S. apparel imports, increasing annually in equal increments to 5 percent.

The ATPA, as amended, was extended on December 9, 2006 until June 30, 2007. On June 30, 2007, Congress extended the ATPA for Peru, Colombia, Ecuador, and Bolivia through February 29, 2008.

In April 2007 the Office of the U.S. Trade Representative sent to Congress a report mandated under the program on the operation of the agreement. In August 2007, under an annual process provided for in the legislation, USTR published a *Federal Register* notice inviting the submission of petitions relating to the beneficiary countries' eligibility. One petition was filed that did not require further review. Two reviews from previous years were terminated and six petitions from prior years remained under review.

## **5. Central America and the Caribbean**

### **a. Free Trade Agreement with Central America and the Dominican Republic**

See Chapter III, Section A for a discussion of this topic.

### **b. Caribbean Basin Initiative**

The Caribbean Basin Initiative (CBI) currently provides beneficiary countries and territories with duty-free access to the U.S. market. They are: Antigua and Barbuda, Aruba, the Bahamas, Barbados, Belize, British Virgin Islands, Costa Rica, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Netherlands Antilles, Panama, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, and Trinidad and Tobago.

During 2007, the 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. CBI was initially launched in 1983 through the Caribbean Basin Economic Recovery Act (CBERA). It was substantially expanded in 2000 through the United States-Caribbean Basin Trade Partnership Act (CBTPA). The Trade Act of 2002 increased the type and quantity of textile and apparel articles eligible for preferential tariff treatment accorded to designated beneficiary CBTPA countries. Among other actions, the Trade Act of 2002 extended duty-free treatment for clothing made in beneficiary countries from both U.S. and regional inputs, and increased the quantity of clothing made from regional inputs that regional producers can ship duty-free to the United States annually.

On August 2, 2005, President Bush signed implementing legislation for the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR). The CAFTA-DR entered into force for El Salvador on March 1, 2006; for Honduras on April 1, 2006; for Nicaragua on April 1, 2006; for Guatemala on July 1, 2006; and for the Dominican Republic on March 1, 2007. When the CAFTA-DR entered into force for each of these countries, the country ceased to be designated as a CBERA and CBTPA beneficiary. When the CAFTA-DR enters into force for Costa Rica, that country will cease to be designated as a CBERA and CBTPA beneficiary country. The United States and Panama signed a free trade agreement on June 28, 2007, but that agreement has not yet entered into force.

Since its inception, the CBERA program has helped beneficiaries diversify their exports. In conjunction with economic reform and trade liberalization by beneficiary countries, the trade benefits of CBI have helped countries and certain dependent territories in the region diversify their exports and have contributed to their economic growth. At the inception of the CBI in 1983, traditional and primary

products such as coffee, bananas, sugar, and mineral fuels accounted for a majority of U.S. imports from the region. By 2006, that percentage had fallen to approximately 37 percent, reflecting the increase in the value of energy and related chemical products and the exit from CBERA of four major apparel producing countries.

### **c. The Caribbean**

In June 2007, the United States hosted the Conference on the Caribbean, which brought together leaders from the United States and the Caribbean to discuss economic growth, investing in people, and security issues. President Bush met with his counterparts from the Caribbean and issued a joint statement in which the leaders committed to expand economic opportunities, to address the threats of terrorism and crime, and to cooperate in many other areas, including health and education. In early 2009, Trinidad and Tobago will host the next Summit of the Americas.

## **D. Europe and Eurasia**

### **1. European Union**

#### **Overview**

The U.S. economic relationship with Europe is the largest and most complex in the world. The magnitude, advanced integration, and generally robust health of the transatlantic trade and investment relationship have provided an anchor of prosperity for both sides of the Atlantic, even as economic conditions fluctuate in other parts of the world. However, due to the size and the highly integrated nature of this economic relationship, serious U.S.-EU trade issues inevitably arise. The value of trade and investment affected by these issues can sometimes be quite large. Yet even when relatively small in dollar terms, these issues can nonetheless take on significance for their precedent-setting impact on U.S. trade policies.

U.S. trade relations with Europe are dominated by our relations with the European Union (EU). With the accession of Romania and Bulgaria, the EU expanded to 27 countries on January 1, 2007, encompassing a market of nearly 500 million consumers with a total gross domestic product of \$14 trillion. U.S. goods exports in 2007 were \$248 billion and U.S. exports of private commercial services (*i.e.*, excluding military and government) to the European Union (25) were \$141 billion in 2006 (latest data available).

During 2007, USTR actively engaged with the European Commission and EU Member States on the full range of U.S. trade and investment interests, including efforts to expand cooperation to enhance the transatlantic economic relationship.

#### **a. Enhancing Transatlantic Economic Relations**

Recognizing the benefits of enhanced transatlantic economic ties, the United States and the EU continue to actively pursue initiatives to create new opportunities for transatlantic economic activity. At the April 2007 U.S.-EU Summit, Leaders launched the Framework for Advancing Transatlantic Economic Integration, with the goal of fostering cooperation and reducing trade and investment barriers through a multi-year work program in such areas as regulatory cooperation, intellectual property rights, investment, secure trade, financial markets, and innovation. Building upon the 2005 U.S.-EU Initiative to Enhance Economic Integration and Growth, this new Framework also established the Transatlantic Economic Council (TEC) to oversee Framework implementation, with input from the Transatlantic Business Dialogue, the Transatlantic Consumers Dialogue, and the Transatlantic Legislators Dialogue. The initial

TEC meeting in November 2007 reviewed progress under the Framework since its launch. USTR and other agencies will continue to work closely with their European counterparts to advance priority activities under the Framework in 2008.

#### **b. Regulatory Cooperation**

Trade obstacles arising from divergences in U.S. and EU regulations and the lack of transparency in EU rulemaking and standardization processes are an increasingly important focus of our dialogue with the EU. During 2007, USTR continued to intensify its efforts to enhance U.S.-EU regulatory cooperation and reduce unnecessary “technical” barriers to transatlantic trade. Regulatory cooperation also forms a key element of the Framework for Advancing Transatlantic Economic Integration launched at the April 2007 U.S.-EU Summit.

Under the Roadmap for U.S.-EU Regulatory Cooperation, U.S. and European officials broadly advanced U.S.-EU regulatory cooperation in 15 different sectors in 2007, with a particular focus on pharmaceuticals, medical devices, cosmetics, automobiles, chemicals, and electrical equipment. The U.S.-EU High-Level Regulatory Cooperation Forum met in November 2007 to exchange views and share experiences regarding regulatory cooperation approaches and practices of mutual interest, with product safety and integration of trade impacts into regulatory analysis being topics of particular interest. The April 2007 U.S.-EU Summit and the November 2007 meeting of the TEC noted progress on priority regulatory cooperation activities.

#### **c. Subsidies for Large Commercial Aircraft**

The United States has long expressed its concerns with European government subsidization of large civil aircraft (LCA) development by Airbus. The issue has acquired greater urgency in recent years as Airbus sought and received substantial new subsidies (so-called “launch aid,” together with grants of infrastructure, research and development, and other types of subsidies) for the Airbus A380 super jumbo aircraft and commitments of further launch aid subsidies for this new Airbus A350 passenger aircraft. In 2004 and 2005, USTR attempted to work with the European Commission to establish a new agreement aimed at eliminating LCA subsidies. The Commission’s reluctance to negotiate such an agreement led the United States to initiate dispute settlement at the WTO in 2005 (as the United States believes subsidies to Airbus violate EU obligations under the WTO Agreement on Subsidies and Countervailing Measures). The EU requested its own WTO dispute settlement proceeding, claiming alleged U.S. Federal and State government subsidies to Boeing. Although the United States would prefer to reach a negotiated solution, it is prepared to see its WTO case through to completion if necessary. (See the “Dispute Settlement Understanding” section in Chapter II for further information on these cases.)

#### **d. WTO Information Technology Agreement**

The United States has raised its concerns both bilaterally and in the ITA Committee in Geneva about measures by the EC that no longer provide or guarantee duty-free treatment for certain products, such as set-top boxes with a communication function, LCD computer monitors, and multifunction printers. The EC is applying duties as high as 14 percent on imports of these products.

#### **e. Agricultural Biotechnology**

In May 2003, the United States initiated WTO dispute settlement proceedings with respect to the EU’s *de facto* moratorium on approvals of agricultural biotechnology products and the existence of individual Member State bans on agricultural biotechnology products previously approved at the EU level. In September 2006, the WTO dispute settlement panel ruled in favor of the United States, finding that both

the EU's moratorium and the Member State prohibitions were inconsistent with WTO rules. The WTO adopted the panel report on November 21, 2006. On December 19, 2006, the EU notified the WTO that it intended to comply with the WTO recommendations and rulings set out in the panel report, and that it would need a "reasonable period of time" (RPT) to do so. The United States and EU agreed that the RPT would expire on November 21, 2007, and subsequently agreed to extend the RPT to January 11, 2008 (see the "Dispute Settlement Understanding" section in Chapter II for further information on this case).

During 2007, the United States and the European Commission held several rounds of discussions aimed at normalizing U.S.-EU biotechnology trade and promoting EU compliance with the WTO recommendations and rulings. When the RPT expired in January 2008, the United States took the first step toward a resumption of WTO dispute-settlement procedures, submitting a request to the WTO for authority to suspend concessions. Under a January 14, 2008 agreement with the Commission, however, proceedings on the U.S. request were suspended to provide the EU an opportunity to demonstrate meaningful progress on the approval of biotechnology products. During the first few months of 2008, the United States will periodically evaluate EU progress on normalizing biotechnology trade against a set of benchmarks and timelines drawn largely from the EU's own laws. If the United States decides to pursue WTO proceedings on the EU's compliance with the panel report, the United States would file a formal consultation request with the EU, followed by a request for the establishment of a WTO compliance panel.

#### **f. Chemicals**

On June 1, 2007, the EU's comprehensive new regulatory regime for all chemicals (known as Registration, Evaluation and Authorization of Chemicals or "REACH") entered into force. REACH imposes extensive additional testing and reporting requirements, to be phased-in over a number of years, on producers and downstream users of chemicals. This expansive EU regulation impacts virtually all industrial sectors, including the majority of U.S. manufactured goods exported to the EU. While supportive of the EU's objectives of protecting human health and the environment, the United States continues to stress that the EU regulation adopts a particularly complex and burdensome approach, which appears to be neither workable nor cost-effective in its implementation, and could adversely impact innovation and disrupt global trade. Many of the EU's trading partners have expressed similar concerns. We will continue to monitor closely the ongoing implementation of this EU regulation in 2008, and will seek to ensure that U.S. interests are protected.

#### **g. Ban on Growth Promoting Hormones in Meat Production**

The EU continues to ban the import of U.S. beef obtained from cattle treated with growth-promoting hormones. In May 1996, the United States launched a formal WTO dispute settlement proceeding, challenging the EU ban. In 1999, the WTO ruled that the EU's ban was inconsistent with the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) because it was not based on a scientific risk assessment, and authorized the United States to impose sanctions on EU products with an annual trade value of \$116.8 million. At present, the United States continues to apply 100 percent duties on \$116.8 million of U.S. imports from the EU.

In September 2003, the EU announced the entry into force of an amendment (EC Directive 2003/74) to its hormone ban that recodified the ban on the use of the hormone estradiol for growth-promotion purposes and established provisional bans on the five other growth-promoting hormones included in the original EU legislation. With the implementation of this new directive, the EU argued that it was now in compliance with the earlier WTO ruling and that U.S. sanctions were no longer justified.

The United States maintains that the revised EU measure cannot be considered compliant with the WTO's recommendations and rulings in the earlier hormones dispute, and that U.S. sanctions remain authorized. In November 2004, the EU requested WTO consultations with the United States on this matter. The dispute is currently in the final stages before a WTO panel, which is expected to publish its findings in early 2008.

#### **h. Poultry Meat**

U.S. poultry meat exports to the EU have been banned since April 1, 1997, because U.S. poultry producers use washes of low-concentration pathogen reduction treatments (PRTs), such as chlorine, to reduce the level of pathogens in poultry meat production, a practice not permitted by the EU sanitary regime. In December 2005, the European Food Safety Authority formally adopted the opinion of a scientific panel that had determined that four commonly used PRTs were safe. In February 2006, the European Commission's Health and Consumer Protection Directorate General circulated the first draft of a proposal to allow PRTs to be used on poultry meat in the EU market. The draft regulation would ban the simultaneous use of more than one PRT, however, and it would require poultry treated with PRTs to be rinsed after treatment. These two requirements are not consistent with U.S. production methods, and would limit the ability of most U.S. exporters to sell poultry to the EU.

The regulation proposed by the Health and Consumer Protection Directorate has been held up in internal Commission review for more than one and one-half years, because of concerns raised by the Directorates on Agriculture and the Environment. The concerns of the Agriculture Directorate on the marketing standards for PRT-treated poultry appear to have been resolved, but in the fall of 2007 the Environment Directorate raised concerns about the impact of PRTs on water quality and antimicrobial resistance in the EU, issues that the United States has argued are not related to the safety of poultry that is treated with PRTs in the United States and then exported to the EU. Two separate, Commission-mandated scientific studies examining these issues are expected to be completed in the Spring of 2008. The United States will continue to push for a regulation allowing the use of PRTs to be finalized in the EU legislative process.

At the November 2007 meeting of the TEC, the European Commission committed to resolve the long-standing issue regarding the importation into the EU of U.S. poultry treated with PRTs. The Commission committed to do this by the 2008 U.S.-EU summit.

#### **i. Pork**

U.S. pork exports to the EU are restricted by high tariffs, a complex system of tariff rate quotas, and SPS barriers, including trichinae testing, additional residue testing, and a ban on the use of pathogen reduction treatments. In the Doha negotiations, the United States is seeking improved access to the EU market for U.S. pork through an expansion and consolidation of quotas and a reduction in tariffs, but we are also pressing the EU in the context of the enlargement negotiations to make improvements in the administration of quotas to enable more effective utilization by U.S. exporters. We made progress in 2007 in addressing additional residue testing requirements, and in the coming year we will continue to seek the resolution of SPS issues restricting pork exports to the EU.

#### **j. Wine**

On March 10, 2006, the United States and the EU concluded the Agreement between the United States of America and the European Communities on Trade in Wine, an accord on wine-making practices and wine labeling intended to facilitate bilateral trade in wine, currently valued at more than \$3.0 billion annually. The agreement has improved marketing certainty for U.S. and EU wine exporters.

The agreement provides for: (1) mutual recognition of existing wine-making practices; (2) a consultative process for recognition of new wine-making practices; (3) a commitment by the United States to limit, with some exceptions, the use of certain terms on wine labels in the U.S. market solely to wine originating in the EU; (4) a commitment by the EU to allow, under specified conditions, the use of certain regulated terms on U.S. wine exported to the EU; (5) recognition of certain names of origin in each market; (6) simplified import certification requirements; and (7) defined parameters for optional labeling elements for U.S. wines sold in the EU market. The agreement also provided for a second phase of negotiations to further facilitate bilateral wine trade. The agreement did not address the use of “geographical indications,” a form of intellectual property. The United States and the EU held meetings in 2007 to discuss implementation of the agreement and to initiate the second phase of negotiations, which will continue.

#### **k. EU Enlargement**

In December 2006, in advance of the January 1, 2007 accession of Romania and Bulgaria to the EU, the United States entered into negotiations with the EU within the framework of GATT provisions relating to the expansion of customs unions. The two new EU members were required to change their tariff schedules to conform to the EU’s common external tariff schedule, resulting in increased tariffs on certain imported products. Under GATT 1994 Articles XXIV:6 and XXVIII, the United States is entitled to compensation from the EU to offset these tariff changes. This round of enlargement also presents challenges for exporters to Romania and Bulgaria of key commodities such as pork, who have faced a significant increase in applied tariff rates and the imposition of quotas. In 2008, the United States will seek to conclude negotiations on an appropriate bilateral compensation agreement with the European Union and to ensure that it is implemented as soon as possible.

#### **l. Rice**

U.S. rice shipments to the EU in 2007 were reduced as a consequence of mandatory destination-testing measures introduced by the European Commission in October 2006 following the discovery of trace levels of unapproved biotechnology LL601 rice in the U.S. long grain rice crop. The zero tolerance policy maintained by the EU for LL601 substantially increased the risk of rejection at EU ports, making it difficult for most U.S. rice exporters and EU buyers to continue normal shipments during the first two-thirds of 2007. The situation for U.S. rice exporters was further complicated in October 2007, when the Commission globalized the remaining quantity of the U.S. milled rice tariff-quota, allocating approximately 13,000 tons of the quota to non-U.S. suppliers. This occurred just as U.S. suppliers were preparing to resume normal rice exports to the EU from 2007 crop rice supplies. The United States has requested that the EU restore this quantity of quota to U.S. suppliers. In December 2007, following a review of U.S. industry measures to ensure the exclusion of LL601 from rice shipments, the Commission eliminated the requirement that EU Member States test all U.S. rice shipments for genetically engineered rice upon arrival at EU ports. The United States will continue to press the Commission in 2008 for a restoration of the 2007 rice quota.

#### **m. Bananas**

On January 1, 2006, the EU implemented a new banana import regime that combined a 176 Euro/metric ton Most Favored Nation (MFN) tariff level with a zero duty tariff-rate quota in amounts up to 775,000 metric tons for bananas originating in Africa, Pacific and Caribbean (ACP) countries, with which the EU has long maintained preferential trading relationships. In November 2006, after negotiations for a lower MFN tariff between the EU and many of its Latin American banana supplying countries failed to achieve a mutually satisfactory result, Ecuador filed a request under Article 21.5 of the WTO Dispute Settlement

Understanding (DSU) for consultations with the EU regarding the compliance of this new regime with the EU's obligations under the WTO. A WTO dispute settlement panel was established in March 2007 and issued its confidential final report on December 10, 2007. The panel report is expected to be made public in 2008.

In June 2007, the United States also filed a request for the establishment of a panel under Article 21.5 of the DSU, challenging the post-January 1, 2006 EU banana regime as in breach of GATT Articles I and XIII. The panel is expected to issue its final report in the U.S. dispute in February 2008. While the United States does not directly export bananas to the EU, the issue is of considerable importance to U.S. companies involved in the production, distribution, and marketing of bananas.

## **2. Other European Countries**

The United States continues to broaden our economic engagement with the countries of Switzerland, Norway, Iceland, and Liechtenstein and explore ways to foster closer United States-European Free Trade Area trade. The United States and Switzerland continued discussions of bilateral trade and related issues under the U.S.-Swiss "Trade and Investment Cooperation Forum."

The United States has been strongly supportive of the integration of Bulgaria and Romania into the EU. As with previous accessions, USTR and other U.S. agencies worked with Bulgaria and Romania to help ensure that the accession process did not adversely affect U.S. commercial interests in the region (see EU Enlargement in the EU Section).

Croatia, Macedonia, and Albania have concluded Stabilization and Association Agreements (SAAs) with the EU, which indicate their desire for EU membership. In 2007, SAAs with Bosnia and Herzegovina and Serbia were initialed and an SAA with Montenegro was signed. These Agreements provide for the reduction to zero of virtually all tariff rates on industrial goods and preferential rates and quotas for many agricultural goods traded between the EU and these countries. Subsequent agricultural agreements (the Zero-Zero Agreements) have further reduced tariffs on the majority of agriculture goods. U.S. goods continue to face generally higher tariff rates (MFN tariff rates) in these countries than EU goods.

Many of the countries in the Southeast Europe region are eligible for duty-free benefits under the U.S. Generalized System of Preferences (GSP) program. As provided by the GSP statute, once a country becomes an EU Member State, it may no longer be designed as a GSP beneficiary. Thus, when they became EU Member States on January 1, 2007, Romania and Bulgaria were no longer designated as beneficiary developing countries for purposes of the GSP.

The GSP statute provides that a beneficiary may not receive GSP benefits if it affords preferential treatment to the products of a developed country, other than the United States, that has a significant adverse effect on U.S. commerce. As noted above, the United States has consulted with several countries concerning preferential tariffs they have granted to EU exports (as compared with U.S. exports) pursuant to their Europe Agreements with the EU and will continue to monitor the impact of these agreements on U.S. commercial interests.

USTR is also working in the region to increase the use of GSP benefits by the eligible beneficiary countries.

USTR closely monitors WTO Members' compliance with the TRIPS Agreement and works with countries to improve enforcement of their IPR legislation, as well as to counter trends such as increasing copyright piracy and trademark counterfeiting. The United States successfully encouraged Bulgaria to

improve IPR enforcement and pass IPR legislation, which led to Bulgaria's removal from the Special 301 Watch List.

### **3. Russia**

The United States has established strong bilateral trade and investment links with Russia, based on a 1992 bilateral trade agreement concluded in accordance with the Trade Act of 1974. The United States also extends Generalized System of Preferences (GSP) benefits to Russia. In response to petitions from the U.S. copyright industry, USTR continued a review in 2007 to determine Russia's eligibility to receive GSP benefits.

Multilaterally, the United States has encouraged Russia's accession to the World Trade Organization (WTO) to increase market access for U.S. exports and to support economic reforms. On November 19, 2006, the United States and Russia signed a bilateral market access agreement on goods and services, which included significant benefits and market openings in areas of longstanding interest to the United States. Russia has completed its bilateral market access negotiations with most other interested WTO Members, and is now focused on multilateral negotiations on its terms for accession, as well as completing its implementation of WTO provisions. Russia must also complete negotiations with WTO Members on levels of funding for certain programs supporting its agriculture sector.

#### **a. Jackson-Vanik Amendment**

Russia (as is the case with several of the other countries in the region – see below) receives conditional Normal Trade Relations (NTR) (formerly referred to as “most favored nation” or MFN) tariff treatment pursuant to the provisions of Title IV of the Trade Act of 1974, also known as the Jackson-Vanik amendment. Under the Jackson-Vanik amendment, the President is required to deny NTR tariff treatment to an economy that was not eligible for such treatment in 1974 and that fails to meet the freedom of emigration requirements contained in the legislation. This provision is subject to waiver, if the President determines that such a waiver will substantially promote the legislation's objectives. Alternatively, the President can determine that the country is in full compliance with the legislation's emigration requirements. The country must also have a trade agreement with the United States, including certain specified elements, in order to obtain conditional NTR status. The President has determined that Russia is in full compliance with Title IV's freedom of emigration requirements and the United States and Russia have had a qualifying trade agreement in effect since 1992.

If a country is still subject to Jackson-Vanik at the time of its accession to the WTO, the United States needs to invoke the “non-application” provisions of the WTO. In such cases, the United States and the other country in effect have no “WTO relations.” In such a situation, the United States is unable to bring a WTO dispute based on a country's violation of the WTO agreements or commitments the country undertook as part of its WTO accession package, and U.S. exporters are not able to benefit from many of the market opening commitments that an acceding country, such as Russia, undertook as part of the bilateral market access agreement. Congressional action is required to terminate the application of Jackson-Vanik to a country. The Administration continues to consult with the Congress and interested stakeholders regarding the status of our WTO accession negotiations and the termination of application of Jackson-Vanik and the provision of Permanent Normal Trade Relations status to Russia.

#### **b. Intellectual Property Rights (IPR)**

U.S. industry continues to be concerned about the IPR situation in Russia. A number of Members of Congress have written to USTR in support of those concerns. U.S. copyright industries estimate they lost

in excess of \$2.6 billion in 2006 due to copyright piracy in Russia (films, videos, sound recordings, books, and computer software). In 2007, Russia's optical disc production capacity continued to be far in excess of domestic demand, with pirated products apparently intended not only for domestic consumption, but also for export. Internet piracy continued to be a serious concern. Criminal investigations are ongoing against operators of some of the notorious Russia-based pirate websites and Western and Russian recording companies have initiated, and won, several civil suits against Internet pirates.

The United States is working to ensure that Russia takes appropriate actions to protect intellectual property rights. The November 2006 bilateral IPR agreement between the United States and Russia sets out actions that Russia will take to improve protection and enforcement of intellectual property rights. As part of the agreement, the Russian government has committed to fight optical disc and Internet piracy, protect pharmaceutical test data, deter piracy and counterfeiting through criminal penalties, strengthen border enforcement, and bring Russian laws into compliance with WTO and other international IPR norms. The U.S. and Russian governments have an ongoing dialogue to ensure the full implementation of this binding agreement.

As noted above, the United States is reviewing Russia's status as a beneficiary country under the GSP Program. Russia has also been on the Special 301 Priority Watch List since 1997.

The most significant legislative development over the last two years was the Duma's consideration and adoption of Part IV of the Civil Code, which replaces most of Russia's civil IPR legislation with a single code as of January 1, 2008. Part IV still contains provisions that raise concerns regarding its consistency with WTO and other international agreements. The Russian government has pledged to ensure that Part IV and other IPR measures will be fully consistent with the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), and the United States continues to work with the Russian government toward this goal.

Under Article 39.3 of the TRIPS Agreement, Russia must protect against unfair commercial use of undisclosed data submitted to government authorities to obtain marketing approval of pharmaceutical and agricultural chemical products. Russia currently does not provide such protection for pharmaceutical products. Legislative changes to address these concerns are being considered by the Russian government. Enactment of Part IV of the Civil Code addressed some concerns regarding IPR protection, such as eliminating the reciprocity principle for protection of geographical indications and strengthening provisions on collective management of copyrights and related rights.

Poor enforcement of IPR is a pervasive problem. The prosecution and adjudication of intellectual property cases remains sporadic and inadequate; there is a lack of transparency and a failure to impose deterrent penalties. The November 2006 bilateral IPR agreement committed Russia to improve IPR enforcement and the United States to intensify training programs for customs and law enforcement. In 2007, the U.S. Patent and Trademark Office completed three training programs with Russian Federal Customs to help Russian customs officials strengthen their enforcement efforts. In 2007, Russian law enforcement agencies carried out raids on optical disc production facilities suspected of engaging in pirate activities, including a major raid in St. Petersburg that saw increased cooperation between St. Petersburg and Moscow police forces. However, industry reports that some raided plants have been allowed to resume operation and that inspections of licensed facilities have been infrequent. The November 2006 bilateral IPR agreement committed Russia to enhance its supervision of both licensed and unlicensed optical disc factories. Russia took some action against pirate websites in 2007. Russian authorities reported closing 72 websites in the year following the November 2006 agreement.

### **c. Market Access for Poultry, Pork, and Beef**

The United States was actively engaged with the government of Russia throughout 2007 to ensure that U.S. producers of poultry, pork, and beef continue to have access to the Russian market and that Russia appropriately implements the U.S.-Russian Bilateral Meat Agreement on poultry, pork, and beef that entered into force in 2005. The Meat Agreement established tariff-rate quotas (TRQs) for poultry, pork, and beef, a 15 percent tariff for imports of U.S. high quality beef and other provisions related to importing meat and poultry into Russia. The bilateral market access agreement sets out a framework, including the time tables, tariff rates, and TRQ parameters, for WTO negotiations on how such goods will be treated post-2009.

### **d. Sanitary and Phytosanitary Restrictions**

Sanitary and phytosanitary (SPS) restrictions have had a major negative effect on U.S. trade, with some products deemed as “sensitive” by Russia being blocked, seemingly without a scientific basis. When the United States and Russia signed the bilateral WTO market access agreement, the two governments also signed bilateral agreements to address SPS issues related to trade in frozen pork, certification of pork, beef and poultry facilities, trade in beef and beef by-products, and products of modern biotechnology. Progress on some of these issues was based on government resolutions issued in 2006 directing that international standards, guidelines and recommendations of the Organization for Animal Health (OIE) and the International Plant Protection Convention (IPPC) be followed. There is, however, currently no corresponding resolution that states Russia will follow Codex Alimentarius recommendations and guidelines. These international standards, guidelines, and recommendations formed the basis for addressing specific SPS issues.

### **e. Product Standards, Certification, and Licensing**

U.S. companies cite product certification requirements as an obstacle to U.S. trade and investment in Russia. In the context of Russia’s WTO accession negotiations, USTR is urging Russia to put in place the necessary legal and administrative framework to establish transparent procedures for developing and applying standards, technical regulations and conformity assessment procedures to better comply with WTO rules.

In addition, import licenses and activity licenses to produce or distribute products such as alcoholic beverages, pharmaceuticals, and products containing encryption capabilities are required to import these products. In a bilateral agreement signed in November 2006, Russia agreed to establish a streamlined interim system for the import of goods containing encryption capabilities; implement transparent, nondiscriminatory and WTO-compatible procedures; and allow importation of most commercially-traded information technology and telecommunications goods after a one-time notification, or in some cases, with no licensing or notification requirements at all. The U.S. Government will continue to work on addressing the licensing barriers to trade in products with encryption capabilities and the other products subject to licensing requirements.

### **f. Services**

When Russia becomes a WTO Member and the United States applies the WTO Agreements to Russia, U.S. services suppliers in a wide range of sectors, including banking and securities, insurance, telecommunications, audio-visual services, distribution, express delivery, energy services, environmental services and professional services will benefit from improved market access. For example, Russia will provide national treatment and a significant level of market access for insurance companies, including 100 percent foreign ownership of non-life insurance firms, upon accession. On banking and securities,

Russia has agreed to bind most existing market access and to offer some liberalization of treatment of foreign bank subsidiaries.

## **4. Ukraine**

The United States has established strong bilateral trade and investment links with Ukraine, including negotiating a bilateral trade relations agreement and a bilateral investment treaty (BIT). The U.S.-Ukrainian BIT entered into force on November 16, 1996. The BIT guarantees U.S. investors the better of national and most favored nation (MFN) treatment, the right to make financial transfers freely and without delay, international legal standards for expropriation and compensation and access to international arbitration. There are a number of longstanding investment disputes faced by several U.S. companies. These disputes mainly date from the early 1990s and the initial opening of the Ukrainian economy to foreign investors. In most cases, however, there has been little progress toward resolution under subsequent Ukrainian governments.

The United States also extends Generalized System of Preferences (GSP) benefits to Ukraine and on February 17, 2006, the Department of Commerce designated Ukraine a “market economy” for purposes of the application of the U.S. antidumping and countervailing duty statutes.

Ukraine has largely completed the process of joining the World Trade Organization (WTO). On March 6, 2006, the United States and Ukraine signed a WTO bilateral market access agreement. Later that month, the United States terminated the application to Ukraine of Title IV of the Trade Act of 1974, including the Jackson-Vanik amendment (see Chapter III, section five for a fuller discussion of Title IV), thereby providing Ukraine permanent normal trade relations (PNTR) status. The Ukrainian government completed its negotiations for accession on January 25, 2008, and its WTO Membership was approved by the WTO Council on February 5, 2008. Ukraine will become a member after it notifies the WTO that it has completed domestic ratification procedures to adopt the approved package of commitments and concessions.

### **a. Intellectual Property Rights**

Recent years have seen steady improvement in Ukraine’s protection of intellectual property rights. On January 23, 2006, the United States reinstated GSP benefits for Ukraine and lowered Ukraine’s designation under Special 301 from Priority Foreign Country to Priority Watch List. Also in January 2006, Ukraine agreed to work with the U.S. Government and with U.S. and Ukrainian industry to monitor the progress of future enforcement efforts through an IPR Enforcement Cooperation Group. This bilateral group has conducted a series of successful dialogues, meeting roughly once every four months.

However, problems still remain. Despite the significant reduction in illegal production of optical discs, the retail sale of pirated goods in large markets is still widespread, as is their transit through Ukraine. Internet piracy is a growing problem, as many Ukraine-based websites offer pirated material for download with the full knowledge of their Internet Service Providers (ISPs). Ukraine’s collective management system for royalties functions imperfectly. Rights holders complain that some royalty collecting societies collect fees for public use of copyrighted material without authorization and do not properly return royalty payments to rights holders. Business software piracy also remains a concern in Ukraine, with one industry study concluding that in 2006 Ukraine’s piracy rate stood at 84 percent. Of concern to patent holders is the fact that the Ukrainian Ministry of Health does not routinely check the validity of patents when it grants marketing approval in Ukraine.

## **b. Sanitary and Phytosanitary (SPS) Issues**

Ukraine applies a range of SPS measures that restrict imports of a number of U.S. agricultural products, among them, pork, beef, and poultry. Ukraine's certification and approval process is lengthy, duplicative, and expensive. Over the past several years, Ukraine has passed amendments to several laws and regulations, most importantly to the law "On Veterinary Medicine" and the law "Quality and Safety of Food Products and Food Raw Materials," to bring its legislative and regulatory framework into compliance with requirements of the WTO SPS Agreement.

The remaining areas of significant concern have been the subject of discussion between the United States and Ukraine as part of Ukraine's accession to the WTO. Ukraine has maintained a complex and non-transparent system for overseeing human and animal health measures involving overlapping authority by the Veterinary Service, Sanitary Service, and Derzh Spozhyv Standard. Amendments to the law on "On Standards, Technical Regulations and Conformity Assessment Procedures," passed in May, 2007, made some progress but failed to solve entirely the problem of overlapping authority, which was addressed again as Ukraine completed its accession negotiations..

A bilateral agreement with Ukraine, negotiated at the same time as the March 2006 WTO Bilateral Market Access Agreement addresses the terms of U.S. exports of beef, beef products, and pork to Ukraine. As agreed, Ukraine has allowed the entry of certified U.S. beef and pork that meets veterinary certificate requirements. In the past, Ukraine blocked the importation of beef and beef products due to concerns over the use of growth promoting hormones as well as bovine spongiform encephalopathy (BSE). The United States is working with Ukraine to ensure that any measures undertaken by Ukraine are consistent with World Organization for Animal Health (OIE) guidelines. U.S. pork exports to Ukraine have been hampered by regulations concerning trichinae. The United States is working with Ukraine to align Ukrainian standards for trichinae with international norms.

## **c. Grain Exports**

Ukraine is the sixth-largest wheat exporter in the world. The United States continues to express its concern about the export restrictions that Ukraine imposed on food and feed grain exports beginning in September 2006. Ukraine readjusted the export restrictions in July 2007, imposing highly-restrictive quotas that served as a near export ban on each grain-type covered (wheat, barley, corn, and rye). Ukraine planned to introduce somewhat more liberal quotas in early 2008, allowing more grain to be exported early in the year. The measure will allow traders to clear some stocks but the level is approximately one-third of what could be exported in the absence of quotas. To date, Ukraine has not adequately justified the measures taken, *i.e.*, it has not convincingly explained how it faces a "critical shortage," as required in order to maintain such a ban under Article XI of the GATT 1994. More recently, Ukraine has sometimes argued that export restrictions are needed to combat rising food prices. The initial mismanagement of the issuance of export licenses compounded the problem, leaving a large volume of grain in storage in Ukraine's ports to deteriorate past the point where it could be used for human consumption or even animal feedstock. Estimated costs to grain traders exceed \$300 million. Ukraine has threatened to extend such export restrictions to sunflower oil in order to combat rising domestic prices of this product. These measures and threats of measures have tarnished Ukraine's investment climate and damaged its reputation.

## 5. Central Asia and the Caucasus

The United States continues actively to support political and economic reforms in Central Asia and the Caucasus region, which includes Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan.

The United States has been working – bilaterally and multilaterally – to construct strong trade and investment links with this region. Bilaterally, the United States has concluded trade agreements to extend Normal Trade Relations (NTR, formerly referred to as “most favored nation” or MFN) tariff treatment to these countries and to enhance intellectual property rights protection. The United States also has extended Generalized System of Preferences (GSP) benefits to nearly 3,400 types of products from the region’s five eligible beneficiary developing countries and has negotiated bilateral investment treaties (BITs) to guarantee compensation for expropriation, non-discriminatory and fair and equitable treatment, transfers in convertible currency, and the use of appropriate dispute settlement procedures. The United States has some form of bilateral investment agreement with every country in the region. The United States currently has BITs in force with Armenia, Azerbaijan, Georgia, Kazakhstan, and Kyrgyzstan, and has signed a BIT with Uzbekistan, which has not yet entered into force.

Multilaterally, the United States has encouraged accession to the WTO as an important method of supporting economic reform. Now that much of this framework is in place, the U.S. Government is working to ensure that these countries satisfy their bilateral and multilateral trade obligations.

In 2005, the United States signed a multi-party Trade and Investment Framework Agreement (TIFA) with five Central Asia countries (Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan). This Agreement provides a regional forum for the discussion of trade and investment with a view to improving the regional investment climate and liberalizing and increasing trade between the United States and the region. The TIFA Council has met twice in Washington, DC, in 2005 and 2007, and once in Almaty, Kazakhstan, in 2006.

In June 2007, the United States signed a TIFA with Georgia and the TIFA Council held an inaugural meeting in Washington, DC. The focus of this TIFA is to bolster Georgia’s ambitious program of economic reform and liberalization.

### a. Jackson-Vanik Amendment

Several countries in Central Asia and the Caucasus receive conditional NTR tariff treatment pursuant to the provisions of Title IV of the Trade Act of 1974, also known as the Jackson-Vanik amendment (see description of Jackson-Vanik above in Russia section). The President has determined that all the republics of Central Asia and the Caucasus, with the exception of Turkmenistan, are in full compliance with Title IV’s freedom of emigration requirements. Turkmenistan receives NTR tariff treatment subject to an annual Presidential waiver.

Pursuant to specific legislation, the President has terminated application of Title IV to Kyrgyzstan, Georgia and Armenia. These countries now receive permanent normal trade relations (PNTR) treatment and the United States applies the WTO to these countries.

The Administration continues to consult with Congress and interested stakeholders with a view to removing other countries in the region that comply fully with the Jackson-Vanik amendment’s freedom of emigration provisions from the coverage of Title IV’s provision, in connection with those countries’ accession to the WTO.

## **b. Intellectual Property Rights (IPR)**

Since the United States concluded bilateral agreements covering IPR protection throughout the region, USTR has worked to ensure compliance by these countries with their IPR obligations. In 2000, the transitional period granted to developing countries and formerly centrally-planned economies for compliance with the WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) expired. Accordingly, USTR has conducted a close examination of compliance of WTO Members in the region with the TRIPS Agreement. The United States has cooperated with, and provided technical assistance to, the countries in the region to help improve the level of IPR protection. Copyright and trademark piracy has been a widespread and serious problem throughout the region. Customs and law enforcement authorities in the region are making slow progress in upgrading these countries' enforcement efforts, but continued close monitoring and technical assistance are still warranted.

## **c. Generalized System of Preferences (GSP)**

Armenia, Georgia, Kazakhstan, Kyrgyzstan, and Uzbekistan are beneficiaries under the GSP program. In 2004, Azerbaijan submitted an application, which is under consideration, for designation as a beneficiary developing country under the GSP program. Tajikistan and Turkmenistan have not yet applied to be designated as eligible beneficiaries in the GSP program. USTR conducts annual reviews of country practices, as required by statute, and in response to petitions received from interested parties, to determine beneficiaries' continued eligibility to receive GSP benefits.

Country practice petitions have been accepted regarding concerns about the IPR regime and worker rights in Uzbekistan. Review of the petition for Uzbekistan, including bilateral consultations, continues.

## **6. Turkey**

Turkey maintains high tariff rates on many agricultural and food products to protect domestic producers. As one example, the Turkish government imposes high tariffs, as well as excise taxes and other domestic charges, on imported alcoholic beverages which significantly increase wholesale prices of these products.

Turkey also uses its import licensing regime to manage trade in a number of sectors. In the case of meat and poultry, Turkey refuses to issue any import licenses, effectively banning imports of these products. In 2006, the United States brought a WTO dispute against Turkey regarding its regime for the importation of rice. In September, 2007, the WTO dispute settlement panel agreed with the United States that Turkey's failure to grant licenses to import rice and its operation of a discretionary import licensing system for rice are in breach of Turkey's market access obligations under the WTO Agreement on Agriculture. The panel also agreed with the United States that Turkey's domestic purchase requirement, under which Turkey required importers of rice to purchase large quantities of domestic rice in order to import rice at preferential tariff rates, is in breach of the national treatment provisions of the WTO (see Chapter II, section H for additional discussion of this dispute.)

In the area of intellectual property rights, Turkey does not have an adequate patent linkage system in place to prevent generic drugs that infringe the Turkish patents of U.S. pharmaceutical companies from receiving marketing approval in Turkey. Turkey has a Registration Regulation for protecting confidential test data which provides a six-year term of data exclusivity protection for pharmaceutical test data; however the regulation contains several provisions that remain of concern. The United States continues to press the Turkish government to improve enforcement against copyright piracy and trademark infringement.

The United States is addressing these issues with the Turkish government in part through annual meetings of the United States-Turkey Trade and Investment Framework Agreement (TIFA) Council. Following the Council's April 2007 meeting, Turkey agreed to a protocol permitting the import of live breeding cattle from the United States. In further follow up to U.S. concerns raised at the 2007 meeting, the Turkish government clarified in September 2007 that it did not intend to apply a strip stamp tax system for alcoholic beverages in a way that discriminated against U.S. imports. The United States will use preparations for the 2008 TIFA Council meeting to engage further with the Turkish government on these and other issues.

## **E. Asia**

### **1. Australia**

A discussion of U.S.-Australia relations during 2007 can be found in Section A, describing the U.S.-Australia FTA.

### **2. New Zealand**

The United States and New Zealand held a meeting in July 2007 in Wellington under the Trade and Investment Framework Agreement (TIFA), discussing a range of bilateral issues including agriculture, sanitary and phytosanitary standards, biotechnology, intellectual property protection, pharmaceutical policy, customs cooperation, and other issues. The two governments also held a separate dialogue on agricultural issues under the TIFA. In addition, the United States and New Zealand continued to consult closely on advancing the APEC agenda, bringing the WTO Doha Development Agenda negotiations to a successful conclusion, and regional trade policy developments.

New Zealand is our 54th largest trading partner. Two-way trade in goods totaled \$5.8 billion in 2007. U.S. goods exports totaled \$2.8 billion in 2007, down 6 percent from the previous year. Exports are concentrated in the aircraft, machinery, electrical machinery, and the vehicles sectors. Two-way trade in services with New Zealand totaled \$2.9 billion in 2006.

### **3. The Association of Southeast Asian Nations (ASEAN)**

#### **a. Cambodia**

The United States and Cambodia continued to strengthen cooperation on trade-related issues in 2007 through the Trade and Investment Framework Agreement (TIFA) signed in 2006. The TIFA dialogue focused on deepening and expanding bilateral trade and investment ties, implementation of Cambodia's WTO commitments, and supporting its domestic economic reform program. Following the first TIFA meeting, held in February 2007, the two sides developed a joint work program aimed at increasing cooperation in priority areas, including WTO implementation, strengthening intellectual property rights protection, and improving the business and investment climate in Cambodia. In November 2007, the United States and Cambodia held the first ministerial-level consultations under the TIFA. The United States used this opportunity to highlight the importance of maintaining momentum in these key areas as well as to explore other initiatives to further strengthen bilateral relations.

## **b. Indonesia**

The United States continued its efforts to expand trade and economic cooperation with Indonesia, meeting throughout the year at all levels to discuss bilateral, regional and multilateral issues. The United States and Indonesia held a meeting under the Trade and Investment Framework Agreement (TIFA) in May 2007, discussing a wide range of issues including investment, intellectual property rights, services, customs, and agriculture. The United States and Indonesia also established working groups to deepen the economic dialogue in four areas of particular concern to the United States – intellectual property rights, agricultural and industrial goods, investment, and services. In early 2008, following a long series of negotiations and raising the issue in different fora, the government of Indonesia agreed to allow full market access for imports of all U.S. beef and beef products from animals of all ages, consistent with the guidelines of the World Organization for Animal Health.

The United States and Indonesia expanded joint efforts to combat illegal logging and associated trade through discussions and cooperative activities guided by a working group established under the 2006 bilateral Memorandum of Understanding. The United States and Indonesia also continued cooperative efforts under the 2006 bilateral Memorandum of Understanding to prevent the illegal transshipment of textiles and apparel through Indonesia to the United States.

## **c. Laos**

The United States-Laos Agreement on Trade Relations (BTA) came into effect on February 4, 2005, normalizing trade relations between the two countries. Under the BTA, the United States extended Normal Trade Relations status (NTR) (formerly referred to as “most favored nation” or MFN) to products of Laos. Laos agreed to implement a variety of reforms to its trade regime, including Most Favored Nation and national treatment for products of the United States, transparency in rule-making, establishment of a regime to protect intellectual property rights, and implementation of WTO-compliant customs regulations and procedures.

The United States is working closely with Laos to implement the terms of the BTA and to support its accession to the WTO. The third meeting of the WTO Working Party for Laos’ accession met in November 2007.

## **d. Malaysia**

The United States and Malaysia launched FTA negotiations in March 2006. A discussion of United States-Malaysia engagement during 2006 can be found in Chapter III, Section A.16.

## **e. The Philippines**

The United States worked throughout 2007, including a meeting under the Trade and Investment Framework Agreement (TIFA), to further enhance its trade and economic relations with the Philippines. The United States focused on the importance of maintaining an open trade and investment regime and expressed concerns about a number of issues, including relating to customs rules and procedures, sanitary and phytosanitary standards, and the protection and enforcement of intellectual property rights, including proposals pending in the Philippine Congress that could weaken patent and trademark protection for pharmaceuticals. The United States also used the TIFA dialogue with the Philippines to coordinate on WTO Doha Development Agenda and ASEAN issues. In November 2007, following a long series of negotiations and raising the issue in different fora, the government of the Philippines agreed to allow full market access for imports of all U.S. beef and beef products from animals of all ages, consistent with the

guidelines of the World Organization for Animal Health. Previously, the Philippines had allowed the import of U.S. deboned beef and offals from animals 30 months or less.

#### **f. Singapore**

The United States and Singapore negotiated a bilateral Free Trade Agreement (FTA), which was signed in May 2003 and entered into force on January 1, 2004. United States-Singapore trade issues, including FTA implementation issues, are discussed in the section on bilateral and regional FTA negotiations (see Chapter III, section A.4).

#### **g. Thailand**

The United States and Thailand initiated negotiation of an FTA in mid-2004. A discussion of United States-Thailand engagement on trade issues during 2007 can be found in Chapter III, section A.14.

#### **h. Vietnam**

After working closely with the United States and other WTO Members to reach agreement on the terms of its accession, Vietnam joined the World Trade Organization (WTO) in January 2007, becoming its 150th Member.

During 2007, the United States worked closely with Vietnam on implementation of its WTO accession agreement. Under the terms of Vietnam's WTO accession, market access for U.S. exports will be expanded through significant reductions on tariffs of many agricultural and manufactured goods. With full implementation of Vietnam's WTO commitments, more than three-fourths of U.S. manufactured goods and agricultural exports will face tariffs of 15 percent or less. U.S. services suppliers will benefit from enhanced market access in Vietnam across a wide range of sectors, including insurance, banking and securities, telecommunications, distribution, energy services, express delivery services, engineering and construction services, and professional services. During 2007, U.S. goods exports to Vietnam increased approximately 66 percent.

In June 2007, the United States and Vietnam signed a Trade and Investment Framework Agreement (TIFA) to further expand bilateral cooperation and explore ways to strengthen and deepen the growing trade and investment relationship. The United States hosted the first meeting under the TIFA in December 2007 during which the two sides discussed a wide range of bilateral issues, including intellectual property rights protection, agricultural issues, and service sector licensing regimes. In addition, they reviewed Vietnam's implementation of its WTO commitments during the TIFA meeting and agreed to work together closely to ensure that Vietnam has the support it needs to fully implement its commitments and expeditiously to address any implementation issues that arise.

The United States also continued to monitor implementation of the 2001 U.S.-Vietnam Agreement on Trade Relations, or Bilateral Trade Agreement (BTA). The BTA committed Vietnam to make sweeping economic reforms, which have created trade and investment opportunities for both U.S. and Vietnamese companies over the past six years. Implementation of the BTA, in conjunction with technical assistance from the United States, supported Vietnam's entry into the WTO and increased the country's capacity to undertake the broad reforms necessary to meet the requirements of the WTO. The Joint Committee established by the BTA has met annually to review implementation of the Agreement, most recently in June 2007.

## 4. Republic of Korea

The United States concluded historic free trade agreement negotiations with Korea on April 1, 2007, after eight formal rounds of negotiations that took place over 10 months. The KORUS FTA (FTA) is the United States' most commercially significant free trade agreement in 15 years, and once ratified and implemented, will provide significant economic, political, and strategic benefits for both sides.

Korea is a trillion dollar economy and is the United States' seventh largest trading partner, seventh largest export market, and fifth largest agricultural export market. The KORUS FTA will serve to improve upon these established ties by promoting exports of U.S. industrial and agricultural goods through eliminating tariffs and other barriers to trade. The amount of two-way trade between the United States and Korea, now valued at \$83 billion annually, is expected to grow as a result of the FTA, with merchandise exports to Korea estimated to increase around \$10 billion. The U.S. International Trade Commission estimates that the reduction of Korean tariffs and tariff-rate quotas on goods alone would add \$10 billion - \$12 billion to annual U.S. GDP.

Under the FTA, nearly 95 percent of bilateral trade in consumer and industrial products will become duty-free within three years of the date the Agreement enters into force, including many key U.S. exports such as industrial and consumer electronic machinery parts, automotive parts, power generation equipment, the majority of chemicals, medical and scientific equipment, motorcycles, and certain wood products. Most remaining tariffs will be eliminated within 10 years.

In agriculture, the FTA will eliminate and phase-out tariffs and quotas on a broad range of products, with almost two-thirds of Korea's agriculture imports from the United States becoming duty-free immediately upon entry into force, including wheat, feed corn, soybeans for crushing, hides and skins, cotton, almonds, pistachios, bourbon whiskey, wine, raisins, grape juice, orange juice, fresh cherries, frozen french fries, frozen orange juice concentrates, and pet food. Other U.S. farm products such as avocados, lemons, dried prunes, and sunflower seeds will benefit from two-year tariff phase-outs, and products such as food preparations, chocolate and chocolate confectionary, sweet corn, sauces and preparations, other fodder and forage, breads and pastry, grapefruit, and dried mushrooms will benefit from five-year tariff phase-outs. Most remaining tariffs will be eliminated within 10 years.

The FTA goes well beyond eliminating tariff barriers – it also addresses non-tariff barriers across a wide range of sectors, notably in the areas of automobiles, pharmaceuticals, financial services, and telecommunications. The FTA includes state-of-the-art protections for investors and intellectual property rights, groundbreaking competition law provisions, and stronger labor and environment safeguards than included in past free trade agreements. In addition, the FTA provides commitments related to transparency and regulatory due process that are more far-reaching than in any previous agreement.

In services, the FTA provides meaningful market access commitments that extend across virtually all major service sectors. The FTA marks significant progress in the areas of express delivery service, ensuring greater and more secure access to international delivery services, and legal services, opening up the Korean market for the first time to foreign legal consulting services. In the area of financial services, the FTA is a groundbreaking achievement, providing more extensive provisions related to this sector than ever before included in an U.S. FTA. It will increase market access, as well as ensure greater transparency and fair treatment, for financial services companies in the Korean market.

With regard to the automotive sector, the FTA contains an unprecedented package of provisions that will address a range of tariff and non-tariff barriers to ensure that U.S. automakers have a fair opportunity to compete in Korea. Under the FTA, Korea agreed to immediately eliminate tariffs on most U.S. priority

automobiles and to overhaul its automotive taxation system by significantly reducing its existing tax rates and eliminating the discriminatory aspects of its system for taxing cars based on “engine displacement”. Korea also committed to address specific emissions and automotive safety standards to ensure that they do not prevent U.S. automakers from accessing the Korean market. The FTA will also prohibit Korea from adopting new automotive regulations that create unnecessary obstacles to trade. The FTA will create an automotive working group to serve as an early warning system to address regulatory issues in the future. In addition, the FTA contains an innovative and unprecedented process for resolving disputes on automotive-related measures on an expedited basis, with a unique “snap-back” provision that will allow the United States to suspend its tariff concessions on Korean passenger cars if Korea is found to have taken a measure affecting motor vehicles that violates, nullifies, or impairs an FTA commitment.

The KORUS FTA includes provisions concerning the protection of workers’ rights and the environment that were included as part of the Bipartisan Agreement on Trade Policy reached with the U.S. Congress on May 10, 2007. Under the FTA, the Parties have committed to safeguard workers’ rights consistent with internationally recognized standards and principles and ensure access to legal mechanisms. The FTA will require Korea to adopt and maintain in its law, and practices thereunder, fundamental labor rights as stated in the 1998 ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, and to effectively enforce those laws. The Parties also committed to effectively enforce their own domestic environmental laws and adopt, maintain, and implement laws, regulations, and all other measures to fulfill obligations under the seven multilateral environmental agreements (MEAs) that are identified in the FTA. All of the commitments in the environment and labor chapters are subject to dispute settlement through the mechanisms established in the agreement. These commitments are supplemented by the United States-Korea Environmental Cooperation Agreement, a separate agreement through which the Parties will undertake cooperation on issues related to the protection of the environment and natural resources, and a Labor Cooperation Mechanism.

In addition to strengthening our economic partnership, the KORUS FTA will help to solidify the two countries’ long-standing alliance – serving as a pillar of our bilateral relations for generations to come. In addition, as the first U.S. FTA with a North Asian partner, the KORUS FTA promises to serve as a model for trade agreements for the rest of the region, and will underscore the U.S. commitment, to and engagement, in the Asia-Pacific region.

#### *Non-FTA Issues:*

**Beef:** The United States is currently urging the Korean government to fully reopen its beef market consistent with international guidelines set by the World Organization for Animal Health (“OIE”). Except for brief periods in mid-2006 and May to October 2007, Korea’s beef market has been closed to imports of U.S. beef since December 2003, following the detection of an imported cow with Bovine Spongiform Encephalopathy (“BSE”) in the state of Washington. In May 2007, the OIE determined that the United States is “controlled risk” for BSE, and supported by this determination, the United States is asking Korea to import all beef and beef products from animals of any age if appropriate specific risk materials (SRMs) are removed, consistent with OIE guidelines. The United States continues to work with Korea to fully reopen its beef market consistent with international guidelines and the U.S. “controlled risk” classification, and Congress has made it clear that this issue must be resolved to begin the legislative approval process for the KORUS FTA (see above).

## **5. India**

### **a. General**

The United States and India completed another year of active dialogue on trade policy in 2007. Commensurate with India's dynamic and growing economy, the bilateral agenda continued to expand with respect to the significant opportunities for bilateral trade that U.S. and Indian companies are aggressively pursuing, as well as the challenges U.S. investors continue to face as India gradually opens its markets. USTR's efforts included the identification of new areas for cooperation, including with regard to India's tariff and tax regime, intellectual property rights, investment climate and regulatory hurdles. India continues to limit market access in various sectors, including through high taxes and tariffs, non-transparent procedures, discriminatory treatment of imports, and non-tariff barriers. India is working to improve its protection and enforcement of intellectual property rights. We continue to work with the government of India to address issues related to India's copyright law and patent law, protection of undisclosed pharmaceutical test or other data, as well as high levels of piracy, including book piracy, and counterfeiting. Our discussions addressed issues related to the WTO Doha Development Round negotiations, though the bulk of such dialogue occurs in the multilateral context in Geneva. Though trade has expanded rapidly, the current total amount of bilateral trade is not consistent with the size and potential of both the U.S. and the Indian economies, and both governments agree that trade and investment flows should be greater. The United States and India have set the goal of doubling United States-India trade to approximately \$60 billion by the end of 2008.

### **b. Trade Dialogue**

Ambassador Susan C. Schwab and India's Minister of Commerce and Industry Kamal Nath convened the fourth ministerial-level meeting of the United States-India Trade Policy Forum (TPF) in April 2007. The discussions under the TPF cover bilateral trade and related issues and also address multilateral issues such as the ongoing WTO Doha Development Round negotiations. The TPF is part of the overall Economic Dialogue between India and the United States. Through regular dialogue under the TPF, the United States and India seek to remove impediments to bilateral trade by anticipating potential trade problems and jointly resolving concerns early.

The TPF serves as the umbrella for five focus groups: Agriculture, Tariff and Non-Tariff Barriers, Services, Investment, and Innovation and Creativity (in particular intellectual property rights issues). Deputy USTR Karan Bhatia and Indian Commerce Secretary Gopal Pillai oversaw ongoing Focus Group discussions throughout 2007 to address priority issues such as foreign direct investment caps, intellectual property rights protection, telecommunications policy and market access for a wide range of manufactured and agricultural products and services. Noteworthy developments in 2007 included finalizing arrangements for Indian mangoes to enter the U.S. market for the first time, and agreement to initiate exploratory discussions in early 2008 on a possible bilateral investment treaty.

Another development in 2007 in the bilateral U.S.-India trade relationship was the creation of a Private Sector Advisory Group. The group's key purpose is to provide strategic recommendations and insights to the TPF. The membership of the Private Sector Advisory Group includes trade experts and representatives of private sector organizations in the United States and India with in-depth knowledge of international economic and trade policy. The group will provide Ambassador Susan C. Schwab and Minister Nath with analyses and recommendations for potential building blocks for our bilateral economic relationship.

In addition to the April 2007 TPF meeting, Ambassador Schwab and Minister Nath met on several other occasions in 2007. For example, they participated in the United States-India Economic Dialogue and United States-India CEO Forum events held in New York City in September. These events included discussions among U.S. and Indian Cabinet-level and other senior government officials focused on trade and economic affairs. Top government officials from both countries also met with CEOs from major U.S. and Indian corporations, with the goal of reviewing progress and building momentum for our bilateral trade and investment relationship.

Ambassador Schwab and Minister Nath also met a number of times in the context of the Doha Development Round negotiations in an effort to find common ground in the pursuit of an ambitious outcome.

## **6. Pakistan**

U.S.-Pakistan trade grew in 2007. Work continues with the government of Pakistan to enhance and expand our bilateral trading relationship, particularly through helping Pakistan foster a climate conducive to increased foreign investment.

Ambassador Schwab met twice with Pakistan's Commerce Minister Humayun Khan in 2007, once in Washington and once in Lahore, Pakistan. They covered a number of priorities in the bilateral economic relationship, including Reconstruction Opportunity Zones (ROZs), intellectual property rights, and the status of negotiations on a Bilateral Investment Treaty (BIT). USTR also participated in the October 2007 U.S.-Pakistan Economic Dialogue meetings co-chaired by the State Department's Under Secretary for Economic Affairs Reuben Jeffery and Pakistan's Economic Advisor to the Prime Minister Salman Shah.

A USTR priority for Pakistan in 2007 has been continued development of the ROZ initiative. USTR and the State Department co-led the effort, which included consultations with Pakistani (and Afghan) government officials, private sector stakeholders, and Congress. The ROZ initiative had been announced by President Bush during a visit to Islamabad, Pakistan in March 2006. Under the plan, President Bush is seeking authorization from Congress to allow certain products manufactured in designated zones in Afghanistan and key border areas of Pakistan to enter the United States duty-free. The goal is to facilitate job creation and economic development in these sensitive areas as a bulwark against extremism and terrorism. In 2007, the Administration completed drafting the proposed ROZ legislation. The Administration is working with Congress regarding introduction of this legislation. In addition, State, Commerce, and Agriculture are planning a number of activities to complement the ROZs, aimed at developing small business and agriculture in the region.

The government of Pakistan made progress in recent years to improve copyright enforcement, including taking significant steps against unauthorized optical disc production and exports of pirated optical discs. Further, it created the Intellectual Property Rights Organization (IPRO). Nevertheless, Pakistan does not provide adequate protection of all intellectual property and in the enforcement area, prosecutions and deterrent sentences for intellectual property infringement are lacking. Book piracy, weak trademark enforcement, lack of data protection for proprietary pharmaceutical and agricultural chemical test data, and problems with Pakistan's pharmaceutical patent protection remain serious barriers to trade and investment. In 2007, Pakistan remained on the Special 301 Watch List with an Out-of-Cycle-Review pending action by Pakistan to address book piracy issues, to provide meaningful and effective protection for test and other data submitted by pharmaceutical companies seeking marketing approval for their products as well as to formalize its system of preventing marketing approval of unauthorized copies of patented pharmaceuticals.

In 2007, USTR continued efforts to finalize a BIT, which would provide U.S. investors in Pakistan with significant legal protections. A small but significant number of differences have persisted on issues of considerable importance to the United States and these negotiations are currently suspended.

## **7. Afghanistan**

In 2007, the Administration continued to work with Congress and private sector stakeholders to finalize President Bush's Reconstruction Opportunity Zone (ROZ) initiative for Afghanistan and the border regions of Pakistan. The objective of the ROZ initiative is to grant duty-free treatment upon entry into the United States to certain goods produced in designated enclaves with the goal of bringing economic development and job creation to geographic areas that are among the most critical in the global war on terror. In support of this effort, USTR officials held consultations with the governments of Afghanistan and Pakistan and visited in 2006 and 2007 both regions that would be candidates for the program. As a result of this work, the Administration completed a draft of proposed legislation to authorize the ROZ program. The Administration continues to work with Congress regarding introduction of the legislation.

In other developments, in July 2007, USTR hosted an Afghan Commerce Ministry-led delegation for high-level trade discussions under the auspices of the United States-Afghanistan Trade and Investment Framework Agreement (the United States-Afghanistan TIFA Council). Ambassador Schwab met with Afghan Minister of Commerce Mohammed Amin Farhang. They discussed ROZs, Afghanistan's accession to the WTO, diversification of the Afghan economy, and ways for Afghanistan to maximize its use of the Generalized System of Preferences (GSP) program as a least-developed beneficiary. As a follow-up to the TIFA discussions, a USTR delegation traveled to Afghanistan in September 2007 to provide detailed briefings on the GSP program to a broad audience of Afghan government and private sector representatives. USTR continues to work with the government of Afghanistan as well as other U.S. agencies, nongovernmental organizations and business associations to integrate knowledge about GSP benefits and duty-free export opportunities in their economic development efforts. In addition, in 2007 USTR supported efforts to assist Afghanistan's economic integration into the South and Central Asia region, including helping Afghanistan participate as an observer in the United States-Central Asia TIFA Council meetings in Washington. USTR officials also continued to raise transit trade issues with Afghanistan's neighbors during bilateral consultations.

## **8. People's Republic of China**

The U.S.-China economic relationship is rapidly emerging as one of our most important relationships with a foreign trading partner. The United States worked intensively in 2007 to improve the character and substance of that relationship, combining direct dialogue and negotiations with vigorous pursuit of improvements and enforcement of obligations through the WTO.

China is no longer a new WTO member, and the United States places a strong emphasis on China's implementation of its WTO commitments and adherence to WTO rules. Almost all of the specific commitments that China made when it acceded to the WTO on December 11, 2001, were due to be implemented over a period of five years, ending one year ago. Accordingly, the United States has been working to hold China fully accountable – just as we, and others, hold ourselves accountable. The United States intensified its frank bilateral engagement with China in 2007. The United States also took enforcement actions at the WTO in key areas where dialogue had not resolved our WTO-related concerns. Using rules-based dispute settlement, the United States and China did make some progress. The focus of this bilateral and multilateral engagement includes significant market impediments and trade-distortive

practices as well as other Chinese government policies and practices where the United States has worked to defend fundamental WTO principles.

In pursuing intensified, focused bilateral dialogue with China in 2007, the United States leveraged numerous formal and informal bilateral dialogues and meetings, including working groups and plenary meetings held under the auspices of the U.S.-China Joint Commission on Commerce and Trade (JCCT) and the U.S.-China Strategic Economic Dialogue (SED). Through these avenues, the United States sought resolutions to particular pressing trade issues and encouraged China to accelerate its movement away from reliance on government intervention and toward full institutionalization of market mechanisms. This bilateral engagement produced near-term results in several areas in 2007, including the suspension of overly burdensome testing and certification requirements for medical devices, the granting of biotechnology safety certificate renewals, increased insurance market access, expanded business scopes for foreign banks and securities companies, and expanded rights for U.S. air carriers in China. On other pressing trade issues, the United States and China continue to work together in search of pragmatic solutions.

At the end of the year, in December, the United States and China held two high-level meetings in Beijing. The first one was the annual meeting of the JCCT, chaired by Commerce Secretary Gutierrez and Ambassador Schwab on the U.S. side and Vice Premier Wu on the Chinese side, which focuses on seeking resolutions to discrete, pressing trade issues. That meeting was followed by the semi-annual SED meeting, whose purpose is to manage the complex United States-China economic relationship on a long-term, strategic basis under the guidance of Treasury Secretary Paulson and Vice Premier Wu and with the participation of several other ministers on each side. These meetings addressed a range of issues, with the two sides making progress in the areas of intellectual property rights, pharmaceuticals, medical devices, agriculture, product and food safety, and transparency, among other areas.

The United States also brought three new WTO cases against China in 2007. In the first one, the United States challenged several prohibited subsidy programs benefiting a wide cross-section of China's manufactured goods. The United States was pleased that China later agreed to settle this case by committing to eliminate all of the subsidies at issue. The United States also filed a challenge to key aspects of China's IPR enforcement regime, along with a challenge to market access restrictions affecting the importation and distribution of copyright-intensive products such as theatrical films, DVDs, music, books, and journals. Each of these three WTO cases implicates fundamental WTO obligations, as does the WTO case filed by the United States in 2006 challenging China's use of prohibited local content requirements in the automotive sector.

As noted above, constructive bilateral engagement during the WTO dispute settlement process also facilitated the resolution of one of the WTO disputes brought by the United States, along with Mexico, in 2007. Following two rounds of formal WTO consultations in Geneva in March and June, the United States and China were able to reach agreement in November on the immediate elimination of all of the prohibited subsidies being challenged by the United States. Hopefully, China's willingness to take this step represents a conscious decision by China's policymakers to abandon the type of economic thinking that had relied on this highly distortive type of government intervention in the past. At a minimum, as Ambassador Schwab remarked, it showed that "two great trading nations can work together to resolve disputes to their mutual benefit." It also demonstrated that the Administration's policy of serious dialogue and resolute enforcement is delivering real results.

All of these developments demonstrate the substantial ongoing benefits to the United States – including U.S. workers, businesses, farmers, service providers, and consumers – from China's WTO membership. Prodded by the United States and other WTO members since acceding to the WTO, China has taken many impressive steps to reform its economy, making progress in implementing a set of sweeping

commitments that required it to reduce tariff rates, eliminate non-tariff barriers, provide national treatment and improved market access to goods and services imported from the United States and other WTO members, improve transparency and protect intellectual property rights. Although not complete in every respect, China's implementation of its WTO commitments has led to significant increases in U.S.-China trade, including U.S. exports to China, while deepening China's integration into the international trading system and facilitating and strengthening the rule of law and economic reforms that China began nearly three decades ago. That said, more still needs to be done.

In 2007, U.S. industry began to focus less on the implementation of specific commitments that China made upon entering the WTO and more on China's shortcomings in observing basic obligations of WTO membership as well as Chinese policies and practices that undermine previously implemented commitments. At the root of many of these problems is China's continued pursuit of problematic industrial policies that rely on excessive Chinese government intervention in the market through an array of trade-distorting measures. This government intervention, evident in many areas of China's economy, is a reflection of China's historic yet unfinished transition from a centrally planned economy to a free-market economy governed by rule of law.

During the fifteen years of negotiations leading up to China's WTO accession, the United States and other WTO members worked hard to address concerns created by China's historic economic structure. Given the state's large role in China's economy, the United States and other WTO members carefully negotiated conditions for China's WTO accession that would, when implemented, lead to significantly reduced levels of government intervention in the market and significantly fewer distortions in trade flows. Through the first few years after China's accession to the WTO, China made noteworthy progress in adopting economic reforms that facilitated its transition toward a market economy. However, beginning in 2006 and continuing throughout 2007, progress toward further market liberalization began to slow. It became clear that some Chinese government agencies and officials have not yet fully embraced key WTO principles of market access, non-discrimination and transparency. Differences in views and approaches between China's central government and China's provincial and local governments also have continued to frustrate economic reform efforts, while China's difficulties in generating a commitment to the rule of law have exacerbated this situation.

Looking ahead, one of the critical issues for the international trading system will be to ensure that China's leadership does not retreat from the substantial progress made to date. Evidence of a possible trend toward a more restrictive trade regime appears most visibly in a series of diverse Chinese measures over the past two years signaling new restrictions on market access and foreign investment in China.

At present, several specific areas continue to cause particular concern for the United States and U.S. industry, in terms of China's full adherence to its WTO obligations. The key concerns in each of these areas are summarized below.

#### **a. Intellectual Property Rights**

Since its accession to the WTO, China has put in place a relatively good set of laws and regulations aimed at protecting the intellectual property rights of domestic and foreign rights holders. However, some critical measures still need to be revised, and China's enforcement of its laws protecting the intellectual property rights covered by the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (the TRIPS Agreement) has often been ineffective. U.S. industry reports show no significant reduction in IPR infringement levels again in 2007, confirming that counterfeiting and piracy in China remain at unacceptably high levels and cause serious harm to U.S. businesses across many sectors of the economy. Indeed, despite anti-piracy campaigns in China and an increasing number of IPR cases in Chinese courts, the U.S. copyright industries' most recent estimates indicate that 85 percent to 93 percent of all

copyrighted products sold in China in 2006 were pirated, showing little or no improvement over the previous year. USTR's annual Special 301 report, issued in April 2007, confirmed this lack of progress, as USTR continued to place China on the Priority Watch List and subject it to Section 306 monitoring.

In 2007, as in prior years, the United States placed the highest priority on improving IPR enforcement in China. The United States pursued extensive bilateral discussions with China, focusing on concrete steps that China could take to improve its legal protections and enforcement efforts so that significant reductions in IPR violations in China could be realized. These efforts achieved an agreement between the two countries' customs authorities to cooperate on border enforcement, but other critical enforcement concerns remained unaddressed. For example, China continued to deflect calls from the United States and other WTO members for better utilization of criminal remedies to combat rampant IPR infringement in China, claiming that its approach to enforcement was showing results. The available statistics on continuing rampant IPR infringement in China raise obvious questions about this claim.

In April 2007, after nearly three years of sustained bilateral engagement aimed at addressing U.S. concerns about specific deficiencies in China's legal regime for protecting and enforcing copyrights and trademarks, the United States requested formal WTO consultations. When the ensuing consultations did not lead to an agreed resolution, the United States sought the establishment of a WTO panel to hear the case, and a panel was established in September 2007, with 12 other WTO members joining as third parties. A panel decision is currently expected in 2008.

The United States remains committed to working constructively with China on a bilateral basis to significantly reduce IPR infringement levels in China and continues to devote considerable staff and resources, both in Washington and in Beijing, to address the many challenges in this area. At the same time, when bilateral discussions prove unable to resolve key issues, the United States remains prepared to take further action on these issues, including WTO dispute settlement where appropriate, given the importance of China developing an effective, TRIPS Agreement-compliant system for IPR enforcement.

## **b. Industrial Policies**

China continued to pursue industrial policies that seek to limit market access for non-Chinese origin goods and foreign service-providers and offer substantial government resources to support Chinese industries and increase exports. In some cases, the objective of these policies seems to be to promote the development of Chinese industries that are higher up the economic value chain than the industries that make up China's current labor-intensive base. In other cases, China appears simply to be protecting less competitive state-owned enterprises.

In 2007, examples of the trade-distortive measures implementing these industrial policies remain readily evident. China continues to apply automotive parts regulations that prolong prohibited local content requirements for motor vehicles while the WTO-consistency of those regulations is being challenged in panel proceedings at the WTO. China is also making increasingly restrictive use of export quotas and export duties on a number of raw materials where it is the world's leading producer. Through these export restrictions, China is able to drive up world prices while lowering domestic prices, thereby providing substantial artificial advantages to a wide range of downstream producers in China when they compete against foreign downstream producers in the China market and around the world. In addition, even after re-committing to technology neutrality for 3G telecommunications standards at the April 2006 JCCT meeting, China's regulatory authorities continue to promote the home-grown TD-SCDMA standard and to expand its test market. China also continues to pursue unique national standards in a number of areas of high technology where international standards already exist, and pressures foreign companies seeking to participate in the standards-setting process to license their technology or intellectual property on unfavorable terms. Meanwhile, a July 2005 industrial policy that calls for the state's management of

major aspects of China's steel industry remains in effect, and excessive government subsidization continues to benefit a range of domestic industries in China. China has also sought to protect many domestic industries through an increasingly restrictive investment regime, as recent measures impose requirements for state control of "critical" equipment manufacturers, establish rules for foreign mergers and acquisitions that confer broad and vaguely defined powers on the government to block investments in a range of industries, and prevent further foreign investment in "pillar" industries. Some of these industrial policy measures raise questions about China's compliance with its WTO obligations in the areas of national treatment, market access, export restrictions, technology transfer and subsidies, among others.

While bilateral discussions yielded little progress in resolving U.S. concerns regarding most of these industrial policy measures in 2007, the United States was able to leverage its use of the WTO dispute settlement mechanism, as noted above, to gain China's agreement to eliminate several prohibited subsidy programs that had been providing substantial benefits to a wide range of manufactured goods being sold in China and being exported to the United States and other markets around the world. Reached in November 2007 after months of negotiations, this agreement committed China to discontinue all of the challenged subsidies by January 1, 2008, and not to reinstate them in the future.

In 2008, the United States is continuing to pursue vigorous bilateral engagement to resolve the serious disagreements that remain over a number of China's industrial policy measures, including China's highly trade-distorting use of export restrictions on raw materials. If dialogue fails to address U.S. concerns, however, the United States will not hesitate to take further actions seeking elimination of these industrial policy measures, including WTO dispute settlement, where appropriate.

### **c. Trading Rights and Distribution Services**

Many in U.S. industry consider trading rights and distribution services to be "the most important of the WTO commitments China has so far implemented," according to one trade association with broad representation. These commitments called for full liberalization of trading rights – the right to import and export – and distribution services, including wholesale and retail services, franchising services and related services, by December 11, 2004. With determined U.S. engagement, China has implemented these critical commitments in most sectors, and many U.S. companies and individuals are now not only able to import and export goods directly without having to use a middleman, but are also able to establish their own distribution networks within China.

Nevertheless, some serious problems still remain. In particular, despite extensive and persistent bilateral engagement by the United States, China has continued to maintain import and distribution restrictions on copyright-intensive products such as theatrical films, DVDs, music, and books and journals, in apparent contravention of China's trading rights and distribution services commitments. These restrictions reduce and delay market access for these copyrighted products, creating additional incentives for infringement in China's market. Once it became clear that bilateral discussions were not leading to changes to address U.S. concerns, the United States invoked the WTO dispute settlement mechanism by filing a request for formal WTO consultations in April 2007. After two rounds of consultations in Geneva failed to resolve the dispute, the United States requested the establishment of a WTO panel to hear the case, and a panel was established in November 2007.

In two other key areas, the United States continued to engage China bilaterally in 2007. First, while China has taken steps to implement its commitment to open its market for sales away from a fixed location, also known as "direct selling," China continued to subject foreign direct sellers to unwarranted restrictions on their business operations. In addition, China continued to discriminate against foreign retailers seeking to open new stores by making them satisfy burdensome requirements not applicable to

domestic retailers. The United States is continuing to pursue these important issues in 2008 to ensure that China fully meets its applicable WTO commitments.

#### **d. Agriculture**

U.S. agricultural exports to China in 2006 totaled \$6.7 billion, making China the United States' fourth largest agricultural export market, and 2007 was a comparably successful year, characterized overall by steady growth. For example, U.S. exports of bulk agricultural commodities continued to perform strongly, with the value of soybean exports increasing dramatically. China also remains the leading export destination for U.S. cotton, among other products.

While U.S. exports of agricultural commodities largely fulfill the potential envisioned by U.S. negotiators during the years leading up to China's WTO accession, trade with China in the agricultural sector remains among the least transparent and predictable of the world's major markets, as it continues to be plagued by uncertainty, largely because of selective intervention in the market by China's regulatory authorities. As in past years, capricious practices by Chinese customs and quarantine officials can delay or halt shipments of agricultural products into China, while SPS measures with questionable scientific bases and a generally opaque regulatory regime frequently bedevil traders in agricultural commodities, who require as much predictability and transparency as possible in order to preserve margins and reduce the already substantial risks involved in agricultural trade.

China's import inspection authorities significantly increased port-of-entry examination for imported products in 2007, causing particular problems for poultry, pork and seafood, and impeding growth in U.S. exports. In addition, China continued to block the importation of U.S. beef and beef products, even after these products had been declared safe to trade under international guidelines.

In 2008, the United States is continuing to pursue vigorous bilateral engagement with China in order to obtain progress on its outstanding concerns. The United States also will not hesitate to take other actions to resolve its concerns if dialogue fails.

#### **e. Services**

Overall, the United States enjoyed a substantial surplus in trade in services with China in 2007, as in prior years, and the market for U.S. service providers in China remains promising. However, in some sectors, it appears that China's commitments to increase market access and remove restrictions have still not been fully realized. Chinese regulatory authorities continue to frustrate efforts of U.S. providers of banking, insurance, telecommunications, construction and engineering, legal and other services to achieve their full market potential in China through the use of an opaque regulatory process, overly burdensome licensing and operating requirements, and other means.

U.S. engagement through the Strategic Economic Dialogue (SED) meeting in May 2007 led to some limited progress. China committed to eliminate the backlog of U.S. non-life insurers' applications for conversion from a branch to a subsidiary, and it followed through on that commitment. In addition, China committed to act on the applications of foreign banks incorporated in China seeking to issue their own domestic currency credit and debit cards, although it has not yet done so, hindering the banks' ability to attract Chinese individuals as new customers. China has also failed to fulfill a commitment that it made at the April 2006 Joint Commission on Commerce and Trade (JCCT) meeting to lower excessive capital requirements that have been blocking market access for foreign providers of basic telecommunications services.

Meanwhile, two serious WTO concerns that arose in 2006 have so far resisted resolution through high-level bilateral engagement. In particular, Xinhua, the Chinese state news agency, persisted in its refusal to withdraw rules issued in September 2006 imposing new restrictions on foreign providers of financial information services, raising questions about China's implementation of its WTO commitments. In addition, questions were raised about China's failure to implement important commitments scheduled to be phased-in by December 11, 2006, which would allow foreign credit card companies to provide electronic payments processing services for domestic currency transactions.

In 2008, the United States is continuing to engage China and is closely monitoring developments in an effort to ensure that China fully adheres to its services commitments. If necessary, the United States also will not hesitate to take further actions seeking to enforce China's WTO commitments, including WTO dispute settlement, where appropriate.

#### **f. Transparency**

One of the fundamental principles of the WTO Agreement, reinforced throughout China's WTO accession agreement, is transparency. Transparency permits markets to function effectively and reduces opportunities for officials to engage in trade-distorting practices behind closed doors. China made important strides to improve transparency across a wide range of national and provincial authorities during the first four years of its WTO membership. However, two shortcomings stood out. As of December 11, 2005, China had still not adopted a single official journal for publishing all trade-related measures, and it had yet to regularize the use of notice-and-comment procedures for new or revised trade-related measures prior to implementation. In 2006, after the United States elevated this issue to the JCCT level, China finally adopted a single official journal, although much work remains for China to ensure full participation by all relevant government entities. The United States has also pushed China to adopt a mandatory notice-and-comment practice, and this issue was a key topic for discussion at the SED meeting that took place in December 2007, with some progress being made. To date, however, notice-and-comment remains an optional practice in China. As a result, many of China's regulatory regimes continue to suffer from systemic opacity, frustrating efforts of foreign – and domestic – businesses to achieve all of the potential benefits of China's WTO accession.

#### **g. Conclusion**

The Administration will continue its concerted efforts to ensure that China fully implements its outstanding WTO commitments and fully adheres to its fundamental obligations as a WTO member, with particular emphasis on reducing Chinese government intervention in the market, lowering IPR infringement levels in China and making China's trade regime more predictable and transparent. Throughout this process, the Administration will continue to solve problems with dialogue if possible, legal action when necessary, and work within the rules-based international trading system. The Administration will continue to work cooperatively and pragmatically with China – through the robust set of formal and informal U.S.-China bilateral dialogues and meetings, including the JCCT and the SED – to ensure that the benefits of China's WTO membership are realized by the United States and the world and that problems in our trade relationship are appropriately resolved. When bilateral dialogue is not successful, however, the Administration will not hesitate to employ the full range of enforcement tools available, whether it be the dispute settlement mechanism at the WTO or the enforcement of U.S. trade laws – under the WTO's rules-based system – to ensure that U.S. interests are not harmed by unfair trade practices.

## 9. Japan

Throughout 2007, the United States aggressively pursued resolution of key trade issues with Japan, broadened and further intensified its bilateral work to encourage new reform measures and open markets within Japan, and pursued new joint activities with Japan to help address common concerns in the Asia-Pacific region and beyond. Improvements were seen within Japan in several areas, some of which are creating important new opportunities for U.S. companies and more choice for Japanese consumers. Overall, however, Japan's commitment in 2007 to an ambitious regulatory reform agenda was weaker when compared with recent years. In response, the United States intensified its calls on Japan to continue to make reform a top priority in light of the benefits that reform has had for economic growth and for spurring new opportunities and the development of new technologies and services.

### United States-Japan Economic Partnership for Growth

Much of the close engagement on trade and economic issues between the United States and Japan during 2007 took place under the umbrella of the U.S.-Japan Economic Partnership for Growth (Partnership). The U.S.-Japan Economic Sub-Cabinet Dialogue, which sets the direction of the Partnership, was convened in April and in December of 2007. Dialogue participants exchanged views on a wide range of global, regional, and bilateral economic issues in order to better coordinate the respective economic policies of the United States and Japan. The Dialogue, with the endorsement of President Bush and former Prime Minister Shinzo Abe in April 2007, also initiated new, focused work designed to promote and protect intellectual property rights, strengthen energy security, make trade flows more secure and more efficient, increase the transparency of government regulatory processes, and exchange information on each country's respective free trade agreements with third countries. The bulk of work under the Partnership, however, continued to be organized using the Partnership's dedicated initiatives on regulatory reform, trade, investment, and financial issues – the Regulatory Reform and Competition Policy Initiative, Trade Forum, Investment Initiative (co-chaired by the Department of State), and Financial Dialogue (co-chaired by the Department of the Treasury).

#### a. Regulatory Reform

The United States strongly urged Japan to accelerate regulatory reform measures during 2007 through the U.S.-Japan Regulatory Reform and Competition Policy Initiative (Regulatory Reform Initiative). The governments concluded the sixth year of the Initiative in June 2007 with a Report to the Leaders that documented progress made on a broad array of issues, including in sectors ranging from telecommunications to insurance as well as on cross-cutting issues ranging from intellectual property rights protection to competition policy. The governments again exchanged recommendations under the Initiative in October 2007 to begin the seventh year of work through the Initiative's High Level Officials Group as well as through its cross-sectoral and various sectoral working groups. The following sections on Sectoral Regulatory Reform and Structural Regulatory Reform outline highlights of the work under this Initiative during 2007.

##### i. Sectoral Regulatory Reform

*Telecommunications:* The United States continued to stress the need for reforms to help create a pro-competitive telecommunications services market in Japan based on transparent regulation. Despite ongoing difficulties addressing conduct by dominant operators in both the fixed and mobile markets, 2007 marked progress on a number of fronts. In particular, Japan introduced mobile number portability requirements and streamlining wireless equipment certification procedures, developed policies for "Next Generation Networks," and removed certain distortions in universal service subsidy programs. With

respect to a new mobile broadband wireless service, the Ministry of Internal Affairs and Communications accepted multiple technologies among companies applying for new spectrum, and granted licenses to two U.S.-affiliated operators. Development of this new market is expected to provide new opportunities for innovative service providers and device makers from both Japan and the United States.

In February 2007, the United States and Japan signed a Mutual Recognition Agreement (MRA) concerning conformity assessment procedures for telecommunications equipment. Following passage in the Japanese Diet in June 2007, the parties exchanged diplomatic notes in November stating that each was ready to implement the agreement, and the agreement entered into force on January 1, 2008. Based on this agreement, U.S. manufacturers will now have the option of selling equipment in the Japanese market that designated U.S.-based testing laboratories in the United States have certified as meeting Japan's technical requirements. This is expected to facilitate faster and more efficient trade in telecommunications equipment with Japan.

*Information Technologies:* The United States in 2007 urged Japan to promote open information technology (IT) and electronic commerce policies and adopt intellectual property rights (IPR) policies and practices that address challenges posed by modern digital communications, while simultaneously deepening bilateral cooperation on IPR issues in other areas. Japan made improvements in several areas.

In 2007, Japan adopted a new "Basic Policy" to increase competition and transparency in bidding processes for government procurements of IT systems. Japan also amended the Industrial Technology Enhancement Act to allow contractors to own IPR for software developed through government-sponsored programs, thereby increasing opportunities to commercialize this intellectual property (IP). In health IT, Japan announced plans to support efforts to verify the interoperability of different health IT systems, publicize the results of this verification process, and promote the use of interoperable systems. Japan also undertook a transparent review of the Privacy Act and published confirmation online that companies would not be penalized for non-compliance with voluntary privacy guidelines under the Privacy Act. Regarding online fraud, Japan improved access to information in English that explains for technology companies and Internet service providers the legal implications of introducing anti-spam technologies.

In the area of IPR, in 2007 Japan implemented by regulation and decree a government-wide policy that forbids the misuse of file-sharing technologies and protects IP, software and other digital content assets used by government operations. In May 2007, the Diet passed a bill applying the penalty provision of the Copyright Law so that those who make sound or visual recordings of movies in movie theaters can be punished, even if the recordings are for private use.

Cooperation between the United States and Japan on patent administration and on IPR enforcement progressed during 2007. In July 2006, the U.S. Patent and Trademark Office (USPTO) and the Japan Patent Office (JPO) began a pilot project, the "Patent Prosecution Highway" (PPH), which facilitates the processing of patent applications. Preparations were made during 2007 to permanently implement the PPH between the offices starting January 4, 2008, on the basis of positive results from the pilot. Under the PPH, patent applicants can request fast-track processing in one office if the other office has determined that claims in a corresponding application submitted to it are patentable. Cooperative activities of the joint initiative between the U.S. Department of Commerce and Japan's Ministry of Economy, Trade and Industry during 2007 also included a USPTO-JPO arrangement to implement the "New Route," a pilot framework for international cooperation on patent search and examination, and, with the European Patent Office, preparations to establish a standard patent application format.

*Medical Devices and Pharmaceuticals:* In 2007, the United States continued to urge Japan to reform its regulatory and reimbursement pricing systems, which unnecessarily slow the introduction of innovative U.S. medical devices and pharmaceuticals in Japan and fail to create adequate incentives for the

development of advanced products. In 2007, the Japanese government announced plans to eliminate the lag in the introduction of cutting-edge devices and drugs in Japan, and set a goal of reducing the period between drug development and approval by 2½ years. Japan also agreed to improve its regulatory system by more than doubling the staff of drug reviewers by 2010, promoting drug clinical trials, increasing the medical device reviewer staff by 30 percent by 2009, and stimulating vaccine development.

The United States encouraged Japan to ensure that its reimbursement pricing policies fostered the introduction of innovative devices and drugs since such products can improve health outcomes for patients and make the health care system more efficient. Japan took steps to enhance the transparency of its reimbursement pricing system, but failed to significantly reform the system to stimulate the introduction of cutting-edge products. In particular, the United States raised strong concerns with Japan's implementation of pricing rules that hinder innovation, such as special repricing for market expansion of drugs and the Foreign Average Price rule for medical devices.

In 2007, Japan extended the standard length of the reexamination period for new drugs from six years to eight years. During the reexamination period of a drug, approval applications of drugs with the same active ingredients must be supported by the full data required of a new drug application. This measure, in effect, extends the data protection period. The United States also continued to raise concerns about Japan's regulation of nutritional supplements, cosmetics, and quasi-drugs.

*Financial Services:* The United States continued to urge Japan to increase the transparency, consistency, and predictability of its financial regulatory environment, strengthen financial market competition, and improve information (e.g., full-file consumer credit information sharing). During 2007, the Financial Services Agency (FSA) issued draft ordinances and requested public comment on implementing the Financial Instruments and Exchange Law (FIEL). The law entered into effect in October 2007. Modernizing and consolidating the Securities and Exchange Law and other related laws, FIEL comprises sweeping legislation enacted by the Diet in June 2006 that subjects investment advisors, investment trust management companies, and securities companies to the same supervision as financial instrument firms.

In December 2007, FSA announced its “Plan for Enhancing the Competitiveness of Japan's Financial and Capital Markets,” aimed at elevating Japan's status to that of a global financial center. The plan includes relaxing the firewalls separating different types of financial institutions, enhancing the international competitiveness of exchanges by expanding their lineup of tradable products, creating a market exclusively for professional investors and enhancing the transparency and predictability of regulatory actions. The plan also calls for strengthening the present civil money penalty system against market misconduct by expanding the scope and raising the amounts of fines, in order to improve the fairness of markets and increase deterrent effects. The FSA plans to submit many of the necessary legislative bills, such as revisions to the FIEL and Banking Law, to the Diet in 2008, although some measures will require further discussion.

## **ii. Structural Regulatory Reform**

*Competition Policy:* The United States continued to advocate measures to ensure that steps to deregulate and introduce competition into Japan's economy are not undone by anticompetitive actions by market players. In 2007, Japan took several steps to strengthen competition policy and to ensure that Japan Fair Trade Commission (JFTC) enforcement actions are implemented in a fair and transparent manner. Japan bolstered its criminal enforcement against hard-core Antimonopoly Act (AMA) violations by bringing criminal charges against the participants of two bid-rigging conspiracies. The JFTC also continued to successfully implement its new leniency program to encourage individuals and companies to report anticompetitive acts, having received more than 150 leniency applications since the program's inception in January 2006. The JFTC also updated its merger guidelines and intellectual property guidelines,

increasing the transparency of AMA enforcement policy in these areas. For the purpose of improving public confidence in the fairness of its investigatory and administrative procedures, JFTC undertook to ensure that at least one of the three hearing examiners in each hearing procedure would be a lawyer or other outside legal professional who is not a career JFTC official and that proposed recipients of public measures under the Subcontract Act would be given an opportunity to present evidence and arguments in their defense prior to any JFTC action.

Japan also took new measures in 2007 to help prevent bid-rigging. The Diet amended the National Public Service Act to prohibit government ministries and agencies from helping employees who are retiring or resigning from the civil service to find new jobs, a measure that should help control conflicts of interest stemming from Japan's *amakudari* ("descent from heaven") system. The Ministry of Land, Infrastructure, Transport and Tourism took additional bid-rigging prevention measures, including expanding the coverage of the open and competitive bidding procedure to apply to approximately 90 percent of all contracts by value and extending the period of suspension from bidding and construction business operation for firms that have engaged in unlawful bid-rigging practices.

*Transparency:* The United States deepened its engagement with Japan on transparency issues in 2007, including through focused work to help encourage Japan to adopt stronger and more uniform transparency requirements in its regulatory and policy-making processes. The United States, for example, urged Japan to further reform its public comment procedures and transparency requirements for government-appointed advisory groups to ensure they are consistent with international best practice.

*Other Government Practices:* In 2007, the United States also urged Japan to make progress on a variety of other government practices, including in agriculture and in insurance (for discussion of insurance-related issues, see "*Bilateral Consultations – Insurance*" section below).

With respect to agriculture, after the United States raised with Japan bottlenecks in its biotechnology feed approval process that were affecting biotechnology corn, Japan's Ministry of Agriculture, Forestry and Fisheries made several procedural improvements in 2007 to the review process. These improvements have resulted in more timely approvals, which are critical to ensure the continued growth of U.S. corn exports to the largest foreign market for U.S. corn. In early August 2007, Japan also made changes to its biotechnology labeling rules that allow U.S. suppliers to eliminate mandatory testing and handling requirements related to past production of potatoes. This change will save the U.S. industry several million dollars annually.

*Privatization – Japan Post:* On October 1, 2007, Japan Post began its ten-year privatization process. The United States has long urged Japan to ensure that, in its postal reform process, a level playing field is created between Japan Post (and its successor entities) and its private sector competitors in the banking, insurance, and express delivery markets. The United States also continued to stress the importance of ensuring full transparency of the privatization process.

With respect to insurance and banking, the United States continued to urge Japan in 2007 to ensure that a level playing field is created between the postal financial institutions and private financial institutions before the postal financial institutions are permitted to introduce new lending services, underwrite new or altered insurance products, or originate non-principal-guaranteed investment products. In the Initiative's 2007 Report to the Leaders, Japan confirmed that as of October 2007, sole supervision and inspection of the new Japan Post financial entities under the Banking Law and Insurance Business Law will be conducted by Japan's Financial Services Agency (FSA), and that the FSA will apply the same standards as those applied to private companies operating in the same market space, including when engaging in the sale and distribution of financial services or insurance products. Japan also confirmed that the new postal financial entities will be required to meet the same obligations and standards, including risk management

and compliance systems, as those of private financial institutions when they sell new or altered financial products. The United States continued to urge Japan to fully implement these steps and take additional measures to achieve a level playing field, such as by ensuring that transactions among the postal financial entities as well as the Public Successor Corporation are conducted on an arms-length basis and that old and new postal insurance policy accounts are completely segregated to prevent cross-subsidization between them.

With respect to express delivery, Japan decided in 2007 to apply the “duty declaration” system to international postal items that are valued at over 200,000 yen. The United States strongly urged Japan to extend this step by ensuring that customs clearance regulations, procedures, and costs for all Japan Post’s international express mail service (EMS) items and similar international express delivery services are applied in the same manner as those applied to similar shipments provided by private express carriers. The United States also urged Japan to take steps to prevent the subsidization of Japan Post Service’s international express service by revenue from non-competitive postal services.

*Commercial Law:* The United States continued to recommend that Japan adopt a commercial law regime that reflects the realities of the global market and that will encourage efficient business practices and structures that strengthen the Japanese economy. Japan took some steps in 2007 that may facilitate foreign merger and acquisition (M&A) activities in Japan and protect the interests of stockholders. Revisions to the Corporate Code that permit foreign companies to acquire Japanese companies using foreign stock as consideration (so called “cross-border triangular mergers”) came into effect, as did amendments to the Tax Code that, under certain conditions, permit tax deferral on capital gains from the transfer of corporate assets in those transactions. As of the end of 2007, only one transaction involving the acquisition of a Japanese company by a foreign company using the triangular merger technique had been completed. It remains unclear whether the Japan’s tax deferral conditions are sufficiently flexible to allow this new merger tool to work in a manner that facilitates foreign M&A activities in Japan.

In the area of strengthening corporate governance mechanisms, in 2007 Japan’s securities regulators publicly recognized the importance of enhancing corporate governance of publicly-traded companies, and each of Japan’s major stock exchanges adopted rules that require listed companies to disclose the details of any anti-takeover measures and that restrict the ability of listed companies to adopt anti-takeover measures that seriously harm the interests of shareholders. The Tokyo Stock Exchange made efforts to improve the ability of shareholders to exercise proxy voting rights by encouraging its listed companies to provide proxy materials to shareholders three or four weeks in advance of shareholders meetings and announced its intention to consider adopting Codes of Conduct for listed companies that will address the need for outside directors and ensure the independence of such directors. In addition, the Ministry of Health, Labor and Welfare publicly announced its view that pension fund managers have a fiduciary duty to exercise proxy rights solely in the interest of beneficiaries.

*Legal Services and Legal System Reform:* In 2007, Japan committed to consult with the Japan Federation of Bar Associations with a view to taking necessary steps to permit foreign lawyers to form professional corporations on the same basis and with the same benefits, including the ability to establish multiple branch offices in Japan, as Japanese lawyers (*bengoshi*). Japan also began studying the legal implications of allowing Japanese *bengoshi* to become members of international legal partnerships. With regard to alternative dispute resolution (ADR) proceedings taking place in Japan, Japan confirmed that registered foreign lawyers (*gaiben*) can represent parties in any international ADR procedures at least to an extent not inconsistent with the Foreign Lawyers Law.

*Distribution:* In 2007, the United States urged Japan to take steps to speed the flow of goods by making improvements in the distribution sector. These recommendations included taking specific measures to improve efficiency in customs processing, revising customs *de minimus* levels to facilitate efficiency,

and ensuring equal enforcement of road laws among private delivery vehicles as well as Japan Post vehicles carrying packages and international express service items.

## **b. Bilateral Trade Consultations**

### **i. Insurance**

The United States and Japan conducted an annual consultation under our 1994 and 1996 bilateral insurance agreements in December 2007. The United States also urged progress on insurance-related issues in the U.S.-Japan Regulatory Reform Initiative and in other fora during 2007.

The United States continued to call on Japan to create a level playing field in Japan's insurance market by implementing measures to ensure Japan Post's successor companies, following the start of privatization in October 2007, are held to the same standards and obligations as private sector insurers (for detailed discussion of Japan Post insurance, see the section "*Privatization – Japan Post*" above).

Japan implemented regulatory changes on December 22, 2007 that allow banks to sell the full range of insurance products offered in the Japanese market. This important change, long urged by the United States, should expand opportunities for U.S. insurers to offer their products to Japanese consumers. The United States urged Japan to reform to the Life and Non-life Policyholder Protection Corporations (PPCs), including by moving from a pre-funded to post-funded system. The United States urged Japan to ensure full transparency, including meaningful opportunities for interested parties to express views, as it reviews the Insurance Contracts Law for possible amendment. The United States also asked Japan to put into place measures that would allow foreign incorporated insurance companies operating branches in Japan to transfer their businesses to a Japan-incorporated entity in a seamless way.

### **ii. Government Procurement**

*Public Works (Design/Construction):* The United States held expert-level consultations with Japanese officials in July 2007 to urge Japan to more effectively open Japan's massive public works market (\$149 billion in 2007) to U.S. companies. The United States requested, *inter alia*, that Japan take new measures to help prevent bid-rigging, develop procedures to simplify the qualification process for foreign firms, ensure that procurements list all of the qualifying criteria for a project, allow the free formation of joint ventures, and take measures to ensure proper compensation for design firms. The United States is working with Japan to promote the use of Construction Management to increase Japan's public works market in areas where U.S. companies have considerable expertise. The United States also continued to carefully monitor Japan's procurement procedures for projects covered by bilateral and multilateral agreements and promote U.S. company participation in new types of public works projects in Japan.

### **iii. Investment**

The United States continued joint work with Japan in 2007 through the U.S.-Japan Investment Initiative to encourage new measures that improve the climate for direct foreign direct investment (FDI) in Japan. One significant step taken by Japan in May 2007 that may facilitate greater FDI was its implementation of Company Law revisions that allow use of foreign stock as consideration in cross border mergers and acquisitions ("triangular mergers") (for further discussion, see the section "*Structural Regulatory Reform – Commercial Law*" above). Investment experts from the U.S. and Japanese governments also met in February 2007 to exchange information on each others' bilateral investment treaties (BITs) and free trade agreement investment chapters.

After many years of U.S. Government advocacy through the Investment Initiative for Japan to allow foreign universities to obtain legal status in Japan as a Japanese educational institution, Japanese government officials opened such discussions with one U.S.-affiliated university during 2007. If ultimately granted this new status, this applicant would receive all rights and privileges of a Japanese university, including exemption from taxes.

### **c. Sectoral Issues - Agriculture**

*Beef:* The full reopening of Japan's market to U.S. beef from animals of all ages in a manner consistent with international guidelines set by the World Organization for Animal Health (OIE) remained a top priority of the Administration. While the United States was able to export beef to Japan from cattle 20 months of age and younger during 2007, Japan's requirements for age verification exclude all but a small percentage of the cattle slaughtered in the United States.

In May 2007, the OIE determined that the United States is a "controlled risk" for Bovine Spongiform Encephalopathy (BSE), and supported by this determination, the United States urged Japan to import all beef and beef products from animals of any age if appropriate risk materials are removed. The United States will continue to work to achieve the full reopening of Japan's market in a manner consistent with international standards.

In June 2007, Japan ended its "verification period" for the U.S. export verification (EV) program for beef and beef products. Japan's intensified inspection rate started with the current EV program in July 2006 and involved a costly "voluntary" inspection by importers prior to the official quarantine inspections. Because it was expensive and caused bottlenecks, the ending of 100 percent box testing was expected to result in a modest increase in U.S. beef sales during the second half of 2007.

*Other Sanitary and Phytosanitary (SPS) Measures:* The United States made progress with Japan during 2007 on several SPS issues through our bilateral Regulatory Reform Initiative (for more information, see discussion above under "*Structural Regulatory Reform – Other Government Practices*"). The United States also negotiated with Japan a new table egg protocol, a protocol allowing for the importation of potted anthuriums, and a protocol allowing for audit inspection versus full time inspection for U.S. cherries.

In other areas, the United States continued to urge Japan to remove other SPS measures that create barriers to certain U.S. agricultural products. Throughout 2007, for example, the United States worked with Japan to approve 24 commonly used and internationally recognized food additives used in many high-value processed products; and to remedy its pesticide residue sanctions policy in a manner that will establish a risk-based approach to import inspection and testing and that is no more trade restrictive than necessary to protect human health. Additionally, the United States began to seek the removal of Japan's ban on three materials used commonly in U.S. organics that limit exports of many U.S. organic products, such as berries, grapes (fresh and wine), strawberries, celery, cherries, and other crops.

*Rice:* The United States urged Japan to take measures to prevent the displacement of U.S. rice cake flour as a result of the release of Japan's government rice stocks. Guidelines by Japan's Ministry of Agriculture, Fisheries, and Forestry for public release of the stocks of rice that Japan has imported under its WTO minimum market access (MMA) agreement establish complex rules that require the volumes of imported rice that each company is eligible to purchase to be based upon the amount of imported rice cake mix it has historically imported. Incentives and penalties are both established to encourage companies to reduce their imports of rice cake mix in exchange for accessing more imported rice from government stocks. In addition to urging Japan to end this practice, the United States sought improvements in access for U.S. rice in Japan. Although the United States has supplied about half of

Japan's rice import needs since 1995 when it opened its market under its WTO MMA agreement, Japan allows only a minor share of U.S. rice imported under Japan's WTO tariff-rate quota (TRQ) commitment to be sold into the private sector. In November 2007, the United States asked Japan a number of detailed questions about its rice import regime at the WTO Committee on Agriculture. The United States will continue seek quick progress by Japan on U.S. concerns on rice.

## **10. Taiwan**

During 2007, the United States and Taiwan continued to work together to enhance economic cooperation through our Bilateral Trade and Investment Framework Agreement (TIFA) process, and to address shortcomings in several areas related to Taiwan's implementation of its WTO commitments. These WTO implementation issues included ensuring market access for rice and improving intellectual property rights protection. In addition, the United States worked with Taiwan bilaterally to ensure market access for American beef and more transparent pharmaceutical pricing and reimbursement procedures. The United States and Taiwan held a meeting of the TIFA Joint Council in Washington, D.C., on July 10-11, 2007.

### **a. Beef**

Throughout 2007, 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) and the May 2007 OIE designation of the United States as "controlled risk" for BSE. However, as of the end of 2007, Taiwan had not yet opened its markets in a manner consistent with the May 2007 OIE determination. After partially reopening the market to U.S. deboned beef from cattle less than 30 months of age in April of 2005, Taiwan re-imposed its import suspension in June 2005, after the discovery of a second case of BSE in the United States. On January 25, 2006, Taiwan again lifted its ban on U.S. deboned beef from cattle less than 30 months of age with labels of approval from the USDA. Non-ruminant products for feed use such as tallow, lard, poultry and porcine meal are banned, while limited exceptions for pet food have been approved after a thorough case-by-case review or plant clearance process. The United States has been engaging with Taiwan to fully open the market for all these products on a scientific basis.

### **b. Rice**

In 2007 Taiwan implemented the rice Country Specific Quota (CSQ) system and the United States, Australia, and Thailand lifted their objections to Taiwan's rice tariffication. The United States and other suppliers continued to have public sector rice tenders fail due to Taiwan's ceiling price. Because of this, Taiwan will not complete its tendering process until well into calendar year 2008, and it is possible that the U.S. will lose a small portion of its CSQ amount. Taiwan is a leading Asian market for U.S. rice exports. The United States will continue to work with Taiwan and other interested suppliers to the Taiwan market to achieve improvements to the rice import system.

### **c. Maximum Residue Levels (MRL)**

During and subsequent to the 2007 TIFA meetings, the United States and Taiwan have engaged in discussions to address systemic issues related to Taiwan's food safety regulatory system. Taiwan currently has a list of about 1,414 pesticide-crop combinations waiting for permanent MRLs to be established. Regulations in Taiwan call for the rejection of any shipment that contains any residue for which an MRL has not been established. The United States has a similar policy, but comparatively few chemical-crop combinations are awaiting final approval in the United States. In 1999, Taiwan established

a list of provisional MRLs covering about 137 fruit and vegetable pesticide combinations, leaving approximately 1,300 commodity pesticide combinations lacking even a provisional MRL.

In November 2007, Taiwan implemented a re-registration process to address its backlog of outstanding registration requests. With its December 31, 2007 deadline, this registration has placed an onerous information demand on applicants. U.S. exporters and chemical registrants have been unable to meet this deadline. The American Institute in Taiwan (AIT) submitted to Taiwan a request for a one-year extension to the original registration deadline in order to facilitate a unified and thorough U.S. response. Taiwan has yet to agree to AIT's deadline extension request.

On July 10, 2007, the U.S. pork industry learned that Taiwan had rejected a shipment of U.S. pork after finding ractopamine residues in samples taken and analyzed by Taiwan's quarantine service. Ractopamine was approved in 1999 by the U.S. Food and Drug Administration and is used to increase lean cuts of meat while reducing total fat content. Ractopamine has also completed the 8-step process for the elaboration of standards in the Codex Alimentarius Commission, the international body for setting food standards, making adoption of a Codex standard for ractopamine possible in July 2008. Following a further detection of ractopamine in U.S. pork in August 2007, Taiwan began testing 100 percent of U.S. pork shipments for ractopamine, causing serious disruption in trade. After meeting on this issue, officials agreed to an "improvement plan" that would serve as a temporary solution until Taiwan establishes an MRL for ractopamine. The United States will be engaging aggressively in 2008 to reach resolution on this issue.

#### **d. Intellectual Property Rights (IPR)**

IPR protection continues to be an important issue in the U.S.-Taiwan trade relationship. In December 2004, Taiwan was moved from the Special 301 Priority Watch List to the Watch List after an out-of-cycle review (OCR) determined that Taiwan had made sufficient progress to warrant improved status. The United States recognizes Taiwan's continuing efforts to take measures to improve enforcement of IPR in 2007, including intensifying raids against manufacturers and retailers.

To deter Internet piracy, the Taiwan Intellectual Property Office (TIPO), in May 2005, initiated an "implementation plan for strengthening preventive measures against Internet infringement." In 2007, Taiwan continued to make efforts to combat Internet-related IPR violations; including strengthening cooperation with foreign enforcement agencies and passing an amendment to the Copyright Law in June 2007 that subjects illegal file-sharing to a maximum jail term of two years.

In October 2007, Taiwan's Ministry of Education (MOE) issued its Action Plan for Protecting IPR on School Campuses. The Plan aims to counter IP piracy on school and university campuses on Taiwan and includes measures to counter peer-to-peer (P2P) abuses on the island's principal academic network, the Taiwan Academic Network (TANet), as well as to reduce instances of illegal text book copying by students and on-campus copy shops. The United States will continue to monitor the implementation of the Action Plan and other efforts to reduce infringement by the academic community, both on and off campus. Adequate resources must also be devoted, especially at high levels within the MOE, to the Action Plan to improve enforcement against the unauthorized use of copyright material that occurs on and around university campuses.

The United States strongly encouraged Taiwan's passage of legislation to create a specialized court for intellectual property matters and its training of judges and prosecutors on these matters. Although the necessary implementing legislation and regulations were passed in 2007, establishment of the court has been moved back from a March 2007 target date to July 2008. The United States will continue to monitor implementation of the specialized IP court.

The United States will also continue to urge the passage and implementation of effective legislation to address liability of Internet Service Providers (ISP) and encourage Taiwan's continued efforts to dismantle unauthorized P2P file sharing systems. Internet piracy and illegal peer-to-peer downloading remain serious concerns. The United States will continue to monitor Taiwan Customs' efforts to prevent exports of counterfeit materials to ensure that these efforts are as effective as, or more effective than, Taiwan's recently abolished Export Monitoring System.

#### **e. Pharmaceuticals**

Continuing concerns in the pharmaceutical sector in Taiwan include pharmaceutical pricing, transparency and the domestic regulatory regime. Through the TIFA process, the United States has been encouraging Taiwan to adopt a system of actual transaction pricing to address the significant gap between the amount that Taiwan's Bureau of National Health Insurance (BNHI) reimburses for a pharmaceutical product and the price actually paid to the provider of that product. This gap distorts pharmaceutical trade and prescription patterns in Taiwan. These distortions are compounded by another aspect of the Taiwan health care system, which permits doctors to both prescribe and dispense pharmaceuticals. Research-based pharmaceutical companies see separating these functions as essential to resolving the long-term pricing problem. Production and sale of counterfeit pharmaceuticals in Taiwan also remains a concern. The United States is encouraging Taiwan's Ministry of Justice and Department of Health to work together to take action to resolve this problem.

## **11. Hong Kong (Special Administrative Region)**

### **a. Intellectual Property Rights (IPR)**

Hong Kong is a special administrative region of the People's Republic of China. The Hong Kong government continues to maintain a robust IPR protection regime, though end-user piracy, the rapid growth of peer-to-peer downloading from the Internet, and the importation and transit shipments of infringing products remain as significant challenges. The software industry estimates that Hong Kong's software piracy rate was 53 percent in 2006, well above the software piracy rates in other advanced economies, resulting in business and entertainment industry losses of approximately \$180 million.

Since 2006, the Hong Kong government has taken additional steps toward addressing each of these problems. Hong Kong Customs has used the Organized and Serious Crimes Ordinance (OSCO) to prosecute piracy syndicates and to freeze their assets. Seven IPR cases have resulted in the freezing of \$13.7 million in assets. On October 2, 2007, the court issued an order allowing for the first time the confiscation of \$154,000 from the convicted head of a pirated optical disk syndicate. This ruling could prove a useful new deterrent. In October 2006, the Hong Kong government partnered with software industry representatives to launch a pilot program to provide free on-site audits for companies to determine if they are unknowingly using unlicensed software and to assist violators in purchasing licenses to guarantee the use of genuine computer products. Hong Kong officials have also established a joint task force with copyright industry representatives to track down online pirates using peer-to-peer networks for unauthorized file sharing.

After extensive consultation, the Copyright (Amendment) Ordinance 2007 was passed in July 2007. In particular, the new Ordinance provides for criminal penalties for unauthorized copying and distribution of infringing copies of printed works in the course of profit-generating activities. Additionally, the Ordinance also provides civil liability for the act of circumventing technical protection measures (TPMs). The scope of these two provisions will be further clarified in implementing legislation. While the

government is still consulting with stakeholders, it plans to table subsidiary legislation before the Legislative Council in the second quarter of 2008. The new Ordinance also contains provisions to hold company directors potentially criminally liable for the use of pirated software in their businesses.

#### **b. Beef**

Hong Kong banned imports of U.S. beef in December 2003 following a reported case of Bovine Spongiform Encephalopathy (BSE). After two years of intensive efforts on the part of the U.S. Government, the Hong Kong government announced the partial reopening of its market to deboned beef from animals of 30 months of age or less, with certain restrictions, in December 2005. These excessive restrictions, however, have discouraged most qualified U.S. beef exporters from shipping to Hong Kong. It is estimated that the two-year ban (2004-2005) cost U.S. exporters approximately \$160 million. World Organization for Animal Health (OIE) guidelines provide for scientifically-based conditions under which all beef and beef products from animals of any age can be safely traded from “controlled risk countries”. In May 2007, the OIE classified the United States as controlled risk for BSE. The United States continues to press Hong Kong to normalize trade and implement import requirements for U.S. beef and beef products on the basis of the OIE guidelines and the U.S. controlled risk classification.

#### **c. Food Labeling**

The United States exported more than \$1.3 billion of agricultural, fishery, and forestry products to Hong Kong in 2007. While the Hong Kong market has developed relying on liberal access, the Hong Kong government is in various stages of implementing several labeling schemes that could raise significant barriers to consumer-ready U.S.-origin processed food exports.

The Hong Kong government has re-notified to the World Trade Organization (WTO) its intention to implement mandatory nutrition labeling regulations. Given Hong Kong’s small market size for most individual products, repackaging products to comply with the new Hong Kong labeling standard may not be economically feasible. The United States has requested that the regulations allow flexibility in granting imports for products that comply with United States labeling laws and is in the process of developing its formal response to the re-notified regulations.

On July 9, 2007, an amendment to Hong Kong’s Labeling Regulation went into effect that requires manufacturers to declare allergenic substances and list the food additive functional class, and name or identification number (under the International Numbering System), on food labels. Hong Kong’s requirements vary only slightly from U.S. regulations. However, the United States is concerned that the regulations do not contribute to improved consumer awareness or information. All U.S. processed food products exported to Hong Kong already include extensive label information on ingredients, allergens, and additives. As results of these differences, U.S. food products, especially name-brand processed foods, have had difficulties complying with the labeling changes in the period allotted. The United States has expressed its objections to this regulation.

During 2008, the Hong Kong government will review the effectiveness of guidelines, originally issued in July 2006, for the voluntary labeling of genetically modified food. The Hong Kong government conducted a survey in 2007 to evaluate the effectiveness of this voluntary food labeling system for genetically modified food and there is concern that the system could be made mandatory, increasing the cost of labeling, and harming U.S. exporters. Mandatory labeling could seriously undermine sales to this market for high value U.S. food and agricultural products. Additionally, Hong Kong retailers fear negative consumer reaction and a reduction in consumer choice for food products in Hong Kong if labeling of food products containing biotechnology ingredients becomes mandatory.

## **12. Sri Lanka**

U.S. exports to Sri Lanka in 2007 were worth \$227 million and overall bilateral trade totaled \$2.3 billion. Major U.S. exports were machinery, medical equipment, and plastic. The overall trade balance was down slightly, with exports and imports both decreasing.

In 2007, Deputy U.S. Trade Representative Karan Bhatia twice met with Sri Lankan Foreign Minister Rohitha Bogollagama. Ambassador Bhatia also met with Trade Minister G.L. Peiris. During these meetings, U.S. and Sri Lankan officials addressed issues that would contribute to enhancing bilateral trade and investment relations, including lowering market access barriers (such as tariffs), protecting intellectual property rights (IPR), making greater use of Generalized System of Preferences (GSP) benefits, and facilitating investment flows. The United States and Sri Lanka also expressed their mutual desire to see a successful and ambitious outcome to the WTO Doha Development Round. Additionally, USTR led two video conferences with Sri Lanka to discuss IPR-related issues and the GSP program, including a tutorial on how the preference program operates and suggestions on how Sri Lanka can better utilize the program based on its existing export profile.

USTR will continue to pursue these issues in the coming year and looks forward to hosting the next meeting under the U.S.-Sri Lanka Trade and Investment Framework Agreement in 2008.

## **13. Iraq**

In May 2007, Ambassador Allgeier welcomed Iraq's Minister of Trade Abdulfalah Hassan Al-Sudani to Geneva for the first meeting of Iraq's Working Party on WTO accession to initiate review of Iraq's trade regime. The United States is providing technical assistance to help Iraq's government with the accession process, including help with WTO training of officials, legal drafting, tariff classification, and specific guidance on implementation of WTO provisions, *e.g.*, in the areas of investment, standards and technical regulations, intellectual property protection, customs, and services. USTR also held consultations with Iraqi officials and U.S. agencies to promote use of the GSP program, for which Iraq is a beneficiary country.

## **F. Africa**

### **1. African Growth and Opportunity Act**

The African Growth and Opportunity Act (AGOA) provides incentives to promote economic reform and trade expansion in sub-Saharan Africa, including duty-free access to the U.S. market for products made in beneficiary sub-Saharan African countries. In 2007, over 98 percent of U.S. imports from AGOA eligible countries entered the United States duty-free.

In 2007, the Administration worked to implement the enhancements to AGOA contained in the Africa Investment Incentive Act (AIIA), which President Bush signed on December 20, 2006. The AIIA extended to 2012 the AGOA "third-country fabric" provision that allows duty-free treatment for imports from "lesser-developed" AGOA beneficiary countries of qualifying AGOA apparel made of fabric from any source. For lesser-developed AGOA beneficiary countries, the AIIA expanded the list of items eligible for duty-free treatment to include certain non-apparel textile products. It also introduced the so-called "abundant supply" provision, which is an exception to the third-country fabric provision for apparel made from yarn or fabric that is available in commercial quantities for use by lesser-developed beneficiary sub-Saharan African countries. If, for two successive one-year periods, the quantity of fabric

or yarn deemed to be available in commercial quantities is not used in the production of apparel articles eligible for duty-free treatment under the third-country fabric provision, then apparel articles containing that fabric or yarn are no longer eligible for third-country fabric benefits under AGOA.

The AIIA provided that certain denim fabric was deemed to be available in abundant supply in sub-Saharan Africa in the amount of 30 million square meter equivalents (SMEs) for the year beginning on October 1, 2006. The U.S. International Trade Commission (ITC) has not yet completed its review of whether the quantity deemed to be available for that year was used in the production of articles eligible for AGOA third-country fabric benefits, but on September 25, 2007, the ITC released its report on the quantity of denim that it projects will be available in the year beginning on October 1, 2007. If the ITC's current projections of available denim actually occur, denim apparel items will be removed from third-country fabric eligibility beginning October 1, 2008. The Lesotho Garment Manufacturers Association and other industry stakeholders have expressed concerns about the negative impact of such a finding on the African apparel sector. Levi Strauss and other U.S. buyers have said that the provision limits growth and relies upon too many factors beyond the buyers' control. As a result of concerns about the abundant supply provision and its prospective impact with respect to denim, Levi Strauss has suspended plans to increase imports of African denim apparel and the Gap has discontinued orders of denim apparel products from Lesotho.

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. These criteria include the establishment of a market-based economy and the rule of law, the elimination of barriers to U.S. trade and investment, the implementation of economic policies to reduce poverty, the protection of internationally recognized worker rights, and the establishment of a system to combat corruption. Additionally, countries cannot engage in: (1) violations of internationally recognized human rights; (2) support for acts of international terrorism; or (3) activities that undermine U.S. national security or foreign policy interests. If the President determines that a country is not making continual progress in meeting these criteria, he is required to terminate that country's eligibility for the following year.

An interagency AGOA Implementation Subcommittee, chaired by USTR, makes recommendations to the President on AGOA eligibility of countries based on an annual eligibility review, drawing information from the private sector, non-governmental organizations, U.S. Government agencies, and prospective beneficiary governments. No countries were removed from AGOA eligibility in 2007. In June 2007, on the basis of an interim eligibility review, President Bush determined that Mauritania was meeting the eligibility criteria and re-designated it as a beneficiary country (it had been removed from AGOA eligibility in 2006), bringing the total number of AGOA-eligible countries to 39.

AGOA requires that, in order to receive the apparel benefits in the Act, designated beneficiary countries meet certain customs-related requirements, such as the establishment of an effective system for certifying that apparel has met AGOA's rules of origin and other requirements. As of December 2007, 26 AGOA-eligible countries had instituted acceptable customs measures to prevent illegal transshipment and, accordingly, had been certified as eligible to export qualifying apparel to the United States under AGOA; In addition, 17 of these 26 countries have met the requirements for handmade, hand-loomed, or folkloric items, and 5 countries have qualified to export ethnic-printed fabric under AGOA.

AGOA also institutionalizes a process for strengthening U.S. trade relations with sub-Saharan African countries by establishing an annual ministerial level forum with AGOA-eligible countries. AGOA established a U.S.-Sub-Saharan Africa Trade and Economic Cooperation Forum – informally known as “the AGOA Forum” – to discuss expanding trade and investment relations between the United States and

sub-Saharan African countries and implementation of AGOA. The sixth meeting of the Forum was held in July 2007 in Accra, Ghana. U.S. Trade Representative Susan C. Schwab led the U.S. Government delegation to the Forum, which included senior officials from 14 government agencies. Ministers from almost all AGOA-eligible countries attended the Forum, as well as more than 1,000 government, private sector, and civil society representatives.

AGOA and related Generalized System of Preferences (GSP) imports from AGOA-eligible countries were valued at \$46.3 billion in the first 11 months of 2007, 14 percent more than in the corresponding period in 2006.<sup>29</sup> Petroleum products continued to account for the largest portion of AGOA imports with a 93 percent share of overall AGOA imports. AGOA non-oil imports also continued to grow, totaling \$3.1 billion in the first 11 months of 2007, a 7 percent increase over the previous year, with notable increases in key non-oil sectors. For example, AGOA imports of transportation equipment (from South Africa) increased by 12 percent to \$506 million. U.S. imports of AGOA textiles and apparel increased by 2 percent to \$1.2 billion, rebounding from decreases in the past few years. Cut flowers increased 39 percent to \$3 million. AGOA/GSP imports of wine, fruit juices, grapes, and essential oils also increased. AGOA country and product utilization have been steadily expanding. In 2007, 34 of the 39 AGOA-eligible countries exported products to the United States under AGOA and/or GSP; 23 exported agricultural products under AGOA/GSP; and 21 exported textile and apparel products under AGOA/GSP.

## **2. Africa and the WTO**

Supporting African countries' integration into the global economy is one of the main elements of the Administration's Africa trade policy. An important step toward this end is encouraging fuller participation in the WTO by existing African WTO Members, including the undertaking of greater commitments under WTO agreements. Accordingly, the United States consults closely with the 38 sub-Saharan African Members of the WTO and provides technical assistance to facilitate African participation in WTO negotiations and agreements.

The United States has provided sub-Saharan African countries with technical assistance and trade capacity building support on a range of WTO-related issues such as trade facilitation, services, and sanitary and phytosanitary measures, in coordination with the WTO, the World Bank and other international financial institutions, the Integrated Framework, and via bilateral assistance. The United States also provided technical assistance in support of the WTO accession process of two African countries, Cape Verde and Ethiopia. The WTO General Council approved Cape Verde's application for accession on December 18, 2007.

WTO issues continued to be a major topic of USTR's engagement with African countries in 2007. Deputy USTR Allgeier attended the African Union Trade Ministerial in Addis Ababa, Ethiopia in January 2007. At the July 2007 AGOA Forum in Accra, Ghana, U.S. Trade Representative Susan C. Schwab participated in a panel discussion with African trade ministers on the WTO Doha Round of negotiations and other topics. Doha was also a major topic of discussion during TIFA Council meetings in 2007 with Mauritius, Nigeria, Rwanda and the Common Market for Eastern and Southern African (COMESA).

Among the Doha issues that figured prominently in U.S.-African discussions in 2007 were agriculture, non-agricultural market access (NAMA), and development-related issues, including Aid for Trade and duty-free, quota-free market access for LDC products in developed country markets.

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<sup>29</sup> Note that AGOA imports are imports for consumption, while all other import figures are general imports. Imports for consumption include only those goods as they enter the U.S. economy for consumption. General imports include all goods as they cross the U.S. border, including those destined for bonded warehouses or foreign trade zones.

### **3. COMESA**

The Common Market for Eastern and Southern Africa (COMESA) is the largest regional economic organization in Africa, with 19 member states<sup>30</sup> and a population of over 380 million. COMESA's free trade area was launched in 2000 and now has 13 member states. The United States and COMESA signed a TIFA agreement in 2001 and have subsequently held four TIFA Council meetings, most recently in Washington, DC on February 14, 2007. Ambassador Susan C. Schwab participated in the February 2007 meeting, which included discussions on U.S.-COMESA trade; implementation of AGOA; the WTO Doha negotiations; trade capacity building activities; infrastructure issues; and investment. The COMESA delegation was led by Secretary-General Erastus J. O. Mwencha and included leaders of several Eastern and Southern African farmer organizations.

U.S. trade capacity building assistance to COMESA, delivered mainly through USAID's East Africa regional mission and the East and Central Africa Global Competitiveness Hub in Kenya, has helped COMESA to advance its internal free trade area and to harmonize its Members' policies in telecommunications, services, and investment, as well as to increase trade linkages between the United States and COMESA countries under AGOA. Thirteen COMESA members are AGOA-eligible and nine qualify for textile and apparel benefits. Ambassador Carmen Martinez, the U.S. Representative to COMESA (and U.S. Ambassador to Zambia), led the U.S. delegation to the May 2007 COMESA Summit in Nairobi.

Total two-way trade between the United States and the 19 member countries of COMESA was valued at \$12 billion in the first 11 months of 2007, a 23 percent increase over the same period in 2006<sup>31</sup>. Egypt and Kenya were the two largest national markets for U.S. goods. The leading U.S. exports to COMESA countries were machinery, cereals, and aircraft. Among leading U.S. imports from COMESA countries were petroleum products, apparel, and chemicals. In the first 11 months of 2007, U.S. imports from COMESA under AGOA, including its GSP provisions, were valued at \$943 million, an increase of 2 percent over the same period in 2006.

### **4. Ghana**

In July 2007, Ghana hosted the Sixth Annual AGOA Forum in Accra (see also section above on AGOA). In January 2008, the United States and Ghana held their fifth meeting under the auspices of the 1999 U.S.-Ghana Trade and Investment Framework Agreement. At the meeting, officials from the United States and Ghana explored several common objectives, including cooperation in the World Trade Organization, trade expansion, implementation of the African Growth and Opportunity Act (AGO), intellectual property protection and enforcement, trade capacity building and technical assistance, and infrastructure issues.

Total two-way trade between Ghana and the United States was valued at \$650 million in 2007, a 35 percent increase over 2006. Ghana is the sixth largest sub-Saharan African market for U.S. goods. The leading U.S. exports to Ghana were motor vehicles, machinery, and wheat. U.S. imports from Ghana are primarily oil, cocoa, timber, and apparel. In the first 11 months of 2007, U.S. imports from Ghana under AGOA, including its GSP provisions, were valued at \$66 million, a 53 percent increase over the same period in 2006. Leading AGOA/GSP imports were petroleum products, knit apparel, yams, and plywood.

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<sup>30</sup> COMESA members are Burundi, Comoros, Democratic Republic of the Congo, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Libya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Swaziland, Uganda, Zambia, and Zimbabwe.

<sup>31</sup> The trade figures in this paragraph do not include Angola, which withdrew from COMESA in 2007.

## **5. Liberia**

On February 15, 2007, U.S. Trade Representative Susan C. Schwab and Liberian Minister of Commerce, Industry and Trade Olubanke King-Akerele signed the U.S.-Liberia Trade and Investment Framework Agreement (TIFA). The TIFA provides a formal mechanism to address bilateral trade issues and to help enhance trade and investment relations between the United States and Liberia. The first TIFA Council meeting under the new agreement was held on October 2, 2007 in Washington and was co-chaired by Deputy USTR Karan Bhatia on the U.S. side and by Commerce and Industry Minister Frances Johnson and Minister King-Akerele, who by then was Foreign Minister, on the Liberian side. Among the topics discussed were means to enhance Liberia's use of AGOA, trade capacity building assistance, measures to improve the business environment and investment flows as well as issues related to trade-related infrastructure.

Total two-way trade between Liberia and the United States was valued at \$190 million in 2007, an 8 percent decrease over 2006. The leading U.S. exports to Liberia were medical instruments, motor vehicles, and iron and steel products. Rubber comprised all but a small portion of U.S. imports from Liberia. In the first 11 months of 2007, U.S. imports from Liberia under AGOA, including its GSP provisions, were valued at \$19,000. Liberia became eligible for AGOA on December 29, 2006.

## **6. Mauritius**

In September 2006, the United States and Mauritius signed a Trade and Investment Framework agreement (TIFA) aimed at strengthening and expanding trade and investment ties between the two countries. The TIFA provides a formal mechanism to address bilateral trade issues and helps enhance trade and investment relations between the United States and Mauritius. The TIFA is encouraging new trade and investment opportunities in both countries by establishing a cooperative forum for implementing specific strategies to enhance the U.S.-Mauritius trade and investment relationship. The first TIFA Council meeting was held on February 5-6, 2007 in Mauritius and was co-chaired by Mauritian Minister of Foreign Affairs, International Trade, and Cooperation Madan Dooloo and Assistant U.S. Trade Representative for Africa Florizelle Liser. The TIFA Council set priorities, identified objectives, established benchmarks, outlined impediments, and charted the way forward for future work under the TIFA. It explored common objectives, including cooperation in the World Trade Organization, implementation of the African Growth and Opportunity Act, export diversification, trade and investment promotion, and economic development. The TIFA Council also developed a common workplan that the United States and Mauritius are jointly undertaking in order to implement the TIFA, including a wide-range of programs and activities to support, facilitate, and ensure progress and success in strengthening the U.S.-Mauritian trade and investment relationship.

Total two-way trade between Mauritius and the United States was valued at \$235 million in 2007, an 8 percent decrease over 2006, primarily due to declines in Mauritian fish and textile and apparel exports. The leading U.S. exports to Mauritius are jewelry and diamonds. U.S. imports from Mauritius are primarily apparel, diamonds, and fish. In the first 11 months of 2007, U.S. imports from Mauritius under AGOA, including its GSP provisions, were valued at \$113 million, a 23 percent decrease over the same period in 2006.

## **7. Mozambique**

The United States and Mozambique signed a U.S.-Mozambique Trade and Investment Framework Agreement (TIFA) in July 2005. At the last United States-Mozambique TIFA Council meeting in

October 2006, the United States and Mozambique worked together on critical issues such as market access, the WTO Doha Development Agenda, AGOA implementation, and trade capacity building.

The TIFA Council conducted a detailed review of the steps undertaken by both the United States and Mozambique in each of the 14 priority areas that were identified for joint cooperation in the TIFA workplan. The Council outlined a wide range of programs and economic reforms implemented by the government of Mozambique, as well as several technical assistance initiatives and trade capacity-building programs undertaken by the United States. The TIFA is encouraging new trade and investment opportunities in both the United States and Mozambique and provides a formal mechanism to implement specific strategies to enhance the U.S.-Mozambique trade and investment relationship.

Total two-way trade between Mozambique and the United States was valued at \$130 million in 2007, a 62 percent increase over 2006. The leading U.S. exports to Mozambique are petroleum coke, wheat, machinery, tractors, and used clothing. U.S. imports from Mozambique are primarily cashew nuts, tantalum ores, and shrimp. In the first 11 months of 2007, U.S. imports from Mozambique under AGOA, including its GSP provisions, were valued at \$784,000, a decrease of 86 percent from the same period in 2006, due primarily to sharp declines in imports of tobacco and apparel.

## **8. Nigeria**

Nigeria is the United States' largest trading partner in sub-Saharan Africa, largely due to the high level of petroleum imports from Nigeria. Nigeria is currently the fifth largest provider of crude oil and petroleum to the U.S. Total two-way trade was valued at \$34.3 billion in 2007, a 14 percent increase over the same period in 2006. The leading U.S. exports to Nigeria were machinery, wheat and motor vehicles. U.S. imports from Nigeria were primarily oil. Nigerian exports to the United States under AGOA, including its GSP provisions, were valued at \$27.0 billion during the first 11 months of 2007, a 13 percent increase over the same period in 2006. The United States was the largest foreign investor in Nigeria in 2007.

In December 2007, the United States met with Nigeria under the existing Trade and Investment Framework Agreement (TIFA) to advance the ongoing work program and to discuss improvements in Nigerian trade policies and market access. Among the topics discussed were cooperation in the WTO, market access, export diversification, intellectual property protection and enforcement, commercial issues, trade capacity building and technical assistance, infrastructure, and investment issues. On trade issues, Nigeria reported that efforts were underway to reduce tariffs over time and convert existing import bans to tariff-based structures. The two sides agreed to work towards clarification of procedures for temporary import licenses for oil service equipment while a long-term solution is worked out to facilitate petroleum exploration and development. On AGOA, the two sides agreed to focus on specific product areas with export potential. With the assistance of USAID, an AGOA workshop was held, in conjunction with the TIFA meeting, to help Nigerian businesses to increase and diversify their exports to the United States under AGOA. The two countries agreed to form a working group to identify the terms and conditions necessary to attract investment in manufacturing, especially with respect to downstream processing of petrochemicals. In the area of intellectual property rights, the two sides agreed on new areas of cooperation, including improving enforcement against piracy and counterfeiting.

## **9. Rwanda**

The U.S.-Rwanda Trade and Investment Framework Agreement (TIFA) was signed in June 2006. Since then, there have been two TIFA Council meetings. The second TIFA Council meeting was held on October 17, 2007 in Washington, DC and was co-chaired by Deputy USTR Karan Bhatia and Rwandan Minister of Trade Protais Mitali. Among the topics discussed at the October 2007 meeting were recent

trends in two-way trade; implementation of AGOA; the WTO Doha negotiations, trade capacity building activities; and infrastructure issues. The meeting also included a roundtable discussion with representatives of the Rwandan and U.S. private sectors on means to improve the environment for bilateral trade and investment. Among recent outcomes of the TIFA process were the launch of negotiations toward a Bilateral Investment Treaty (BIT) in June 2007 and the convening of an AGOA National Workshop in Kigali in March 2007 to help Rwandan firms identify and pursue opportunities in the U.S. market. The BIT negotiations – the first U.S. bilateral investment treaty talks with a sub-Saharan African country in nearly a decade – made significant progress in 2007 and were close to conclusion at year’s end.

Total two-way trade between Rwanda and the United States was valued at \$27 million in 2007, a 31 percent increase over 2006. The leading U.S. exports to Rwanda are vegetable fats and oils and machinery. U.S. imports from Rwanda include tungsten ores and concentrates, coffee, and basketry. In the first 11 months of 2007, U.S. imports from Rwanda under AGOA, including its GSP provisions, were valued at \$4 million, more than a five-fold increase over the same period in 2006, largely due to increased imports of tungsten ores and concentrates.

## **10. South Africa**

The United States and South Africa enjoy a broad and mutually beneficial trade and investment relationship. This relationship has been encouraged by a Trade and Investment Framework Agreement (TIFA) signed in February 1999; the start in June 2003 of free trade agreement negotiations (now suspended) with the Southern African Customs Union (SACU), of which South Africa is a member; a proposed U.S.-SACU Trade, Investment, and Development Cooperative Agreement (TIDCA); and AGOA. Two-way trade increased 20 percent in 2007, to \$14.5 billion. South Africa is the largest and most diversified supplier of non-fuel AGOA-eligible products. In the first 11 months of 2007, U.S. imports from South Africa under AGOA and related GSP provisions were valued at nearly \$2 billion with imports of a wide-range of goods, including: minerals and metals [note: diamonds are already MFN duty-free and are not part of AGOA], agricultural products (including fresh citrus fruits and wines), chemicals, transportation equipment, footwear, textiles, and apparel. Leading U.S. exports to South Africa include motor vehicles, tractors, machinery, aircraft, and medical equipment. The primary U.S. agricultural export is wheat.

South Africa continues to play an important role in the WTO Doha Development Agenda (DDA) negotiations. South Africa is a member of the Cairns Group of nations (with a strong interest in agricultural liberalization) and the G-20 coalition of advanced developing countries. It is also a member of the so-called “NAMA-11” group of countries, which has opposed negotiating proposals that call for South Africa and other large developing countries to reduce tariffs on industrial and consumer goods. South Africa and the United States continue to consult closely on issues related to the DDA despite differences on certain issues.

The United States has been the largest single-country source of new foreign investment in South Africa since South Africa’s 1994 transition to democracy. There are an estimated 700 U.S. companies (including subsidiaries, joint ventures, local partners, agents, franchises, and representative offices) doing business in South Africa. As with any trade and investment relationship as diverse and vibrant as this one, certain disputes have arisen between the United States and South Africa. These include concerns related to South Africa’s September 2006 antidumping order against imports of certain U.S. poultry products, concerns regarding restrictions placed on U.S. exports of soda ash, and ongoing problems related to South Africa’s basic telecommunications monopoly, Telkom, and its reluctance to provide facilities necessary for U.S. value-added network services (VANS) providers to operate and expand.

The United States continues to consult with South Africa about the specifics of its Black Economic Empowerment (BEE) policies, which are intended to promote the economic empowerment of the historically disadvantaged majority population in South Africa. U.S. companies generally support the objectives of BEE, particularly its emphasis on development and on moving historically disadvantaged people into the mainstream of the national and global economy, but some have expressed concern about the scope and implementation of BEE policies. For example, there are concerns about BEE policies requiring the transfer of equity to historically disadvantaged individuals, particularly among wholly-owned U.S. subsidiaries that have no equity to transfer. U.S. companies have expressed concern as to the details associated with BEE implementation, interpretation, and policy.

Foreign investors in South Africa have cited the uncertainty of South African policies (BEE and others) as the number one risk of doing business in the country. BEE guidelines for multinationals, released in December 2005 have provided companies with more details and allow these companies to substitute requirements of the sale of equity with “equity equivalents” in other accepted activities, such as skills development and enterprise development. The South African government has appeared open to considering different types of plans for equity equivalents. The United States continued to discuss all of these issues with South Africa in 2007.

## **11. Southern African Customs Union**

The United States and the Southern African Customs Union (SACU)—comprised of Botswana, Lesotho, Namibia, Swaziland, and South Africa—launched free trade agreement (FTA) negotiations in 2003. Active FTA negotiations were suspended in April 2006, largely due to divergent views on the scope and level of ambition for the FTA. The FTA remains a longer-term objective for both the United States and SACU. In November 2006, the United States and SACU agreed to pursue a new type of agreement—a proposed Trade, Investment, and Development Cooperative Agreement (TIDCA)—that could help lead the United States and SACU to an FTA in the longer term. The proposed TIDCA would establish a forum for consultative discussions on a wide range of trade issues, including but not limited to FTA issues; develop sector-specific work plans that should lead to increased U.S.-SACU trade and investment in the near term; and put in place the “building blocks” for an FTA in the longer term. In 2007, the United States and SACU continued negotiations on the text of the proposed TIDCA. The SACU countries are key beneficiaries of AGOA with U.S. imports valued at \$2.4 billion in the first 11 months of 2007, and they comprise the largest U.S. export market in sub-Saharan Africa, with \$5.2 billion in U.S. exports in the first 11 months of 2007.

## **12. West African Economic and Monetary Union (UEMOA)**

Members of the West African Economic and Monetary Union (also known by its French acronym, UEMOA) are Benin, Burkina Faso, Cote d’Ivoire, Guinea-Bissau, Mali, Niger, Senegal, and Togo. UEMOA has established a customs union, eliminated internal duties, and is making progress in addressing key non-tariff barriers. Six of the eight UEMOA member countries are eligible for AGOA.<sup>32</sup> Five of these countries – Benin, Burkina Faso, Mali, Niger, and Senegal – are eligible to receive AGOA’s textile and apparel benefits.

During the AGOA Forum in July 2007, Ambassador Bhatia met with UEMOA Commissioner for Transport and Tourism Tampone to discuss ways to continue to expand and diversify trade between UEMOA and the United States.

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<sup>32</sup> AGOA beneficiaries are Benin, Burkina Faso, Guinea-Bissau, Mali, Niger, and Senegal.

Total two-way trade between UEMOA and the United States was valued at \$1.7 billion in 2007, an 11 percent increase over the same period in 2006. Togo and Benin were the largest national markets in UEMOA for U.S. goods, though it seems likely that many of these U.S. exports were ultimately destined for other countries in the region, especially Nigeria. The leading U.S. exports to UEMOA in 2007 were motor vehicles, fuel oil, and electrical machinery. U.S. imports from UEMOA are primarily cocoa and petroleum products. In the first 11 months of 2007, U.S. imports from UEMOA under AGOA, including its GSP provisions, were valued at \$21 million, a 39 percent decrease from the same period in 2006.



# IV. OTHER MULTILATERAL ACTIVITIES

## A. Trade and the Environment

The Administration has continued and enhanced its efforts to pursue opportunities to address environmental objectives through multilateral, regional and bilateral trade initiatives. On the multilateral front, the United States has been a global leader in seeking to discipline harmful fisheries subsidies and eliminate barriers to trade in environmental technologies and services through the WTO as part of the Doha Development Agenda (DDA). Ongoing efforts in free trade agreement negotiations culminated in the development of new groundbreaking environmental provisions associated with the bipartisan trade deal with the Congress. The Administration has also utilized additional bilateral trade fora, such as the U.S.-Indonesia Trade and Investment Framework Agreement (TIFA) and the Strategic Economic Dialogue with China, to leverage action on critical global environmental challenges, such as illegal logging.

### 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 contributed in 2007 to the intensification of work on liberalization of trade in environmental goods in the Committee on Trade and Environment (CTE) in Special Session, including through a joint proposal with the European Communities that lays the groundwork for an innovative new agreement on environmental goods and services (EGSA) and action to eliminate trade barriers to climate-friendly technologies. The United States believes that increased market access for environmental goods and services is an effective means to enhance access to environmental technologies around the world and has continued to advance pragmatic ideas for product coverage and modalities in negotiations on environmental goods. 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. In March 2007, the United States submitted a far-reaching textual proposal for a fisheries subsidies agreement, which included a broad prohibition of the most harmful subsidies. The Chairman's draft text, issued in November 2007, draws upon the U.S. proposal in significant respects and retains a high level of ambition.

With respect to the DDA trade and environment agenda that does not specifically involve negotiations, the United States continued to play an active role, particularly through emphasizing the importance of capacity-building. This work included discussions in the CTE Regular Session with respect to the environmental implications of all areas under negotiation in the DDA.

USTR co-chairs the U.S. delegation to the OECD Joint Working Party on Trade and Environment (JWPTE), which met twice in 2007. Work has focused on trade, environment and development issues with an emphasis on the role of environmental goods and services liberalization in promoting "win-win-win" scenarios and the role of Regional Trade Agreements (RTAs) in promoting environmental awareness. These activities are discussed further in the OECD section of this report (Chapter V, Section C).

USTR also participates in U.S. policymaking regarding the implementation of various multilateral environmental agreements to ensure that the activities of these organizations are compatible with U.S. environment-related trade policy objectives. Examples include the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), 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 United Nations Framework Convention on Climate Change (UNFCCC) and the Cartagena Protocol on Biosafety and the Stockholm Convention on Persistent Organic Pollutants (POPs). USTR also participates in U.S. policymaking regarding activities related to the United Nations Environment Program.

USTR leads U.S. participation in the International Tropical Timber Agreement (ITTA), a commodity agreement whose objectives include sustainable management of tropical forests. Negotiations for a successor agreement to the 1994 ITTA were concluded in 2006, and, once it comes into force, the new agreement is expected to strengthen efforts to promote trade in the context of sustainable management. USTR also continues to be involved in the trade-related aspects of a variety of other international forest policy undertakings including implementation of President Bush's Initiative to Address Illegal Logging, launched in 2003. In addition, USTR participated extensively in U.S. policymaking regarding the compliance regimes of the International Commission for the Conservation of Atlantic Tuna (ICCAT) and other regional fisheries management organizations, as well as in the negotiation of a new agreement in the International Maritime Organization (IMO) to address environmental standards for regulating ship recycling.

USTR also leads United States participation in another international commodity agreement, the International Coffee Agreement (ICA). Since rejoining the International Coffee Organization (ICO) in February 2005, the United States has stressed the need to reform and revitalize the organization. In 2007, these efforts focused on the negotiation of a new ICA, which was concluded in September 2007. The new ICA is designed to enhance the ICO's role as a forum for intergovernmental consultations, to increase its contributions to meaningful market information and market transparency and to ensure that the organization plays a unique role in developing innovative and effective capacity building in the coffee sector. Among the features of the new agreement is a "Consultative Forum on Coffee Sector Finance" to promote the development and dissemination of innovations and best practices that can enable coffee producers to better manage the financial aspects of the volatility and risk associated with competitive and evolving coffee markets. As a result of the new agreement, the ICO will be in a better position to help to facilitate international trade and sustainable development in the coffee sector.

## **2. Bilateral Activities**

The environment chapters of the trade agreements with Peru, Panama, Colombia, 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 annex includes procedures for audits and verifications to monitor bilateral trade in forest products in order to detect instances of illegal logging of critical species of trees.

The United States has moved ahead with implementation of important environmental provisions of the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR). The Secretariat for Environmental Matters is operational and received its first submission concerning an environmental enforcement issue in 2007. Each Party has set up an advisory committee to provide it with advice concerning implementation of the Environment Chapter. The United States allocated close to \$20 million for environmental cooperation activities in the CAFTA-DR region in FY 2006 and approximately \$20 million for FY 2007.

Under the co-leadership of USTR and the Department of State, the United States concluded a Memorandum of Understanding (MOU) with China on combating illegal logging and associated trade. This interim MOU establishes a framework for both immediate cooperation and the negotiation of a more detailed bilateral agreement to be concluded by the Fourth U.S.-China Strategic Economic Dialogue (June 2008). Under the MOU, the United States and China have created a bilateral forum comprised of representatives of relevant government agencies. Through the bilateral forum the Parties will, among other things, identify priority activities for cooperation on combating illegal logging and associated trade, promote trade in forest products from legally-harvested resources, facilitate information sharing and encourage public-private partnerships. Significantly, under the MOU and eventually the more detailed agreement, the United States and China will provide important support for third countries seeking to sustainably manage their forests by further closing markets to timber that has been illegally harvested.

USTR also chairs a Working Group on Illegal Logging and Associated Trade under the U.S.-Indonesia Trade and Investment Agreement (TIFA). The Working Group was created by a first-of-its-kind MOU with Indonesia that was concluded in 2006. The Working Group met to share information on timber trade, including information on illegally-produced timber products, and enhance cooperation in law enforcement activities. The United States committed one million dollars to fund projects under the MOU, including training for customs and law enforcement officials, assistance for Indonesia's efforts to develop a legality standard and enhancing partnerships with NGOs and the private sector. The agreement is designed to promote forest conservation by combating illegal logging and associated trade, and to help ensure that Indonesia's legally-produced timber and wood products continue to have access to markets in the United States and elsewhere. This agreement is an element of President Bush's 2003 global Initiative to Address Illegal Logging.

### **3. The North American Free Trade Agreement (NAFTA)**

USTR continues to work actively with EPA and other agencies in representing the United States in addressing North American trade and environmental issues, including those created by the NAFTA environmental side agreement, the North American Agreement on Environmental Cooperation (NAAEC) and the border environmental infrastructure agreements. These institutions were designed to enhance the mutually supportive nature of expanded North American trade and environmental improvement. The trilateral Commission on Environmental Cooperation (CEC) has responsibility for implementation of the NAAEC. USTR worked closely with EPA, trade and environment officials in Canada and Mexico, and the CEC, to implement the CEC's strategic plan on trade and environment. This strategic plan identifies six priority areas for CEC projects: renewable energy; trade and enforcement of environmental laws; ongoing environmental assessments of NAFTA; green purchasing; market-based mechanisms for sustainable use; and invasive alien species. As part of their implementation of this strategic plan, the Parties initiated a project under which they will examine ways in which environmental sustainability can promote competitiveness. They are also taking steps to ensure that work under the NAAEC and the NAFTA on related issues is coordinated.

## **B. Trade and Labor**

The trade policy agenda of the United States includes a strong commitment to protecting the rights of workers in America and in countries with which we trade and promoting a level playing field for American workers. Expanded trade benefits all Americans through better jobs, lower prices, and greater choices in products available to consumers.

American workers benefit from expanded employment opportunities created by trade liberalization. A concerted focus on worker training and education policies will continue to ensure that the American workforce can compete with anyone. For workers displaced by trade, the Trade Adjustment Assistance Reform Act of 2002 (Title XXI of the Trade Act of 2002) modifies and expands the Trade Adjustment Assistance (TAA) program. TAA helps workers adversely affected by foreign trade through the provision of re-employment services including skills training for displaced workers, income support while in training and job search and relocation assistance. Important changes to the program made in 2002 include expanded eligibility to more worker groups, increased benefits, and tax credits for health insurance coverage assistance. Congress has appropriated funds for the TAA program through September 30, 2008.

In pursuing trade liberalization through free trade agreements, we rely on the congressional guidance contained in the Bipartisan Trade Promotion Authority Act of 2002 (TPA) to bring the benefits of trade and open markets to America and the rest of the world. In addition, for free trade agreements pending in 2007, we relied on the principles articulated in the Bipartisan Agreement on Trade Policy of May 10, 2007 between the Administration and congressional leaders. During this past year, USTR continued to consult with the U.S. Congress on the labor provisions of each pending trade agreement to ensure that the objectives of TPA and the May 10, 2007 Bipartisan Agreement were met in each of the agreements. USTR also continued to work cooperatively with other U.S. agencies in multilateral, regional, and bilateral fora to promote respect for core labor standards, including the abolition of the worst forms of child labor.

## **1. Bipartisan Trade Promotion Authority Act of 2002 (TPA) – Trade and Labor**

The importance of the linkage between trade and labor is underscored by labor-related clauses in three sections of TPA: overall trade negotiating objectives; principal negotiating objectives; and the promotion of certain priorities to address U.S. competitiveness in the global economy.

The overall labor-related U.S. trade negotiating objectives are threefold. The first objective is to promote respect for worker rights and the rights of children consistent with the core labor standards of the International Labor Organization (ILO). TPA defines core labor standards as: (1) the right of association; (2) the right to organize and bargain collectively; (3) a prohibition on the use of forced or compulsory labor; (4) a minimum age for the employment of children; and (5) acceptable conditions of work with respect to minimum wages, hours of work and occupational safety and health. The second objective is to strive to ensure that parties to trade agreements do not weaken or reduce the protections of domestic labor laws as an encouragement for trade. The third objective is to promote the universal ratification of, and full compliance with, ILO Convention 182 – which the United States has ratified – concerning the elimination of the worst forms of child labor.

The principal trade negotiating objectives in TPA most important for labor include the provision that a party to a trade agreement with the United States should not fail to effectively enforce its labor laws in a manner affecting trade. TPA recognizes that the United States and its trading partners retain the sovereign right to establish domestic labor laws, exercise discretion with respect to regulatory and compliance matters, and make resource allocation decisions with respect to labor law enforcement.

Additional principal negotiating objectives include strengthening the capacity of our trading partners to promote respect for core labor standards and ensuring that the labor, health or safety policies and practices of our trading partners do not arbitrarily or unjustifiably discriminate against American exports

or serve as disguised trade barriers. A final principal negotiating objective is to seek commitments by parties to trade agreements to vigorously enforce their laws prohibiting the worst forms of child labor.

In addition to seeking greater cooperation between the WTO and the ILO, other labor-related priorities in TPA include the establishment of consultative mechanisms among parties to trade agreements to strengthen their capacity to promote respect for core labor standards and compliance with ILO Convention 182. The Secretary of Labor is charged with consulting with any country seeking a trade agreement with the United States concerning that country's labor laws and providing technical assistance if needed. Finally, TPA mandates a series of labor-related reviews and reports to the U.S. Congress in connection with the negotiation of new trade agreements. These include an employment impact review of future trade agreements, the procedures for which are modeled after Executive Order 13141, which establishes environmental impact reviews of trade agreements. A report addressing labor rights and a report describing the extent to which there are laws governing exploitative child labor are also required for each of the countries with which we are negotiating a free trade agreement.

## **2. Bipartisan Agreement on Trade Policy of May 10, 2007**

The Bipartisan Agreement on Trade Policy of May 10, 2007 between the Administration and congressional leaders provided a path forward for pending free trade agreements. The Bipartisan Agreement identifies particular obligations that should be undertaken by parties to free trade agreements which the United States has negotiated with Peru, Colombia, Panama, and Korea. One of the principal labor-related obligations is the requirement that each Party adopt and maintain in its statutes and regulations certain rights as stated in the ILO Declaration on the Fundamental Principles and Rights at Work and its Follow-Up. A party may not waive or derogate from those statutes and regulations, or fail to effectively enforce them or other labor laws, in a manner affecting trade or investment between the Parties, that decisions on the distribution of enforcement resources shall not be a reason for non-compliance with the principal obligation, and that the labor obligations in a free trade agreement be subject to the same dispute settlement procedures and remedies as the Agreement's commercial obligations.

## **3. Multilateral Efforts**

At the WTO Ministerial meetings in Singapore (1996) and Seattle (1999), the United States was among a group of countries supporting the creation of a WTO Working Party to examine the interrelationships between trade and labor standards. At the 2001 Doha WTO Ministerial, the United States supported a similar EU proposal that a group of developing countries adamantly opposed. The text of the Doha Ministerial Declaration, adopted by consensus, includes the following:

“We affirm our declaration made at the Singapore Ministerial Conference regarding internationally recognized core labor standards. We take note of work underway in the International Labor Organization (ILO) on the social dimensions of globalization.”

In the Hong Kong Ministerial Declaration adopted during the 2005 WTO Ministerial, the governments reaffirmed the declarations and decisions adopted in Doha and their full commitment to give effect to them.

In 2007, the ILO and WTO prepared a well-received joint study, entitled “Trade and Employment: Challenges for Policy Research,” that focused on the relationship between trade policies and labor policies. The 2007 ILO “Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work” dealt with the principle pertaining to the elimination of employment

discrimination. The report, entitled “Equality at Work: Tackling the Challenges,” reviewed member countries’ programs and policies enacted to combat discrimination and promote equality and proposed methods for addressing the issue.

The United States remains the largest donor to the work of the ILO. The United States has been particularly supportive of the ILO’s International Program on the Elimination of Child Labor (IPEC). ILO-IPEC efforts have focused on the means to eliminate the worst forms of child labor, including child prostitution and pornography, forced or bonded child labor, and work in hazardous or unhealthy conditions.

Activities to combat the worst forms of child labor continued in 2007, including in many of our trading partner countries. Total U.S. contributions to ILO-IPEC and other organizations in support of projects to address exploitive child labor in Fiscal Year 2007 amounted to approximately \$54 million, helping to finance 19 projects in 18 countries.

#### **4. Regional Activities**

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 (OAS) in order to promote hemispheric cooperation on labor issues. The IACML responds to the labor mandates agreed to by President Bush and other Heads of State in the Summit of the Americas process. Trinidad and Tobago is the current chair of the IACML and hosted the Fifteenth IACML in September 2007.

In September, labor ministers unanimously adopted a Declaration that: reaffirmed their commitments regarding the ILO *Declaration on Fundamental Principles and Rights at Work* and the commitments by Heads of State in the Fourth Summit of the Americas to eradicate the worst forms of child labor, to develop programs to eliminate forced labor, and to reduce youth unemployment; responded to decent work challenges in the Hemisphere; promotes policies supporting employment creation, with an emphasis on youth employment; and aims to strengthen the capacities of labor ministries. Ministers also endorsed the Plan of Action of Port of Spain that continues the two IACML Working Groups and encourages the sharing of best practices. Brazil chairs Working Group 1, with the United States and Guyana as vice-chairs. This Working Group focuses on decent work as a tool for promoting democracy in the context of globalization and provides, *inter alia*, for the continued examination of the labor dimensions of free trade agreements and regional integration processes. El Salvador chairs, with Canada and Uruguay as vice-chairs, Working Group 2, which focuses on strengthening the capacities of ministries of labor. Ministers also endorsed Argentina as the president *pro tempore* of the Sixteenth IACML, following Trinidad and Tobago. The ILO, the Organization of American States, the Inter-American Development Bank and the UN’s Economic Commission for Latin America and the Caribbean, along with the Business Technical Advisory Committee on Labor Matters (CEATAL) and the Trade Union Technical Advisory Committee (COSATE), participate in IACML meetings and activities. CEATAL and COSATE presented a Joint Declaration to the Fifteenth IACML that highlighted the role of social dialogue and the importance of training and lifelong learning.

In 2007, the IACML work program examined government policies addressing the informal economy; programs to promote micro, small, and medium enterprises; the labor dimensions of free trade agreements and integration processes; public employment services; developments in occupational safety and health; and country programs to protect the labor rights of migrant workers.

Other regional trade and labor activities carried out under the North American Agreement on Labor Cooperation/North American Free Trade Agreement and the OECD are noted in those sections of this report.

## 5. Bilateral Activities

### a. FTAs

The Administration continued to negotiate bilateral trade agreements that fully incorporate the congressional guidance on trade and labor contained in TPA. Additionally, modifications were made to four pending agreements (Peru, Colombia, Panama, and Korea) to reflect principles articulated in the May 2007 Bipartisan Agreement on Trade Policy between the Administration and congressional leaders. During 2007, Congress approved an FTA with Peru and USTR signed FTAs with Panama and Korea.

The FTA process has helped to encourage many of our trading partners to adopt new labor law reforms. In 2007, prior to Congressional consideration of the Peru TPA, Peru undertook labor law reforms to ensure compliance with the obligations of the agreement that relate to fundamental labor rights. Also in 2007, Oman completed enactment of reforms to ensure respect for core labor standards to which it committed during Congressional consideration of the FTA. The enactments followed related reforms that took place in 2006. These efforts in 2007 follow similar labor law reforms encouraged by negotiation of FTAs with Morocco and Bahrain previously.

Reflecting a key element of the May 2007 Bipartisan Agreement on Trade Policy, for the first time in U.S. free trade agreements, the agreements with Peru, Colombia, Panama, and Korea include a commitment by 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*. Each agreement provides that neither party will waive or derogate from the statutes and regulations that implement this obligation in a manner affecting trade or investment between the parties. Additionally, the agreements include a commitment by each country not to fail to effectively enforce its labor laws, including its laws embodying the fundamental labor rights as stated in the ILO Declaration, through a sustained or recurring course of action or inaction in a manner affecting bilateral trade or investment.

All obligations set out in the labor chapters are subject to enforcement through the same dispute settlement procedures and remedies as the agreement's commercial obligations. The labor chapters commit 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 and to further advance common commitments regarding labor matters.

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 the Bureau's responsibilities under the labor provisions of free trade agreements and the North American Agreement on Labor Cooperation (NAALC), including the labor cooperation mechanisms. OTLA procedural guidelines for handling public submissions under free trade agreements were published on December 21, 2006 (Fed. Reg. vol. 71, no. 245, Dec 21, 2006, 76691-76696).

Cooperation and consultations are the preferred means to resolve differences over a party's compliance with its obligations under an FTA's labor chapter. If cooperation and consultations fail to resolve such a disagreement, the FTAs permit a party to ask a dispute settlement panel to determine whether the other

party has violated its obligations under the labor chapter. The agreements provide the same dispute settlement processes and remedies for the labor obligations as they do for commercial obligations.

We continue to include a labor cooperation mechanism in each agreement to help ensure the longer-term capacity of our trading partners to meet their obligations under the labor chapters, including capacity building programs designed to strengthen the capacity of labor ministries and the effective enforcement of labor laws.

The Administration committed \$20 million in FY 2005 and \$40 million in FY 2006 for labor and environment initiatives in CAFTA-DR countries. For FY 2007, the Administration requested and obtained \$40 million which was appropriated in the form of \$20 million in Economic Support Funds and \$20 million in Developmental Assistance (DA). Nineteen million dollars of FY 2005 funds, \$21.1 million of FY 2006 funds, and \$20.3 million of FY2007 funds are being directed toward labor initiatives, including projects to strengthen labor ministries, modernize labor justice systems, reduce gender and other types of workplace discrimination, promote a culture of compliance with labor laws, and benchmark and verify progress. For FY 2008, the Administration again requested \$40 million for labor and environment initiatives in the CAFTA-DR countries. These initiatives are supplemented by Department of Labor-funded programs aimed at the elimination of child labor, to which approximately \$4 million will be directed for the region in FY 2007.

An interagency group comprised of the Departments of State and Labor, USTR, USAID, and other agencies was established to program the funds. These agencies identify appropriate projects in consultation with the CAFTA-DR governments and in view of the 2005 *White Paper* on strengthening compliance and enhancing capacity issued by the *Working Group of the Vice Ministers Responsible for Trade and Labor in the Countries of Central America and the Dominican Republic*.

Several labor programs are also being carried out in Morocco, Oman, Bahrain, Jordan, and Egypt aiming to train workers on worker rights issues, to enhance the labor ministries' capacity to increase compliance with labor laws, and to help eradicate the worst forms of child labor.

Pending bilateral FTA negotiations with Malaysia and the United Arab Emirates include discussion of labor provisions and adherence to internationally recognized labor rights.

#### **b. Other Bilateral Agreements and Programs**

In November 2000, the U.S. Department of Labor (DOL) and Vietnam's Ministry of Labor, Invalids and Social Affairs signed a Memorandum of Understanding (MOU) to establish a program of cooperation and an annual dialogue on labor matters of mutual interest, including international labor standards, worker rights, and labor market reform. The 2000 MOU expired at the end of 2005. In August 2006, both governments reaffirmed their commitment to labor cooperation by signing a Letter of Understanding, pledging to continue the annual labor dialogue and labor cooperation. In October 2007, the annual labor dialogue, headed by the DOL Deputy Under Secretary for International Affairs, took place in Hanoi.

A final aspect of trade and labor bilateral activities relates to the worker rights provisions of U.S. trade preference programs, such as 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). Pursuant to the ATPA, there is an annual petitioning process to review the eligibility of countries. ATPA petitions concerning worker rights in Ecuador were filed in 2005 and the Trade Policy Staff Committee (TPSC) continued to review worker rights conditions in that country in 2007. Any modifications to the list of beneficiary developing countries or eligible articles resulting from this review of progress will be published in the *Federal Register*.

As part of the 2007 GSP Annual Review process, USTR accepted three worker rights-related petitions for review concerning Bangladesh, the Philippines, and Uzbekistan. Review of whether those countries are meeting the GSP worker rights criteria will continue in 2008. The review of GSP worker rights issues in Niger continued in 2007.

## **C. Organization for Economic Cooperation and Development**

Thirty democracies in Europe, North 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 75 percent of world GDP, 97 percent of world official development assistance, over half of the world's energy consumption, and 14 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. In 2007, the OECD completed comprehensive reviews of the economies of India and Chile, both non-member countries that participate as observers in various OECD committees. 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. The China program, for instance, supports China’s efforts to establish a market economy and improve public governance.

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, with the United States' contribution capped at just less than 25 percent. The overall budget for 2007 was projected to total 340 million euros (approximately \$498 million).

### **1. Trade Committee Work Program**

In 2007, 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 work that would advocate freer trade and facilitate WTO negotiations, deepening understanding of the rationale for progressive trade liberalization in a rules-based environment. 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 analytical pieces were developed or completed under the Trade Committee during 2007. These included the study *Business Perceptions of Non-Tariff Barriers Facing Trade in Selected Environmental Goods and Associated Services*, which examined how product testing and certification

requirements, customs requirements, customs procedures, intellectual property protection, and government procurement procedures can act as barriers to trade in the environmental goods and services sectors. There was also work on an ongoing project aimed at developing the first Services Index of Trade Restrictiveness (STRI), an interactive database including information on regulation and trade by mode of supply, starting with three pilot sectors (telecommunications, business services, and construction). The Trade Committee also released a number of Working Papers on topics such as “Facilitating Trade and Structural Adjustment,” “Technical Barriers to Trade and Regional Trade Agreements,” and “Trade and Structural Adjustment in non-OECD Countries.” Building on 2006 groundwork, the Trade Committee continued its “BRICS” project – the development of country studies on China, Brazil, India, Indonesia, and Russia, in which each country is analyzed across a set of core issues (NAMA, services liberalization, intellectual property rights) and selected country-specific issues.

Work in the Trade Committee on trade in services continued to provide analysis and background relevant to services liberalization and WTO negotiations. Services not only provide the bulk of employment and income in many OECD countries, they also serve as vital inputs for producing other goods and services. In 2007, the OECD analyzed these connections in “Business Services, Trade and Costs,” a comprehensive, quantitative cross-country analysis of how the manufacturing and business services sectors interact in the production process. “Expanding International Supply Chains: The Role of Emerging Economies in Providing IT and Business Process Services” extended this theme by examining the impact of business process offshoring and the opportunities it provides developing countries. Two other papers focused on the difficult subject of evaluating services trade barriers: “Modal Estimates of Services Barriers” presented new approaches for measuring service barriers, and “Services Trade and Domestic Regulation” identified fixed and variable costs associated with regulatory measures.

A Global Forum on Trade, Innovation, and Growth in October 2007 provided an opportunity to discuss how trade and open markets affect the innovation process, touching on the issues of technology transfer through trade, competition effects of innovation, global value chains, impact on information and communication technologies, and trade in services. Several regional trade-related events were also held in 2007, including a regional trade seminar in May 2007, in co-operation with the WTO, World Customs Organization and United Nations Conference on Trade and Development in Cotonou, Benin, to familiarize francophone Africa countries with this use of the Self-Assessment Guide for assessing national needs and priorities for implementing trade facilitation.

The Trade Committee also laid the groundwork for a meeting of OECD member country trade ministers in May 2007. U.S. Trade Representative Susan C. Schwab headed the U.S. delegation. Ministers from a number of key non-members also participated. Those discussions made a positive contribution to the WTO negotiations.

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 has continued its contacts with non-member countries to encourage the integration into the multilateral trade regime of developing and transition economies, such as the countries of Eastern Europe and Central Asia, leading developing economies in South America and Asia, and sub-Saharan African countries. Following the May 2007 decision of the OECD Council in Ministerial session, the OECD began a concerted drive to broaden and deepen its involvement with emerging new players in the global economy through its Accession and Enhanced Engagement Programs.

Chile, Estonia, Israel, Russia, and Slovenia were invited to begin the OECD accession process, while enhanced engagement program participation was offered to Brazil, China, India, Indonesia, and South Africa. Enhanced Engagement is a partnership arrangement that, depending on the interests and level of participation desired by the individual countries and upon approval by respective committees, 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 2007, the Trade Committee and its Working Party continued its discussion on how to enhance outreach to accession and enhanced engagement candidates and other interested non-members. A new, more proactive strategy for outreach was implemented in March 2006, which involves inviting 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. The Trade Committee Working Party further strengthened this approach in December 2007, by building in more lead-time and flexibility to its non-member invitation process. India, China, and the Philippines were invited to participate as *ad hoc* observers in the Trade Committee's October 2007 meeting. The current regular observers in the Trade Committee are Argentina, Brazil, Chile, and Hong Kong China. These four observers, plus India, Russia, and South Africa, also accepted the OECD's invitation to participate in the trade ministers' meeting at the May 2007 Ministerial Council Meeting, which focused on future challenges in an open trading system.

### **3. Technical Assistance and Capacity Building**

The Working Party of the Trade Committee and the OECD Development Assistance Committee (DAC) held two joint meetings during the year to discuss Aid for Trade (A4T). The WTO had asked the OECD to devise a methodology to address the quantitative aspects of A4T assistance and to report on the results of that work at the WTO global review of Aid for Trade, held in Geneva in November 2007. The OECD conducted a survey of donors and recipients on their strategies and practices in trade capacity building, thus completing the first round of monitoring and establishing a baseline for global A4T flows and policies. To this end, OECD staff participated in the three regional reviews of A4T during the period September 2007 and November 2007.

The OECD, working through the Trade Committee's Working Party and the DAC, will pursue further work in this area during 2008, including with the World Bank, on the monitoring and evaluation of aid for trade assistance. OECD members will be actively involved in this effort.

### **4. Competition Policy and Trade**

OECD members decided not to renew the Joint Group on Trade and Competition's mandate in 2006. After that decision, work on competition policy as it affects world trade has continued through policy papers and studies developed through the Trade Committee. In 2007, this work included Trade Committee Working Party policy working papers on the impact of pro-competitive reforms on trade in developing countries.

### **5. Environment and Trade**

The OECD Joint Working Party on Trade and Environment (JWPTE) met twice in 2007 to continue its analysis of the effects of environmental policies on trade and the effects of trade policies on the environment, as well as its efforts to promote mutually supportive trade and environmental policies. During the year, the JWPTE contributed important work on environmental goods and services to support

the WTO Doha negotiations, including identifying non-tariff barriers faced by businesses in key environmental sectors such as renewable energy and wastewater management.

The JWPTTE also published work on the environmental aspects of regional trade agreements (RTAs). In addition, the OECD held a workshop in June 2007 in Japan, with broad participation from economies in the region, including non-OECD member country experts with experience in negotiating and implementing environmental provisions set out in, or complementary to, RTAs. The extensive body of work highlights innovative environmental provisions in U.S. free trade agreements.

## 6. Agriculture and Trade

The Committee for Agriculture (CoAg) is the primary forum for discussing agriculture-related issues in the OECD. The CoAg has two flagship publications that are produced annually – a 10-year *Agricultural Outlook* and a review of *Agricultural Policies in OECD Countries*. The *Agricultural Outlook*, which is prepared in conjunction with the Food and Agriculture Organization (FAO) of the United Nations, presents the OECD-FAO 10-year baseline for agricultural commodity production and trade. In addition to the OECD countries, the market projections in the report cover a large number of other countries and regions, including Brazil, Russia, Argentina, and South Africa. The 2007 report looked closely at the causes and the impacts of recent and continued forecasts for high prices for many commodities.

The *Agricultural Policies in OECD Countries* report was released in November 2007. A new method of classifying policies was applied, designed to better reflect new, more decoupled but also more complex policy measures. Findings indicated that despite strong commodity prices and some reform efforts in some countries, overall support to agriculture remains both very high and largely dependent on policies that are trade distorting. A third periodic publication, produced every second year, examines *Agricultural Policies in Non-OECD Countries*. In 2007, this report reviewed policy developments in Brazil, Bulgaria, China, India, Romania, Russia, South Africa, and Ukraine.

Other important activities this year included work on targeting and on the costs of implementing agricultural policy. A report synthesizing the main lessons and recommendations from several years of applied policy work is nearing completion – it defines the characteristics of alternative policies that would allow governments to meet their domestic objectives better, while avoiding unintended impacts on global production and trade. A major report entitled *Environmental Indicators for Agriculture* was completed and is scheduled for release early in 2008. During March 2007, CoAg and the U.S. Department of Agriculture/ERS conducted a workshop in Washington, DC on Environmental Indicators. The theme of the workshop was the development, use, and monitoring functions of environmental indicators for policy purposes.

A study of agricultural policy in Mexico was released in 2007, while work neared completion on a comprehensive *Review of Agricultural Policies in Chile* (to be released early in 2008). A two-year pilot project on agricultural policy analysis for Sub-Saharan Africa was also completed, while a review of rural development in China was launched (for completion in 2008) in conjunction with the Public Governance and Territorial Development Directorate.

During 2007, CoAg organized a Global Forum on Agriculture in Rome, jointly sponsored by the World Bank, the FAO, and the International Fund for Agricultural Development. Invited participants from 24 national governments, as well as international donors and development agencies, regional organizations, civil society and the private sector, met to discuss African agricultural development and poverty reduction. In addition, CoAg organized a regional outreach event, sponsored by Romania, on

Agricultural Policy Reform that aimed to introduce new EU members into the OECD work on agricultural policy issues.

## **7. Labor and Trade**

The 2007 *OECD Employment Outlook* continued the string of contributions on labor and trade found in this important annual publication. In one chapter, it addressed a paradox of globalization: even though international trade appears, on average, to have increased the wages and labor market prospects of workers in OECD countries, in many of these countries, popular support of trade liberalizing policies has waned. The OECD finds that recent experience with trade liberalization is also associated with more variability in wages and employment, suggesting that this variability is a source of uncertainty for workers and voters. This uncertainty, left unchecked by appropriate policies to aid the few for whom trade does not confer benefit, is the likely source of waning popular support, because individual workers and voters assess a higher risk to being among the few. Another chapter of the *Employment Outlook* addresses labor markets in Brazil, India, and China, and shows that there remain significant differences in the characteristics of those countries' labor forces and where they work, in comparison with OECD countries. The *Employment Outlook* is prepared by well-respected researchers in the Employment, Labor, and Social Affairs Directorate and is subject to peer review by a group of senior researchers from OECD member governments. The United States actively participates in the peer-review group, and currently holds the chair.

The Trade Union Advisory Committee (TUAC) to the OECD, made up of over 56 national trade union centers from OECD member countries, and the Business and Industry Advisory Committee (BIAC), which represents major business organizations in the 30 OECD member states, have played consultative roles in the operation of the OECD and its various committees since 1962. As part of the OECD Ministerial Council meeting in May 2007, joint consultations were held with TUAC and BIAC. TUAC's statement emphasized the need: to ensure the equitable distribution of GDP; rebalance growth among OECD regions; promote the social dimension of globalization; help developing countries achieve the Millennium Development Goals; and develop programs for the creation of "green jobs" to respond to climate change. BIAC's statement emphasized the importance of innovation as a key driver of growth and employment and noted that a high-skilled workforce and a well-functioning labor market were key contributing factors in promoting innovation.

In May 2007, the Trade Committee submitted three papers detailing the results of the third Globalisation and Structural Adjustment project (GSAIII) to the Trade Committee Working Party for discussion and comment: a policy paper on trade and labor market adjustments; a regional case study focusing on Japan, Korea, China, and ASEAN; and a regional case study focusing on the Nordic/Baltic Region. The policy report describes the long-term trends in trade and labor market developments, analyzes how they are linked, and draws policy conclusions. The regional case studies examine the labor market impact of offshoring and fragmentation of production and emphasize regional production networks. The conclusions of these papers are consistent with the findings in the *Employment Outlook* described above.

## **8. Export Credits**

The OECD Arrangement for Officially Supported Export Credits (the Arrangement) places limitations on the terms and conditions of government-supported export credit financing, so that competition among exporters is based on the price, quality and serviceability of the goods and/or services being exported, rather than on the terms of government-supported financing. It also limits the ability of governments to tie their foreign aid to procurement of goods and services from their own countries (tied aid). The Participants to the Arrangement (Participants), a stand-alone policy-level body of the OECD, are

responsible for implementing the 29-year-old Arrangement and for negotiating further disciplines to reduce subsidies in official export credit support.

The Administration estimates that the Arrangement saves U.S. taxpayers about \$800 million annually. First, rules on minimum interest rates ensure that the Export-Import Bank of the United States, the U.S. export credit agency, no longer has to offer loans with below-cost interest rates and long repayment terms to compete with such practices by other governments. Second, agreement on minimum exposure fees for country risk has generally reduced costs. Finally, the “level playing field” created by the Arrangement’s tied aid disciplines has created conditions for U.S. exporters to increase their exports by about \$1 billion per year. These exports alone would have cost taxpayers about \$300 million annually since 1993, if the United States had been compelled to create its own tied aid program to compete with other programs.

The OECD tied aid rules continue to reduce tied aid dramatically and redirect it from capital projects, where it has had trade-distorting effects, toward rural and social sector projects. Tied aid levels were nearly \$10 billion in 1991 before the rules were adopted, but were \$4.4 billion in 2006. For the first five months of 2007, which is the most current data available, the Participants provided \$1.2 billion in tied aid. If the annualized version of this figure is similar to the actual 2007 figure, then 2007 tied aid levels would be the lowest or second lowest level on record. Aside from reducing the overall volume of tied aid, the tied aid rules also ensure that tied aid-financed projects remain in sectors that do not distort trade and better represent *bona fide* development aid.

One of the biggest challenges facing Participants is how to address developing country concerns that the Participants – among the wealthiest countries – are not taking developing country concerns into account when setting the rules for the provision of export credits. Related to this, WTO disputes over export credits for aircraft have motivated aircraft-manufacturing Participants to reach agreement with Brazil on aircraft financing. Even though Brazil is not an OECD member, it is a major producer of regional aircraft and had been the most vocal of the developing countries that have criticized Participants’ rule-setting practices. After two years of negotiations, the Participants in July 2007 finalized a new agreement on official financing for aircraft, with Brazil participating as a full partner in the negotiations.

Referred to as the Aircraft Sector Understanding (ASU), this agreement levels the playing field for the U.S. airline industry by eliminating or sharply reducing the official financing subsidies available to its foreign competitors. It also levels the playing field for U.S. manufacturers and exporters of airframes and related equipment. By requiring this financing to reflect a shared assessment of market risk, the ASU will allow aircraft sales campaigns to focus purchase decisions on price and quality, where U.S. producers excel, rather than on the terms and conditions of the financial packages, where subsidies have swayed purchase decisions. By eliminating or sharply reducing subsidies, the ASU encourages more use of market financing.

The ASU also represents a commitment by governments to work cooperatively on all financing issues in the future, rather than engage in international litigation. By including Brazil, the ASU is viewed as a model for mutually-beneficial cooperation between OECD members and rapidly-advancing developing countries.

The ASU – which covers all types of civil aircraft from jumbo jets to small planes and helicopters – governs interest rates, maximum repayment periods, fees for loan guarantees, and other conditions applied to official financing for aircraft sales. It also sets strict underwriting standards to ensure that the financing is provided in a responsible manner. In recent years, official financing for aircraft sales have supported deals valued at \$7 billion to \$10 billion annually, and the volume of financing has been growing rapidly. The Administration coordinated closely with U.S. aircraft manufacturers/exporters throughout these negotiations.

The Participants will continue to reach out to non-OECD members, such as China, with the goal of leveling the playing field for all governments providing official export credit support and their exporters.

## 9. Investment

The Investment Committee of the OECD is the primary multilateral forum for addressing international investment issues. The Committee's discussions and analytical work help build international consensus on key emerging policy challenges with respect to international investment and on ways to promote sound investment policy and high standards of investment protection. The Committee also seeks to promote voluntary adherence by multinational enterprises to sound business practices to strengthen understanding of the relationship between investment and development and to enhance the contribution of investment to economic advancement. The Committee is responsible for monitoring and implementing the OECD Codes of Liberalization and the OECD Declaration on International Investment and Multinational Enterprises. The United States plays a major role in shaping investment-related work within the OECD.

In view of recent developments among members and key non-members regarding maintaining national security or protecting other important national interests in relation to foreign investment, the OECD Investment Committee continued work in 2007 on surveying practices in this area and evaluating their implications for sustaining and promoting an open investment policy among OECD members and non-members. In March, October, and December 2007, the Committee hosted roundtables on "Freedom of Investment, National Security and 'Strategic' Sectors," in which OECD members and key non-members (*e.g.*, Brazil, India, Russia, and China) continued to discuss approaches being taken to address national security interests and other essential interests and their potential implications for sustaining open investment policies. The theme of the roundtables focused on: changes to legislative and regulatory practices at the juncture of investment policy and national security; threats to advances in investment liberalization, such as emerging protectionist pressures; and, possible steps on international cooperation designed to address the issues. The OECD has finished Phase one of the work, in which members and key non-members took stock of the state of investment policy and national security practices, and is now looking in 2008 to a work program on implementing selected recommendations from the findings.

In the context of the freedom of investment work, the OECD has also begun a discussion of the emerging issue of sovereign wealth funds (SWFs) in the global economy. The focus of the Committee's work is possible policy implications of SWF investment and sovereign investment generally, and appropriate policies to address any concerns consistent with the imperative of maintaining open investment regimes.

In a further refinement of existing efforts, the OECD joined forces with the World Bank Group in 2007 to introduce the Business Climate Development Strategy (BCDS.) The BCDS will establish a more comprehensive approach to evaluating a country's business environment and then provide technical assistance to institute specific reforms.

In 2007, the OECD continued its investment policy dialogue with non-members. The Middle East-North Africa Initiative (MENA), which aims to mobilize private investment for the benefit of economic development in Middle Eastern countries, organized a series of ministerial forums designed to consolidate advances from previous meetings and begin a new phase of cooperation on investment and governance policies. A series of conferences on regional capacity building, women in business, and good governance capacity building in Middle East countries was concluded with a November ministerial in which participants agreed to extend the OECD-MENA project until 2010. During this time, the MENA initiative will begin a second phase of the project, focused on a peer learning process, the establishment of

regional knowledge networks for policy development, public governance, capacity building and the establishment of benchmarks for reform targets.

The OECD continued to promote the Policy Framework for Investment (PFI). Developed within the past two years, the PFI is a comprehensive diagnostic tool - covering 10 broad policy areas ranging from investment to trade, competition and corporate governance - designed for use in attracting and retaining foreign and domestic investment. In 2007, the OECD began a close, cooperative relationship with Vietnam with the intent of using the PFI in an assessment of that country's investment climate and possible reform opportunities. The work on the PFI in Vietnam will continue throughout 2008, based on a schedule mutually-developed between the OECD and the government of Vietnam, and serves as a template for other countries in their engagement with the OECD on PFI use.

Finally, the Investment Committee continued to play an active role in promoting corporate social responsibility through its oversight of the voluntary OECD Guidelines for Multinational Enterprises. In June 2007, the Committee hosted a roundtable on the application of the OECD Guidelines for Multinational Enterprises to the financial services sector. The roundtable also addressed broader issues of corporate social responsibility in the financial services sector and was attended by representatives from both the public and private sector. The Committee also continues to serve as a forum for exchanges of experience on the Guidelines among national contact points (NCPs) as a source of clarification with respect to the Guidelines and as a source of guidance in addressing the role of NCPs in promoting the Guidelines and in assisting firms in the resolution of issues that arise between them and others regarding their activities in relation to the Guidelines.

## **10. Steel**

As noted in the "Steel Trade Policy" section of this report, the Administration supported efforts by the OECD Secretariat to reach out to steelmaking developing economies, including participation in a major steel conference hosted by the OECD Steel Committee in Istanbul, Turkey in May 2007. A number of non-OECD steelmaking countries, including India, China, and Russia, have been active in the OECD steel activities. In addition to continued work on subsidies and capacity issues, the Administration began working with industry in the OECD Steel Committee to examine issues related to steel production and global climate change.

## **11. Regulatory Reform**

Since 1998, the OECD Trade Committee has contributed to OECD work on domestic regulatory governance with country reviews of regulatory reform efforts. The United States has supported this work on the grounds that targeted regulatory reforms (*e.g.*, those aimed at increasing transparency) can benefit domestic and foreign stakeholders alike by improving the quality of regulation and enhancing market openness.

The Trade Committee's work on regulatory reform has two aspects: country reviews and product standards. In conducting country reviews, the Committee evaluates regulatory reform efforts in light of six principles of market openness: transparency and openness of decision-making; non-discrimination; avoidance of unnecessary trade restrictions; use of internationally harmonized measures, where available/appropriate; recognition of the equivalence of other countries' procedures for conformity assessment, where appropriate; and application of competition principles.

The Trade Committee has reviewed twenty OECD Members, including all of the G8 countries. In 2007, the Trade Committee carried out in-depth analyses focused on identifying regulatory processes, tools, and

policies, adopted in order to support market openness and improve trade and investment opportunities, such as the report “Impact of Pro-Competitive Reforms on Trade in Developing Countries,” which examined the mutually reinforcing relationship between trade, investment and competition policies and the substantial gains for developing countries in higher trade flows and income per capita through market and regulatory reforms.

Based in large part on the lessons learned in the country reviews, in April 2005, the OECD Council adopted Guiding Principles for Regulatory Quality and Performance. These principles fed into the APEC-OECD Integrated Checklist on Regulatory Reform, approved by the Special Group on Regulatory Policy in the OECD in March 2005, and endorsed by APEC Ministers Responsible for Trade in June 2005. At a Joint APEC-OECD Co-operative Initiative on Regulatory Reform policy roundtable in 2007, Korea and Australia each issued a report based on the Checklist, providing a comprehensive overview of the national regulation reform agenda for each country.

## **12. The OECD Anti-Bribery Convention: Deterring Bribery of Foreign Public Officials**

The OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions entered into force in February 1999. The Convention was adopted by the then 29 members of the OECD and five non-members. The non-members are Argentina, Brazil, Chile, Bulgaria, and Slovakia (now an OECD member). The three most recent parties to accede to the Anti-Bribery Convention are Slovenia (2001), Estonia (2004), and South Africa (2007).

The Convention requires parties to criminalize the bribery of foreign public officials in executive, legislative, and judicial branches; impose dissuasive penalties on those who offer, promise or pay bribes; end the practice of some OECD member countries of allowing tax deductibility of foreign bribes; and implement adequate accounting procedures to make it harder to hide illegal payments. All 37 parties, except South Africa, have adopted legislation to implement the Convention. Prior to the entry into force of the Convention, the United States was alone in criminalizing the bribery of foreign public officials. As a result, U.S. firms are believed to have lost international contracts with an estimated value of billions of dollars every year due to bribery payments to corrupt officials. Such payments also distort investment and procurement decisions in developing countries, undermine the rule of law, and create an unpredictable environment for business. These consequences can be particularly damaging in developing countries.

By the end of 2007, all parties, except South Africa, had undergone a review of their respective national legislation implementing the Convention (*i.e.*, Phase one review). The parties to the Convention commenced the second phase (*i.e.*, Phase 2) of peer monitoring – the evaluation of enforcement – in November 2001. By the end of 2007, Phase two reviews had been completed for 34 countries. Information on these reviews is available on the Internet at [www.export.gov/tcc](http://www.export.gov/tcc) and [www.oecd.org](http://www.oecd.org). The Working Group on Bribery will complete two more Phase two country reviews in 2008. The United States is working to ensure that loopholes such as the Convention’s failure to cover intermediaries in foreign bribery cases are closed; that member parties increase the frequency and level of prosecutor meetings so that there is meaningful information exchange; and that a permanent peer-review monitoring process remains in place after all Phase two country reviews have been completed to ensure continued compliance with and support of the Convention by all parties.

## **D. Semiconductor Agreement**

On June 10, 1999, the United States, Japan, Korea, and the European Commission announced a multilateral Joint Statement on Semiconductors designed to ensure fair and open global trade in semiconductors. The 1999 Joint Statement, which was updated in 2006, aims to promote the growth of the global semiconductor market through improved mutual understanding between industries and governments and cooperative efforts to respond to challenges facing the semiconductor industry. Chinese Taipei and China have subsequently endorsed the objectives of the Joint Statement and become the Agreement's fifth and sixth parties. All major semiconductor producers are now parties to the Joint Statement.

In 2007, implementation of the landmark 2006 agreement under the Government/Authorities Meeting on Semiconductors (GAMS) to reduce to zero the duties on multichip integrated circuits (also known as "multi-chip packages" or "MCPs") continued to be a priority for the GAMS. Efforts are underway to secure the participation of China and other non-GAMS producers as well as users of MCPs in the agreement. In addition, industry has begun to develop a list of MCP-related products for possible inclusion in a potential expanded MCP agreement. In the area of non-preferential rules of origin, the GAMS welcomed industry's ongoing work to develop consensus rules of origin for all semiconductor products – an effort which could set the stage for a consensus GAMS position in the WTO non-preferential rules of origin negotiations.

The Joint Statement provides for industry to make reports and recommendations to governments on policies that may affect the future outlook and competitive conditions within the global semiconductor industry through a CEO-level World Semiconductor Council (WSC). In May 2007, the WSC held its eighth annual meeting. Specific topics discussed by the WSC included cooperation on global issues such as standardization, environmental concerns, worker health and safety, intellectual property rights, trade and investment liberalization, and worldwide market development. National/regional industry associations may become members of the WSC only if their governments have eliminated semiconductor tariffs or committed to eliminate these tariffs expeditiously.

The Joint Statement also calls for the parties to hold a GAMS meeting at least once a year to receive and discuss the WSC recommendations. The eighth GAMS was held in September 2007, hosted by the United States. China did not attend. At the meeting, the GAMS discussed WSC recommendations relating to expanded participation in the MCP agreement and a possible new agreement to provide duty-free treatment for MCP-related products; improving market access through the WTO Doha Development Round negotiations for semiconductors and other information technology goods; expanding participation in the Information Technology Agreement (ITA); initiatives to protect intellectual property rights and intensify enforcement activities against counterfeiting; enforcing WTO non-discrimination rules to prevent discrimination against foreign products; promoting fair and effective antidumping rules; decoupling rules of origin used for trade remedies from rules of origin for general customs purposes; and promoting sound environmental and safety practices.

## **E. Steel Trade Policy**

In 2007, the Administration worked to address trade policy concerns related to the global steel sector, through the steel dialogue with China under the United States-China Joint Commission on Commerce and Trade (JCCT), activities in the OECD Steel Committee, and cooperation with North American governments and steel industries through the North American Steel Trade Committee (NASTC). The United States supported efforts by the OECD Secretariat to reach out to developing steelmaking economies, including participation in a major steel conference hosted by the OECD in Istanbul, Turkey,

in May 2007 to discuss consolidation in the global industry and its impact on production, trade and competition. In addition to continued work on subsidies and capacity issues, the Administration began working with steel industry representatives, the OECD Steel Committee, and the NASTC to examine issues related to global climate change regulation and the potential impact on trade and competitiveness in the steel sector.

The Administration obtained China's agreement to initiate a cooperative steel dialogue under the auspices of the JCCT in December 2005 in light of concerns that the growth of China's largely state-owned industry has been far outpacing growth in domestic demand. The steel dialogue is led by the Office of the U.S. Trade Representative (USTR) and the Department of Commerce (Commerce) on the U.S. side and by the Ministry of Commerce (MOFCOM) on the Chinese side. The Administration continued its dialogue with China in 2007. The third steel dialogue meeting took place in Washington in August and included the participation of industry representatives from both countries in addition to representatives of USTR, Commerce, MOFCOM, China's National Reform and Development Commission (responsible for steel development policies), and China's Ministry of Finance (responsible for administration of export taxes). In the steel dialogue and in other fora, U.S. officials have continued to voice concerns with various policies of China's government, including restrictions on the export of steelmaking raw materials, imposition of differential taxes on steel exports, which appear to encourage the export of value-added products, and restrictions on foreign investment in the steel sector.

After unprecedented export volumes in 2006 and continued high levels of exports in 2007, some Chinese steel products became the subject of new antidumping and countervailing duty investigations in a number of economies, including the United States, European Union, Canada, and Mexico. Beginning late in 2006, China took significant administrative measures affecting trade in steel and steelmaking raw materials with the stated intent of shifting its economy away from energy-intensive and polluting industries. These measures included: the closure of a limited number of steel mills deemed to be obsolete or polluting; stricter enforcement of environmental regulations applying to steel mills; and a combination of reductions of value-added tax rebates, export taxes on some products, and licensing of some exports.

The governments and steel industries of North America have continued their wide-ranging work to seek common policy approaches for enhancing the competitiveness of North American steel producers. To implement the "North American Steel Strategy" under the 2005 Security and Prosperity Partnership (SPP), the leaders of the United States, Canada, Mexico and NASTC developed coordinated positions on issues of importance to steel in multilateral fora, including the OECD Steel Committee and the WTO Rules Negotiations. Within the mandate of the NASTC, the three governments and steel industries have been tracking developments in certain steel-producing countries to identify and address, as appropriate, distortions in the global steel market. The Administration also continued working with the governments of Canada and Mexico to enhance the steel import monitoring systems maintained by all three NAFTA partners.

The Administration also continues to raise specific concerns with other countries bilaterally, at the OECD and in WTO accession negotiations, about policies that contribute to excess steel capacity and production, including subsidies, border measures on steel and steelmaking raw materials, and other trade-distorting practices.

## **F. Anti-Counterfeiting Trade Agreement**

The United States is working to strengthen cooperation with our trading partners in the fight against counterfeiting and piracy. In October 2007, U.S. Trade Representative Susan C. Schwab announced a major new 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 enforcement in a leadership group to seek a new agreement calling for cooperation, strong enforcement practices, and a strong legal framework for IPR enforcement. Trading partners engaged in discussions so far have included Canada, the European Union (with its 27 Member States), Japan, Korea, Mexico, New Zealand, and Switzerland. The ACTA effort builds on international IP enforcement cooperation already developed under the Administration's Strategy Targeting Organized Piracy (STOP!) initiative, announced in 2004.

## **G. Import Safety**

To address growing concerns about the safety of imported products, President Bush established by Executive Order a working group on Import Safety (the Working Group). The Working Group is chaired by the Secretary for Health and Human Services and comprises senior Administration officials from a broad array of Federal agencies, including USTR. In September 2007 the Working Group – after conducting a comprehensive review of current practices – issued a Strategic Framework. The Strategic Framework outlines key principles for continual improvement in import safety. The Strategic Framework advocates a strategy that shifts the primary emphasis for import safety from intervention to prevention with verification. Three organizing principles form the keystones of the Strategic Framework: prevention; intervention; and response. Within each of these organizing principles are six cross-cutting building blocks: (1) Advancing a Common Vision; (2) Increasing Accountability, Enforcement, and Deterrence; (3) Focusing on Risks Over the Life Cycle of an Imported Product; (4) Building Interoperable Systems; (5) Fostering a Culture of Collaboration; and (6) Promoting Technological Innovation and New Science.

With the benefit of additional agency debate and public comment, in November 2007 the Working Group issued an Action Plan detailing 14 recommendations and 50 action steps – both long- and short-term – to implement the Strategic Framework. The Action Plan follows the Strategic Framework's organizing principles of prevention, intervention, and response and draws on its six cross-cutting building blocks. The Action Plan emphasizes a cost-effective, risk-based approach to continually improving import safety, focusing on identifying and addressing problems where they are most likely to occur. It is an approach that moves from a “snapshot” assessment at the border to an ongoing “video” that involves building in safety at every step of the process. Implementation of the Action Plan contemplates intensified efforts with the private sector and our trading partners to ensure that products reaching consumers in the United States are safe. The Action Plan's 14 recommendations and 50 action steps, as well as the Strategic Framework, can be accessed at [www.importsafety.gov](http://www.importsafety.gov).

In addition to active participation in the Working Group's activities, 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) – including agreements with Korea and Panama signed in 2007 – 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 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 Panama and Peru.

Work with U.S. trading partners continues outside our FTAs as well. In the lead-up to the December 2007 meeting of the Strategic Economic Dialogue with China, USTR also contributed to the U.S. Department of Health and Human Service's efforts to conclude two memorandums of agreement (MOA) with China aimed at improving the safety of Chinese products exported to the United States. The MOAs adopt an innovative approach to improving the safety of products imported from China, including the use of foreign certification. Furthermore, in November 2006 Colombia's Commerce Minister and Deputy

USTR Veroneau signed an exchange of letters committing to intensify technical and scientific cooperation dedicated to protecting human and animal health, including by further developing Colombia's SPS regulatory system. In addition, as part of the United States – India Trade Policy Forum, the United States and India in 2008 will expand the dialogue on import safety to bring together U.S. and Indian experts on ways to improve the safety of India's food and pharmaceutical exports to the United States.

The World Trade Organization SPS and Technical Barriers to Trade (TBT) Committees provide an additional 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. In 2007 alone, the United States Government obligated over \$7 million in SPS trade capacity building assistance, for a total of \$57 million since 2000, and over \$5.2 million in TBT trade capacity building assistance, for a total of over \$26 million in such assistance since 2000. 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. For example, the U.S. Department of Agriculture supplies in-depth training to trading partners regarding food safety policy development, risk analysis and program implementation, as well as training on the importation of products to the United States and inspection techniques in order to reduce the number of shipments detained for phytosanitary infractions. The U.S. Agency for International Development provides assistance to foreign regulators to enable such government agencies to: develop systematic, transparent, consensus-based standards; make information on current and upcoming industry standards available through a website; and to undertake a proactive and sophisticated interface with domestic and international businesses.

In the area of intellectual property rights (IPR), 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, on October 23, 2007 USTR announced that the United States and some of its key trading partners will seek to negotiate an Anti-Counterfeiting Trade Agreement (ACTA). As noted in the Action Plan, strong IPR enforcement is essential to the protection of public health and safety.



# 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 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 like 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 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 77 complaints at the WTO, thus far successfully concluding 49 of them by settling 25 cases favorably and prevailing in 24 others through litigation in 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.

*Satisfactory settlements.* Our hope in filing cases is to secure U.S. benefits (and fairer trade for both countries) 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 25 of the 53 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 auto investment measures; Brazil's patent law; Canada's antidumping and countervailing duty investigation on corn; China's value added tax; China's prohibited subsidies; 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.

*Litigation successes.* When our trading partners have not been willing to negotiate settlements, the United States has pursued its cases to conclusion, prevailing in 24 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; the EU's import barriers on bananas; the EU's ban on imports of beef; the EU's regime for protecting geographical indications; 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; 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; the EU's moratorium on biotechnology products; Mexico's discriminatory soft drink tax; Turkey's measures affecting the importation of rice; and the EU's non-uniform classification of LCD monitors.

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, Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 for telecommunications trade problems, and Title VII of the 1988 Act to address problems in foreign government procurement. The application of these trade law tools is described further below.

## **2. WTO Dispute Settlement**

Enforcement successes in 2007 include rulings against Turkey's import licensing regime and other measures affecting the importation of rice.

The United States also favorably resolved several disputes after completing, initiating or threatening to initiate WTO dispute settlement procedures. For example, China agreed to revise and repeal certain import substitution and export subsidies challenged by the United States. The agreement also committed

China not to re-introduce those subsidies or establish import substitution or export subsidies under its new income tax law that went into effect on January 1, 2008.

Ongoing enforcement actions involve the EU's aircraft subsidies, China's charges on auto parts, China's measures affecting the enforcement and protection of intellectual property rights, China's measures affecting trading rights and distribution services for certain publications and audiovisual entertainment products, and India's duties on alcoholic beverages.

The cases described in Chapter II of this report further demonstrate the importance of the 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\\_Agreements/Monitoring\\_Enforcement/Dispute\\_Settlement/WTO/Section\\_Index.html](http://www.ustr.gov/Trade_Agreements/Monitoring_Enforcement/Dispute_Settlement/WTO/Section_Index.html)

### **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 the United States' 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 (for example, 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/index.html>) includes information on all the foreign subsidy programs that have been investigated in U.S. countervailing duty cases since 1980. This database is frequently updated, making information on subsidy programs investigated or reviewed quickly available to the public.

#### **b. Monitoring Foreign Antidumping and Countervailing Duty 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 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 the WTO Agreements.

To this end, IA tracks foreign antidumping and countervailing duty actions involving U.S. exporters and gathers information collected from U.S. embassies worldwide, enabling U.S. companies and U.S. Government agencies to monitor other Members' administration of antidumping and countervailing duty actions involving U.S. companies. Information about foreign antidumping and countervailing duty 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, as noted above, has contributed to the Administration's efforts to monitor the application of foreign trade remedy laws with respect to U.S. exports.

Based in part on this monitoring activity, the United States mounted a successful WTO challenge of Mexico's antidumping measure on U.S. exports of rice, as well as certain changes to Mexico's foreign trade laws. Among other antidumping proceedings of U.S. goods that were closely monitored in the past year are Brazil's measure on pet resins; India's investigations of acetone, phenol and poly vinyl chloride; European Communities' investigation of persulphates; Korea's investigations of kraft linerboard and kraft paper; Mexico's review of beef and its reinvestigation of apples; and South Africa's proceeding on frozen chicken and investigation of lysine. Import Administration personnel have also participated in technical exchanges with the administering authorities of Canada, Egypt, Ghana, Mexico, India, Pakistan, and South Africa 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.

## **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 governments 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 policy or practice 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.

If the matter is not resolved by the conclusion of the investigation, Section 304 of the Trade Act requires the USTR to determine whether the 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 practices are determined to violate a trade agreement or to be unjustifiable, the USTR must take action. If the practices 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. The time period for making these determinations varies according to the type of practices alleged. Investigations of alleged violations of trade agreements with dispute settlement procedures must be concluded within the earlier of 18 months after initiation or 30 days after the conclusion of dispute settlement proceedings, whereas investigations of alleged unreasonable, discriminatory, or unjustifiable practices (other than the failure to provide adequate and effective protection of intellectual property rights) must be decided within 12 months.

The range of actions that may be taken under Section 301 is broad and encompasses any action that is within the power of the President with respect to trade in goods or services, or with respect to any other area of pertinent relations with a foreign country. Specifically, the USTR may: (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.

During 2007, there were developments relating to the following Section 301 investigation, and USTR received two petitions seeking the initiation of new investigations.

#### **b. EC - Measures Concerning Meat and Meat Products (Hormones)**

An EC directive prohibits the import of animals and meat from animals to which certain hormones had 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 European Communities and its Member States of tariff concessions and related obligations under the GATT covering trade up to \$116.8 million per year. In a 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.

Section 306(b)(2) of the Trade Act provides that the USTR is not required to revise a retaliation list if the USTR, together with the affected United States industry, agree that it is unnecessary to revise the retaliation list. Pursuant to this provision, on October 2, 2006, the USTR issued a determination agreeing with the affected U.S. industry that it was unnecessary to revise the retaliation list.

This dispute was not resolved during 2007, and the increased duties on the products included on the retaliation list remained in place.

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 continued its work throughout 2007 (the section of this report addressing WTO dispute settlement contains further information on this matter).

#### **c. Petitions Filed in 2007**

During 2007, USTR received two petitions seeking the initiation of new investigations under section 301.

A petition filed in May 2007 alleged that acts, policies, and practices of the government of China have resulted in a significant undervaluation of China’s currency, and that the undervaluation amounts to: a prohibited export subsidy under the Agreement on Subsidies and Countervailing Measures and Articles VI and XVI of the GATT 1994; exchange action under Article XV of the GATT 1994 that frustrates the intent of articles I, II, III, VI, XI, and XVI of the GATT 1994; and subsidies that are inconsistent with China’s obligations under Articles 3, 9, and 10 of the Agreement on Agriculture. The petition also alleged that these acts, policies, and practices of China violate international legal rights of the United

States under Articles IV and VIII of the Articles of Agreement of the International Monetary Fund, and that they burden or restrict U.S. commerce by, among other things, suppressing U.S. manufacturing for domestic consumption and the growth in U.S. exports. The USTR determined not to initiate an investigation because, among other reasons, an investigation would not be effective in addressing the acts, policies, and practices covered in the petition.

A petition filed in September 2007 alleged that Canadian subsidies on the filming of U.S.-produced television shows and theatrical films within Canada were inconsistent with Canada's obligations under the WTO Agreement on Subsidies and Countervailing Measures. The USTR determined not to initiate an investigation on the basis that an investigation would not be effective in addressing the acts, policies, and practices covered in the petition.

## **2. Special 301**

During the past year, the United States continued to vigorously implement the Special 301 program, resulting in continued improvement in the global intellectual property environment. Publication of the Special 301 lists indicates those trading partners whose intellectual property protection regimes most concern the United States, and alerts firms considering trade or investment relationships with such countries that their intellectual property rights (IPR) may not be adequately protected. 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 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. USTR may identify a trading partner as a Priority Foreign Country or remove such identification whenever warranted. 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, 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.

### **a. 2007 Special 301 Review Announcements**

On April 30, 2007, U.S. Trade Representative Susan C. Schwab announced the results of the 2007 Special 301 annual review, which examined in detail the adequacy and effectiveness of intellectual property protection in 79 countries. USTR placed 43 countries on the Priority Watch List, Watch List, or the Section 306 monitoring list.

China remained a top IPR enforcement priority in 2007 and was placed again on the Priority Watch List. In conjunction with the release of the report, USTR announced the results of an unprecedented year-long review of strengths and weaknesses in IPR protection and enforcement in key Chinese provinces. USTR continued to address selected issues through WTO dispute settlement proceedings, and to pursue bilateral engagement on IPR issues through the U.S.-China Joint Commission on Commerce and Trade (JCCT) and other mechanisms. The China section of the Special 301 report recognized China's efforts to address IPR problems but concluded that levels of copyright piracy and trademark counterfeiting remained unacceptably high.

Russia also continued to be a serious concern and remained on the Priority Watch List. The Special 301 report noted that Russia had made some progress towards implementing the November 2006 U.S.-Russia Bilateral Market Access Agreement on Intellectual Property Rights ("IPR Bilateral Agreement") by addressing IPR protection and enforcement concerns. The report also announced that USTR would conduct an Out-of-Cycle Review to monitor Russia's progress on implementing the IPR Bilateral Agreement.

Countries on the Priority Watch List are the focus of increased bilateral attention concerning problem areas. In addition to China and Russia, 10 countries were placed on the Priority Watch List in 2007: Argentina, Chile, Egypt, India, Israel, Lebanon, Thailand, Turkey, Ukraine, and Venezuela.

Thirty trading partners were placed on the lower level Watch List, meriting bilateral attention to address underlying IPR problems. The Watch List countries were: Belarus, Belize, Bolivia, Brazil, Canada, Colombia, Costa Rica, the Dominican Republic, Ecuador, Guatemala, Hungary, Indonesia, Italy, Jamaica, Korea, Kuwait, Lithuania, Malaysia, Mexico, Pakistan, Peru, the Philippines, Poland, Romania, Saudi Arabia, Taiwan, Tajikistan, Turkmenistan, Uzbekistan, and Vietnam. Paraguay remains under Section 306 monitoring.

Due to progress on intellectual property, the status of several countries in the 2007 Special 301 report improved in comparison to the 2006 report. Brazil was moved from the Priority Watch List to the Watch List, reflecting significant improvements in copyright enforcement. Belize was also removed from the Priority Watch List to the Watch List due to customs improvements in that country, including greater cooperation with rights holders. Five other trading partners – Bahamas, Bulgaria, Croatia, the European Union, and Latvia – were removed from the Special 301 list altogether in recognition of IPR improvements.

The 2007 Special 301 report also announced four Out-of-Cycle Reviews involving Brazil, the Czech Republic, Pakistan, and Russia. Out-of-Cycle Reviews are conducted on countries that warrant further review before the next Special 301 report and may result in changes to a country's listing.

## **b. Initiatives**

The 2007 Special 301 report sets out the priorities for the coming year, such as implementing free trade agreements (FTAs) and combating Internet piracy and pharmaceutical counterfeiting. The 2007 Special 301 report detailed ongoing U.S. efforts to conclude FTAs with strong IPR chapters and to work closely with FTA partners to achieve appropriate implementation of FTA obligations in domestic law. The report reviewed USTR's examination of IPR practices in connection with its administration of trade preference programs, such as the ongoing Generalized System of Preferences (GSP) reviews of countries. In addition, USTR reported on the status of ongoing initiatives and significant developments:

- **Continuing to Advance the STOP! Initiative:** USTR reported that it is actively engaged in implementing the Administration’s Strategy Targeting Organized Piracy (STOP!) initiative. As part of this effort, USTR, in coordination with other agencies, is introducing new initiatives in multilateral fora to improve the global intellectual property environment that will aid in disrupting the operations of pirates and counterfeiters.
- **Global Scope of Counterfeiting and Piracy:** USTR reported that global IPR theft and trade in fakes have grown to unprecedented levels, threatening innovative and creative economies around the world. Counterfeiting of pharmaceuticals was highlighted as a growing area of particular concern in the 2007 Special 301 report.
- **Notorious Markets:** Noting that global piracy and counterfeiting thrive in part due to large marketplaces that deal in infringing goods, USTR listed “notorious markets” in the Special 301 report. The list includes both virtual (online) markets and traditional physical markets. The listed markets are examples of marketplaces that have been the subject of IPR enforcement action, or that may merit further investigation for possible IPR infringements, or both.
- **Transshipment and In Transit Goods:** Transshipped and in transit goods pose a high risk for counterfeiting and piracy. USTR reported that transshipment or in transit goods are significant problems in Hong Kong, Paraguay, the Philippines, Thailand, and Ukraine, among others. The report noted problems in free trade zones in Belize, Chile, Paraguay, the Philippines, and the United Arab Emirates, among others.
- **Optical Media Piracy:** USTR reported that some trading partners, such as Brazil, Indonesia, Malaysia, Nigeria, Pakistan, the Philippines, and Ukraine had taken important steps toward implementing much-needed controls on optical media production in order to address and prevent future piracy. However, other countries urgently need to implement controls or to improve inadequate existing measures. Such countries included Bangladesh, India, Russia, and Thailand, which have not made sufficient progress in this regard.
- **Cracking Down on Internet Piracy:** USTR reported that, in order to realize the enormous potential of the Internet, a growing number of countries are implementing the WIPO Internet Treaties and creating a legal environment conducive to investment and growth in Internet-related businesses and technologies. As of the end of 2007, there were 64 members of the WIPO Copyright Treaty and 62 members of the WIPO Performances and Phonograms Treaty; these numbers will rise significantly when the EU member States join.
- **Ensuring Government Use of Authorized Software:** In October 1998, the United States announced an Executive Order directing U.S. government agencies to maintain appropriate and effective procedures to ensure legitimate use of software. In addition, USTR was directed to undertake an initiative to work with other governments, particularly those in need of modernizing their software management systems or about which concerns have been expressed, regarding government use of illegal software. USTR reported continued progress under this initiative. The report noted that in 2006, APEC economies agreed that central government agencies should use only legal software and other copyrighted materials and should implement effective policies to prevent copyright infringement on their computer systems and via the Internet.

- **Ensuring Compliance with the WTO TRIPS Agreement:** USTR reported on efforts to ensure compliance by our trading partners with the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). Compliance with the TRIPS Agreement is an essential first step in providing the quality of IPR protection that is fundamental for the promotion of growth and productivity.
- **Intellectual Property and Health Policy:** Noting the Administration's dedication to addressing serious health problems, such as HIV/AIDS, afflicting least-developed countries in Africa and elsewhere, USTR reported on developments following the 2001 Doha Declaration on the TRIPS Agreement and Public Health.
- **Supporting Pharmaceutical Innovation:** USTR reported on its efforts to eliminate market access barriers faced by U.S. pharmaceutical companies in many countries and to provide for affordable health care today and support the innovation that assures improved health care tomorrow.

### 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, mutually advantageous market opportunities to telecommunications products and services of U.S. firms in that country.

The 2007 Section 1377 Review focused on the policies and practices of several countries which have negatively affected the operations of U.S. companies. The report cited Egypt for its failure to license new operators or make licensing criteria publicly available; Jamaica for continuing to maintain a universal service related program funded through surcharges levied solely on incoming international calls primarily delivered by U.S. telecommunications operators; Mexico for its failure to institute procedures that would allow for the acceptance of U.S. test data regarding telecommunications equipment from U.S. testing laboratories; Thailand for its failure to submit a revised schedule of basic telecommunications services in 2006, as it had committed to do in its 1997 Schedule to the WTO General Agreement on Trade in Services; and Guatemala, for its failure to resolve an interconnection dispute between its major supplier and a U.S.-affiliated local operator that began on October 7, 2006 when the major supplier terminated 20 percent of the U.S.-affiliated operator's interconnection capacity (E- 1) circuits. Additionally, the review cited general issues of concern with respect to several countries, such as: (1) barriers to the provision of satellite capacity in China and India; (2) policies governing the provision of Voice-over-Internet-Protocol (VoIP) services; (3) restrictions that incumbent carriers in Germany, Singapore and China placed on access to, and use of, leased lines owned or controlled by the incumbents; (4) problems with regulatory independence and transparency in China, Egypt and India; and (5) excessive market entry requirements in China, Colombia and Mexico.

USTR has urged national regulators to address such problems, and some progress occurred during 2007. Colombia drastically reduced its \$150 million long distance licensing fee, which had long served as a barrier to market entry, to approximately \$650, plus an annual fee of 3 percent of the operators' revenues. China confirmed that it will reduce its capitalization requirements to a reasonable level, although it has yet to define that level or indicate a schedule for implementation. Mexico's competition commission is

reportedly studying whether to classify the largest mobile operator as dominant, a finding which could eventually lead to lower mobile termination rates. India resolved its issues regarding the guidelines governing domestic and international long distance licensees, which allowed at least two U.S. companies to begin operating in the country. India also initiated the process of implementing regulations aimed at ensuring competitive access to submarine cable landing stations, long a concern for U.S. telecommunications operators.

#### **4. Antidumping Actions**

Under the antidumping law, duties are imposed on imported merchandise when the Department of Commerce determines that the merchandise is being dumped (sold at “less than fair value” (LTFV)) 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 1979, 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 LTFV imports. If this preliminary determination by the USITC is negative, the investigation is terminated; if it is affirmative, Commerce will make preliminary and final determinations concerning the alleged LTFV 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 of LTFV sales is negative, the investigation is terminated. 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 LTFV imports, an antidumping order is issued. If the USITC’s final injury determination is negative, the investigation is terminated and the Customs deposits 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 bi-national panel established under the NAFTA.

The numbers of antidumping investigations initiated in and since 1986 are as follows: 83 in 1986; 16 in 1987; 42 in 1988; 24 in 1989; 35 in 1990; 66 in 1991; 84 in 1992; 37 in 1993; 51 in 1994; 14 in 1995; 21 in 1996; 15 in 1997; 36 in 1998; 46 in 1999; 45 in 2000; 77 in 2001; 35 in 2002; 37 in 2003; 26 in 2004;

13 in 2005; 7 in 2006; and 28 in 2007. The numbers of antidumping orders (not including suspension agreements) imposed in and since 1986 are: 26 in 1986; 53 in 1987; 12 in 1988; 24 in 1989; 14 in 1990; 19 in 1991; 16 in 1992; 42 in 1993; 16 in 1994; 23 in 1995; 9 in 1996; 11 in 1997; 9 in 1998; 19 in 1999; 20 in 2000; 31 in 2001; 27 in 2002; 16 in 2003; 14 in 2004; 18 in 2005; 5 in 2006; and 2 in 2007.

## **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 effective January 1, 1995, by the Uruguay Round Agreements Act. As with the antidumping law, the USITC and the Department of Commerce jointly administer the CVD law.

The CVD law's purpose is to offset certain foreign government subsidies, which 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 must make a preliminary finding of 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 numbers of CVD investigations initiated in and since 1986 are as follows: 28 in 1986; 8 in 1987; 17 in 1988; 7 in 1989; 7 in 1990; 11 in 1991; 22 in 1992; 5 in 1993; 7 in 1994; 2 in 1995; 1 in 1996; 6 in 1997; 11 in 1998; 10 in 1999; 7 in 2000; 18 in 2001; 4 in 2002; 5 in 2003; 3 in 2004; 2 in 2005; 3 in 2006; and 7 in 2007. The numbers of CVD orders imposed in and since 1986 are: 13 in 1986; 14 in 1987; 7 in 1988; 6 in 1989; 2 in 1990; 2 in 1991; 4 in 1992; 16 in 1993; 1 in 1994; 2 in 1995; 2 in 1996; 0 in 1997; 1 in 1998; 6 in 1999; 6 in 2000; 6 in 2001; 10 in 2002; 2 in 2003; 3 in 2004; none in 2005; 2 in 2006; and none in 2007. Under its sunset review procedures, Commerce revoked 8 and continued 22 countervailing duty orders in 2000; revoked 1 countervailing duty order and continued 5 orders in 2001; revoked no countervailing duty orders and continued no orders in 2002; revoked no countervailing duty orders and continued no orders in 2003; revoked no countervailing duty orders and continued no orders in 2004; revoked 4 and continued 12 countervailing duty orders in 2005; revoked 7 and continued 3 countervailing duty orders in 2006; and revoked 8 and continued 5 countervailing duty orders in 2007.

## **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 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, while a general exclusion order 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 the public health and welfare, U.S. consumers, and 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 also is authorized to issue temporary exclusion or cease and desist orders before it completes an investigation if it determines that there is reason to believe a violation of Section 337 exists.

In 2007, the USITC instituted 32 new Section 337 investigations. It also instituted one enforcement proceeding that related to a previously issued USITC remedial order. During the year, the USITC issued 4 general exclusion orders, 6 limited exclusion orders, and 19 cease and desist orders covering imports from foreign firms, as follows: *Certain Baseband Processor Chips and Chipsets, Transmitters and Receivers*, Inv. No. 337-TA-543 (a limited exclusion order and 1 cease and desist order); *Certain Laminated Floor Panels*, Inv. No. 337-TA-565 (a general exclusion order and 8 cease and desist orders); *Certain Laser Bar Code Scanners and Scan Engines, Components Thereof and Products Containing Same*, Inv. No. 337-TA-551 (a limited exclusion order and 1 cease and desist order); *Certain High-Brightness Light-Emitting Diodes and Products Containing Same*, Inv. No. 337-TA-556 (a limited exclusion order); *Certain Automotive Parts*, Inv. No. 337-TA-557 (a general exclusion order); *Certain Voltage Regulators, Components Thereof and Products Containing Same*, Inv. No. 337-TA-564 (a limited exclusion order); *Certain Ink Cartridges and Components Thereof*, Inv. No. 337-TA-565 (a general exclusion order, a limited exclusion order, and 4 cease and desist orders); *Certain Lighters*, Inv. No. 337-TA-575 (a general exclusion order); *Certain Coupler Devices for Power Supply Facilities, Components Thereof, and Products Containing Same*, 337-TA-590 (a limited exclusion order and 5 cease and desist orders).

The USTR, exercising the functions assigned by President Bush, permitted all the exclusion orders and the cease and desist order submitted by the USITC for review during 2007 to become final.

## **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, 2007, the United States had no safeguard measures in place. The United States did not impose any safeguard measures during 2007, 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. 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 United States International Trade Commission (ITC) 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 ITC 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 its 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. No new petitions were filed during 2006 or 2007.

On February 10, 2006, the U.S. Court of Appeals for the Federal Circuit dismissed the complaint filed against President Bush by Motion Systems Corporation, the petitioner in the first Section 421 investigation. The Court of Appeals held that the President has discretion in applying Section 421 and therefore judicial review is not available. The Court of Appeals also affirmed the Court of International Trade’s decision that the U.S. Trade Representative could not be sued under Section 421 because the USTR’s statutory role does not constitute “final agency action” and thus cannot be challenged in court. Motion Systems Corporation filed a petition for review with the Supreme Court. The Supreme Court denied the request on October 2, 2006.

#### **d. China Textile Safeguard**

The terms for China's accession to the WTO include a special textiles safeguard, which is available to WTO members until December 31, 2008. This safeguard covers all products that were subject to the WTO Agreement on Textiles and Clothing on January 1, 1995.

Paragraph 242 of the *Report on the Working Party for the Accession of China to the World Trade Organization* ("Paragraph 242") allows WTO Members that believe imports of Chinese-origin textile or apparel products are, due to market disruption, threatening to impede the orderly development of trade in these products to request consultations with China with a view to easing or avoiding such market disruption. Under Paragraph 242, the importing country must supply data which, in its view, show the "existence or threat" of market disruption and the role of Chinese-origin products in that disruption. On receipt of a request for consultations, China must impose specified limits on its exports of such products to the member country. If the consultations fail to yield a solution to the threat or existence of market disruption, the WTO Member may continue such limits on imports of Chinese-origin textile or apparel products for up to one year, unless such limits are reapplied.

As noted in last year's Annual Report, on November 8, 2005, China and the United States signed a broad agreement that addresses imports of certain textile and apparel products from 2006 through 2008 (the "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"). This agreement replaced safeguard measures that had been taken by the United States under Paragraph 242, and no new measures have been taken under this paragraph since then. At the request of USTR, the International Trade Commission issued a report in August 2006 which assessed the probable effect of a modification to the definition of baby socks on U.S. imports of the subject articles from China, on total U.S. imports of such products, and on U.S. baby sock producers.

## **7. Trade Adjustment Assistance**

### **a. Overview and Assistance for Workers**

The Trade Adjustment Assistance (TAA) program for workers, established under Title II, chapter 2, of the Trade Act of 1974, as amended, provides assistance for workers affected by foreign trade. Congress has appropriated funds for the TAA program through September 30, 2008. Available assistance includes job retraining, trade readjustment allowances (TRA), out-of-area job search assistance, relocation allowances, a health insurance tax credit, and a wage supplement for older displaced workers. The program was last amended by the Trade Adjustment Assistance Reform Act (TAA Reform Act), which was part of the Trade Act of 2002, enacted on August 6, 2002. The TAA Reform Act expanded the TAA program and superseded the North America Free Trade Agreement Transitional Adjustment Assistance (NAFTA-TAA) program. The TAA Reform Act also raised the statutory cap on training funds that may be allocated to the States for training from \$110 million to \$220 million per year.

The TAA Reform Act expanded eligibility for the TAA program. For workers to be eligible to apply for TAA, the Secretary of Labor must certify that a significant number or proportion of the workers in a firm (or appropriate subdivision of the firm) have become totally or partially separated or threatened with such separation and: (1) increased imports contributed importantly to a decline in sales or production and to the separation or threatened separation of workers; or (2) there has been a shift in production to a country that has a free trade agreement with the United States or is a beneficiary country under the African Growth and Opportunity Act, the Andean Trade Preference Act or the Caribbean Basin Economic Recovery Act; or (3) there has been a shift in production to another country, and there has been or is likely to be an

increase in imports of like or directly competitive articles; or (4) loss of business as a supplier or downstream producer for a TAA-certified firm contributed importantly to worker layoffs. The fourth basis for certification is designed to cover certain secondarily-affected workers.

The U.S. Department of Labor (DOL) administers the TAA program through the Employment and Training Administration (ETA). Workers certified as eligible to apply for adjustment assistance may apply for TAA benefits and services at the nearest local One-Stop Career Center. Local One-Stop Career Centers can be found on the Internet at [www.servicelocator.org](http://www.servicelocator.org) or by calling 1-877-US2-JOBS. In order to be eligible for TRA, the income support available under the program, workers must be enrolled in approved training within 8 weeks of the issuance of the DOL certification or within 16 weeks of the worker's most recent qualifying separation (whichever is later). A 45-day extension is available under extenuating circumstances. A state may waive the training requirement under six specific conditions outlined in the law.

The TAA Reform Act created the Health Coverage Tax Credit (HCTC) for certain trade-impacted workers and others. Covered individuals may be eligible to receive a tax credit equal to 65 percent of the amount they paid for qualifying health insurance coverage. The tax credit may be claimed at the end of the year, or a qualified individual may receive the credit in the form of monthly advance payments made directly to the health insurance provider.

In addition, the TAA Reform Act of 2002 created the Alternative Trade Adjustment Assistance (ATAA) for Older Workers program. This program was implemented on August 6, 2003, and provides qualified trade-impacted workers, who are over 50 years of age and find other work within 26 weeks of separation, with a wage supplement of up to half the difference between their old and new salaries, in lieu of retraining. The maximum amount payable is \$10,000 over a two-year period, and workers must earn less than \$50,000 per year in their new employment to qualify for the program.

Since implementation of the TAA Reform Act, DOL has implemented significant administrative reforms to improve program efficiency and the quality of services delivered to workers, including a reengineered petition process, certification of workers who produce intangible articles (*e.g.*, software), inclusion of leased or contract workers in certifications, distribution of TAA training funds by formula, institutionalization of quarterly performance reporting requirements, and integration of services with those provided under the Workforce Investment Act through the One-Stop Career Center system. The administrative reforms have led to a reduction in the average petition processing time from 96 days in Fiscal Year 2002 to 31 days in Fiscal Year 2006, increased ability of workers to access program benefits and services, and improved fiscal management.

In 2007, DOL issued 1,429 certifications for TAA, covering an estimated 146,614 workers. Around 70 percent of all TAA petitioners were certified as eligible to apply for program benefits and services. Over 90,000 workers participated in a TAA training program in 2007. In 2007, states reported that 73 percent of those who exited the program entered employment in the first quarter after leaving the program. The number of workers certified as eligible for the program increased from FY 2006 to FY 2007, but has declined since it peaked in 2002 when an estimated 235,000 workers were certified.

#### **b. Assistance for Farmers**

The Trade Act of 2002 also contained a provision for Trade Adjustment Assistance for Farmers, with an appropriation of not more than \$90 million for each fiscal year between 2003 and 2007 to be administered by the U.S. Department of Agriculture. Authority for the program was extended by Congress through December 31, 2007, with an appropriation of \$9 million for the three-month period beginning October 1,

2007. The Secretary of Agriculture delegated authority for this program to the Administrator of the Foreign Agricultural Service.

The regulation to implement Trade Adjustment Assistance for Farmers was published in the *Federal Register* on August 20, 2003, and is now codified at 7 C.F.R. § 1580. Primary requirements for a farmer to be eligible were that the price of the basic agricultural commodity produced by the farmer in the most recent year was less than 80 percent of the average price over the previous five years, and that imports contributed importantly to the price decline.

If a group of farmers was certified as eligible for benefits, individual producers could then apply to the Farm Service Agency for technical assistance and/or cash benefits. A producer had to receive technical assistance to become eligible for cash benefits. Cash benefits were subject to certain personal and farm income limits, and could not exceed \$10,000 per year to an individual producer. The cash benefit per unit was one-half of the difference between the most recent year's price and the previous five-year average price. If the funding authorized by Congress was insufficient to pay 100 percent of all claims during the fiscal year, payments will be prorated. Cash payments disbursed over the duration of the program amounted to approximately \$26.2 million.

### **c. Assistance for Firms and Industries**

The Trade Adjustment Assistance for Firms Program (the "TAA 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 TAA 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 TAA 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 TAA 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 TAA 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) 2007, EDA awarded a total of \$12,814,214 in TAA Program funds to its national network of 11 Trade Adjustment Assistance Centers (TAACs), each assigned a different geographic service area. During FY 2007, EDA certified 177 petitions for eligibility and approved 126 adjustment proposals.

Additional information on the TAA Program (including eligibility criteria and application process) is available at <http://www.eda.gov/AboutEDA/Programs.xml>.

## **8. Generalized System of Preferences**

### **a. History**

The U.S. Generalized System of Preferences (GSP) provides preferential duty-free treatment for approximately 3,400 products from 131 designated beneficiary countries and territories. The GSP was initially authorized under the Trade Act of 1974 (19 U.S.C. 2461 et seq.) for a ten-year period and was instituted on January 1, 1976.

In 1996, Congress established a new category of beneficiaries – least-developed beneficiary developing countries (LDBDCs) – that would be eligible for expanded benefits. President Bush has designated certain countries as LDBDCs pursuant to section 502(a) (2) of the Trade Act of 1974, as amended. As a result of this legislation, President Bush designated an additional 1,400 articles as eligible for duty-free treatment when supplied by LDBDCs.

Since first authorized in 1974, Congress has extended GSP nine times. The most recent renewal, in 2006, authorized GSP through December 31, 2008. This was the first time that the U.S. Congress extended the program without a lapse. The continuity in availability of GSP benefits created greater certainty for developing country producers and exporters, as well as for U.S. importers and businesses. As part of the 2006 renewal, Congress also amended the GSP statute to provide that the President should revoke any existing competitive need limitation (CNL) waiver that has been in effect for at least five years with respect to a GSP-eligible product from a specific country if that country's exports of the product to the United States exceeds certain annual trade or product market-share levels.

### **b. Purposes**

The purpose of the GSP program is to accelerate economic growth in developing countries by promoting access to the U.S. market<sup>33</sup> for such countries while increasing choices for U.S. businesses and consumers. GSP duty-free treatment is not available for products determined by the President to be import-sensitive, or otherwise prohibited by statute. 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 economic reform and liberalization. The GSP program also ensures that U.S. companies have access to intermediate products from beneficiary countries on generally the same terms that are available to competitors in other developed countries that grant similar trade preferences.

### **c. Beneficiaries**

Currently, there are 131 developing country beneficiaries of the GSP program, including 43 LDBDCs. Countries recently added to the list of beneficiaries include Liberia and East Timor, which were designated LDBDCs.

U.S. industry has noted that a country's participation in the GSP program nurtures conditions that are advantageous to U.S. investors as well as to the beneficiaries. Through various mechanisms, GSP 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 means to secure and enforce property rights, including intellectual property rights. The Administration also evaluates GSP beneficiaries' provision of market access to U.S. goods and services, which is a statutory eligibility criterion and an aspect in deciding whether to grant a waiver of the CNLs with respect to a GSP-eligible article (19 U.S.C. § 2463(d)(2)(A)).

### **d. Eligible Products**

The combined lists of GSP-eligible products include most dutiable manufactures and semi-manufactures and selected agricultural, fishery and primary industrial products not otherwise duty-free. The largest groups of eligible products, by tariff line designation, are: (1) chemicals and plastics; (2) machinery, electronics and high-technology apparatus; and (3) base metals and articles of base metals. Certain articles are prohibited by law (19 U.S.C. § 2463(b)(1)) from receiving GSP treatment, including most

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<sup>33</sup> H.R. Rep. No. 98-1090, at 2 (1984).

non-silk textiles and apparel, watches, footwear, handbags, luggage, flat goods, work gloves and other leather apparel. Least-developed beneficiaries receive additional preferential access in petroleum, 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 handmade, folkloric products with 14 countries: Afghanistan, Argentina, Botswana, Cambodia, Colombia, Egypt, Jordan, Nepal, Pakistan, Peru, Thailand, Tunisia, Turkey, and Uruguay. Algeria, Mongolia, and Sri Lanka are working to complete similar agreements. Such agreements provide the basis for extending duty-free treatment to exports produced by women and the poorest, often rural, residents of beneficiary countries.

### **e. Program Results**

*Value of Trade Entering the United States under GSP:* Between December 2000 and November 2007, U.S. annual imports under the GSP program grew from \$16.4 million to \$28.6 million, an increase of 74 percent overall. The value of U.S. imports entering under GSP in 2007 (January through November), however, was approximately \$28.6 billion, a 4.6 percent decrease as compared to the same period in 2006. This overall reduction in trade under GSP was largely due to the fact that eight products lost GSP eligibility on June 23, 2007, because trade in these products in 2006 exceeded the new statutory thresholds and led to revocation of existing CNL waivers.

Top U.S. imports under GSP in 2007, by trade value, were crude petroleum oils and oils from bituminous minerals, (comprising approximately 29 percent of all U.S. imports under GSP) and gold and platinum jewelry (about 8 percent). Other top GSP imports were aluminum alloy, silver jewelry, insulated ignition wiring sets, ferrochromium, methanol, passenger vehicle tires, ferrosilicon manganese, polyethylene terephthalate (PET), unwrought zinc, bus and truck tires, auto parts, raw cane sugar, plywood sheets, fuel oil, animal or vegetable fat substances, and monumental building stone.

#### Countries benefiting from the GSP Program

For fourteen beneficiaries (over 10 percent of total beneficiaries) U.S. imports under the GSP program account for at least one-quarter of their exports to the United States, demonstrating the significant impact GSP has on certain economies, and the geographic diversity of such benefits. These beneficiaries, and the share GSP comprises of their exports to the United States in 2007 (November), were:

Paraguay and Armenia (each 60 percent of all exports to U.S.), Macedonia (57.5 percent), Zimbabwe (49 percent), Malawi and Serbia (each 47 percent), Lebanon (46.5 percent), Fiji (46 percent), Rwanda (41 percent), Croatia and Montenegro (each 39 percent), West Bank (37.6 percent), Georgia (36 percent), Kazakhstan (33 percent), Tunisia (25.5 percent), and Turkey (24.4 percent).

Based on volume, the top five GSP non-oil-exporting beneficiary developing country (BDC) suppliers in 2007 were: (1) India; (2) Thailand; (3) Brazil; (4) Indonesia; and (5) the Philippines. Of the thirty GSP beneficiaries (not including LDBDC oil-exporting beneficiaries) whose 2007 trade under GSP was the largest, the World Bank classified more than half (18 of 30) as either low income or lower middle income countries<sup>34</sup>, indicating that the program is achieving the goal of benefiting those countries which need it most. In addition, exports from many low income and lower middle income beneficiaries entering the United States under GSP increased significantly in 2007 as compared to 2006, for example: Macedonia

<sup>34</sup>Based on World Bank determinations of gross national incomes per capita (Atlas method – 2006)

(363 percent increase), Ukraine (120 percent), Bolivia (91 percent), Georgia (87 percent), Paraguay (62.5 percent), Peru (39 percent), Fiji (31 percent), Colombia (25 percent), and Indonesia (17 percent).

The top five LDBDC users of GSP benefits, because of large volumes of petroleum exports under GSP, were: (1) Angola; (2) Equatorial Guinea; (3) Chad; (4) Yemen; and (5) Malawi. Non-oil exporting LDBDCs whose exports to the United States under GSP grew substantially in 2007, even in the face of an overall decline or negligible growth in overall exports to the United States, included Vanuatu (109 percent growth), Nepal (24 percent growth), and Bangladesh (17 percent growth).

*GSP's Contribution to Economic Development in Developing Nations:* GSP has been shown, in many cases, to help countries diversify and expand their exports, an important developmental goal. For example, in the last six years, Turkey has diversified its product mix under GSP by nearly 44 percent, while its use of GSP increased by 146 percent and its share of exports to the world increased by nearly 30 percent. Similar trends are evident with respect to Argentina, Brazil, Croatia, India, Romania<sup>35</sup>, and South Africa.

The Administration's efforts to promote wider distribution of the use of GSP benefits among beneficiaries are also showing some results: between 2006 and 2007 (November YTD), the top 30 non-oil producing beneficiaries' share of all U.S. imports under GSP dropped from 71.3 percent to 69.3 percent. Use of all GSP benefits by the top three beneficiaries (India, Thailand, and Brazil) in 2007 (YTD November) as compared to 2006 also decreased from about 42 percent to 39 percent.

The U.S. import levels of countries supplying certain products under GSP have also increased since June 2007, when President Bush revoked GSP eligibility for certain products meeting the new statutory annual thresholds for CNL waivers. For example, in June 2007, the United States removed GSP eligibility of certain gold jewelry from India and Thailand. Following this action, the United States saw significant increases in imports of such products (through November 2007) from countries such as Oman (21 percent increase), Pakistan (50.5 percent), Lebanon (16 percent), Bolivia (815 percent), Sri Lanka (36.4 percent), and Nepal (105 percent). Similarly, following elimination of GSP eligibility for Philippine insulated ignition wiring sets, U.S. imports have increased from Thailand (157 percent) and Indonesia (118 percent) over the same period last year.

*Summary of Changes in Country Beneficiary and Product Status:* Since 1976, the President has graduated 17 countries from the GSP program because their annual per capita gross national income exceeded the statutory limit. In addition, two Presidents have used authority under the statute to graduate GSP beneficiaries based on their overall success exporting globally and to the United States under GSP. President Reagan graduated Hong Kong, Singapore, South Korea, and Taiwan in 1989, and President Clinton graduated Malaysia in 1997.

Review of country practice petitions submitted as part of the GSP Annual Review can provide a basis for removing or limiting GSP eligibility. These reviews are based on the GSP eligibility criteria found in U.S. trade law at 19 U.S.C. § 2462(b) and (c), and include protection of worker rights and intellectual property rights. For example, in response to petitions asserting labor concerns in Swaziland and Uganda, Swaziland changed its laws to remove a limitation on the minimum number of people required to start a union. Similarly, Uganda passed legislation facilitating the organization of unions and the government, apparel sector companies, and unions reached the first-ever tripartite agreement in Uganda that allowed for collective bargaining. Improvements in the protection and enforcement of intellectual property rights have also occurred in India, Kazakhstan, and Pakistan, in response to GSP reviews.

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<sup>35</sup> Romania graduated from GSP on January 1, 2007, when it acceded to the European Union.

Countries previously removed from the GSP program can also petition to be reinstated. In 2006, President Bush redesignated Liberia and Ukraine as GSP beneficiaries following resolution of worker rights and intellectual property concerns, respectively.

Since the inception of the GSP program, application of statutory CNLs, including the newly added thresholds for existing CNL waivers added by Congress in 2006, has resulted in the termination of GSP duty-free benefits for 245 products from beneficiary countries that have demonstrated their competitiveness in the U.S. market. For example, 68 of Brazil's products have been removed from GSP eligibility because of their competitiveness, followed by 24 for India and 13 for Thailand. Specific products involved include several organic chemicals from India, Brazil, and Turkey; plywood from Indonesia and Brazil; certain gold jewelry and carpets from India; gold jewelry and flat screen color televisions from Thailand; monumental building stone from Turkey; and certain motor engines, automotive parts and tires from Brazil. These actions underscore an important principle governing the GSP program: that trade preferences under GSP are to be a temporary form of support for developing countries as these nations make progress in exporting to the U.S. market and in taking on more reciprocal obligations of the world trading system.

*GSP Outreach:* Another aspect of the Administration's efforts to increase the distribution of GSP benefits is the provision of outreach to increase the use of GSP duty-free benefits, especially to lesser- and least-developed beneficiaries. These efforts lay a foundation for economic engagement and an enhanced relationship with these beneficiaries. USTR's outreach efforts include giving seminars in-country and via videoconferences; distributing export analyses; and publishing GSP guides in the Arabic, Dari, French, Khmer, Mongolian, Spanish, Turkish, and Ukrainian languages.

In addition, USTR has led an interagency effort to engage in consultations with businesses, governments, and NGOs in least-developed and lesser-developed GSP beneficiaries to promote the use of GSP as part of their economic development strategies. These countries include Afghanistan, Algeria, Cambodia, East Timor, Fiji, Iraq, Liberia, Mongolia, Palau, Papua New Guinea, Paraguay, Sri Lanka, countries of Central Asia, members of the West African Monetary and Economic Union, and other beneficiaries in the Pacific Islands, including APEC members. Among the groups consulted are: bilateral chambers of commerce (*e.g.*, Turkish-American Chamber of Commerce and Industry); federal contractors to USAID; and NGOs working on an international basis (*e.g.*, Women's Edge Coalition, Aid to Artisans, the Crafts Center, CHF International, and the Ger Project in Mongolia).

#### **f. Overall Review of the GSP Program**

The most recent GSP Overall Review began in October 2005 and concluded in fall 2006. The Administration informed Congress of the results of the review in fall 2006 during congressional consideration of legislation to reauthorize the GSP program. Based on the results of the Administration's review, Congress amended the law governing GSP to authorize the revocation of competitive need limitation waivers for products that exceed trade value and volume thresholds, thereby removing duty-free treatment under GSP from those products. As noted above, this change has resulted in increased trade opportunities for other GSP beneficiaries that have been able to increase exports to fill U.S. demand.

#### **g. 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.

The Administration makes modifications to the lists of articles eligible for duty-free treatment and countries eligible to be in the GSP program by means of an annual review. The process begins with publication of a *Federal Register* notice that requests submission of petitions for modifications to the list of eligible articles and beneficiary countries. For those petitions that are accepted, public hearings are held, the U.S. International Trade Commission prepares a study of the "probable economic impact" of granting a petition that would affect the list of articles eligible for duty-free treatment, and an interagency committee reviews the relevant material. Following completion of this interagency review, the President announces his decision on each petition.

#### **h. Conclusion of the 2006 GSP Annual Review**

In Proclamation 8157 of June 29, 2007, President Bush announced the results of the 2006 GSP Annual Review. The Review focused on several key areas, including consideration of: 1) whether to continue GSP eligibility for products from specific countries that exceeded statutory CNLs; 2) whether to terminate GSP eligibility for products that could be found to be competitive or meet other pertinent statutory criteria; and 3) petitions challenging the continued eligibility of certain beneficiary countries for the GSP program.

As a result of the 2006 Annual Review, the Administration granted petitions and one-year *de minimis* waivers of competitive need limitations to provide continued GSP duty-free benefits for 115 products from 19 beneficiary countries. The 2006 import value of these decisions was approximately \$618 million. Consistent with the statutory provisions concerning product competitiveness and after extensive analysis, the Administration determined that 21 products from beneficiary countries (comprising approximately \$4.8 billion in trade in 2006) could compete effectively in the U.S. market and would no longer be eligible for duty-free treatment under the GSP program. This group included 13 products that exceeded the statutory CNLs and 8 products that had been granted waivers to the CNLs at least five years ago and were subject to new statutory trade value and volume thresholds passed by Congress in December 2006. The Administration took this action to remove certain products from GSP duty-free treatment in order to preserve GSP tariff advantages for nascent sectors of other beneficiary countries.

Petitions involving the following GSP beneficiaries remain under review: Lebanon, Uzbekistan, and Russia regarding intellectual property concerns, and Niger regarding worker rights. With respect to the Russia IPR petition, the Bush Administration continued to monitor closely the Russian government's progress in meeting the commitments it undertook in the November 2006 Bilateral Agreement with the United States on intellectual property rights and to seek further progress in the context of ongoing WTO accession discussions.

#### **i. 2007 GSP Annual Review**

On May 21, 2007, a notice appeared 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 2007 Annual Review. Petitions to add or remove eight products were accepted for review, involving Brazil, Egypt, India, South Africa, and Uruguay. The Administration accepted additional worker rights country practice petitions for review that concerned practices in the Philippines, Bangladesh, and Ukraine.

A *Federal Register* notice was published on October 23, 2007, informing the public of the availability of eight-month import statistics and inviting submission of petitions for CNL waivers for the 2007 Annual Review. The Administration has accepted five petitions for CNL waivers and has requested advice from

the ITC on the probable economic impact of the petitions, if granted, on U.S. industry and U.S. consumers.

USTR will issue a *Federal Register* notice in late February 2008, when full-year 2007 data are available, that will identify: 1) products that will lose GSP eligibility based on statutory CNLs; 2) products that will be eligible for GSP redesignation or for *de minimis* waivers; and 3) products with CNL waivers that meet the new “super-competitive” thresholds established in the GSP renewal legislation and are thus subject to potential revocation. The President is required to announce any modifications to the list of GSP beneficiaries or countries by June 30, 2008.



# VI. TRADE POLICY DEVELOPMENT

## A. Trade Capacity Building (TCB)

Trade capacity building (TCB) is a critical part of the United States' strategy to enable developing countries to negotiate and implement market-opening and reform-oriented trade agreements. Providing developing countries with the tools to maximize trade opportunities and improve the linkage between trade and sustainable development is critical to achieving broad-based reforms. Absolute poverty rates for globalizing countries have fallen sharply over the last 20 years. A 2004 study published by the Institute for International Economics found that trade barrier elimination in conjunction with related development policies would accelerate the decline in the number of people living in poverty over the next 15 years by an additional 500 million – greater than the entire population of the United States.

The United States is committed to assisting developing countries build up their capacity by providing aid for trade. Aid to build trade capacity is about giving countries, particularly the least-trade active, the opportunity to participate in negotiations, so that they can make decisions about the benefits of trade deals and about assisting these countries in implementing their obligations to bring certainty to their trade regimes. The assistance also addresses broader transition issues, so rural areas, small businesses and female entrepreneurs benefit from ambitious reforms in trade rules that are being negotiated in the WTO and other trade agreements. Total U.S. funding for TCB activities from 2001 to 2007 was approximately \$7.1 billion. In 2007, TCB funding was distributed as follows:

- Asia: \$96 million, for a total of \$875 million since 2001
- Central and Eastern Europe: \$30 million, for a total of \$394 million since 2001
- Former Soviet Republics: \$74 million, for a total of \$800 million since 2001
- Latin America and Caribbean: \$554 million, for a total of \$1.9 billion since 2001
- Middle East and North Africa: \$57 million, for a total of \$1 billion since 2001
- Sub-Saharan Africa: \$505 million, for a total of \$1.6 billion since 2001

The United States has and will continue to support the WTO's catalytic role in aid for trade as well as the Enhanced Integrated Framework that aims to help the least trade-active countries participate in the global trading system.

*Coherence:* An important element of this work involves coordination with regard to technical assistance activities among international institutions such as the WTO, the World Bank, the International Monetary Fund, the regional development banks, and other donors. The Administration's intention is to avoid duplication and to identify and take advantage of donor complementarities in programming. The United States will work in partnership with these institutions and with other donors to ensure that international financial institutions (IFIs) offer trade-related assistance as an integral component of development programs – including increasing awareness of existing mechanisms and programs – tailored to the circumstances within each developing country.

The United States' efforts build on its long-standing commitment to help all countries benefit from the global trading system, including through mechanisms such as the Enhanced Integrated Framework and the Millennium Challenge Corporation; contributions to the WTO's Global Trust Fund for Trade-Related Technical Assistance; assistance to countries acceding to the WTO; targeted assistance for developing countries participating in U.S. preference programs, such as the \$200 million African Global Competitiveness Initiative helping Africa benefit from AGOA; coordination of assistance through Trade and Investment Framework Agreements (TIFAs); TCB working groups that are integral elements of free

trade negotiations; 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. Similar committees will also aid in the implementation of FTAs with Colombia and Panama as those enter into force. Other TCB assistance is helping developing countries to work with the private sector and non-governmental organizations to transition to a more open economy, to prepare for FTA and WTO negotiations and to implement their trade obligations.

## **1. Millennium Challenge Corporation**

The Millennium Challenge Corporation (MCC), established by the United States in 2004, provides a significant source of bilateral assistance for trade capacity building efforts for eligible countries. The purpose of the MCC is to ensure that President Bush's vision of a new "global development compact" is implemented in a manner in which "greater contributions from developed countries [are] linked to greater responsibility from developing nations."

The U.S. Trade Representative is a member of the MCC's Board of Directors. 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.

Since 2004, MCC programs are a significant component of U.S. contributions to TCB, channeling funds to low and lower middle income countries that demonstrate a strong commitment to investing in their people, ensuring political justice, encouraging economic freedom, and promoting sustainable natural resource management policies. A total of 42 countries have been deemed "eligible" for MCC assistance. The primary vehicle for delivering this assistance is through a "compact" – a multi-year agreement between the Millennium Challenge Corporation and an eligible country to fund specific programs targeted at reducing poverty and stimulating economic growth. The MCC Board has approved compacts worth over \$5.5 billion with 16 partner countries, of which \$3.2 billion funds aid for trade projects. In 2007, the MCC Board approved compacts with five nations: Lesotho, Mongolia, Morocco, Mozambique, and Tanzania, which will fund approximately \$2.5 billion in economic growth projects in the coming years, including significant TCB components. In December 2007, the MCC Board announced that, in FY2008, Malawi will be eligible to negotiate a compact for development assistance with the MCC.

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. In December, 2007, the MCC Board announced that Mauritania is eligible to participate in the MCC's threshold program and that Albania, Paraguay, and Zambia are eligible for a second threshold program. The MCC has approved threshold programs with 17 countries, with associated funding totaling over \$360 million.

## **2. The Integrated Framework**

The Integrated Framework for Trade-Related Assistance to Least-developed Countries (IF) is a multi-organization (including the WTO, World Bank, IMF, UNCTAD, UNDP, and the International Trade Centre), 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. The mechanism incorporates a diagnostic assessment and action plan formulated by one of the international organizations and the country. 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 IF Trust Fund or multilateral or bilateral donor

programs in the field (as the United States does through its development assistance programs). The IF is exclusively for the LDCs, with the goal of getting the least trade-active more involved. Of the 50 LDCs, in 2007, 46 have joined the IF.

Following discussions in the World Bank's Development Committee and the WTO, a process to enhance the IF was launched in early 2006. The United States was an active member of the Task Force created to guide this process and is an active participant in the implementation phase of this effort. The process focused on three elements to accelerate and improve the IF process: (1) increase resources for follow-up; (2) build the in-country capacity of countries to benefit from the IF; and (3) improve IF governance, including monitoring and dissemination of best practices. The Task Force concluded its work in May 2007. The new Enhanced Integrated Framework (EIF) was formally launched in May and is expected to be fully operational in early 2008.

The United States has contributed funds for the past few years to the Integrated Framework Trust Fund to finance Diagnostic Trade Integration Studies (DTIS). USAID's bilateral assistance to LDC participants supports initiatives both to integrate trade into national economic and development strategies and to address high priority "behind the border" capacity building needs designed to accelerate integration into the global trading system. The total FY2007 bilateral TCB assistance to the IF countries was \$228 million. Further, the MCC approved compacts with three IF countries in FY2007 totaling \$1.5 billion of which about \$875 million is trade-related assistance. Many of these countries also benefit from part of the \$69 million in regional assistance provided by USAID.

### **3. World Trade Organization-Related U.S. TCB**

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 the 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 directly supports the WTO's trade-related technical assistance.

*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 2007, total U.S. contributions to the WTO amount to almost \$7 million since the launch of DDA negotiations.

*Aid for Trade:* The WTO's 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.

The year 2007 saw an active agenda to implement many of the Task Force's recommendations. In the fall, the WTO Secretariat and its regional development bank partners sponsored regional discussions of aid for trade in: Lima, Peru; Manila, Philippines; and Dar es Salaam, Tanzania. A global review of aid for trade, incorporating the results of the regional discussions, was held in Geneva in November 2007 with high-level attendance from trade, finance, and development officials. We expect work in 2008 to focus on technical discussions and implementation of best practices in this field.

*WTO and Trade Facilitation:* The United States committed over \$314 million in FY2007, for a total of over \$1.7 billion since 2000, to trade facilitation activities. In doing so, the United States has supported the WTO 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.

*WTO Accession:* The United States supports countries that have acceded or are in the process of acceding to the WTO. For example, in 2007, USAID and USDA provided WTO accession and implementation services to Cape Verde and to the Ukraine, which completed their accession negotiations on December 18, 2007. Also in 2007, USDA provided WTO accession assistance to Vietnam, which became the 150th Member of the WTO last year. That year, the United States additionally provided WTO accession support to Iraq, Lebanon, Yemen, Afghanistan, Ethiopia, Kazakhstan, Azerbaijan, and a number of other countries in Eastern Europe and the former Soviet Union.

#### **4. TCB Initiatives for Africa**

The United States is aggressively funding programs and developing new initiatives at the multilateral and bilateral levels to address the specific needs of African countries with respect to reducing poverty and spurring economic growth. The United States has matched its trade initiatives with an equally strong commitment to provide assistance at the regional, sub-regional, and country levels. The United States committed to nearly \$505 million in assistance to sub-Saharan Africa in FY2007, which was a 26 percent increase over FY2006, for a total of nearly \$1.6 billion over the last seven fiscal years.

*African Global Competitiveness Initiative:* In July 2005, the United States announced the African Global Competitiveness Initiative (AGCI) to help build sub-Saharan Africa's capacity for trade. The AGCI is currently providing \$200 million in funding over five years to: (1) expand African trade with the United States under the AGOA trade preference program, with other international trading partners and regionally within Africa; and (2) promote export competitiveness of sub-Saharan African countries. Specifically, AGCI is assisting with trade capacity development by supporting four regional USAID-funded Regional Hubs for Global Competitiveness – in Botswana, Kenya, Ghana, and Senegal – as well as supporting USAID bilateral missions to help African countries diversify trade, remove key barriers to expanding growth, and thus maximize the benefits of greater participation in global markets. For example, the trade hubs in Ghana and Senegal have made progress in aiding in the creation and expansion of export markets for African seafood, cashews, and shea butter. In East Africa, the trade hub is expanding export markets for African produced home décor and leather goods. In South Africa, the trade hub is expanding regional trade in agricultural products, including specialty food items. Under an agreement with USAID, USDA is addressing sanitary and phytosanitary issues under AGCI, specifically in the areas of food safety and plant and animal health.

*African Growth and Opportunity Act (AGOA):* AGOA, enacted in 2000, is a U.S. trade preference program that is reducing barriers to trade, increasing exports, creating jobs, and expanding opportunity for Africans. Under AGOA, eligible countries can export most of their products to the United States duty-free (see the Africa section in Chapter III for more information on AGOA).

Trade capacity building is an important element of AGOA implementation. As a result, TCB funding for sub-Saharan Africa reached nearly \$505 million in FY2007, an increase of 149 percent over FY2005. Several U.S. agencies – including USAID, Homeland Security's Customs and Border Protection, and the Departments of State, Agriculture, and Commerce – have conducted technical assistance and outreach programs designed to assist beneficiary countries to maximize their AGOA benefits. AGOA implementation is a major focus of the four regional trade hubs cited above. For example, USDA Animal and Plant Health Inspection Service (APHIS) experts have been posted to three of the hubs to assist African countries in meeting U.S. food safety standards. The trade hubs also conduct seminars and workshops designed to help African businesses make the most of AGOA's trade opportunities.

*Comprehensive Africa Agriculture Development Program (CAADP):* CAADP is a New Partnership for Africa's Development (NEPAD) program in which African Heads of State agreed to achieve and sustain

a 6 percent annual agricultural growth rate. The United States committed in September 2005 for USAID, as part of the Presidential Initiative to End Hunger in Africa, to fund a five-year effort from 2006 to 2010 to support African leaders' implementation of the CAADP. The United States provided \$200 million in 2007 to CAADP and plans to provide similar amounts annually in 2008-2010. USAID works with governments, NGOs, and the private sector to expand alliances in grains, cocoa, coffee, cotton, horticulture, dairy, cassava, and other priority commodity food systems. Among other things, the framework, and efforts to support it, directly enhances Africa's ability to benefit and participate in global trade and world trade agreements in agriculture. In September 2007, representatives of development agencies from the United States and other major donor countries met with their African partners in Addis Ababa, Ethiopia to coordinate their efforts under the CAADP framework.

*Assistance to West African Cotton Producers:* During 2007, the United States continued to fully mobilize its development agencies to address the obstacles faced by West African countries – particularly Benin, Burkina Faso, Chad, Mali and Senegal – in the cotton sector. The MCC, USAID, USDA, and the United States Trade and Development Agency (USTDA) all continued work on a coherent long-term development program based on the priorities of the West Africans. 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 WACIP was launched in November 2005 with initial funding of \$7 million. In June 2006, total funding was increased \$27 million over the three year life of the program. 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.

In early 2007, implementation of the main component of WACIP began in earnest in the field. Through extensive consultation with stakeholders – government, farmers, and other involved parties – in the each country, three main intervention areas were identified to fulfill the objectives outlined above:

- Creating momentum for longer term policy and institutional changes that will encourage investment and value-addition;
- Improving value addition by exploiting niche processing and marketing opportunities for cotton-based products; and
- Increasing productivity of cotton, the quality of cotton lint, and farmers' income from cotton and other crops in the cotton rotation.

A key element of the WACIP program is the identification of specific policy priorities through National Advisory Committees (NACs). Composed of stakeholders in each country, these committees held first, and in several cases second meetings, during 2007. First meetings were held in Benin, Burkina Faso, Mali, and Chad, and second meetings in Benin, Burkina Faso, and Mali. The NACs identified key areas of policy and institutional reform on which WACIP should focus. The outcome of these activities will inform the NACs in the coming months as they identify actual policies to be addressed and how.

In the areas of cotton production and value addition, work is underway with stakeholders to identify the specific projects which would yield the assistance and results the stakeholders have requested.

The U.S. Government also provides complementary support to the cotton sector through other programs. During 2007, MCC began implementation of compacts with Benin and Mali representing over \$750 million in development assistance to be distributed in coming years, much of which is allocated to agriculture and infrastructure investment. MCC is currently finishing the development of a compact with Burkina Faso.

## **5. Free Trade Agreement (FTA) Negotiations**

Although the WTO programs and the IF are high priorities, they are only part of the U.S. TCB effort. In order to help our FTA partners participate in negotiations, implement rules, 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. USAID, its 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 completed Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR), and our signed free trade agreements with Colombia, Peru and Panama. USTR also works closely with the Department of State and other agencies to track the delivery of TCB assistance to Jordan, Morocco, Bahrain, and Oman through bilateral labor and environmental cooperation agreements.

### **a. Dominican Republic-Central America Free Trade Agreement**

During the CAFTA-DR negotiations, the United States and other international institutions worked with the Central American countries and the Dominican Republic through a TCB working group to address trade capacity issues, such as rural diversification programs for agricultural products (*e.g.*, coffee), market linkages for goods and services, food industry development, strengthening of labor and customs systems, and combating exploitive child labor.

In order to build on the progress made during the negotiations, the CAFTA-DR established a Committee on TCB. The CAFTA-DR was signed in August 2004 and went into force for all countries except Costa Rica during 2006 and 2007. The Committee on TCB convened twice in 2007, in February in Guatemala City, Guatemala and in Washington, D.C. in November. These meetings were attended by representatives of each of the member countries and by the Inter-American Development Bank (IDB), the World Bank (WB), the Organization of American States, and 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. The United States provided over \$433 million in TCB assistance through bilateral and regional assistance programs to the CAFTA-DR countries in FY2007 from a broad spectrum of U.S. donor agencies, such as the MCC, USDA, USAID, the Department of State, and the U.S. Trade and Development Agency.

## **b. Colombia and Peru Trade Promotion Agreements**

In December 2007, President Bush signed the United States-Peru Trade Promotion Agreement (PTPA). 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 working group included the Inter-American Development Bank (IDB), the World Bank (WB), the Andean Regional Development Bank, the OAS, and the Economic Commission for Latin America and the Caribbean (ECLAC), addressed a broad range of economic assistance issues, including programs to aid small and medium enterprises, rural farmers, food safety inspectors, and customs officials. These programs are intended to help Peru to implement the obligations of the agreement and to more broadly benefit from the opportunities created by the free trade agreement. The agreement calls for the Committee to further refine and implement Peru's national TCB strategy as well as foster assistance to promote economic growth, reduce poverty, and adjust to liberalized trade.

In November 2006, the United States and Colombia signed a comprehensive free trade agreement – The United States-Colombia Trade Promotion Agreement (CTPA). As with the United States-Peru Trade Promotion Agreement, the CTPA includes the creation of a Committee on TCB to build upon the progress made by the preceding TCB working group on economic assistance and poverty alleviation.

## **c. Panama Trade Promotion Agreement**

The United States and Panama signed the United States-Panama Trade Promotion Agreement on June 28, 2007. The agreement also establishes a trade capacity building committee, which will aid Panama to implement its obligations and allow it to more broadly benefit from the opportunities that the free trade agreement will create.

## **B. Congressional Affairs**

In 2007, USTR worked closely with the 110th Congress to move forward President Bush's bilateral, regional, and multilateral trade agenda. Consistent with the Bipartisan Trade Promotion Authority Act of 2002, USTR consulted before and after each round of negotiations on each agreement. These consultations provided the Administration with valuable advice on the United States-Peru Trade Promotion Agreement, the United States-Colombia Trade Promotion Agreement, the United States-Panama FTA, and the United States-Korea FTA. In particular, the Congress and the Administration worked closely to develop necessary amendments to these four agreements. The Administration then agreed to amend relevant provisions of each FTA relating to labor, environment, port security, investment, intellectual property, and government procurement.

The Administration signed the United States-Panama and United States-Korea Free Trade Agreements June 2007 and also signed protocols to our FTAs with Peru and Colombia in June. In December 2007, the Congress passed with strong bipartisan support and President Bush signed into law the United States-Peru Trade Promotion Agreement Implementation Act.

Although Trade Promotion Authority expired on July 1, 2007, USTR continued its consultations with the Congress with respect to FTA negotiations with Malaysia, Thailand, the Southern African Customs Union (SACU), and the Free Trade Area of the Americas. The Administration also consulted with the Congress on a Trade and Investment Framework Agreement with Uruguay and a Bilateral Investment Treaty with Rwanda.

In addition to consultations related to bilateral and regional trade agreements, USTR maintained an ongoing dialogue with the Congress on multilateral initiatives in 2007. USTR consulted with the Congress on the WTO Doha Development Round and on legislation intended to bring the United States into compliance with adverse WTO rulings. USTR also worked with Congress to reauthorize the Andean Trade Preference Act and on several other legislative proposals.

## **C. Private Sector Advisory System and Intergovernmental Affairs**

USTR's Office of Intergovernmental Affairs and Public Liaison (IAPL) administers the federal trade advisory committee system and provides outreach to, and facilitates dialogue with, state and local governments, the business and agricultural communities, labor, environmental, consumer, and other domestic groups on trade policy issues.

The advisory committee system, established by the U.S. Congress in 1974, operates under the auspices of IAPL. The 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 advisory committee system consists of 28 advisory committees, with a total membership of approximately 700 advisors. IAPL manages the system, in cooperation with other agencies, including the Departments of Agriculture, Commerce, Labor, and the Environmental Protection Agency.

IAPL also has been designated as the NAFTA and WTO State Coordinator. As such, the office serves as the liaison to state points of contact, and state and local government officials, on information regarding the U.S. trade agenda, the implementation of the NAFTA and the WTO, bilateral free trade agreements (FTAs), and other trade issues of interest.

Finally, IAPL coordinates USTR's outreach to the public and private sector through public briefings, notification of USTR notices in the *Federal Register* soliciting written comments from the public and holding Trade Policy Staff Committee (TPSC) public hearings, consulting with and briefing interested constituencies, speaking at conferences and meetings around the country, and meeting frequently with a broad spectrum of groups at their request.

### **1. The Advisory Committee System**

The advisory committees provide information and advice with respect to U.S. negotiating objectives and bargaining positions before entering into trade agreements, on the operation of any trade agreement once entered into, and on other matters arising in connection with the development, implementation, and administration of U.S. trade policy.

The system consists of 28 advisory committees. Recommendations for candidates for committee membership are collected from a number of sources, including Members of Congress, associations and organizations, publications, other federal agencies, response to *Federal Register* notices, and self-nomination by individuals who have demonstrated an interest or expertise in U.S. trade policy. Membership selection is based on qualifications, geography, and the needs of the specific committee. Members pay for their own travel and other related expenses. In 2004, the number of industry committees at the technical level was 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).

The system is arranged in three tiers: the President's Advisory Committee for Trade Policy and Negotiations (ACTPN); 5 policy advisory committees dealing with environment, labor, agriculture, Africa, and intergovernmental issues; and 22 technical and sectoral advisory committees in the areas of

industry and agriculture. Additional information on the advisory committee can be found on the USTR website (<http://www.ustr.gov/outreach/advise.shtml>).

Private sector advice is both a critical and integral part of the trade policy process. USTR maintains an ongoing dialogue with interested private sector parties on trade agenda issues. The advisory committee system is unique since the committees meet on a regular basis and receive sensitive information about ongoing trade negotiations and other trade policy issues and developments. Committee members are required to have a security clearance.

In 2004, USTR introduced a significant improvement to facilitate the work of the advisory committees, by creating a secure encrypted advisors' website with password protection. Confidential draft texts of FTA agreements are posted to the secure website on an ongoing basis to allow advisors to provide comments to U.S. officials in a timely fashion during the course of negotiations. This has enhanced the quality and quantity of input from cleared advisors, especially from those advisors who reside outside of Washington, DC.

USTR has introduced additional procedural innovations to improve the operation of the advisory committee system. This includes a single monthly advisory committee teleconference call with the "Chairs" for all 28 committees. This keeps "Chairs" apprised of ongoing developments and important dates on the trade negotiations calendar, which, in turn, facilitates greater transparency for all advisors.

Additionally, USTR and the Departments of Commerce and Agriculture convene periodic plenary sessions of the industry trade advisory committees, and the agricultural technical committees, respectively, in order to make more efficient use of negotiators' time with the committees and allow the further exchange of ideas among committees.

In November 2007, the GAO recommended further steps that USTR could take to provide greater transparency and accountability to 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 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."

#### **a. President's Advisory Committee on Trade Policy and Negotiations**

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 two-year renewable terms. The ACTPN is the highest-tier 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**

At the second tier, the members of the five policy advisory committees are appointed by the USTR alone 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, and the Committee must be of sufficient size to be reasonably representative of U.S. organizations and persons interested in the respective agricultural commodities. The APAC are appointed to represent a broad spectrum of agricultural interests to represent 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.

*IGPAC:* By charter, 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:* By charter, the LAC consists of not more than 45 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 serve at the pleasure 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 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 the U.S. Trade Representative.

### **c. Technical and Sectoral Committees**

At the third tier, the 22 technical and sectoral advisory committees are organized into two areas: industry and agriculture. 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 Committees (ATACs):* By charter, 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 jointly by 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):* By charter, there are sixteen industry trade advisory committees (ITACs), which reflect a streamlined and consolidated structure instituted in 2004. The restructuring was consistent with recommendations in a U.S. Government Accountability Office Report, "International Trade: Advisory Committee System Should be Upgraded to Better Serve U.S. Policy Needs" (GAO 02-876). 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).

Members of each Committee are appointed jointly by the Secretary of Commerce and the U.S. Trade Representative. Committee members should have knowledge and expertise of 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 the 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. 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).

## **2. State and Local Government Relations**

With the passage of the NAFTA Implementation Act in 1993 and the Uruguay Round Agreements Act in 1994, the United States created expanded consultative procedures between federal trade officials and state and local governments. Under both agreements, USTR's Office of IAPL is designated as the "Coordinator for State Matters." IAPL 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. IAPL 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. In 2006, USTR introduced a regular monthly conference call for SPOCs and members of the Intergovernmental Policy Advisory Committee (see description above) to keep state and local governments apprised of timely trade developments of interest.

IGPAC makes recommendations to the USTR and the Administration on trade policy matters from the perspective of state and local governments. USTR has sought to augment IGPAC's membership and expertise in order to receive timely advice on technical aspects of trade agreements. In 2007, IGPAC was briefed and consulted on trade priorities of interest to states and localities, including: voluntary government procurement commitments and reciprocity in trade agreements, ongoing negotiations in the WTO Doha Development Agenda with respect to the General Agreement on Trade in Services (GATS) and other matters, and bilateral FTA negotiations. IGPAC members were also invited to participate in monthly teleconference call briefings along with State Points of Contact.

#### **b. Meetings of State and Local Associations and Local Chambers of Commerce**

USTR officials participate frequently in meetings of state and local government associations to apprise them of relevant trade policy issues and solicit their views. For example, USTR officials have met with the National Governors' Association, Council of State Governments, National Conference of State Legislatures, Conference of Chief Justices of state supreme courts and others. USTR officials also addressed gatherings of state and local officials, as well as local and regional chambers of commerce around the country.

#### **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 WTO Government Procurement Agreement (GPA), GATS issues, FTA negotiations, NAFTA investment issues and others. On the issue of voluntary coverage of state government procurement under the GPA and FTAs, USTR consults extensively with governors' offices and other state officials. USTR also prepares periodic facts sheets to explain the benefits and specific provisions of trade agreements.

### **3. Public and Private Sector Outreach**

It is important to recognize that the advisory committee system is but one of a variety of mechanisms through which the Administration obtains advice from interested groups and organizations on the development of U.S. trade policy. In formulating specific U.S. objectives in major trade negotiations, USTR also routinely solicits written comments from the public via notices in the *Federal Register*, consults with and briefs interested constituencies, holds public hearings, and meets with a broad spectrum of private sector and non-governmental groups.

#### **a. 2007 Outreach Efforts**

The 2007 trade agenda provided many opportunities for USTR to conduct outreach to, and consultations with, diverse trade policy stakeholders including the advisory committees, state and local governments, private sector and non-governmental groups.

### **i. World Trade Organization**

Throughout 2007, USTR continued to solicit advice from cleared advisors, business and agriculture sectors, state governments, and other domestic stakeholders and the general public regarding U.S. objectives for the DDA in areas such as agriculture, non-agriculture market access and services. USTR also conducted outreach and consultations with advisors and domestic stakeholders on WTO accession negotiations for Ukraine, Cape Verde, and Russia, for example. USTR developed timely WTO Fact Sheets for posting to the public website and disseminated these broadly to interested parties.

### **ii. Bilateral Trade Agreements**

In 2007, USTR briefed and facilitated consultations with advisory committees and other stakeholders on free trade agreement negotiations, such as Peru, Colombia, Panama, and Korea. This included advisory committee meetings, teleconference briefings on the progress of negotiations, issuing public fact sheets, and making materials widely available on the USTR website. Advisory committee reports on concluded FTAs, as required under the Trade Act of 2002, were delivered to President Bush, USTR, and Congress, and made public on USTR's website well in advance of congressional consideration of the FTAs to enable informed public discussion.

### **iii. Monitoring and Compliance Activities**

USTR briefed and facilitated consultations with advisors, state officials and other stakeholders on trade disputes such as the WTO civil aircraft subsidies case, the EU biotechnology case, China's treatment of U.S. automotive parts, the Antigua and Barbuda Internet gaming services case and other items. Other issues of interest to advisors and domestic groups included follow-up to USTR's Top to Bottom Review of US-China Trade Relations and report entitled "U.S.-China Trade Relations: Entering a New Phase of Greater Accountability and Enforcement."

### **iv. Public Trade Education**

USTR continues its efforts to promote and educate the public on trade issues. USTR has participated in educational efforts regarding U.S. trade activities and their benefits through speeches, publications, and briefings. In 2007, USTR continued its fact sheet and e-mail service, called Trade Facts, to update interested parties on important U.S. trade initiatives and explain the benefits and provisions of trade agreements. This service provides USTR press releases, fact sheets, and background information to advisors and to the general public. USTR's Internet homepage also serves as a vehicle to communicate to the public. During 2007, USTR disseminated a bimonthly electronic newsletter, Trade Talk, to provide regular and timely trade agenda updates to advisors, state and local governments, other stakeholders and the public. Subscription to the newsletter is free and interested parties may subscribe at <http://www.ustr.gov>.

## **D. Policy Coordination**

The U.S. Trade Representative has primary responsibility, with the advice of the interagency trade policy organization, for developing and coordinating the implementation of the U.S. trade policy, including on commodity matters 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 2007, the TPSC held a public hearing on China's Compliance with WTO Commitments (September 27, 2007). The transcript of this hearing is 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).

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, and 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 non-voting 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.

# **ANNEX I**



# U.S. Trade in 2007

## I. 2007 Overview

U.S. trade (exports and imports of goods and services, and the receipt and payment of earnings on foreign investment)<sup>1</sup> increased by over ten percent in 2007 to a value of over \$5.5 trillion.<sup>2</sup> This marked the fourth consecutive year of strong growth (trade was up 18 percent in 2004, and 15 percent in 2005 and 2006). The increase in trade in 2007 largely reflected growth in foreign demand for U.S. products, the expansion of domestic production, and changes in exchange rates. U.S. trade in goods and services increased by seven percent, while U.S. trade of goods alone increased by six percent and U.S. trade of services alone increased by nine percent. Exports of goods and services and earnings on investment increased by 14 percent in 2007; this represents twice the rate of imports of goods and services and payments on investment (seven percent).

In 2006, the latest year in which data is available, the United States was the world's largest trading nation for both exports and imports of goods and services.<sup>3</sup> The United States accounts for roughly 16 percent of world goods trade and for roughly 17 percent of world services trade.<sup>4</sup> Through 2007 the value of U.S. trade has increased 41-fold since 1970, and 194 percent since 1994, the year before the start of the Uruguay Round implementation (figure 1).<sup>5</sup> U.S. trade expansion was more rapid in the 1970-2007 period 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 10.6 percent per year since 1970, compared to U.S. gross domestic product (GDP) whose average growth over the same period was 7.2 percent. In real terms, the average annual growth in trade was double the pace of GDP growth, 6.6 percent versus 3.1 percent.

The value of trade in goods and services, including earnings and payments on investment, was a record 40 percent of the value of U.S. GDP in 2007 (figure 2). This represented an increase from the corresponding figure in 2006 (38 percent).<sup>6</sup> For goods and services, excluding investment earnings and payments, U.S. trade represented a record 29 percent of the value of GDP in 2007 and was up from 28 percent in 2006.<sup>7</sup>

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<sup>1</sup> 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.

<sup>2</sup> In this Chapter, 2007 is estimated based on partial year data (January-November).

<sup>3</sup> Germany is the largest goods exporter, having surpassed the United States in 2003.

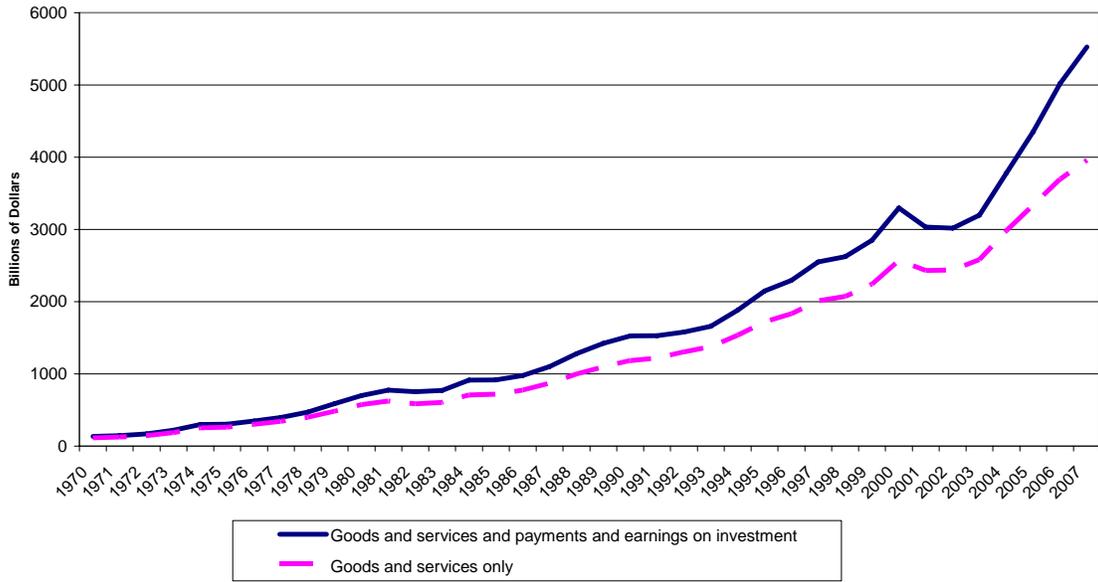
<sup>4</sup> Trade in goods and services excluding intra-EU trade.

<sup>5</sup> Trade in goods and services alone has increased 34-fold since 1970 and 158 percent since 1994.

<sup>6</sup> Thirteen percent of the value of GDP in 1970 and 27 percent in 1994.

<sup>7</sup> Eleven percent of the value of GDP in 1970 and 22 percent in 1994.

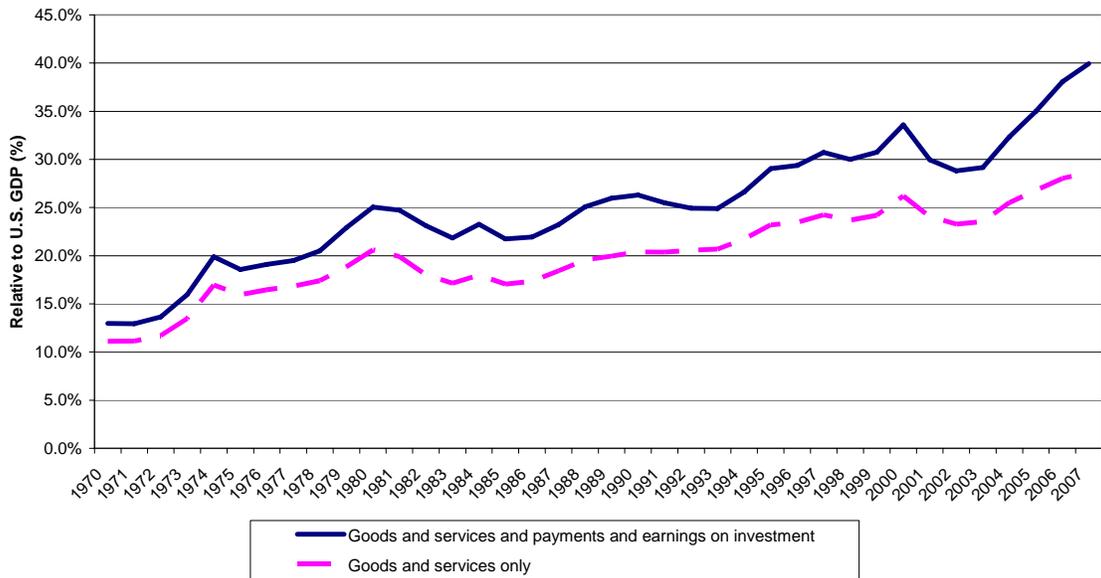
**Figure 1:  
U.S. Trade Growth**



Total exports + imports

Source: U.S. Department of Commerce

**Figure 2:  
Growing Importance of Trade in the U.S. Economy**



Total exports + imports as a percentage of the value of U.S. GDP

Source: U.S. Department of Commerce

This growth in trade has occurred in both U.S. exports and imports. U.S. exports of goods and services (including investment earnings) in 2007 are 34-fold greater than 1970 and 171 percent greater than 1994. U.S. imports of goods and services are 49-fold greater than 1970 and 215 percent greater than 1994.

With the value of U.S. exports increasing more than that of imports, the total deficit on goods and services trade (excluding earnings and payments on foreign investment) declined by approximately \$53 billion from \$759 billion in 2006 (5.7 percent of GDP) to \$705 billion in 2007 (approximately 5.1 percent of GDP). The U.S. deficit in goods trade alone declined by \$28 billion from \$838 billion in 2006 (6.4 percent of GDP) to \$810 billion in 2007 (5.9 percent of GDP). The services trade surplus increased by \$25 billion from \$80 billion in 2006 (0.6% of GDP) to \$105 billion in 2007 (0.8 percent of GDP).

## **II. Goods Trade**

### **A. Export Growth**

U.S. goods exports increased by 12 percent in 2007, as compared to the 14 percent increase in the preceding year (*table 1 and figure 3*). Manufacturing exports, which accounted for 85 percent of total goods exports, were up ten percent, while agriculture exports, which accounted for eight percent of total goods exports, were up by 25 percent. High technology exports, a subset of manufacturing exports, accounted for 24 percent of total goods exports and were up eight percent in 2007. U.S. goods exports increased for every major end-use category in 2007, with the largest increase in the foods, feeds, and beverages category, up 28 percent.

Since 1994 U.S. goods exports are up 129 percent. Manufacturing exports increased 128 percent, while high technology exports increased 127 percent, and agriculture exports nearly doubled. Exports of every major end-use category have more than doubled, led by the industrial supplies and materials category, up 159 percent. Of the \$647 billion increase in goods exports since 1994, capital goods accounted for 37 percent of the increase, industrial supplies and materials accounted for 30 percent, and consumer goods accounted for 13 percent.

In 2007 U.S. goods exports increased to all major markets (*table 2*). U.S. goods exports were led by a growth rate of 20 percent to Latin America, excluding Mexico, 17 percent to China, and 16 percent to the EU27. U.S. exports increased 11 percent to industrial countries and 14 percent to developing countries. Since 1994 U.S. goods exports to developing countries exhibited higher growth rates than that to industrial countries, 160 percent compared to 101 percent. However, the United States still exports a slightly greater share of its goods to industrial countries, roughly 51 percent in 2007.

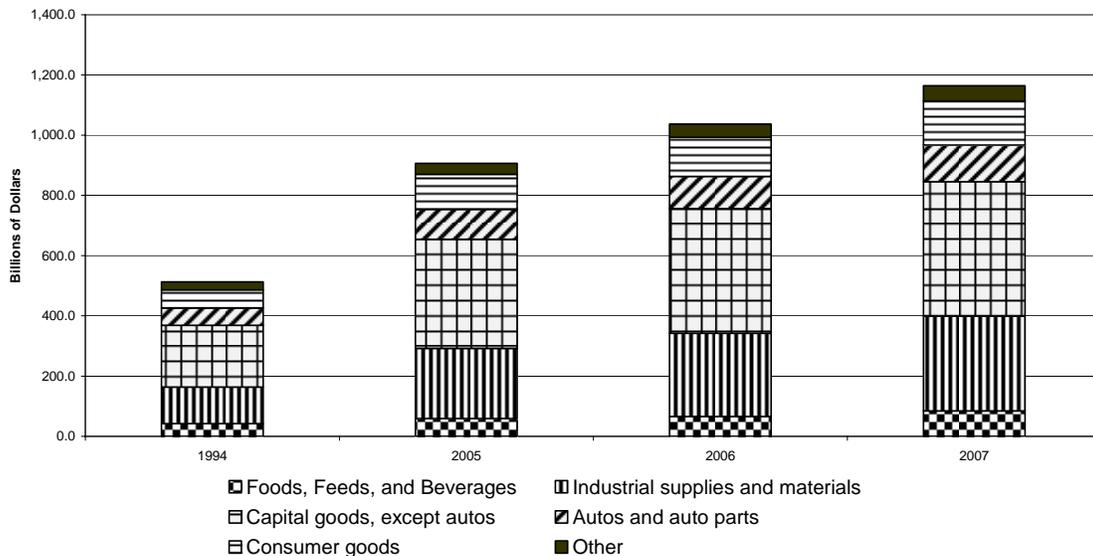
**Table 1**  
**U.S. Goods Exports**

Exports:	1994	2005	2006	2007*	06-07*	94-07*
	<i>Billions of Dollars</i>				<i>Percent Change</i>	
<b>Total (BOP basis)</b>	502.9	894.6	1,023.1	1,149.8	12.4%	128.6%
<b>Food, feeds, and beverages</b>	42.0	59.0	66.0	84.3	27.8%	100.9%
<b>Industrial supplies and materials</b>	121.4	233.1	276.0	314.8	14.0%	159.3%
<b>Capital goods, except autos</b>	205.0	362.7	413.9	446.2	7.8%	117.6%
<b>Autos and auto parts</b>	57.8	98.6	107.2	121.7	13.6%	110.6%
<b>Consumer goods</b>	60.0	116.1	130.0	146.6	12.8%	144.4%
<b>Other</b>	26.5	37.0	43.6	50.8	16.5%	91.7%
<b>Addendum: Agriculture</b>	45.9	65.2	73.2	91.7	25.2%	99.6%
<b>Addendum: Manufacturing</b>	431.1	783.3	890.0	982.2	10.4%	127.9%
<b>Addendum: High Technology</b>	120.7	216.1	252.7	273.5	8.2%	126.5%

\* Annualized based on January-November 2007 data

Source: U.S. Department of Commerce, Balance of Payments Basis for Total, Census basis for Sectors.

**Figure 3:**  
**U.S. Goods Exports**



2007 Annualized based on January-November 2007 data  
Source: U.S. Department of Commerce

**Table 2**  
**U.S. Goods Exports to Selected Countries/Regions**

Exports to:	1994	2005	2006	2007*	06-07*	94-07*
	<i>Billions of Dollars</i>				<i>Percent Change</i>	
<b>Canada</b>	114.4	211.9	230.7	248.5	7.7%	117.1%
<b>European Union (EU27)</b>	110.1	187.3	214.8	248.2	15.5%	125.5%
<b>Japan</b>	53.5	55.5	59.6	62.6	5.0%	17.0%
<b>Mexico</b>	50.8	120.4	134.0	136.6	1.9%	168.6%
<b>China</b>	9.3	41.9	55.2	64.4	16.7%	594.0%
<b>Asian Pacific Rim, except Japan and China</b>	85.0	125.9	142.2	153.7	8.1%	80.8%
<b>Latin America, except Mexico</b>	41.8	72.4	89.0	106.5	19.7%	155.4%
<b>Addendum: Industrial Countries**</b>	294.0	480.8	535.7	592.0	10.5%	101.4%
<b>Addendum: Developing Countries**</b>	218.6	425.2	500.9	569.1	13.6%	160.3%
* Annualized based on January-November 2007 data						
** As defined by the International Monetary Fund						
Source: U.S. Department of Commerce, Census Basis.						

China became the third largest export market in 2007, surpassing Japan. Goods exports to China continued to increase in 2007, up 17 percent, the 8<sup>th</sup> straight year of double-digit growth. Exports of foods, feeds, and beverages, as well as automobiles and automotive parts were the largest growth categories, up 40 percent and 38 percent, respectively. Overall, capital goods accounted for 45 percent of U.S. exports to China in 2007, while exports of industrial supplies accounted for 38 percent. Foods, feeds and beverages, and automobiles and automotive parts accounted for nine percent and three percent, respectively. Agriculture exports increased by 13 percent in 2007, and accounted for 12 percent of total U.S. exports to China. U.S. exports to China have increased nearly 600 percent since 1994.

U.S. exports to Latin America (excluding Mexico) increased 20 percent in 2007, due mainly to strong export growth in capital goods (up 22 percent) and industrial supplies (up 20 percent). These two categories accounted for 74 percent of total exports to the region. Exports of foods, feeds, and beverages were up 37 percent, but only accounted for seven percent of total exports, while exports of automobiles and automotive parts were up a strong 26 percent, but only accounted for five percent of total exports. U.S. exports to Latin America (excluding Mexico) have increased by 155 percent since 1994.

Exports to our NAFTA partners increased roughly six percent in 2007 and have increased 171 percent since 1993, the year before the start of NAFTA's entry into force. Approximately 33 percent of aggregate U.S. goods exports went to NAFTA countries in 2007 (\$385 billion).

U.S. exports to Canada, the largest U.S. export market, accounting for 21 percent of U.S. exports, increased by eight percent in 2007. U.S. exports to Canada were led by agricultural products (up 21 percent). U.S. exports of consumer goods, industrial supplies and autos and auto parts all increased between seven percent and nine percent. Overall, U.S. exports to Canada have increased by 117 percent since 1994.

U.S. exports to Mexico, which is the second largest country export market and accounts for 12 percent of U.S. goods exports, increased by only two percent in 2007. U.S. exports were up 19 percent for agricultural goods and ten percent for autos and parts. U.S. exports of capital goods declined six percent. Since 1994 U.S. exports to Mexico have increased nearly 169 percent.

U.S. exports to the European Union were up 16 percent in 2007. Export growth was led by automobiles and automotive parts (up 29 percent) and agricultural products (up 25 percent). In 2007 the EU accounted for 21 percent of aggregate U.S. exports. Capital goods, industrial supplies, and consumer goods accounted for the majority of U.S. exports to the EU in 2007, 41 percent, 24 percent, and 19 percent, respectively. Since 1994, U.S. exports to the EU have increased by 126 percent.

U.S. exports to the Asian Pacific rim (excluding China and Japan) increased by 8 percent in 2007 and are up 81 percent since 1994. U.S. exports of agriculture were up 25 percent and automobiles and automotive parts were up 22 percent, though only accounted for eight percent and two percent of total exports to the region, respectively. Capital goods (55 percent) and industrial supplies (21 percent) accounted for most of U.S. exports to the region in 2007.

U.S. exports to Japan increased five percent in 2007 and are only up 17 percent since 1994. U.S. exports of agricultural products were up 21 percent, while exports of industrial supplies were up 13 percent in 2007. These two categories accounted for only 40 percent of total U.S. exports to Japan in 2007 (industrial supplies 24 percent, agricultural products 16 percent). U.S. exports of both capital goods and consumer goods declined by roughly one percent in 2007.

## **B. Import Growth**

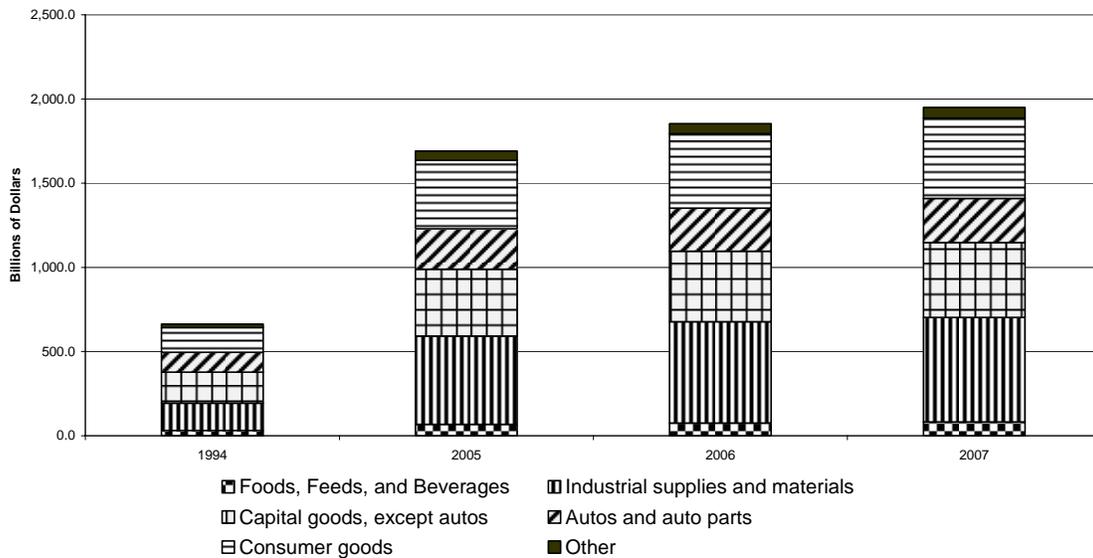
U.S. goods imports increased five percent in 2007 (*table 3 and figure 4*) less than half the 11 percent growth rate in 2006. Manufacturing imports, accounting for 76 percent of total goods imports, increased five percent in 2007. High technology imports, accounting for 17 percent of total goods imports, increased by 13 percent, while agriculture imports, accounting for four percent of total goods imports, increased by ten percent in 2007. U.S. goods imports increased for every major end-use category in 2007, with the largest increase in foods, feeds, and beverages (up 9.4 percent). The three largest end-use categories for U.S. imports together accounted for 79 percent of total U.S. imports in 2007 (industrial supplies – 32 percent; consumer goods – 24 percent; and capital goods – 23 percent).

<b>Table 3 U.S. Goods Imports</b>						
<b>Imports:</b>	<b>1994</b>	<b>2005</b>	<b>2006</b>	<b>2007*</b>	<b>06-07*</b>	<b>94-07*</b>
	<i>Billions of Dollars</i>				<i>Percent Change</i>	
<b>Total (BOP basis)</b>	668.7	1,681.8	1,861.4	1,960.1	5.3%	193.1%
<b>Food, feeds, and beverages</b>	31.0	68.1	74.9	82.0	9.4%	164.8%
<b>Industrial supplies and materials</b>	162.1	523.8	602.0	620.7	3.1%	282.9%
<b>Capital goods, except autos</b>	184.4	397.3	418.3	445.2	6.4%	141.5%
<b>Autos and auto parts</b>	118.3	239.5	256.7	261.7	1.9%	121.2%
<b>Consumer goods</b>	146.3	407.2	442.6	476.7	7.7%	225.9%
<b>Other</b>	21.3	55.6	59.5	62.6	5.2%	194.2%
<b>Addendum: Agriculture</b>	26.0	59.5	65.5	72.1	10.1%	177.8%
<b>Addendum: Manufacturing</b>	557.3	1,287.4	1,416.3	1,485.1	4.9%	166.5%
<b>Addendum: High Technology</b>	98.1	259.7	290.8	327.6	12.7%	233.9%

**\* Annualized based on January-November 2007 data**

**Source: U.S. Department of Commerce, Balance of Payments Basis for Total, Census basis for Sectors.**

**Figure 4:  
U.S. Goods Imports**



2007 Annualized based on January-November 2007 data  
Source: U.S. Department of Commerce

Since 1994 U.S. goods imports are up 193 percent, nearly 50 percent larger than the growth of U.S. exports. U.S. imports of agricultural products and manufactured products increased by 178 percent and 167 percent, respectively. U.S. imports of advanced technology products increased by 234 percent. For major end-use categories, U.S. imports of industrial supplies increased by 283 percent since 1994, while imports of consumer goods increased by 226 percent. Of the \$1.3 trillion increase in goods imports since 1994, industrial supplies and materials accounted for 36 percent of the increase, consumer goods for 26 percent, capital goods for 20 percent, and automobiles and automotive parts for 11 percent.

On a regional basis, U.S. goods imports increased by 12 percent from China, seven percent from the EU, and six percent from Mexico in 2007, while imports declined by two percent from Japan, one percent from Latin America, excluding Mexico, and the Asian Pacific region, excluding Japan and China (*table 4*). U.S. imports increased by six percent from developing countries and by four percent from industrial countries. Since 1994 U.S. goods imports from developing countries exhibited higher growth (more than double) than that from industrial countries, 293 percent compared with 120 percent. Accordingly, the share of U.S. imports from developing countries has increased from 43 percent in 1994 to 57 percent in 2007.

Although U.S. goods imports continued its growth from China in 2007 (up 12 percent), this growth has declined over the past four years (29 percent growth in 2004, 24 percent growth in 2005, and 18 percent growth in 2006). U.S. imports from China have increased by over 730 percent since 1994. In 2007 China surpassed Canada and became the largest single country supplier of goods to the United States. It accounted for 17 percent of total U.S. imports in 2007, up from six percent in 1994. Imports from China accounted for 22 percent of the overall increase in U.S. imports from the world since 1994 (second to NAFTA's 31 percent but greater than the EU's 18 percent). Much of U.S. imports from China are low value-added consumer goods, such as toys, footwear, apparel, and some areas of consumer electronics. Consumer goods made up 54 percent of U.S. imports from China in 2007 and grew 11 percent in 2007. U.S. imports of autos and parts and capital goods, however, each exhibited stronger growth in 2007, 25 percent and 16 percent, respectively. U.S. imports of agricultural products from China increased by 22 percent in 2007.

Although imports from China have shown strong growth, non-China imports from Asia have slowed relative to overall U.S. imports, resulting from production shifting from other Asian countries to China. When U.S. imports from China, Japan, and the other Asian-Pacific Rim countries are considered together, however, the region's share of U.S. imports has actually declined from 39 percent in 1994 to 33 percent in 2007.

Imports from the Asian Pacific Rim (excluding Japan and China) declined by one percent in 2007, but were up by 76 percent since 1994. Purchases from this region accounted for 9 percent of total U.S. imports in 2007, down from 16 percent in 1994. The largest import growth category in 2007 was agricultural products, which increased nine percent. The largest import decline from this region in 2007 was capital goods, down three percent. Despite this decline, capital goods imports still accounted for 40 percent of total U.S. imports from this region.

<b>Table 4</b>						
<b>U.S. Goods Imports from Selected Countries/Regions</b>						
<b>Imports from:</b>	<b>1994</b>	<b>2005</b>	<b>2006</b>	<b>2007*</b>	<b>06-07*</b>	<b>94-07*</b>
	<i>Billions of Dollars</i>				<i>Percent Change</i>	
<b>Canada</b>	128.4	290.4	302.4	313.4	3.6%	144.1%
<b>European Union (EU27)</b>	121.9	310.4	332.1	355.8	7.2%	191.9%
<b>Japan</b>	119.2	138.0	148.2	145.8	- 1.6%	22.4%
<b>Mexico</b>	49.5	170.1	198.3	210.0	5.9%	324.3%
<b>China</b>	38.8	243.5	287.8	322.9	12.2%	732.4%
<b>Asian Pacific Rim, except Japan and China</b>	103.2	169.9	182.6	181.1	-0.8%	75.5%
<b>Latin America, except Mexico</b>	38.5	122.9	133.7	132.2	- 1.1%	243.6%
<b>Addendum: Industrial Countries**</b>	380.7	758.1	803.4	837.1	4.2%	119.9%
<b>Addendum: Developing Countries**</b>	282.5	915.3	1,050.5	1,111.3	5.8%	293.4%
* Annualized based on January-November 2007 data						
** As defined by the International Monetary Fund						
Source: U.S. Department of Commerce, Census Basis.						

Similarly, U.S. imports from Japan declined in 2007, down nearly two percent. Since 1994 U.S. imports from Japan have only grown by 22 percent, far below the overall U.S. growth rate of 193 percent during this timeframe. Purchases from Japan in 2007 accounted for seven percent of total U.S. imports, as compared to 18 percent in 1994. The largest import growth category was foods, feeds and beverages, which increased five percent. This category, however, only accounted for 0.4 percent of total imports from Japan in 2007. Roughly 75 percent of total U.S. imports from Japan in 2007 were in the automobiles and automotive parts category (41 percent) and the capital goods category (35 percent).

Imports from Latin America (excluding Mexico) declined by 1 percent in 2007, accounting for seven percent of total U.S. imports in 2007. U.S. imports of agricultural products increased by nine percent in 2007, while imports of automobiles and automotive parts and consumer goods declined by 16 percent and seven percent, respectively. U.S. imports from Latin America have increased by 244 percent since 1994.

Imports from our NAFTA partners increased five percent in 2007 and have increased by 246 percent since NAFTA entered into force in 1994. NAFTA imports accounted for 27 percent of aggregate U.S. goods imports in 2007, which is unchanged from 1994.

U.S. imports from Canada, which is the second largest single country supplier of goods to the United States and accounts for 16 percent of U.S. imports, increased by four percent in 2007. Nearly 70 percent of this increase was in the industrial supplies (38 percent) and capital goods (30 percent) categories. U.S. imports from these categories were up by three percent and eight percent, respectively, in 2007. U.S. imports of agricultural goods from Canada were up 13 percent in 2007, while imports of consumer goods were up six percent. U.S. imports from Canada have increased by 144 percent since 1994.

U.S. imports from Mexico, the third largest single country supplier of goods to the United States, increased by six percent in 2007. Roughly 39 percent of this increase was in the consumer goods category (up 13 percent) and another 30 percent in the capital goods category (up 8 percent). U.S. imports of agriculture also increased by eight percent in 2007. U.S. imports from Mexico have grown 324 percent since 1994.

U.S. goods imports from the EU, accounting for 18 percent of total U.S. imports, increased by seven percent in 2007. Roughly 70 percent of this increase was in the consumer goods category (up 11 percent) and in the capital goods category (up eight percent). U.S. imports of agricultural products from the EU also increased by eight percent. U.S. imports from the EU have increased by 192 percent since 1994.

### **III. Services Trade**

#### **A. Export Growth**

U.S. exports of services grew 12 percent in 2007 to a record \$473 billion, and since 1994 U.S. services exports have increased by 136 percent (*table 5 and figure 5*). U.S. services exports accounted for 29 percent of the level of U.S. goods and services exports in 2007.

Nearly all of the major services export categories exhibited double digit growth rates in 2007, ranging between ten percent and 14 percent. Of the \$51 billion increase in U.S. services exports in 2007, the other private services category accounted for nearly 48 percent of the increase and the travel category accounted for 23 percent.

Since 1994 all of the major services exports categories have grown. Export growth has been led by the other private services category, up 248 percent, the royalties and licensing fees category, up 164 percent, and the other transportation category, up 116 percent. Of the \$273 billion increase in U.S. services exports between 1994 and 2007, the other private services category accounted for 55 percent of the increase, the royalties and licensing fees category accounted for 16 percent, and the travel category accounted for 14 percent.

Detailed sectoral breakdowns for exports of the other private services category are available only through 2006.

In 2006 31 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 2006 were: business, professional and technical services (\$96 billion); financial services (\$43 billion); and education (\$15 billion). The business, professional and technical services category was led by research and development and testing services (\$13 billion), operational leasing (\$11 billion), computer and information services (\$10 billion),

management and consulting services (\$7 billion), and the installation, maintenance, and repair of equipment (\$7 billion).<sup>8</sup>

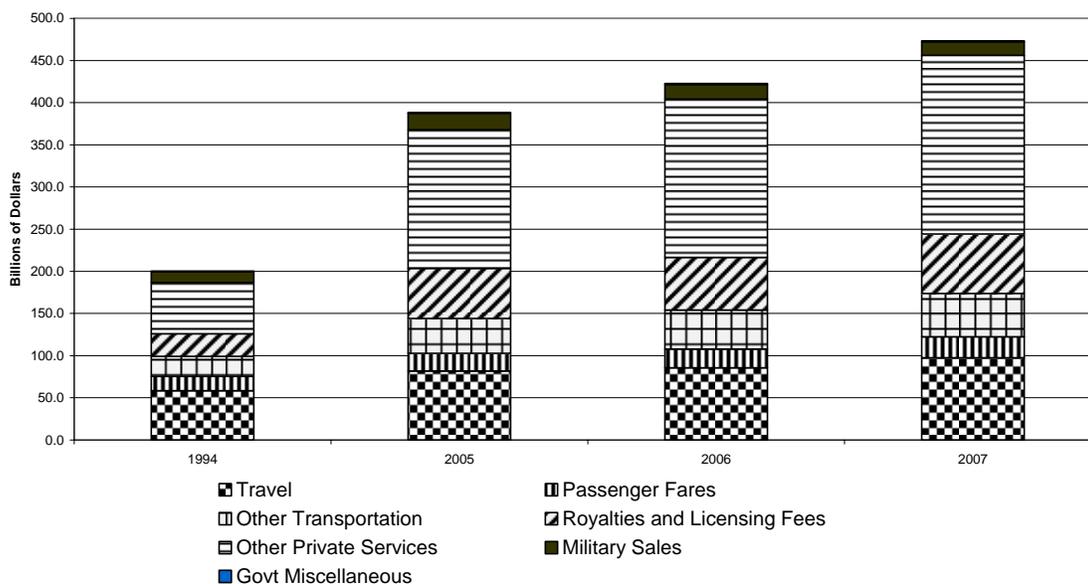
The United Kingdom was the largest purchaser of U.S. private services exports in 2006, accounting for 12 percent of total U.S. private services exports. The top five purchasers of U.S. private services exports in 2006 were: the United Kingdom (\$48 billion), Japan (\$41 billion), Canada (\$39 billion), Mexico (\$22 billion), and Germany (\$21 billion).

Regionally, in 2006 the United States exported \$140 billion to the EU-25, \$109 billion to the Asia/Pacific Region (\$57 billion excluding Japan and China), \$60 billion to NAFTA countries, and \$27 billion to Latin America (excluding Mexico).

<b>Table 5 U.S. Services Exports</b>						
<b>Exports:</b>	<b>1994</b>	<b>2005</b>	<b>2006</b>	<b>2007*</b>	<b>06-07*</b>	<b>94-07*</b>
	<i>Billions of Dollars</i>				<i>Percent Change</i>	
<b>Total (BOP basis)</b>	200.4	388.4	422.6	473.3	12.0%	136.2%
<b>Travel</b>	58.4	81.8	85.7	97.5	13.8%	66.9%
<b>Passenger Fares</b>	17.0	21.0	22.2	24.8	11.6%	45.7%
<b>Other Transportation</b>	23.8	41.3	46.3	51.3	10.8%	116.0%
<b>Royalties and Licensing Fees</b>	26.7	59.4	62.4	70.6	13.1%	164.2%
<b>Other Private Services</b>	60.8	164.3	187.8	211.9	12.8%	248.2%
<b>Transfers under U.S. Military Sales Contracts</b>	12.8	19.5	17.1	16.1	- 5.6%	26.3%
<b>U.S. Government Miscellaneous Services</b>	0.9	1.1	1.2	1.2	0.5%	30.8%
<b>* Annualized based on January-November 2007 data</b>						
<b>Source: U.S. Department of Commerce, Balance of Payments Basis.</b>						

<sup>8</sup> Installation, maintenance, and repair of equipment services value for unaffiliated sales only.

**Figure 5:  
U.S. Services Exports**



2007 Annualized based on January-November 2007 data  
Source: U.S. Department of Commerce

## B. Import Growth

Services imports by the United States increased in 2007 by seven percent to a record \$368 billion (*table 6, figure 6*). The other private services category accounted for roughly 61 percent of the \$26 billion growth in U.S. imports of services in 2007. It was also the category which exhibited the largest percentage import growth rates in 2007, up 13 percent. U.S. services imports accounted for 16 percent of the level of U.S. goods and services imports in 2007.

Since 1994 services imports grew by 177 percent or \$235 billion. This growth was driven by the other private services category (accounting for 43 percent of the increase) and the other transportation category (accounting for 17 percent of the increase). All of the major service categories grew since 1994. U.S. payments (imports) of royalties and licensing fees, and other private services have quadrupled, while direct defense expenditures have more than tripled.

As with exports, detailed sectoral breakdowns for imports of other private services are available only through 2006. In 2006 41 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 2006 were: business professional and technical services (\$58 billion); insurance services (\$34 billion); and financial services (\$14 billion). The business, professional and technical services category were led by the computer and information services (\$11 billion), research, development, and testing services (\$9 billion), and management, and consulting services (\$7 billion).

In the import sector the United Kingdom remained our largest supplier of private services, providing \$37 billion to the United States in 2006. This accounted for 12% of total U.S. imports of private services in 2006. The United States imported \$12 billion from both Japan, our second largest supplier, and Canada our third largest supplier. Germany and Bermuda were our fourth and fifth largest import suppliers, exporting \$21 and \$15 billion, respectively, worth of services to the U.S. in 2006.

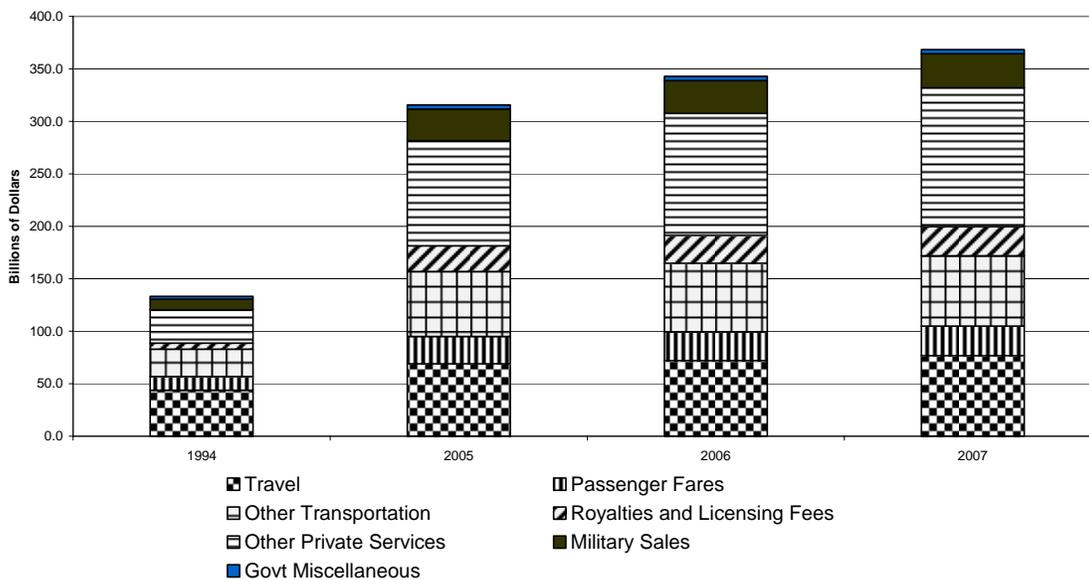
Regionally, in 2006 the U.S. imported \$117 billion of services from the EU-25, \$75 billion from the Asia/Pacific region (\$44 billion excluding Japan and China), \$38 billion from NAFTA, and \$15 billion from Latin America (excluding Mexico).

<b>Table 6</b>						
<b>U.S. Services Imports</b>						
<b>Imports:</b>	<b>1994</b>	<b>2005</b>	<b>2006</b>	<b>2007*</b>	<b>06-07*</b>	<b>94-07*</b>
	<i>Billions of Dollars</i>				<i>Percent Change</i>	
<b>Total (BOP basis)</b>	133.1	315.7	342.8	368.3	7.4%	176.8%
<b>Travel</b>	43.8	69.0	72.0	76.6	6.3%	74.9%
<b>Passenger Fares</b>	13.1	26.1	27.5	28.3	2.9%	116.7%
<b>Other Transportation</b>	26.0	61.9	65.3	67.0	2.6%	157.5%
<b>Royalties and Licensing Fees</b>	5.9	24.6	26.4	27.9	5.6%	377.2%
<b>Other Private Services</b>	31.6	99.9	116.5	132.1	13.4%	318.5%
<b>Direct Defense Expenditures</b>	10.2	30.1	31.1	32.4	4.4%	217.2%
<b>U.S. Government Miscellaneous Services</b>	2.6	4.0	4.0	4.0	0.6%	58.0%

**\* Annualized based on January-November 2007 data**

**Source: U.S. Department of Commerce, Balance of Payments Basis.**

**Figure 6:**  
**U.S. Services Imports**



2007 Annualized based on January-November 2007 data  
Source: U.S. Department of Commerce

## IV. The U.S. Trade Deficit

In 2007 the U.S. goods and services deficit declined by \$53 billion to a level of \$705 billion (*table 7*). This was the first decline of the deficit recorded since 2001. The decline in the deficit was nearly equally divided between a decline in the goods trade deficit (down \$28 billion to \$810 billion) and an increase in the services surplus (up \$25 billion to a record surplus of \$105 billion).

As a share of U.S. GDP, the goods and services trade deficit declined from 5.7 percent of GDP in 2006 to nearly 5.1 percent of GDP in 2007 (*table 8*). The goods trade deficit declined from 6.4 percent of GDP in 2006 to 5.9 percent of GDP in 2007, while the services trade surplus increased from 0.6 percent of GDP in 2006 to 0.8 percent of GDP in 2007.

The regional distribution of the goods trade deficit for 2005-2007 and 1994 is shown in table 9.

<b>Table 7</b>				
<b>U.S. Trade Balances with the World</b>				
<b>Balance:</b>	<b>1994</b>	<b>2005</b>	<b>2006</b>	<b>2007*</b>
	<i>Billions of Dollars</i>			
<b>Goods and Services (BOP Basis)</b>	-98.5	-714.4	-758.5	-705.3
<b>Goods (BOP Basis)</b>	-165.8	-787.1	-838.3	-810.3
<b>Services (BOP Basis)</b>	67.3	72.8	79.7	105.0
<b>* Annualized based on January-November 2007 data</b>				
<b>Source: U.S. Department of Commerce</b>				

<b>Table 8</b>				
<b>U.S. Trade Balances as a Share of GDP</b>				
<b>Share of GDP:</b>	<b>1994</b>	<b>2005</b>	<b>2006</b>	<b>2007*</b>
	<i>Percents</i>			
<b>Goods and Services (BOP Basis)</b>	-1.4	-5.7	-5.7	-5.1
<b>Goods (BOP Basis)</b>	-2.3	-6.3	-6.4	-5.9
<b>Services (BOP Basis)</b>	1.0	0.6	0.6	0.8
<b>* Annualized based on January-November 2007 data</b>				
<b>Source: U.S. Department of Commerce</b>				

**Table 9**  
**U.S. Goods Trade Balances with Selected Countries/Regions**

<b>Balance:</b>	<b>1994</b>	<b>2005</b>	<b>2006</b>	<b>2007*</b>
	<i>Billions of Dollars</i>			
<b>Canada</b>	-14.0	-78.5	-71.8	-65.0
<b>European Union (EU27)</b>	-11.8	-123.1	-117.2	-107.6
<b>Japan</b>	-65.7	-82.5	-88.6	-83.2
<b>Mexico</b>	1.4	-49.7	-64.3	-73.5
<b>China</b>	-29.5	-201.5	-232.6	-258.4
<b>Asian Pacific Rim, except Japan and China</b>	-18.2	-44.0	-40.4	-27.4
<b>Latin America, except Mexico</b>	3.2	-50.5	-44.7	-25.7
<b>Addendum: Industrial Countries**</b>	-86.7	-277.3	-267.7	-245.0
<b>Addendum: Developing Countries**</b>	-63.9	-490.1	-549.6	-542.2

\* Annualized based on January-November 2007 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
6. Hong Kong Ministerial Declaration
7. U.S. Submissions to the WTO in Support of the Doha Development Agenda
8. WTO Affinity Groups in the DDA

### ***Institutional Issues***

2. Membership of the WTO
3. 2007 WTO Budget Contributions
4. 2007-8 Budget for the WTO Secretariat
5. Waivers Currently in Force
6. WTO Secretariat Personnel Statistics
7. WTO Accession Application and Status
8. Indicative List of Governmental and Non-Governmental Panellists
9. Appellate Body Membership
10. Where to Find More Information on the WTO

# WORLD TRADE ORGANIZATION

WT/MIN(01)/DEC/1  
20 November 2001

(01-5859)

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**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.

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# WORLD TRADE ORGANIZATION

WT/MIN(01)/DEC/2  
20 November 2001

(01-5860)

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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.

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# WORLD TRADE ORGANIZATION

WT/MIN(01)/17  
20 November 2001

(01-5858)

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**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")<sup>1</sup> should be generalised, non-reciprocal and non-discriminatory.

### 13. Outstanding Implementation Issues<sup>2</sup>

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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<sup>1</sup> BISD 26S/203.

<sup>2</sup>A list of these issues is compiled in document Job(01)/152/Rev.1.

**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<sup>1</sup> 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.<sup>2</sup> 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<sup>3</sup> 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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<sup>1</sup> This report is contained in document TN/S/16.

<sup>2</sup> 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.

<sup>3</sup> 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.<sup>4</sup> 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.<sup>5</sup>
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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<sup>4</sup> 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.

<sup>5</sup> 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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**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<sup>1</sup>;
  - (b) "eligible importing Member" means any least-developed country Member, and any other Member that has made a notification<sup>2</sup> 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<sup>3</sup> 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)<sup>4</sup> has made a notification<sup>2</sup> to the Council for TRIPS, that:
    - (i) specifies the names and expected quantities of the product(s) needed<sup>5</sup>;
    - (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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<sup>1</sup> This subparagraph is without prejudice to subparagraph 1(b).

<sup>2</sup> It is understood that this notification does not need to be approved by a WTO body in order to use the system.

<sup>3</sup> 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.

<sup>4</sup> 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.

<sup>5</sup> 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<sup>6</sup>;

- (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<sup>7</sup> 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<sup>8</sup> the Council for TRIPS of the grant of the licence, including the conditions attached to it.<sup>9</sup> 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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<sup>6</sup> This subparagraph is without prejudice to Article 66.1 of this Agreement.

<sup>7</sup> 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.

<sup>8</sup> It is understood that this notification does not need to be approved by a WTO body in order to use the system.

<sup>9</sup> 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)

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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.

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## **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.<sup>1</sup>
- 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:

<b>Bands</b>	<b>Thresholds (US\$ billion)</b>	<b>Cuts</b>
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

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<sup>1</sup> 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%.<sup>2</sup> 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<sup>3</sup> provides a snapshot:

<b>Bands</b>	<b>Thresholds (US\$ billion)</b>	<b>Cuts</b>
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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<sup>2</sup> The exact extent of the flexibility to be provided pursuant to paragraph 15 of the July 2004 Framework remains to be agreed.

<sup>3</sup> 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<sup>4</sup> 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.<sup>5</sup>

### *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*

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<sup>4</sup> 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.

<sup>5</sup> 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.

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 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.<sup>6</sup>

#### *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.<sup>7</sup> 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.<sup>8</sup> 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

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<sup>6</sup> 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.

<sup>7</sup> The method for calculating the AVEs for the sugar lines is still to be established.

<sup>8</sup> At one end of the spectrum, as it were, a "harmonisation" formula within the bands; at the other end "flexibility" within the formula.

from formal positions (which of course remain), major gaps are yet to be bridged. Somewhat greater convergence has been achieved as regards the thresholds for the bands. Substantial movement is clearly essential to progress.<sup>9</sup>

- Some Members continue to reject completely the concept of a tariff cap. Others have proposed<sup>10</sup> 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.<sup>11</sup> 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.<sup>12</sup> But

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<sup>9</sup> 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

<sup>10</sup> As an element in certain conditional proposals on overall market access, tabled post-July 2005.

<sup>11</sup> 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.

<sup>12</sup> 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.<sup>13</sup>

- Some Members continue to reject completely the concept of a tariff cap for developing countries. Others have proposed<sup>14</sup> 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.<sup>15</sup>

### *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

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<sup>13</sup> 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%).

<sup>14</sup> As an element in certain conditional proposals on overall market access, tabled post-July 2005.

<sup>15</sup> 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<sup>16</sup> 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.<sup>17</sup> 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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<sup>16</sup> 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.

<sup>17</sup> 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.<sup>18</sup>

## **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.<sup>19</sup> 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.<sup>20</sup>

## **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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<sup>18</sup> It is also proposed that this should be accompanied by simple and transparent rules of origin and other measures to address non-tariff barriers.

<sup>19</sup> 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.

<sup>20</sup> 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.<sup>21</sup>

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<sup>21</sup> 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.<sup>22</sup>

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.<sup>23</sup>

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<sup>22</sup> 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.

<sup>23</sup> 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<sup>40</sup> 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.<sup>41</sup> 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.<sup>42</sup> Members have also made valuable contributions on the identification of trade facilitation needs and priorities, development aspects, cost implications and inter-agency cooperation.<sup>43</sup>

3. Valuable input has been provided by a number of Members in the form of national experience papers<sup>44</sup> 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 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

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<sup>40</sup> 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.

<sup>41</sup> TN/TF/W/33, W/41, W/56, W/63, W/73 and W/74.

<sup>42</sup> TN/TF/W/57 and W/68.

<sup>43</sup> TN/TF/W/29, W/33, W/41, W/62 and W/63.

<sup>44</sup> TN/TF/W/48, W/50, W/53, W/55, W/58, W/60, W/61, W/65, W/69 and W/75.

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 countries 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.

#### **84) Agreement on Trade-Related Investment Measures**

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)

**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 Sector1 (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 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/RI/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)

#### **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)
- Communication from the United States -- United States Assistance on Trade Facilitation (TN/TF/W/151)

### **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: 18 Jan 2008*

**WTO Affinity Groups in the DDA**  
(As of January 18, 2008)

<b>G-20</b>	<b>G-33</b>	<b>G-10</b>	<b>NAMA-11</b>	<b>LDCs in WTO</b>
Argentina	Antigua- Barbuda	Chinese Taipei	Argentina	Angola
Bolivia	Barbados	Iceland	<b>Brazil**</b>	<b>Bangladesh**</b>
<b>Brazil**</b>	Belize	Israel	Egypt	Benin
Chile	Benin	Japan	<b>India**</b>	Burkina Faso
China	Bolivia	Korea	Indonesia	Burundi
Cuba	Botswana	Liechtenstein	Namibia	Cambodia
Ecuador	China	Mauritius	Philippines	Central Africa Rep
Egypt	Congo	Norway	<b>South Africa**</b>	Chad
Guatemala	Cote d'Ivoire	<b>Switzerland**</b>	Tunisia	Congo, DRC
India	Cuba		Venezuela	Djibouti
Indonesia	Dominica			Gambia
Mexico	Dominican Rep.			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	<b>Indonesia**</b>			Mauritania
Uruguay	Jamaica			Mozambique
Venezuela	Kenya			Myanmar (Burma)
Zimbabwe	Korea			Nepal
	Mauritius			Niger
	Mongolia			Rwanda
	Montserrat			Senegal
	Mozambique			Sierra Leone
	Nicaragua			Solomon Islands
	Nigeria			Tanzania
	Pakistan			Togo
	Panama			Uganda
	Peru			Zambia
	Philippines			
	St. Kitts & Nevis			<b>LDCs acceding:</b>
	St. Lucia			Bhutan
	St. Vincent & Grenadines			Cape Verde
	Senegal			Ethiopia
	Sri Lanka			Laos
	Suriname			Samoa
	Tanzania			Sudan
	Trinidad & Tobago			Vanuatu
	Turkey			Yemen
	Uganda			
	Venezuela			<b>WTO Observers:</b>
	Zambia			Equatorial Guinea
	Zimbabwe			Sao Tome & Principe

\*\* = Group Coordinator

## MEMBERSHIP OF THE WORLD TRADE ORGANIZATION

as of January 1, 2008 (151 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
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
The Gambia	October 23, 1996	United Kingdom	January 1, 1995
Togo	May 31, 1995	United States of America	January 1, 1995
Tonga	April 14, 2003 July 27, 2007	Uruguay	January 11, 2000
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
Tyvan	January 1, 1995	Zimbabwe	March 5, 1995
Uganda	January 1, 1995		
United Arab Emirates	April 10, 1996		

## PROPOSED REVISED SCALE OF CONTRIBUTIONS FOR 2008

(Minimum contribution of 0.015 per cent)

Member	2007 Contribution	2008 Contribution		Interest earned <sup>45</sup>	2008 net Contribution
	CHF	CHF	%	CHF	CHF
Albania	34,295	37,359	0.0210	93	37,266
Angola	182,305	208,143	0.1170	524	207,619
Antigua and Barbuda	27,075	26,685	0.0150	111	26,574
Argentina	608,285	572,838	0.3220	0	572,838
Armenia	27,075	26,685	0.0150	86	26,599
Australia	2,019,795	2,028,060	1.1400	5,220	2,022,840
Austria	2,530,610	2,511,948	1.4120	10,079	2,501,869
Bahrain	142,595	142,320	0.0800	372	141,948
Bangladesh	187,720	181,458	0.1020	45	181,413
Barbados	30,685	30,243	0.0170	72	30,171
Belgium	4,757,980	4,685,886	2.6340	15,885	4,670,001
Belize	27,075	26,685	0.0150	0	26,685
Benin	27,075	26,685	0.0150	0	26,685
Bolivia	41,515	40,917	0.0230	0	40,917
Botswana	57,760	62,265	0.0350	156	62,109
Brazil	1,573,960	1,574,415	0.8850	6,413	1,568,002
Brunei Darussalam	74,005	71,160	0.0400	145	71,015
Bulgaria	216,600	231,270	0.1300	699	230,571
Burkina Faso	27,075	26,685	0.0150	0	26,685
Burundi	27,075	26,685	0.0150	0	26,685
Cambodia	63,175	58,707	0.0330	59	58,648
Cameroon	52,345	49,812	0.0280	0	49,812
Canada	6,638,790	6,272,754	3.5260	28,241	6,244,513
Central African Republic	27,075	26,685	0.0150	0	26,685
Chad	27,075	26,685	0.0150	0	26,685
Chile	534,280	553,269	0.3110	1,096	552,173
China, People's Republic of	8,528,625	9,496,302	5.3380	8,382	9,487,920
Colombia	346,560	343,347	0.1930	863	342,484
Congo	37,905	48,033	0.0270	0	48,033
Costa Rica	166,060	158,331	0.0890	38	158,293
Côte d'Ivoire	108,300	110,298	0.0620	0	110,298
Croatia	281,580	293,535	0.1650	856	292,679
Cuba	102,885	104,961	0.0590	317	104,644
Cyprus	122,740	120,972	0.0680	359	120,613
Czech Republic	1,104,660	1,174,140	0.6600	3,528	1,170,612
Democratic Republic of the Congo	27,075	26,685	0.0150	0	26,685
Denmark	1,759,875	1,752,315	0.9850	6,557	1,745,758
Djibouti	27,075	26,685	0.0150	0	26,685
Dominica	27,075	26,685	0.0150	0	26,685
Dominican Republic	196,745	177,900	0.1000	523	177,377
Ecuador	148,010	156,552	0.0880	590	155,962

<sup>45</sup> Interest earned in 2006 under the Early Payment Encouragement Scheme (L/6384) and to be deducted from the 2008 contributions.

Member	2007 Contribution	2008 Contribution		Interest earned <sup>45</sup>	2008 net Contribution
	CHF	CHF	%	CHF	CHF
Egypt	433,200	430,518	0.2420	60	430,458
El Salvador	106,495	101,403	0.0570	10	101,393
Estonia	135,375	144,099	0.0810	509	143,590
European Communities	0	0	0.0000	0	0
Fiji	27,075	26,685	0.0150	99	26,586
Finland	1,095,635	1,118,991	0.6290	4,446	1,114,545
Former Yugoslave Republic of Macedonia	43,320	42,696	0.0240	0	42,696
France	8,943,775	8,674,404	4.8760	30,139	8,644,265
Gabon	50,540	48,033	0.0270	0	48,033
Gambia	27,075	26,685	0.0150	0	26,685
Georgia	28,880	32,022	0.0180	50	31,972
Germany	15,871,365	15,765,498	8.8620	56,102	15,709,396
Ghana	70,395	71,160	0.0400	7	71,153
Greece	871,815	862,815	0.4850	2,330	860,485
Grenada	27,075	26,685	0.0150	0	26,685
Guatemala	115,520	112,077	0.0630	430	111,647
Guinea	27,075	26,685	0.0150	0	26,685
Guinea-Bissau	27,075	26,685	0.0150	0	26,685
Guyana	27,075	26,685	0.0150	64	26,621
Haiti	27,075	26,685	0.0150	35	26,650
Honduras	66,785	64,044	0.0360	4	64,040
Hong Kong, China	5,463,735	5,235,597	2.9430	22,503	5,213,094
Hungary	1,021,630	1,054,947	0.5930	3,682	1,051,265
Iceland	77,615	80,055	0.0450	87	79,968
India	1,498,150	1,328,913	0.7470	4,323	1,324,590
Indonesia	1,395,265	1,321,797	0.7430	2,590	1,319,207
Ireland	2,306,790	2,289,573	1.2870	9,071	2,280,502
Israel	956,650	898,395	0.5050	1,216	897,179
Italy	7,201,950	7,039,503	3.9570	24,554	7,014,949
Jamaica	88,445	81,834	0.0460	82	81,752
Japan	10,429,290	9,811,185	5.5150	31,788	9,779,397
Jordan	119,130	122,751	0.0690	346	122,405
Kenya	75,810	78,276	0.0440	217	78,059
Korea, Republic of	4,566,650	4,523,997	2.5430	28,626	4,495,371
Kuwait	382,660	421,623	0.2370	0	421,623
Kyrgyz Republic	27,075	26,685	0.0150	85	26,600
Latvia	102,885	110,298	0.0620	381	109,917
Lesotho	27,075	26,685	0.0150	99	26,586
Liechtenstein	43,320	44,475	0.0250	183	44,292
Lithuania	180,500	199,248	0.1120	439	198,809
Luxembourg	664,240	674,241	0.3790	2,566	671,675
Macao, China	129,960	131,646	0.0740	433	131,213
Madagascar	27,075	26,685	0.0150	40	26,645
Malawi	27,075	26,685	0.0150	0	26,685
Malaysia	2,279,715	2,182,833	1.2270	7,327	2,175,506

Member	2007 Contribution	2008 Contribution		Interest earned <sup>45</sup>	2008 net Contribution
	CHF	CHF	%	CHF	CHF
Maldives	27,075	26,685	0.0150	56	26,629
Mali	27,075	26,685	0.0150	1	26,684
Malta	79,420	74,718	0.0420	323	74,395
Mauritania	27,075	26,685	0.0150	0	26,685
Mauritius	63,175	62,265	0.0350	264	62,001
Mexico	3,999,880	3,741,237	2.1030	13,036	3,728,201
Moldova	27,075	26,685	0.0150	99	26,586
Mongolia	27,075	26,685	0.0150	111	26,574
Morocco	288,800	289,977	0.1630	745	289,232
Mozambique	32,490	35,580	0.0200	96	35,484
Myanmar, Union of	55,955	49,812	0.0280	0	49,812
Namibia	37,905	33,801	0.0190	0	33,801
Nepal	30,685	28,464	0.0160	124	28,340
Netherlands	6,059,385	5,984,556	3.3640	22,592	5,961,964
New Zealand	453,055	455,424	0.2560	1,725	453,699
Nicaragua	37,905	37,359	0.0210	118	37,241
Niger	27,075	26,685	0.0150	0	26,685
Nigeria	400,710	482,109	0.2710	0	482,109
Norway	1,521,615	1,529,940	0.8600	5,684	1,524,256
Oman	216,600	217,038	0.1220	364	216,674
Pakistan	285,190	298,872	0.1680	507	298,365
Panama	169,670	161,889	0.0910	351	161,538
Papua New Guinea	41,515	44,475	0.0250	152	44,323
Paraguay	61,370	56,928	0.0320	0	56,928
Peru	220,210	225,933	0.1270	0	225,933
Philippines	866,400	829,014	0.4660	0	829,014
Poland	1,449,415	1,517,487	0.8530	5,386	1,512,101
Portugal	976,505	946,428	0.5320	2,807	943,621
Qatar	214,795	238,386	0.1340	339	238,047
Romania	422,370	469,656	0.2640	1,148	468,508
Rwanda	27,075	26,685	0.0150	0	26,685
Saint Lucia	27,075	26,685	0.0150	90	26,595
Saudi Arabia, Kingdom of	1,431,365	1,506,813	0.8470	3,772	1,503,041
Senegal	36,100	37,359	0.0210	0	37,359
Sierra Leone	27,075	26,685	0.0150	0	26,685
Singapore	3,790,500	3,808,839	2.1410	15,375	3,793,464
Slovak Republic	362,805	334,452	0.1880	1,399	333,053
Slovenia	301,435	309,546	0.1740	1,082	308,464
Solomon Islands	27,075	26,685	0.0150	99	26,586
South Africa	877,230	903,732	0.5080	2,527	901,205
Spain	4,629,825	4,646,748	2.6120	13,914	4,632,834
Sri Lanka	151,620	142,320	0.0800	162	142,158
St. Kitts and Nevis	27,075	26,685	0.0150	68	26,617
St. Vincent and the Grenadines	27,075	26,685	0.0150	0	26,685
Suriname	27,075	26,685	0.0150	7	26,678
Swaziland	34,295	32,022	0.0180	108	31,914

Member	2007 Contribution	2008 Contribution		Interest earned <sup>45</sup>	2008 net Contribution
	CHF	CHF	%	CHF	CHF
Sweden	2,413,285	2,376,744	1.3360	9,228	2,367,516
Switzerland	2,537,830	2,522,622	1.4180	10,201	2,512,421
Chinese Taipei	3,489,065	3,285,813	1.8470	2,715	3,283,098
Tanzania	43,320	48,033	0.0270	90	47,943
Thailand	1,824,855	1,825,254	1.0260	7,300	1,817,954
Togo	27,075	26,685	0.0150	0	26,685
Tonga	0	26,685	0.0150	0	26,685
Trinidad and Tobago	90,250	92,508	0.0520	301	92,207
Tunisia	229,235	224,154	0.1260	707	223,447
Turkey	1,369,995	1,407,189	0.7910	5,109	1,402,080
Uganda	27,075	26,685	0.0150	73	26,612
United Arab Emirates	1,037,875	1,328,913	0.7470	3,478	1,325,435
United Kingdom	9,896,815	9,622,611	5.4090	40,798	9,581,813
United States	26,807,860	25,094,574	14.1060	7,285	25,087,289
Uruguay	70,395	67,602	0.0380	67	67,535
Venezuela	545,110	540,816	0.3040	0	540,816
Viet Nam	0	505,236	0.2840	0	505,236
Zambia	27,075	26,685	0.0150	111	26,574
Zimbabwe	46,930	35,580	0.0200	49	35,531
<b>TOTAL</b>	<b>180,500,000</b>	<b>177,900,000</b>	<b>100.000</b>	<b>508,375</b>	<b>177,391,625</b>

**2007 REVISED PROPOSED CONSOLIDATED BUDGET FOR THE WTO SECRETARIAT  
AND THE APPELLATE BODY AND ITS SECRETARIAT**

(in Swiss Francs)

Part	Section	Line	2007	Original 2007 Budget	Difference	
A	Sect 1 Work Years	(a) Salary	84,541,400	83,454,100	1,087,300	
		(b) Pension	17,016,400	16,613,000	403,400	
		(c) Common Staff Costs	16,134,700	16,001,100	133,600	
		(d) Restructuring Plan	1,000,000	1,000,000	-	
		Sect 2 Temporary Assistance		13,815,400	13,815,400	-
B	Sect 3 Communications	(a) Telecommunications	734,500	734,500	-	
		(b) Postal Charges	1,305,000	1,305,000	-	
	Sect 4 Building Facilities	(a) Rental	345,000	345,000	-	
		(b) Utilities	1,675,000	1,675,000	-	
		(c) Maintenance and Insurance	1,661,000	1,661,000	-	
		Sect 5 Permanent Equipment		2,359,100	2,359,100	-
		Sect 6 Expendable		1,185,500	1,185,500	-
	Sect 7 Contractual Services	(a) Reproduction	1,415,000	1,415,000	-	
		(b) Office Automation	2,577,200	2,577,200	-	
		(c) Other	257,000	257,000	-	
(d) Security Outsourcing		2,880,000	2,880,000	-		
C	Sect 8 Staff Overheads	(a) Training	1,050,000	1,050,000	-	
		(b) Insurance	2,304,500	2,304,500	-	
		(c) Joint Services	212,000	212,000	-	
		(d) Miscellaneous	32,000	32,000	-	
	Sect9 Missions	(a) Missions Official	1,306,000	1,306,000	-	
		(b) Missions Technical	1,503,000	1,503,000	-	
		Sect 10 Trade Policy Courses		3,541,000	3,541,000	-
	Sect 11 Various	(a) Representation and Hospitality	284,000	284,000	-	
		(b) Dispute Settlement Panels	1,317,000	1,317,000	-	
		(c) Experts	50,000	50,000	-	
		(d) Appellate Body Members	688,100	688,100	-	
		(e) Library	623,700	623,700	-	
		(f) Publications	470,000	470,000	-	
(g) Public Information Activities		320,000	320,000	-		
(h) External Auditors		40,000	40,000	-		
(i) Ministerial Operating Fund		600,000	600,000	-		
(j) ISO		57,000	57,000	-		
(k) Other		80,000	80,000	-		
	(l) Appellate Body Operating Fund	1,400,000	1,400,000	-		
	(m) Security Enhancement Programme	330,000	330,000	-		
	Sect 12 Unforeseen		100,000	100,000	-	
D	Sect 13 ITC		16,765,950	16,765,950	-	
	Grand Total		181,976,450	180,352,150	1,624,300	
					Percentage increase/decrease	
					0.90%	

## 2007 PROPOSED REVISED BUDGET FOR THE WTO SECRETARIAT

(in Swiss francs)

Part	Section	Line	2007	Original 2007 Budget	Difference
A	Sect 1 Work Years	(a) Salary	82,528,400	81,417,600	1,110,800
		(b) Pension	16,609,900	16,206,100	403,800
(c) Common Staff Costs		15,755,200	15,632,000	123,200	
(d) Restructuring Plan		1,000,000	1,000,000	-	
	Sect 2 Temporary Assistance		13,749,800	13,749,800	-
B	Sect 3 Communications	(a) Telecommunications	728,000	728,000	-
		(b) Postal Charges	1,305,000	1,305,000	-
	Sect 4 Building Facilities	(a) Rental	345,000	345,000	-
		(b) Utilities	1,662,000	1,662,000	-
		(c) Maintenance and Insurance	1,656,000	1,656,000	-
	Sect 5 Permanent Equipment		2,320,100	2,320,100	-
	Sect 6 Expendable		1,165,500	1,165,500	-
	Sect 7 Contractual Services	(a) Reproduction	1,400,000	1,400,000	-
		(b) Office Automation	2,577,200	2,577,200	-
		(c) Other	257,000	257,000	-
(d) Security Outsourcing		2,880,000	2,880,000	-	
C	Sect 8 Staff Overheads	(a) Training	1,025,000	1,025,000	-
		(b) Insurance	2,292,500	2,292,500	-
		(c) Joint Services	212,000	212,000	-
		(d) Miscellaneous	30,000	30,000	-
	Sect 9 Missions	(a) Missions Official	1,296,000	1,296,000	-
		(b) Missions Technical	1,503,000	1,503,000	-
	Sect 10 Trade Policy Courses		3,541,000	3,541,000	-
	Sect 11 Various	(a) Representation and Hospitality	283,000	283,000	-
		(b) Dispute Settlement Panels	1,317,000	1,317,000	-
		(c) Experts	50,000	50,000	-
(e) Library		613,700	613,700	-	
(f) Publications		470,000	470,000	-	
(g) Public Information Activities		320,000	320,000	-	
(h) External Auditors		40,000	40,000	-	
(i) Ministerial Operating Fund		600,000	600,000	-	
(j) ISO		57,000	57,000	-	
(k) Other		80,000	80,000	-	
	(m) Security Enhancement Programme	330,000	330,000	-	
Sect 12 Unforeseen		100,000	100,000	-	
D	Sect 13 ITC		16,765,950	16,765,950	-
Grand Total			176,865,250	175,227,450	1,637,800
Percentage increase/decrease					0.93%

## 2007 PROPOSED REVISED BUDGET FOR APPELLATE BODY AND ITS SECRETARIAT

(in Swiss francs)

Part	Section	Line	2007	Original 2007 Budget	Difference	
A	Sect 1 Work Years	(a) Salary	2,013,000	2,036,500	(23,500)	
		(b) Pension	406,500	406,900	(400)	
		(c) Common Staff Costs	379,500	369,100	10,400	
	Sect 2 Temporary Assistance		65,600	65,600	-	
B	Sect 3 Communications	(a) Telecommunications	6,500	6,500	-	
	Sect 4 Building Facilities	(b) Utilities	13,000	13,000	-	
		(c) Maintenance and Insurance	5,000	5,000	-	
	Sect 5 Permanent Equipment		39,000	39,000	-	
	Sect 6 Expendable		20,000	20,000	-	
	Sect 7 Contractual Services	(a) Reproduction	15,000	15,000	-	
C	Sect 8 Staff Overheads	(a) Training	25,000	25,000	-	
		(b) Insurance	12,000	12,000	-	
		(d) Miscellaneous	2,000	2,000	-	
		(c) Miscellaneous	2,000	2,000	-	
	Sect 9 Missions		(a) Missions Official	10,000	10,000	-
	Sect 11 Various	(a) Representation and Hospitality	1,000	1,000	-	
(d) Appellate Body Members		688,100	688,100	-		
(e) Library		10,000	10,000	-		
(l) Appellate Body Operating Fund		1,400,000	1,400,000	-		
Grand Total			5,111,200	5,124,700	(13,500)	
Percentage increase/decrease					(0.26%)	

**2008 PROPOSED CONSOLIDATED REVISED BUDGET FOR THE WTO  
SECRETARIAT AND THE APPELLATE BODY AND ITS SECRETARIAT**

(in Swiss francs)

Part	Section	Line	Original Proposal 2008	Reductions 2008	Revised Proposal 2008
A	Sect 1 Work Years	(a)Salary	85,239,100	0	85,239,100
		(b)Pension	17,208,800	0	17,208,800
		(c)Common Staff Costs	15,469,900	0	15,469,900
		(d)Restructuring Plan	0	0	0
	Sect 2 Temporary Assistance		14,963,000	0	14,963,000
B	Sect 3 Communications	(a) Telecommunications	506,500	0	506,500
		(b) Postal Charges	1,382,000	0	1,382,000
	Sect 4 Building Facilities	(a) Rental	340,000	0	340,000
		(b) Utilities	1,771,000	0	1,771,000
		(c) Maintenance and Insurance	1,694,000	0	1,694,000
	Sect 5 Permanent Equipment	(a)Permanent Equipment	2,153,800	0	2,153,800
		(b)Permanent Equipment Lease	274,000	0	274,000
	Sect 6 Expendable		1,327,000	0	1,327,000
	Sect 7 Contractual Services	(a) Reproduction	1,425,000	0	1,425,000
		(b) Office Automation	3,378,700	0	3,378,700
(c)Other		282,000	0	282,000	
(d) Security Outsourcing		3,452,000	0	3,452,000	
C	Sect 8 Staff Overheads	(a) Training	1,875,000	(460,000)	1,415,000
		(b) Insurance	2,502,500	0	2,502,500
		(c) Joint Services	204,000	0	204,000
		(d) Miscellaneous	32,000	0	32,000
	Sect 9 Missions	(a)Missions Official	1,533,000	0	1,533,000
		(b)Missions Technical	1,406,000	0	1,406,000
	Sect 10 Trade Policy Courses		3,823,600	0	3,823,600
	Sect 11 Various	(a) Representation and Hospitality	299,000	0	299,000
		(b) Dispute Settlement Panels	1,247,000	0	1,247,000
		(c) Experts	50,000	0	50,000
		(d) Appellate Body Members	818,800	(65,300)	753,500
		(e) Library	660,000	0	660,000
(f) Publications		880,000	0	880,000	
(g) Public Information Activities		270,000	0	270,000	
(h) External Auditors		40,000	0	40,000	
(i) Ministerial Operating Fund		600,000	0	600,000	
(j) ISO		57,000	0	57,000	
(k) Other		80,000	0	80,000	
(l) Appellate Body Operating Fund	600,000	(54,000)	546,000		
(m) Security Enhancement Programme	330,000	0	330,000		
Sect 12 Unforeseen		100,000	0	100,000	
D	Sect 13 ITC		17,196,100	0	17,196,100
<b>Grand Total</b>			<b>185,470,800</b>	<b>(579,300)</b>	<b>184,891,500</b>

## 2008 PROPOSED REVISED BUDGET FOR THE WTO SECRETARIAT

(in Swiss francs)

Part	Section	Line	Original Proposal 2008	Reductions 2008	Revised Proposal 2008
A	Sect 1 Work Years	(a)Salary	83,208,100	0	83,208,100
		(b)Pension	16,799,300	0	16,799,300
		(c)Common Staff Costs	15,108,400	0	15,108,400
		(d)Restructuring Plan	0	0	0
	Sect 2 Temporary Assistance		14,897,400	0	14,897,400
B	Sect 3 Communications	(a) Telecommunications	500,000	0	500,000
		(b) Postal Charges	1,382,000	0	1,382,000
	Sect 4 Building Facilities	(a) Rental	340,000	0	340,000
		(b) Utilities	1,758,000	0	1,758,000
		(c) Maintenance and Insurance	1,639,000	0	1,639,000
	Sect 5 Permanent Equipment	(a)Permanent Equipment	2,118,200	0	2,118,200
		(b)Permanent Equipment Lease	274,000	0	274,000
	Sect 6 Expendable		1,307,000	0	1,307,000
	Sect 7 Contractual Services	(a) Reproduction	1,410,000	0	1,410,000
		(b) Office Automation	3,369,700	0	3,369,700
		(c)Other	282,000	0	282,000
		(d) Security Outsourcing	3,452,000	0	3,452,000
C	Sect 8 Staff Overheads	(a) Training	1,850,000	(460,000)	1,390,000
		(b) Insurance	2,490,500	0	2,490,500
		(c) Joint Services	204,000	0	204,000
		(d) Miscellaneous	30,000	0	30,000
Sect 9 Missions	(a)Missions Official	1,496,000	0	1,496,000	
	(b)Missions Technical	1,406,000	0	1,406,000	
Sect 10 Trade Policy Courses		3,823,600	0	3,823,600	
Sect 11 Various	(a) Representation and Hospitality	298,000	0	298,000	
	(b) Dispute Settlement Panels	1,247,000	0	1,247,000	
	(c) Experts	50,000	0	50,000	
	(e) Library	650,000	0	650,000	
	(f) Publications	880,000	0	880,000	
	(g) Public Information Activities	270,000	0	270,000	
	(h) External Auditors	40,000	0	40,000	
	(i) Ministerial Operating Fund	600,000	0	600,000	
	(j) ISO	57,000	0	57,000	
	(k) Other	80,000	0	80,000	
	(m) Security Enhancement Programme	330,000	0	330,000	
Sect 12 Unforeseen		100,000	0	100,000	
D	Sect 13 ITC		17,196,100	0	17,196,100
<b>Grand Total</b>			<b>180,943,300</b>	<b>(460,000)</b>	<b>180,483,300</b>

**2008 PROPOSED REVISED BUDGET FOR THE APPELLATE BODY AND ITS  
SECRETARIAT**

(in Swiss francs)

Part	Section	Line	Original Proposal 2008	Reductions 2008	Revised Proposal 2008
A	Sect 1 Work Years	(a)Salary	2,031,000	0	2,031,000
		(b)Pension	409,500	0	409,500
(c)Common Staff Costs		361,500	0	361,500	
	Sect 2 Temporary Assistance		65,600	0	65,600
B	Sect 3 Communications	(a) Telecommunications	6,500	0	6,500
	Sect 4 Building Facilities	(b) Utilities	13,000	0	13,000
		(c) Maintenance and Insurance	55,000	0	55,000
	Sect 5 Permanent Equipment	(a)Permanent Equipment	35,600	0	35,600
	Sect 6 Expendable		20,000	0	20,000
	Sect 7 Contractual Services	(a) Reproduction	15,000	0	15,000
		(b) Office Automation	9,000	0	9,000
C	Sect 8 Staff Overheads	(a) Training	25,000	0	25,000
		(b) Insurance	12,000	0	12,000
		(d) Miscellaneous	2,000	0	2,000
	Sect 9 Missions	(a)Missions Official	37,000	0	37,000
	Sect 11 Various	(a) Representation and Hospitality	1,000	0	1,000
(d) Appellate Body Members		818,800	(65,300)	753,500	
(e) Library		10,000	0	10,000	
	(l) Appellate Body Operating Fund	600,000	(54,000)	546,000	
<b>Grand Total</b>			<b>4,527,500</b>	<b>(119,300)</b>	<b>4,408,200</b>

**WAIVERS CURRENTLY IN FORCE**  
**(As at 1 January 2008)**

WAIVERS	GRANTED	EXPIRY	DECISION
Canada – CARIBCAN	15 December 2006	31 December 2011	WT/L/677
Preferential Tariff Treatment for Least-Developed Countries	15 June 1999	30 June 2009	WT/L/304
Cuba – Article XV:6 of GATT 1994	15 December 2006	31 December 2011	WT/L/678
LDCs – Article 70.9 of the TRIPS Agreement with respect to pharmaceutical products	8 July 2002	1 January 2016	WT/L/478
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
Albania - Implementation of Specific Concessions – Extension of the staging period of implementation for a number of products	26 May 2005	1 January 2009 for Part A of the Annex	WT/L/610
Argentina; Australia; Brazil; China; Costa Rica; Croatia; El Salvador; European Communities; Iceland; India; Republic of Korea; Mexico; New Zealand; Norway; Singapore; Chinese Taipei; Thailand; United States and Uruguay - Introduction of Harmonized System 2002 Changes into WTO Schedules of Tariff Concessions	18 December 2007	31 December 2008	WT/L/712
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
Argentina; Australia; Brazil; Canada; Costa Rica; Croatia; El Salvador; European Communities; Guatemala; Honduras; Hong Kong, China; India; Republic of 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 2007	31 December 2008	WT/L/713
United States – Former 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

**Number of Staff Members by Job Category on 1 January 2008**

<b>Country</b>	<b>Senior</b>	<b>Professional</b>	<b>Support</b>	<b>Total</b>
Argentina		4	4	8
Australia		6	2	8
Austria		5		5
Bangladesh		1		1
Belgium		2	3	5
Benin		1		1
Bolivia		3	1	4
Brazil		7	2	9
Bulgaria		2		2
Canada		20	4	24
Chile	1	1	3	5
China		8		8
Colombia		6	2	8
Congo, The Democratic Republic of the		1		1
Costa Rica		3		3
Cote d'Ivoire			1	1
Cuba		1	1	2
Denmark		1	1	2
Ecuador		1		1
Egypt		6		6
Estonia		1		1
Finland		3	3	6
France	1	52	139	192
Germany		16	4	20
Ghana		2		2
Greece		4	1	5
Guatemala		1		1
Honduras			1	1
Hong Kong Chinese		1		1
Hungary		1		1
India	1	9	2	12
Ireland		5	7	12
Italy		11	4	15
Japan		3		3
Korea, Republic of		4		4
Lesotho		1		1
Malawi		1		1
Malaysia		2	1	3
Mauritius		1	1	2
Mexico		6		6
Morocco		2	1	3
Netherlands		5	1	6

New Zealand		3	1	4
Nigeria		1		1
Norway		1	1	2
Pakistan		2		2
Paraguay			1	1
Peru		1	4	5
Philippines		7	2	9
Poland		3	2	5
Portugal			1	1
Romania		1	1	2
Rwanda	1	1		2
Saint Lucia		1		1
Senegal			1	1
South Africa		1		1
Spain		23	23	46
Sri Lanka		2	3	5
Sweden		3	1	4
Switzerland		21	17	38
Tanzania		1		1
Thailand		1		1
Trinidad and Tobago		1		1
Tunisia		3	2	5
Turkey		3		3
Uganda		1		1
United Kingdom		25	48	73
United States	1	24	5	30
Uruguay		3	4	7
Venezuela		4		4
Zimbabwe		1	1	2
Grand Total	5	348	307	660

**Note: Senior Management includes the Director-General and Deputies Director-General**

*Annual Average Base Salary*  
**Senior Management**           **270,374 CHF**  
**Professional staff**           **156,045 CHF**  
**Support staff**                 **94,555 CHF**

**Source: WTO Secretariat as of December 31, 2007**

## WTO ACCESSION APPLICATIONS AND STATUS (as of 1-01-08)<sup>1</sup>

Applicant	Status of Multilateral and Bilateral Work
Afghanistan* (2004)	Application for accession to the WTO accepted at December 2004 General Council meeting; has not yet submitted initial documentation to activate the accession negotiations. 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)	Last Working Party (WP) meeting held January 15, 2008 to review draft WP report and status of market access negotiations. Additional meetings expected in 2008, but dates have not been set. The United States has provided technical assistance through the Commercial Development Law Program (CLDP) of the Department of Commerce for legislative review and training, as well as drafting and translating documentation for the negotiations.
Andorra (1997)	Dormant. WP meeting on October 13, 1999 reviewed legislative implementation schedule and goods and services market access offers. Awaiting information on legislative implementation and circulation of revised market access offers.
Azerbaijan (1997)	No WP meetings were held in 2007, but the next one is expected in the first half of 2008, to review additional documentation and conduct market access negotiations for goods and services. 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. A previous assistance program for WTO accession provided by the Trade Development Administration expired in 2006.
Bahamas (2001)	Application accepted at July 2001 General Council meeting; has not yet submitted initial documentation to activate the accession negotiations.
Belarus (1993)	Chairman's consultations in 2006 and 2007 have determined that further Working Party review of outstanding issues would depend on fresh documentation from Belarus and substantially improved offers on goods and services market access. Next meeting not scheduled.
Bosnia and Herzegovina (1999)	Fourth WP meeting held November 2007 to review additional documentation. Revised market access offers for goods and services were received in October 2007. Next meeting planned for 2008. The United States is providing technical assistance through CLDP in drafting documentation, training, legal drafting, and institution building.
Bhutan * (1999)	The United States met with Bhutan in June 2007 to continue review of the trade regime and conduct bilateral negotiations on revised market access offers on goods and services. Fourth WP meeting scheduled to for January 2008.
Cape Verde * (2000)	General Council approved the terms of accession on December 18, 2007. Cape Verde will become a Member of the WTO 30 days after it submits its instrument of acceptance of the accession package to the WTO Secretariat, which is contemplated sometime prior to mid-2008. The United States has provided technical assistance (through USAID) to support Cape Verde's accession process.
Comoros * (2007)	Application accepted at October 2007 General Council meeting; has not yet submitted initial documentation to activate the accession negotiations.
Ethiopia* (2003)	The United States and other WP Members submitted written questions on Ethiopia's Memorandum on the Foreign Trade Regime (MFTR) in February 2007. 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)	First meeting of the WP occurred in May 2007 and the next WP meeting is planned for Spring 2008. 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)	Application for accession to the WTO accepted by the General Council in May 2005. MFTR submitted at the end of 2006, formally activating the accession negotiations.

\* Designates "least developed country" applicant.

<sup>1</sup> "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.

Applicant	Status of Multilateral and Bilateral Work
Kazakhstan (1996)	Next WP meeting likely to be held in April 2008, with substantially revised draft WP report text and extensive new legislative implementation to review. Bilateral negotiations to intensify. Revised goods and services market access offers expected soon, reflecting progress achieved in bilaterals with United States and others in latter part of 2006 and 2007. Through USAID, the United States provides technical assistance in the form of an advisor resident in Bishkek, 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.
Laos * (1998)	Third WP meeting held in November 2007 to continue review of the trade regime and conduct bilateral negotiations on market access offers for goods and services. Next WP possible in second half of 2008.
Lebanon (1999)	Fifth WP meeting held May 2007 to review legislative implementation and plans for removal of WTO-inconsistent measures. Bilateral market access negotiations moving slowly. Local political situation may preclude scheduling further WP meetings until later in 2008. Through USAID, the United States is providing technical assistance in the form of a long-term advisor. Assistance provided in drafting documentation, training, legal drafting, and institution building, with specific focus on customs, intellectual property, 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)	Fourth Working Party held in July 2007 to review additional documentation and conduct market access negotiations for goods and services. Next WP meeting contemplated for February 2008. The United States has provided technical assistance to Montenegro in the form of an advisor resident in Belgrade, drafting documentation, training, legal drafting, and institution building in the areas of customs, licensing, intellectual property, standards and sanitary measures.
Russia (1993)	Accession process well advanced. Bilateral market access negotiations with WTO Members largely completed (Saudi Arabia, UAE, and Georgia outstanding) after reaching agreement with the United States in November 2006. Intensive multilateral work on draft Working Party report text, Protocol, and commitments on agricultural supports and subsidies continues. During 2007, significant progress recorded on review and revision of the draft WP report. Fourth revision expected for circulation and review in the first half of 2008. Russia's legislative implementation ongoing.
Samoa * (1998)	Informal WP meeting held in December 2006 to review revised draft WP report and continue negotiations on revised market access offers on goods and services. Next meetings will be scheduled when Samoa responds to written questions and comments, and market access requests transmitted in May 2007.
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)	Forth WP meeting held in November 2007 to review additional documentation and status of legislative implementation. Next WP meeting likely during first half of 2008 The United States has provided technical assistance to Serbia in the form of an advisor resident in Belgrade, drafting documentation, training, legal drafting, and institution building in the areas of customs, licensing, intellectual property, standards and sanitary measures.
Seychelles (1995)	Dormant. WP meeting held in March 1998. No recent activity recorded in WP, legislative implementation, or bilateral goods and services negotiations.
Sudan* (1995)	No activity in 2007. 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)	Third WP meeting held in October 2006 to review additional documentation and continue negotiations on revised market access offers on goods and services Next WP meeting is expected in 2008. 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.
Tonga (1995)	Tonga became the 151 <sup>st</sup> Member of the WTO on July 27, 2007.

Applicant	Status of Multilateral and Bilateral Work
Ukraine (1993)	Ukraine substantially completed its negotiation at the end of 2007. Terms of accession were approved at a final formal WP on January 25, 2008, and approved by the WTO General Council on February 5, 2008. Ukraine will become a Member of the WTO 30 days after it submits its instrument of acceptance of the approved accession package to the WTO Secretariat sometime prior to mid-2008.. Throughout Ukraine's fourteen year accession effort, the United States has provided technical assistance through CLDP in the form of a resident advisor, and/or additional short term assistance, through USAID, to help achieve WTO compliance in customs valuation, import licensing, standards and sanitary measures, and intellectual property rights protection.
Uzbekistan (1995)	Third WP meeting held October 2005 to review additional documentation and initial market access offers. No further meetings are scheduled at this time.
Vanuatu * (1995)	Formal WP meeting October 29, 2001 adopted the protocol package. General Council approval delayed pending reconsideration of status by ni-Vanuatu Government. In 2007 Vanuatu initiated work to re-engage with WTO delegations and complete its accession process.
Vietnam (1995)	Vietnam became the 150 <sup>th</sup> WTO Member on January 11, 2007.
Yemen * (2000)	Fourth WP meeting held in November 2007 to continue review of trade regime and conduct bilateral negotiations on revised market access offers on goods and services. Next meeting contemplated during first half of 2008. The United States has provided help with orientation and the development of documentation through USAID and the U.S. - Middle East Partnership Initiative. Most recently, we funded Yemen's participation in a workshop on Intellectual Property Rights.

# WORLD TRADE ORGANIZATION

WT/DSB/44  
12 December 2007

(07-5507)

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## INDICATIVE LIST OF GOVERNMENTAL AND NON-GOVERNMENTAL PANELISTS

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 an updated consolidated list of governmental and non-governmental panelists.<sup>46</sup> The list is based on the previous indicative list (WT/DSB/33 and Add.1 through Add.14) and reflects all the modifications submitted by Members in response to the request by the Chairman of the DSB<sup>47</sup> for Members to update their information. Any future modifications or additions to this list submitted by Members will be contained in periodic revisions of this list.

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<sup>46</sup>Curricula Vitae containing more detailed information are available to WTO Members upon request from the Secretariat (Council & TNC Division).

<sup>47</sup> WT/DSB/M/230

<b>MEMBER</b>	<b>NAME</b>	<b>SECTORAL EXPERIENCE</b>
<b>ARGENTINA</b>	MAKUC, Mr. Adrián Jorge NISCOVOLOS, Mr. Luis Pablo PÉREZ GABILONDO, Mr. José Luis	Trade in Services Trade in Goods and Services Trade in Goods; TRIPS
<b>AUSTRALIA</b>	CHESTER, Mr. Douglas Owen CHURCHE, Mr. Milton DEADY, Mr. Stephen FARBENBLOOM, Mr. Simon GALLAGHER, Mr. Peter JENNINGS, Mr. Mark McCARTHY, Ms. Caroline MITCHELL, Mr. Andrew MORETTA, Mr. Remo MYLER, Mr. Paul O'CONNOR, Mr. Paul Richard RAPER, Ms. Cathy SIN FAR LEE, Ms. Stephanie SPENCER, Mr. David VOON, Ms. Tania Su Lien WITBREUK, Ms. Trudy YOUNG, Ms. Elizabeth	TRIPS Trade in Goods Trade in Goods Trade in Goods and Services Trade in Goods; TRIPS Trade in Goods; TRIPS TRIPS Trade in Goods and Services; TRIPS Trade in Goods and Services Trade in Goods and Services Trade in Goods Trade in Goods and Services Trade in Goods Trade in Goods Trade in Goods and Services; TRIPS Trade in Goods and Services Trade in Goods
<b>BOLIVIA</b>	ZELADA CASTEDO, Mr. Alberto	Trade in Goods
<b>BRAZIL</b>	ABREU, Mr. Marcelo de Paiva BARRAL, Mr. Welber Oliveira BARTHEL-ROSA, Mr. Paulo BASSO, Ms. Maristela LEMME, Ms. Marta Calmon MAGALHÃES, Mr. José Carlos MARCONINI, Mr. Mario MOURA ROCHA, Mr. Bolívar NAIDIN, Ms. Leane Cornet RIOS, Ms. Sandra Polônia THORSTENSEN, Ms. Vera Helena	Trade in Goods and Services Trade in Goods Trade in Goods Trade in Goods; TRIPS Trade in Goods Trade in Goods Trade in Services Trade in Services Trade in Goods Trade in Goods Trade in Goods
<b>CANADA</b>	BERNIER, Mr. Ivan BRADFORD, Mr. Meriel V. M. BROWN, Ms. Catherine Anne	Trade in Goods and Services Trade in Goods and Services Trade in Goods and Services; TRIPS

<b>MEMBER</b>	<b>NAME</b>	<b>SECTORAL EXPERIENCE</b>
	CLARK, Mr. Peter James CLOSE, Ms. Patricia Margaret DE MESTRAL, Mr. Armand EYTON, Mr. Anthony T. GHERSON, Mr. Randolph GOODWIN, Ms. Kirsten M. HALLIDAY, Mr. Anthony L. HERMAN, Mr. Lawrence L.	Trade in Goods and Services Trade in Goods Trade in Goods Trade in Goods Trade in Goods Trade in Goods and Services; TRIPS Trade in Goods and Services Trade in Goods
<b>CANADA (cont'd)</b>	HINES, Mr. Wilfred Roy MACMILLAN, Ms. Kathleen E. MCRAE, Mr. Donald Malcolm OSTRY, Ms. Sylvia RITCHIE, Mr. Gordon THOMAS, Mr. Christopher WINHAM, Mr. Gilbert R.	Trade in Goods Trade in Goods Trade in Goods Trade in Goods Trade in Goods Trade in Goods and Services Trade in Goods
<b>CHILE</b>	BIGGS, Mr. Gonzalo MATUS, Mr. Mario PEÑA, Ms. Gloria SAEZ, Mr. Sebastián SATELER, Mr. Ricardo TIRONI, Mr. Ernesto	Trade in Goods Trade in Goods Trade in Goods Trade in Goods and Services TRIPS Trade in Goods
<b>CHINA</b>	DONG, Mr. Shizhong ZENG, Mr. Lingliang ZHANG, Mr. Yuqing ZHU, Ms. Lanye	Trade in Goods and Services; TRIPS Trade in Goods Trade in Goods and Services; TRIPS Trade in Services; TRIPS
<b>COLOMBIA</b>	BARBERI, Mr. Fernando CÁRDENAS, Mr. Manuel Jose IBARRA PARDO, Mr. Gabriel JARAMILLO, Mr. Felipe LEAL ANGARITA, Mr. Manuel	Trade in Goods Trade in Goods and Services; TRIPS Trade in Goods Trade in Goods and Services Trade in Goods and Services
<b>COLOMBIA (cont'd)</b>	OROZCO GOMEZ, Ms. Angela María OROZCO, Ms. Claudia TANGARIFE, Mr. Marcel	Trade in Goods Trade in Goods Trade in Goods; TRIPS
<b>CÔTE D'IVOIRE</b>	GOSSET, Ms. Marie	Trade in Goods; TRIPS
<b>CROATIA</b>	ŠARČEVIĆ, Mr. Petar	Trade in Goods and Services
<b>CUBA</b>	CABALLERO RODRÍGUEZ,	Trade in Goods and Services

<b>MEMBER</b>	<b>NAME</b>	<b>SECTORAL EXPERIENCE</b>
	Mr. Eumelio HERNÁNDEZ, Mr. Arnaldo MARZIOTA DELGADO, Mr. Ernesto Antonio	Trade in Goods and Services Trade in Goods and Services
<b>ECUADOR</b>	PINOARGOTE CEVALLOS, Mr. Alfredo	Trade in Goods
<b>EGYPT</b>	ABOUL-ENEIN, Mr. Mohamed Ibrahim Mostafa FAWZY, Mr. Abdelrahman HATEM, Mr. Samy Affify RIAD, Mr. Tarek Fouad SHAHIN, Ms. Magda SHARAF ELDIN, Mr. Ahmed ZHRAN, Mr. Mohamed Mounir	Trade in Goods and Services Trade in Goods and Services Trade in Goods Trade in Goods and Services; TRIPS Trade in Goods and Services; TRIPS Trade in Goods; TRIPS Trade in Goods and Services; TRIPS

<b><u>EUROPEAN COMMUNITIES</u></b>		
<b>AUSTRIA</b>	BENEDEK, Mr. Wolfgang MARTINS, Mr. Rudolf REITERER, Mr. Michael G. K. WAAS, Mr. Gerhard WEISS, Mr. Johann Friedrich ZEHETNER, Mr. Franz	Trade in Goods Trade in Goods Trade in Goods and Services; TRIPS Trade in Goods and Services; TRIPS Trade in Goods and Services; TRIPS Trade in Goods
<b>BELGIUM</b>	DASSESE, Mr. Marc Paul Albert DIDIER, Mr. Pierre VAN DER BORGHT, Mr. Kim VANDER SCHUEREN, Ms. Paulette ZONNEKEYN, Mr. Geert A.	Trade in Goods and Services Trade in Goods Trade in Goods Trade in Goods and Services Trade in Goods
<b>CZECH REP.</b>	JUNG, Mr. Zdeněk PALEČKA, Mr. Peter PRAVDA, Mr. Miroslav ŠRONĚK, Mr. Ivan	Trade in Goods and Services Trade in Goods and Services Trade in Goods TRIPS
<b>DENMARK</b>	BOESGAARD, Mr. Hendrik	Trade in Goods
<b>FINLAND</b>	BERGHOLM, Mr. Kari Axel JULIN, Mr. Jorma Kari Johannes LUOTONEN, Mr. Yrjö Kim	Trade in Goods Trade in Goods and Services Trade in Goods

<b>MEMBER</b>	<b>NAME</b>	<b>SECTORAL EXPERIENCE</b>
	David	

**EUROPEAN  
COMMUNITIES**  
(cont'd)

<b>FINLAND (cont'd)</b>	PULLINEN, Mr. Matti Johannes	Trade in Goods
	RANTANEN, Mr. Paavo	Trade in Goods
<b>FRANCE</b>	ARMAIGNAC, Ms. Marie-Christine	Trade in Services; TRIPS
	BEAURAIN, Mr. Claude	Trade in Services
	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
<b>GERMANY</b>	DELBRÜCK, Mr. Kilian	Trade in Goods
	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
<b>GREECE</b>	MYROGIANNIS, Mr. George	Trade in Goods
	STANGOS, Mr. Petros N.	Trade in Goods and Services; TRIPS
<b>HUNGARY</b>	FURULYÁS, Mr. Ferenc	Trade in Goods
	LAKATOS, Mr. Andrés	Trade in Goods and Services
<b>IRELAND</b>	LONG, Mr. Ronald	Trade in Goods; TRIPS
	MATTHEWS, Mr. Alan Henry	Trade in Goods
	MOCKLER, Mr. Thomas F.	Trade in Goods
<b>ITALY</b>	GERBINO, Mr. Mario	Trade in Goods
	GIARDINA, Mr. Andrea	Trade in Goods and Services
	SCHIRATTI, Mr. Giampiero	Trade in Goods
<b>NETHERLANDS</b>	BLOKKER, Mr. Nicolaas Max	Trade in Goods
	BRINKHORST, Mr. Laurens Jan	Trade in Goods and Services

<b>MEMBER</b>	<b>NAME</b>	<b>SECTORAL EXPERIENCE</b>
	BRONCKERS, Mr. Marco ENGERING, Mr. Franciscus Aloysius HOEKMAN, Mr. Bernard Marco	Trade in Goods and Services; TRIPS Trade in Goods and Services Trade in Goods and Services; TRIPS
<b><u>EUROPEAN COMMUNITIES</u></b> (cont'd)		
<b>POLAND</b>	PIETRAS, Mr. Jaroslaw	Trade in Services
<b>PORTUGAL</b>	CALHEIROS DA GAMA, Mr. José Sérgio	TRIPS
<b>SPAIN</b>	CASTILLO URRUTIA, Mr. Juan Antonio DÍAZ MIER, Mr. Miguel Ángel LÓPEZ DE SILANES MARTÍNEZ Mr. Juan Pablo PÉREZ SANCHEZ, Mr. José Luis RIGO, Mr. Andrés	Trade in Goods Trade in Services Trade in Goods and Services Trade in Goods and Services; TRIPS Trade in Services
<b>SWEDEN</b>	AHNLID, Mr. Anders Gustav Ragnar ANDERSSON, Mr. Thomas Martin ANELL, Mr. Lars BÄVERBRANT, Mr. Johan C. BECKER, Ms. Gunnela Marianne DAHLIN, Ms. Karin Elisabeth FALLENIOUS, Mr. Christer H. HÅKANSSON, Mr. Gösta PER-Olov HOLGERSSON, Mr. Jörgen KLEEN, Mr. Peter LINDSTRÖM, Mr. Jan Mikael MANHUSEN, Mr. Christer OLOFSGÅRD, Ms. Eva-Kajsa Buzaglo RAHLÉN, Ms. Christina RISINGGÅRD, Mr. Axel Börje RODIN, Mr. Arne STÅLBERG, Mr. Lars TAURIAINEN, Mr. Teppo	Trade in Goods and Services; TRIPS Trade in Goods Trade in Goods; TRIPS Trade in Goods and Services; TRIPS Trade in Goods and Services; TRIPS Trade in Goods and Services; TRIPS Trade in Goods Trade in Services Trade in Goods and Services Trade in Goods Trade in Goods Trade in Goods and Services Trade in Goods and Services; TRIPS Trade in Goods and Services; TRIPS Trade in Goods Trade in Goods; TRIPS Trade in Goods Trade in Goods and Services; TRIPS

<b>MEMBER</b>	<b>NAME</b>	<b>SECTORAL EXPERIENCE</b>
	Markus	
<b><u>EUROPEAN COMMUNITIES</u></b> (cont'd)		
<b>UNITED KINGDOM</b>	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	
<b>HONG KONG, CHINA</b>	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
<b>ICELAND</b>	BJÖRGVINSSON, Mr. David Thór	Trade in Goods and Services
	JÓHANNSSON, Mr. Einar M.	Trade in Goods
	SANDHOLT, Mr. Brynjolfur	Trade in Goods
<b>INDIA</b>	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
	GOYAL, Mr. Arun	Trade in Services
	KAUSHIK, Mr. Atul	Trade in Goods; TRIPS
	KUMAR, Mr. Mohan	Trade in Goods and Services

<b>MEMBER</b>	<b>NAME</b>	<b>SECTORAL EXPERIENCE</b>
	MOHANTY, Mr. Prasant Kumar MUKERJI, Mr. Asoke Kumar NARAYANAN, Mr. Srinivasan PRABHU, Mr. Pandurang Palimar	Trade in Goods Trade in Goods and Services; TRIPS Trade in Goods; TRIPS Trade in Goods; TRIPS
<b>INDIA (cont'd)</b>	PRASAD, Ms. Anjali RAI, Mr. Pushpendra RAMAKRISHNAN, Mr. N. RAO, Mr. Pemmaraju Sreenivasa REGE, Mr. Narayan Vinod SAJJANHAR, Mr. Ashok SHARMA, Mr. Lalit VENUGOPAL, Mr. Krishnan WATAL, Ms. Jayashree ZUTSHI, Mr. B. K.	Trade in Goods and Services; TRIPS TRIPS Trade in Goods Trade in Goods Trade in Goods Trade in Goods Trade in Goods and Services; TRIPS Trade in Goods; TRIPS TRIPS Trade in Goods and Services; TRIPS
<b>ISRAEL</b>	ALTUVIA, Mr. Magen GABAY, Mr. Mayer HARAN, Mr. Ephraim F. HOROVITZ, Mr. Dan POLINER, Mr. Howard Zvi SEMADAR, Mr. Moshe SHATON, Mr. Michael Marcel TALBAR, Mr. Michael Adin WEILER, Mr. Joseph H.H.	Trade in Goods TRIPS Trade in Services Trade in Goods and Services TRIPS Trade in Goods Trade in Goods and Services Trade in Goods Trade in Goods
<b>JAPAN</b>	ARAKI, Mr. Ichiro ASAKAI, Mr. Kazuo ASAKURA, Mr. Hironori HASEBE, Mr. Masamichi ISHIGURO, Mr. Kazunori IWASAWA, Mr. Yuji KANDA, Mr. Hideki KEMMOCHI, Mr. Nobuaki KOTERA, Mr. Akira OHARA, Mr. Yoshio SANO, Mr. Tadakatsu SHIMIZU, Mr. Akio	Trade in Goods and Services; TRIPS Trade in Goods Trade in Goods Trade in Goods and Services Trade in Goods and Services; TRIPS Trade in Goods Trade in Services Trade in Goods and Services Trade in Goods and Services Trade in Goods; TRIPS Trade in Goods Trade in Goods

<b>MEMBER</b>	<b>NAME</b>	<b>SECTORAL EXPERIENCE</b>
<b>JAPAN (cont'd)</b>	SUZUKI, Mr. Masabumi TSURUOKA, Mr. Koji YAMANE, Ms. Hiroko	Trade in Goods; TRIPS Trade in Services Trade in Goods; TRIPS
<b>KOREA</b>	AHN, Mr. Dukgeun AHN, Mr. Ho-Young AHN, Mr. Myung-soo CHANG, Mr. Seung Wha CHO, Mr. Tae-Yul CHOI, Mr. Byung-il CHOI, Mr. Won-Mog KIM, Mr. Jong Bum LEE, Mr. Jaemin PARK, Mr. Nohyoung WOO, Mr. Jooha	Trade in Goods Trade in Goods Trade in Goods Trade in Goods Trade in Goods Trade in Services Trade in Goods and Services; TRIPS Trade in Goods Trade in Goods Trade in Goods Trade in Goods and Services
<b>LIECHTENSTEIN</b>	ZIEGLER, Mr. Andreas R.	Trade in Services; TRIPS
<b>MADAGASCAR</b>	ANDRIANARIVONY, Mr. Minoarison	Trade in Goods and Services; TRIPS
<b>MAURITIUS</b>	BEEKARRY, Mr. Navin BHUGLAH, Mr. Achad	Trade in Goods and Services Trade in Goods and Services
<b>MEXICO</b>	AGUILAR ÁLVAREZ, Mr. Guillermo AMIGO CASTAÑEDA, Mr. Jorge DE LA PEÑA, Mr. Alejandro DE MATEO VENTURINI, Mr. Fernando JASSO TORRES, Mr. Humberto ORTEGA, Mr. Armando PEREZCANO DÍAZ, Mr. Hugo Manuel POBLANO, Mr. José F. RAMÍREZ HERNÁNDEZ, Mr. Ricardo REYES, Ms. Luz Elena TRASLOSHEROS HERNÁNDEZ, Mr. José Gerardo ZABLUDOVSKY KUPER, Mr. Jaime	Trade in Goods and Services; TRIPS TRIPS Trade in Goods and Services; TRIPS Trade in Services Trade in Goods Trade in Goods and Services; TRIPS Trade in Goods and Services; TRIPS Trade in Services; TRIPS Trade in Goods and Services Trade in Goods Trade in Goods and Services; TRIPS Trade in Goods and Services; TRIPS
<b>NEPAL</b>	PANDEY, Mr. Posh Raj	Trade in Goods and Services

<b>MEMBER</b>	<b>NAME</b>	<b>SECTORAL EXPERIENCE</b>
<b>NEPAL (cont'd)</b>	SUBEDI, Mr. Surya P.	Trade in Goods and Services; TRIPS
<b>NEW ZEALAND</b>	ARMSTRONG, Mr. Wade Mowatt Valentine	Trade in Goods; TRIPS
	CARSON, Mr. Christopher Barr	Trade in Goods
	FALCONER, Mr. Crawford Dunlop	Trade in Goods
	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
<b>NIGER</b>	TANKOANO, Mr. Amadou	Trade in Goods and Services; TRIPS
<b>NIGERIA</b>	NNONA, Mr. George C.	Trade in Goods and Services; TRIPS
<b>NORWAY</b>	LILLERUD, Mr. Kjell	Trade in Goods
	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
<b>PAKISTAN</b>	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
<b>PANAMA</b>	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
<b>PERU</b>	BELAÚNDE G., Mr. Victor Andres	TRIPS

<b>MEMBER</b>	<b>NAME</b>	<b>SECTORAL EXPERIENCE</b>
<b>PERU (cont'd)</b>	DIEZ LIZARDO, Mr. Juan	Trade in Goods
	LEÓN-THORNE, Mr. Raúl	Trade in Goods and Services
<b>QATAR</b>	MAKKI, Mr. Fadi	Trade in Goods and Services
<b>SRI LANKA</b>	JAYASEKERA, Mr. Douglas	Trade in Goods; TRIPS
<b>SWITZERLAND</b>	ADDOR, Mr. Felix	TRIPS
	BREINING, Ms. Christine	Trade in Services
	CHAMBOVEY, Mr. Didier	Trade in Goods
	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	
<b>SWITZERLAND (cont'd)</b>	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
<b>THE SEPARATE CUSTOMS TERRITORY OF TAIWAN, PENGHU, KINMEN AND MATSU</b>	LO, Mr. Chang-Fa	Trade in Goods and Services
	YANG, Ms. Guang-Hwa	Trade in Goods and Services
<b>TURKEY</b>	GÜRAKAN, Ms. Tulû	Trade in Goods
	KAÇAR, Mr. Bayram	Trade in Goods
	YENAL, Mr. Aytaç	Trade in Goods
<b>UNITED STATES</b>	BIRENBAUM, Mr. David E.	Trade in Goods
	BROWN-WEISS, Ms. Edith	Trade in Goods and Services
	GANTZ, Mr. David A.	Trade in Goods
	GORDON, Mr. Michael Wallace	Trade in Goods
	KASSINGER, Mr. Theodore W.	Trade in Goods and Services
	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



## ANNEX

### Administration of the Indicative List

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. **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)
-

## MEMBERSHIP OF THE WTO APPELLATE BODY

*From January 1, 2007, to December 10, 2007, the membership of the WTO Appellate Body was as follows:*

Mr. Georges M. Abi-Saab (Egypt),	Professor Luiz Olavo Baptista (Brazil),
Mr. Arumugamangalam V. Ganesan (India),	Professor Merit E. Janow (United States),
Professor Giorgio Sacerdoti (Italy),	Mr. Yasuhei Taniguchi (Japan),
Mr. David Unterhalter (South Africa)	

*From December 11, 2007, to December 31, 2007, the membership of the WTO Appellate Body was as follows:*

Mr. Georges M. Abi-Saab (Egypt),	Professor Luiz Olavo Baptista (Brazil),
Ms. Lilia R. Bautista (Philippines),	Mr. Arumugamangalam V. Ganesan (India),
Ms. Jennifer Hillman (United States),	Professor Giorgio Sacerdoti (Italy),
Mr. David Unterhalter (South Africa)	

### *BIOGRAPHICAL NOTES:*

#### **Georges Michel Abi-Saab**

Born in Egypt on June 9, 1933, Georges Michel Abi-Saab is Honorary Professor of International Law at the Graduate Institute of International Studies in Geneva (having taught there from 1963 to 2000); Honorary Professor at Cairo University's Faculty of Law; and a Member of the Institute of International Law.

Professor Abi-Saab served as consultant to the Secretary-General of the United Nations for the preparation of two reports on "Respect of Human Rights in Armed Conflicts" (1969 and 1970), and for the report on "Progressive Development of Principles and Norms of International Law Relating to the New International Economic Order" (1984). He represented Egypt in the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law (1974 to 1977), and acted as Counsel and advocate for several governments in cases before the International Court of Justice (ICJ) as well as in international arbitrations. He has also served twice as judge ad hoc on the ICJ, as Judge on the Appeals Chamber of the International Criminal Tribunals for the Former Yugoslavia and for Rwanda, and as a Commissioner of the United Nations Compensation Commission. He is a Member of the Administrative Tribunal of the International Monetary Fund and of various international arbitral tribunals (ICSID, ICC, CRCICA, etc.).

Professor Abi-Saab graduated in law from Cairo University and pursued his studies in law, economics and politics at the Universities of Paris, Michigan (MA in Economics), Harvard Law School (LLM and SJD), Cambridge and Geneva (Docteur es Sciences Politiques). He also held numerous visiting professorships, inter alia, at Harvard Law School, the Universities of Tunis, Jordan, the West Indies (Trinidad), as well as the Rennert Distinguished Professorship at NYU School of Law and the Henri Rolin Chair in Belgian Universities.

Professor Abi-Saab is the author of numerous books and articles, including "Les exceptions préliminaires dans la procédure de la Cour internationale: Etude des notions fondamentales de procédure et des moyens de leur mise en oeuvre" (Paris, Pedone, 1967); "International Crises and the Role of Law: The United Nations Operation in Congo 1960-1964" (Oxford University Press, 1978); "The Concept of International Organization" (as editor) (Paris, UNESCO, 1981; French edition, 1980); and of two courses at the Hague Academy of International Law: "Wars of National Liberation

in the Geneva Conventions and Protocols” (Recueil des cours, vol. 165 (1979-IV)) and the “General Course of Public International Law”(in French) (Recueil des cours, vol. 207 (1987-VII)).

### **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 Chamber 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, the United Nations Center on Transnational Corporations, and the United Nations Development Programme.

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 August 16, 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.

### **Arumugamangalam Venkatachalam Ganesan**

Born in Tirunelveli, Tamil Nadu, India on June 7, 1935, Arumugamangalam Venkatachalam Ganesan was a distinguished civil servant of India. He was appointed to the Indian Administrative Service, a premier civil service of India in May 1959, and served in that service until June 1993. In a career spanning over 34 years, he has held a number of high level assignments, including Joint Secretary

(Investment), Department of Economic Affairs, Government of India (1977-1980); Inter-Regional Adviser, United Nations Centre on Transnational Corporations, United Nations Headquarters, New York (1980-1985); Additional Secretary, Department of Industrial Development, Government of India (1986-1989); Chief Negotiator of India for the Uruguay Round of Multilateral Trade Negotiations and Special Secretary, Ministry of Commerce, Government of India (1989-1990); Civil Aviation Secretary of the Government of India (1990-1991); and Commerce Secretary of the Government of India (1991-1993). He represented India on numerous occasions in bilateral, regional and multilateral negotiations in the areas of international trade, investment and intellectual property rights. Between 1989 and 1993, he represented India at the various stages of the Uruguay Round of Multilateral Trade Negotiations.

After his retirement from civil service, Mr. Ganesan served as an expert and consultant to various agencies of the United Nations system, including the United Nations Conference on Trade and Development (“UNCTAD”), the United Nations Industrial Development Organization (“UNIDO”) and the United Nations Development Programme, in the field of international trade, investment and intellectual property rights. He has also spoken extensively to the business, managerial, scientific and academic communities in India on the scope and substance of the Uruguay Round negotiations and Agreements and their implications. Until his appointment to the Appellate Body of the WTO in 2000, he was a Member of the Government of India’s High Level Trade Advisory Committee on Multilateral Trade Negotiations. He was also a Member of the Permanent Group of Experts under the WTO Agreement on Subsidies and Countervailing Measures, and a Member of a Dispute Settlement Panel of the WTO in 1999-2000 in the United States – Section 110(5) of the US Copyright Act case.

Mr. Ganesan has written numerous newspaper articles and monographs dealing with various aspects of the Uruguay Round Agreements and their implications. He is also the author of many papers on trade, investment and intellectual property issues for UNCTAD and UNIDO, and has contributed to books published in India on matters concerning the Uruguay Round, including intellectual property right issues. Mr. Ganesan holds M.A and M.Sc degrees from the University of Madras, India.

### **Jennifer Hillman**

Born in the United States on January 29, 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 U.S. 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 U.S. 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.

### **Merit E. Janow**

Born in the United States on May 13, 1958, Ms. Merit E. Janow has been since 1994 Professor in the Practice of International Economic Law and International Affairs at the School of International and Public Affairs of Columbia University. She teaches advanced law courses in international trade and comparative antitrust law along with courses on international trade policy.

Before joining Columbia's faculty in 1994, Ms. Janow was Deputy Assistant U.S. Trade Representative for Japan and China (1990-1993), and worked as a corporate lawyer specializing in mergers and acquisitions with the law firm Skadden, Arps, Slate, Meagher & Flom in New York (1988-1990).

Ms. Janow is the author of several books and has contributed chapters to more than a dozen books. She grew up in Tokyo, Japan, and speaks Japanese. Ms. Janow served as a WTO panelist from September 2001 to May 2002 in the dispute European Communities – Trade Description of Sardines (WT/DS231).

### **Giorgio Sacerdoti**

Born on March 2, 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.

### **Yasuhei Taniguchi**

Born in Japan on December 26, 1934, Yasuhei Taniguchi is currently Professor of law at Tokyo Keizai University, and Attorney at Law in Tokyo. He obtained a law degree from Kyoto University in 1957 and was fully qualified as a jurist in 1959. His graduate degrees include LL.M., University of California at Berkeley (1963) and J.S.D., Cornell University (1964). He taught at Kyoto University for 39 years and has been Professor Emeritus since 1998. He also has taught as Visiting Professor of Law in the United States (University of Michigan, University of California at Berkeley, Duke University, Stanford University, Georgetown University, Harvard University, New York University, and University of Richmond), in Australia (Murdoch University and University of Melbourne), at the University of Hong Kong and at the University of Paris XII.

Professor Taniguchi is former president of the Japanese Association of Civil Procedure and currently vice-president of the International Association of Procedural Law. He is affiliated with various academic societies and arbitral organizations as arbitrator, including the International Council for Commercial Arbitration; the International Law Association; the American Law Institute; the Japan Commercial Arbitration Association; the Chartered Institute of Arbitrators; the American Arbitration Association; the Hong Kong International Arbitration Centre; the Chinese International Economic and Trade Arbitration Commission; the Korean Commercial Arbitration Board; and the Cairo Regional Centre of Commercial Arbitration. He has also been an active arbitrator in the International Chamber of Commerce ("ICC") Court of International Arbitration.

Professor Taniguchi has written numerous books and articles in the fields of civil procedure, arbitration, insolvency, the judicial system and legal profession, as well as comparative and international law related to these fields. His publications have been published in Japanese, Chinese, English, French, Italian, German, and Portuguese.

### **David Unterhalter**

Born in South Africa on November 18, 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.

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
- Press Releases on Appointments to WTO Bodies, Appellate Body Reports and Panel Reports, and others
- 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 WTO agreements
- WTO Annual Reports

### Community/Forums, such as:

- Media and NGOs
- General public news and chat rooms

### Trade Topics, such as:

- Briefing Papers on WTO activities in individual sectors, including goods, services, intellectual property, other topics
- Disputes and Dispute Reports

WTO publications may be ordered directly from the following sources:

1. The World Trade Organization  
Publications Services  
Centre William Rappard  
Rue de Lausanne 154  
CH - 1211 Geneva 21  
Switzerland  
  
Tel: (41-22) 739 52 08 / 739 53 08  
Fax: (41-22) 739 57 92  
email: [publications@wto.org](mailto:publications@wto.org)
2. Berman Associates  
4611-F Assembly Drive  
Lanham, MD 20706-4391  
  
Tel: 301/459-7666  
Toll Free: 800/274-4888  
fax: 301/459-0056  
Toll Free: 800/865-3450  
e-mail: [query@bernan.com](mailto:query@bernan.com)  
e-mail: [order@bernan.com](mailto:order@bernan.com)



## **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 Agreements

- ▶ Marrakesh Agreement Establishing the World Trade Organization (signed April 15, 1994) and the Ministerial Decisions and Declarations adopted by the Uruguay Round Trade Negotiations Committee on December 15, 1993
  - 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
    - xiii. Information Technology Agreement (ITA) (March 26, 1997)
  - b. General Agreement on Trade in Services
    - i. Basic Telecommunications Services Agreement (February 15, 1997)
    - ii. Financial Services Agreement (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)
- ▶ International Tropical Timber Agreement (successor to the 1983 International Tropical Timber Agreement signed January 26, 1994; entered into force 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 (signed December 17, 1992; implementing legislation signed December 8, 1993, entered into force 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)
- ▶ North American Agreement on Environmental Cooperation (1993)
- ▶ North American Agreement on Labor Cooperation (1993)
- ▶ 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 (signed August 4, 2004 with Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and the Dominican Republic; entered into force with: the Dominican Republic (March 1, 2007); El Salvador (March 1, 2006); Guatemala (July 1, 2006); Honduras (April 1, 2006); and Nicaragua (April 1, 2006).
- ▶ 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)

## **Bilateral Agreements**

### **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 (signed May 18, 2004; entered into force 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 (signed January 19, 2004, entered into force 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 (signed June 6, 2003, entered into force January 1, 2004)

## **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 (signed July 7, 1979; entered into force 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)

## **Colombia**

- ▶ Memorandum of Understanding on Trade in Bananas (January 9, 1996)
- ▶ Exchange of Letters between the United States and Colombia on Sanitary and Phytosanitary Measures and Technical Barriers to Trade Issues for the United States Andean Trade Promotion Agreement (February 27, 2006)
- ▶ Exchange of Letters between United States and Colombia on Beef Sanitary and Phytosanitary 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)
- ▶ Agreement on Trade in Textile and Apparel Goods (December 1, 2006)

## **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 between the United States and the Dominican Republic on Trade in Textiles (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)

## **El Salvador**

- ▶ Exchange of Letters on Trade in Textiles and Apparel Goods (January 27, 2006)

## **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 (signed October 17, 2005; entered into force 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 (signed October 17, 2005; entered into force 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 Concerning the Application of the GATT Agreement on Trade in Civil Aircraft (July 17, 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 (signed May 18, 1997; entered into force 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)
- ▶ Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia, and the Slovak Republic to the European Union (exchange of letters was finalized on March 22, 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 (signed March 22, 2006)

## **Georgia**

- ▶ Agreement on Bilateral Trade Relations (August 13, 1993)
- ▶ Bilateral Investment Treaty (August 17, 1997)

## **Grenada**

- ▶ Bilateral Investment Treaty (March 3, 1989)

## **Guatemala**

- ▶ Agreement on Trade in Textiles and Apparel Goods (June 23, 2006)

## **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)
- ▶ Exchanges of Letters on Trade in Textiles and Apparel Goods (March 7, 2006)

## **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 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 on Trade in Agriculture (December 4, 1996)
- ▶ United States-Israel Agreement on Almonds and Certain Other Agricultural Trade Issues (November 30, 1997)
- ▶ United States-Israel Agreement Concerning Certain Aspects of Trade in Agricultural Products (July 27, 2004)

## **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)
- ▶ Science and Technology Agreement (June 20, 1988; extended June 16, 1993)
- ▶ Measures Concerning Cellular Telephone and Third Party Radio System Telecommunications Issues (June 28, 1989)
- ▶ 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)
- ▶ Exchange of Letters Regarding Implementation of the Measures Regarding Cellular Telephone and Third-Party Radio Systems (March 12, 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)

### **Jordan**

- ▶ Agreement Between the United States and Hashemite Kingdom of Jordan on the Establishment of a Free Trade Area (entered into force 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 (January 12, 1994; amended May 1, 2004)
- ▶ Agreement on Trade & Intellectual Property Rights Protection (January 20, 1995)
- ▶ Bilateral Investment Treaty (December 26, 1996)

### **Lithuania**

- ▶ Bilateral Investment Treaty (November 22, 2001; amended May 1, 2004)

### **Laos**

- ▶ Bilateral Trade Agreement (entered into force 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)
- ▶ Agreement between the U.S. Trade Representative and the Secretaria de Economia of the United Mexican State Concerning Duty-Free Treatment of Sweeteners for FY06-FY08 (July 27, 2006)
- ▶ Bilateral Agreement on Customs Cooperation regarding Claims of Origin Under FTA Cumulation Provisions (January 26, 2007)

### **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 (Agreement signed on May 18, 2004; entered into force January 1, 2006)

### **Mozambique**

- ▶ Bilateral Investment Treaty (March 2, 2005)

### **Nicaragua**

- ▶ Bilateral Intellectual Property Rights Agreement with Nicaragua (December 22, 1997)
- ▶ Exchange of Letters between the United States and Nicaragua on Trade in Textile and Apparel Goods (March 24, 2006)

## **Norway**

- ▶ Agreement on Procurement of Toll Equipment (April 26, 1990)

## **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)

## **Peru**

- ▶ Memorandum of Understanding on Intellectual Property Rights (May 23, 1997)
- ▶ Exchange of Letters on Sanitary and Phytosanitary Measures and Technical Barriers to Trade Issues for the United States –Peru TPA (January 5, 2006)
- ▶ Additional Letter Exchange on Sanitary and Phytosanitary Measures and Technical Barriers to Trade Issues for the United States –Peru TPA (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 Treaty (August 6, 1994)

## **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 2005)
- ▶ 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 (signed May 6, 2003; entered into force 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)
- ▶ United 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)

## **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 on Trade in Textiles and Textile Products (January 15, 2001)
- ▶ 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)

## **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)
- ▶ Amendment to the Dominican Republic-Central America-United States Free Trade Agreement for Pocketing Fabric pending approval of final texts of letters of agreement signed with El Salvador (January 1, 2006), Honduras (March 7, 2006), Nicaragua (March 27, 2006), Guatemala (June 23, 2006), the Dominican Republic (October 24, 2006) and Costa Rica (December 1, 2006, revised May 31, 2007)
- ▶ The Dominican Republic - Central America - United States Free Trade Agreement (signed August 5, 2004; entry into force pending with Costa Rica)
- ▶ Agreement with Mexico and Canada on adjustments to the NAFTA Rules of Origin (October 10, 2007)

### **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; pending approval); 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)

## **Mexico**

- ▶ Textile Customs Cooperation Agreement with Mexico to Implement Cumulation Provision of Central America-Dominican Republic –United States Free Trade Agreement (signed January 26, 2007; not yet in force)

## **Nicaragua**

- ▶ Bilateral Investment Treaty (signed July 1, 1995; pending ratification by United States and exchange of instruments of ratification.)

## **Oman**

- ▶ United States-Oman Free Trade Agreement (signed January 19, 2006; entry into force pending)

## **Panama**

- ▶ United States-Panama Trade Promotion Agreement (signed June 28, 2007; pending approval)

## **Peru**

- ▶ United States-Peru Trade Promotion Agreement (signed April 12, 2006; entry into force pending ); Protocol of Amendment (signed June 25, 2007)

## **Russia**

- ▶ Bilateral Investment Treaty (signed June 17, 1992; pending approval by Russian Parliament and exchange of instruments of ratification)

## **Uruguay**

- ▶ Bilateral Investment Treaty (signed October 25, 2004; pending ratification by both Parties 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 June 2007. 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)
- ▶ 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)

### **Association of Southeast Asian Nations (ASEAN)**

- ▶ United States-Asean Trade and Investment Framework Agreement (August 5, 2006)

### **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)

## **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)

## **Indonesia**

- ▶ United States-Indonesia Understanding on a Trade and Investment Council (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)

**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)

**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)

**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)
- ▶ United States-Uruguay Trade and Investment Framework Agreement (January 25, 2007)

## **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)