



2006 Trade Policy Agenda
and
2005 Annual Report
of the President of the United States
on the Trade Agreements Program

Foreword

The 2006 Trade Policy Agenda and 2005 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 on 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.

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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Assistant U.S. Trade Representative for Policy Coordination:
Carmen Suro-Bredie

Project Director:
Don Eiss

Project Advisors:
Nicole Curtis
Craig Myers
Laura Newport

Production Assistants:
Gloria D. Blue

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. 2006 TRADE POLICY AGENDA: "A Bright Vision – Building on a Strong Record"

Benefits of Free and Fair Trade

Since taking office, President Bush has demonstrated his commitment to opening markets and knocking down trade barriers to create new opportunities for U.S. businesses, workers and farmers. The President's actions to advance free and fair trade have contributed to economic growth at home and increased prosperity and freedom around the world.

We continue to seek historic advances in free and fair trade, including the completion of the Doha Round of multilateral trade talks, the negotiation of a number of new bilateral and regional free trade agreements, and the active enforcement of our trade laws and international rights.

Working with Congress, the Office of the United States Trade Representative (USTR) is committed to maintaining U.S. leadership in promoting economic growth and political freedom around the world through peaceful and open commerce.

In a speech before the United Nations on September 14, 2005, the President challenged all countries to join the United States in an ambitious undertaking, stating, "The United States is ready to eliminate all tariffs, subsidies and other barriers to the free flow of goods and services as other nations do the same. This is key to overcoming poverty in the world's poorest nations. It's essential we promote prosperity and opportunity for all nations."

The increasingly integrated global economy of the 21st century offers unparalleled opportunities for the United States. Free markets and open trade have helped make the American miracle possible and have spurred economic growth throughout the world. It is in our national interest to encourage the rest of the world to embrace market-based economic reforms and open trade.

With 95 percent of the world's people living outside our borders and hundreds of millions of new potential consumers overseas with economic liberalization in Eastern Europe and the rapid growth of the middle class in China, India, and elsewhere, the United States must be proactive in opening foreign markets to our manufactured goods, services, and agricultural products.

Expanding U.S. exports increases U.S. prosperity. Exports now support one in five U.S. manufacturing jobs. And jobs directly linked to the export of goods pay an estimated 13-18 percent more than other U.S. jobs. In the 11 years since the World Trade Organization was created, our manufacturing exports have increased 82 percent. U.S. exports were up 11 percent in 2005 and 13 percent in 2004, raising the annual value of exports by nearly a quarter trillion dollars in just two years. Moreover, agricultural exports set a record high in 2005 and are now tied to 926,000 jobs. One of every three U.S. acres is now planted for export, accounting for 27 percent of farm receipts.

In the service sector, U.S. exports have doubled in the last ten years to \$380 billion and continue to grow. The Administration is committed to opening new markets because the United States has a competitive advantage in many of the state-of-the-art, value-added products and services that the rest of the world needs.

The United States is the world's largest economy and largest exporter. The growth in U.S. exports accounted for about 25 percent of our economic growth in the 1990s and 20 percent in 2005. U.S. small and mid-sized businesses make up 97 percent of all exporters.

In terms of imports, the United States is among the most open markets in the world. Although we have experienced a healthy increase in our exports, imports have grown even more rapidly. These imports have lowered costs and increased choices for American consumers. Free trade enhances competition, contributes to price stability, and helps support high rates of non-inflationary growth. This helps keep interest rates low so more Americans can afford to buy homes and small businesses can have greater access to capital.

The World Trade Organization Uruguay Round and the North American Free Trade Agreement (NAFTA) lowered U.S. tariffs and provided an average savings of \$1300 to \$2000 a year for a family of four. That means parents can more easily afford clothes, shoes, and toys for their children, and all Americans have more choices – from tropical fruits to consumer electronics. Accordingly, American companies can produce higher-valued goods more efficiently and price these goods more competitively when they are able to purchase parts and components from overseas.

Reducing trade barriers also encourages higher productivity and higher incomes. Partially because of trade, Americans have average real incomes 40 percent greater than the nearly 700 million people living in other countries classified as “high income” by the World Bank. These are among the many reasons why President Bush has pledged to continue to open up the U.S. market so long as our trade partners open up their markets.

New Challenges

The emergence of important new players in the world marketplace is having a profound effect on the global economy and the United States. In the transformation of the world economy since the end of the Cold War, an additional two billion workers and consumers have become engaged in global markets.

The rapid integration of, and dynamic changes in, the world economy and the emerging economies, such as China, India, Brazil, and South Africa, provide challenges and opportunities for the United States. We face both heightened competition and growing markets for our products and services. The United States can and will answer these challenges and embrace these opportunities through enhanced productivity, innovation, and entrepreneurship. When the Soviet Union launched the satellite Sputnik in 1957, many despaired. But the United States responded by building a space program that put a man on the moon 12 years later and developed an aerospace industry that continues to lead the world. U.S. anxiety in the late 1980s over Japan's rapid technological advances and emerging role in global trade dissolved when the United States gave birth to the software and Internet revolutions in the 1990s.

Today, there are new tests and new opportunities challenging the competitive spirit and innovative entrepreneurship of the United States. But we must resist the temptation to turn inward as the global economy becomes more integrated and competitive and as commerce expands. Advocates of economic isolation justify their position by pointing to job losses due to trade. This ignores the fact that the \$12 trillion American economy is remarkably dynamic. The President has made clear that he will not be satisfied until every American who wants to work has a job. When job losses do occur, however, Trade Adjustment Assistance, which was expanded in 2002, is often available to cushion the financial blow and retrain workers for new jobs.

Without trade, U.S. workers would have lower purchasing power and reduced living standards. In fact, the United States suffered some of its darkest days when we did turn inward and erected protective tariffs after the stock market crash in 1929. Not surprisingly, other countries erected barriers in response to ours, choking commerce and exacerbating the recession that became the Great Depression.

We have learned a lot since then. After World War II, we led the creation of a global framework for free and fair trade, and the results have been impressive. In the last 60 years, industrialized countries have lowered their average tariff on industrial goods from 40 percent to 4 percent, and exports have grown from \$58 billion to \$9 trillion. The Institute for International Economics estimates that U.S. annual income is \$1 trillion higher today than in 1945 due to increased trade liberalization. We must stay committed to opening markets and removing barriers to the free flow of commerce rather than succumb to the false lure of protectionism.

Our open economy enjoyed a real GDP growth rate of 3.5 percent in 2005 and started 2006 with an unemployment rate of 4.7 percent – a performance that is the envy of the developed world. In fact, since the mid-1990s, the United States has experienced significant productivity growth and economic expansion. Further opening markets can only help extend and strengthen this trend.

The effects of free trade policies can be seen in other countries as well. Consider the experience of South Korea and North Korea. In the 1950s, both chose to protect their fledgling industries and both were very poor countries, although North Koreans had higher per capita income and the more advanced heavy industries. The Korean War had devastated 80 percent of the infrastructure and industrial facilities in the South. But in the 1960s, South Korea decided to open itself to the world while North Korea rejected trade and chose to maintain high barriers. The results are instructive. South Korea soon began experiencing export growth rates of over 20 percent, import increases of 18 percent, and a 6.3 percent yearly rise in per capita income. Today South Korea's per capita income is at least 11 times higher than North Korea's and has a GDP approaching \$1 trillion, compared to \$40 billion for the North Korean economy.

Another example is India, a populous democratic nation rich in talent, which saw its per capita GDP grow at an anemic 1.1 percent from 1961 to 1980, a period in which it maintained protectionist policies. Since 1991, when India made a deliberate decision to open its markets and reform its economy, India too has seen its growth rates jump dramatically. This is particularly true in the technology sector where there has been relatively little government intervention.

New Trade Agreements and a New WTO Round

The Administration has focused on tangible progress on the bilateral, regional, and multilateral levels to expand trade opportunities. Our new and comprehensive agreements are tailored to reflect a world of high technology, complex new intellectual property standards, labor and environmental considerations, and the growth of the service sector.

Already, the impact of these accords has been impressive. For example, after completing a Free Trade Agreement (FTA) with Chile in 2003, U.S. exports to Chile grew 33 percent in 2004, making the United States Chile's largest trading partner. The trend continued in 2005, with the value of U.S. exports to Chile increasing by 44 percent. Similarly, following the implementation of an FTA with Australia on January 1, 2005, U.S. agricultural exports to Australia rose 12 percent in 2005, with big gains in shipments of pork, grapes, and rice.

The FTAs in the Middle East with Jordan, Israel, Morocco, and Bahrain – which garnered strong bipartisan Congressional support – open new opportunities for economic integration with the United States and market-based reforms and opportunities in the region. These agreements and the recently signed FTA with Oman advance U.S. goals for spurring political and social reform in the region through expanded trade to realize the U.S.-Middle East Free Trade Area (MEFTA), as proposed by President Bush in 2003.

In addition, the Administration worked through a complex negotiating process with Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and the Dominican Republic and won congressional approval for the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR). CAFTA-DR will level the playing field for American farmers and workers. For years, most exports from these countries have entered the United States duty-free through trade preference programs. Once CAFTA-DR is fully implemented, U.S. workers, farmers, and service providers will gain far greater access to the growing Central American market.

This region is the United States' second-largest export market in Latin America, with exports reaching nearly \$17 billion a year. Under the agreement, it is estimated that agricultural exports will increase by up to \$1.5 billion and exports of manufactured goods should rise by up to \$1 billion a year.

The FTAs concluded by this Administration since 2001, combined with the earlier Israel FTA and NAFTA, have expanded U.S. export opportunities and offered U.S. consumers more choices at lower prices. These accords now cover roughly \$925 billion in two-way trade – nearly 36 percent of the total of U.S. trade with the entire world. U.S. exports under these agreements amount to over \$400 billion a year, or 45 percent of annual U.S. exports. Where we have an FTA, our exports are growing a healthy 20 percent per year on average, more than twice the rate of growth for our exports where we do not have an FTA.

The WTO and Doha Round

As important as these bilateral and regional successes have been, the opportunity for the greatest gains in trade comes from the multilateral system. The ultimate goal is to open markets and to eliminate barriers across a broad range of products and services among all our trading partners throughout the world. The historic opportunity we have before us is the Doha Development Agenda, launched in 2001. The World Bank estimates that tens of millions of people could be lifted out of poverty by a successful WTO Doha Round, and the Institute for International Economics estimates that multilateral liberalization could raise U.S. household income by \$500 billion, or \$4500 per household.

The Doha Round, which was launched with U.S. leadership following the tragic events of September 11, 2001, is aimed at creating new opportunities for developing and developed countries alike. Its successful conclusion will require bold movement by all WTO Members – large and small, rich and poor – to commit to the reduction or elimination of trade-distorting subsidies and to opening their markets.

The United States energized the WTO talks prior to the ministerial meeting in Hong Kong in December 2005 with a comprehensive proposal to make deep cuts in agricultural tariffs and reduce trade-distorting agricultural subsidies, if other countries would take reciprocal steps in their markets. In the negotiations on non-agricultural market access (NAMA), the United States has strongly endorsed the so-called Swiss formula that would cut tariffs on industrial goods – cutting the highest tariffs most, but with two different rates of reduction based on the stage of a country's development.

In services trade, the United States has consistently sought commitments from WTO Members to expand market access for a broad range of sectors.

The United States will continue to lead in liberalizing global trade, but we cannot and will not act unilaterally. In the area of agriculture, the support of U.S. farmers and businesses for phasing out trade-distorting subsidies and lowering tariffs is contingent on U.S. trading partners taking reciprocal steps. Thus far, other WTO Members have not been willing to match U.S. proposals. The Administration believes that only real movement in agriculture, industrial goods, and services will unlock the full potential of the Doha Round for all WTO Members. Such movement must occur in concert for the Round to be completed successfully by the end of 2006.

The Hong Kong Ministerial also solidified the commitment of WTO Members to the goals of the Doha Development Round and produced several tangible results. Members agreed to end agricultural export subsidies – which are the most trade distorting – by 2013. A substantial portion of elimination is to occur by the end of the first half of the implementation period.

WTO members, led by the United States, also adopted an important change to the WTO TRIPS (Trade Related Aspects of Intellectual Property Rights) Agreement that balances the long-term need to preserve market incentives for the development and launch of new life-saving medicines with the immediate need to get those medicines to the victims of AIDS and other diseases in countries that cannot produce the drugs themselves. The TRIPS Agreement is of critical importance to countries struggling to cope with HIV/AIDS, malaria, and other health crises.

In addition, commitments to development were made through new pledges to help countries create the legal, administrative and physical infrastructures needed to fully engage the market openings envisioned by the Doha Development Agenda. The United States is proud to lead these trade capacity building efforts and announced in Hong Kong a pledge to double our aid for trade contributions from the current level of roughly \$1.3 billion a year to \$2.7 billion annually over the next five years.

Also, WTO Members agreed to provide duty-free/quota-free treatment for goods from the least developed countries – those defined by the World Bank as having average per capita incomes of \$340 or less. WTO Members can exempt up to three percent of tariff lines from duty-free treatment. The United States is already the most open market in the world to the products of the world's poorest countries and agreed in Hong Kong to promote even more opportunities in the U.S. market for these countries.

WTO Members also set the stage in Hong Kong for cutting costly and confusing customs procedures to facilitate and expand trade. Two years ago at the WTO talks in Cancun, this issue was a big stumbling block. But in Hong Kong, due to the work of negotiators from a diverse group of countries coming together and reaching consensus in Geneva, we were able to move forward.

In services, WTO Members agreed to keep working toward better quality market access commitments in key sectors such as financial services, telecommunications, computer-related services, express delivery, distribution, and energy services. Members also agreed to set a deadline for putting new offers on the table.

Despite the naysayers' suggesting that goals for opening up more trade in this crucial sector should be reduced, we have kept our sights high. This is important to developing countries because the more they improve their services infrastructure, the more rapidly they can modernize their economies and the more easily they can integrate into the global economy and attract foreign investment.

In a historic move to improve environmental stewardship, WTO countries also agreed in Hong Kong to curb fisheries subsidies and help reduce the trend of over-fishing, which has led to a dangerous depletion of fish stocks in waters around the world.

The cooperation among diverse countries on these and many other issues underscored another important milestone in our efforts to create and sustain a global trading system. The long-held notion of a world divided between the rich countries and the poor countries, or the North and the South, is being replaced by a system where countries of diverse cultures and varying stages of development work together in pursuit of common objectives.

In Hong Kong, the United States worked in common purpose with countries from Brazil to Zambia on a range of issues such as market access for agricultural and industrial goods and services trade. We worked closely with Western and Central African countries on subsidies and other trade policies related to cotton, engaged with the Group of 20 developing countries on ending agricultural export subsidies, were in common purpose with India and Chile on services, and worked together with our European partners on proposals to reduce industrial tariffs.

We did not achieve major breakthroughs in key negotiating areas in Hong Kong, but we made incremental progress and affirmed the importance of the rules-based multilateral trading system.

Trade and Clean Development

Our bilateral and multilateral cooperation extends to advancing opportunities for trade in cleaner and more efficient energy technologies.

At the Gleneagles G8 Summit, we agreed to promote innovation, energy efficiency, and conservation; improve policy, regulatory, and financing frameworks; and accelerate deployment of cleaner technologies, particularly lower-emitting technologies. We also agreed to work with developing countries to enhance private investment and transfer of technologies, taking into account their own energy needs and priorities. In 2005, the United States joined with Australia, China, India, Japan, and South Korea in the Asia-Pacific Partnership on Clean Development and Climate, to foster new investment opportunities, build local capacity, and remove barriers to the trade in clean, more efficient technologies in a variety of settings related to energy production and use. The Partnership builds on existing bilateral partnerships and multilateral climate change-related technology initiatives, including the Carbon Sequestration Leadership Forum, the International Partnership for the Hydrogen Economy, and the Methane to Markets Partnership.

Combined with the bilateral partnerships the U.S. maintains with 13 other countries and regions (including the largest emitters of greenhouse gases), these multilateral partnerships demonstrate our common purpose with all countries of the world, both developed and developing, to address energy security and environmental concerns through opening new markets for environmentally efficient products.

BUILDING ON OUR SUCCESS IN THE YEAR AHEAD

In 2006, the Administration is committed to creating new momentum for a bipartisan consensus to open markets and knock down barriers to trade around the world. Working in partnership with Congress, we will be promoting an aggressive and proactive agenda. Our three priorities will be: 1) the successful conclusion of the WTO Doha trade talks; 2) extending bilateral and regional economic ties and expanding

opportunities for U.S. workers, farmers, and consumers through new FTAs; and 3) protecting U.S. interests and rights through the vigorous enforcement of U.S. and international trade laws and rules.

The Doha Round

The Administration will continue to press ahead with the goal of completing the Doha negotiations by the end of 2006. The potential benefits from the successful Doha Round for the United States and its trading partners, especially in the developing nations, are enormous, and we will continue to do all we can to achieve a successful result. The Administration helped set the tone and maintained progress at the WTO Hong Kong Ministerial meeting in December 2005. However, if we are to meet the end-of-2006 deadline, we need to pick up the pace. The U.S. put ambitious and concrete proposals on the table and showed our trading partners a path for getting the job done. WTO Members can no longer delay. It is now time for our major trading partners to make the tough political decisions that will allow the talks to succeed.

The President's Trade Promotion Authority (TPA) expires on July 1, 2007. TPA bars substantial changes to an agreement once it has been negotiated and Congress has been consulted. It is important to have a Doha agreement completed by the end of 2006 and ready for congressional consideration and approval in the first half of 2007, prior to TPA's expiration.

If the Doha negotiations are not concluded by the end of 2006, there is real danger the Doha Round could drift into a long, unpredictable period of stagnation, and this historic opportunity to improve lives in the United States and around the world through more open trade would be lost. We can and we must avoid that outcome.

The success of the Doha Round requires concrete steps by all WTO Members in the first half of this year – particularly developed countries in the area of agriculture market access and by developed and major developing country trading partners in services and market access for industrial goods.

Important Bilateral and Regional Opportunities

In parallel to its Doha Round efforts, the Administration will move vigorously to negotiate new bilateral and regional trade agreements to create a host of new opportunities for U.S. workers, farmers, and businesses. U.S. exports to FTA partners have grown more than twice as fast as those to countries with which we do not have an FTA. Our bilateral and regional agreements can and do yield significant economic benefits. Developing our economic ties with our FTA partners also creates the opportunity for an improved relationship overall and encourages greater cooperation in the multilateral arena. For all of these reasons, the Administration is negotiating and considering FTAs with a number of countries in Asia, Latin America, and Africa.

Recently-concluded FTA negotiations with Peru, Columbia and Oman, along with ongoing negotiations with Ecuador, the Southern African Customs Union (SACU), Panama, Thailand, and the United Arab Emirates, could result in new market opportunities in countries with which our two-way trade is more than \$66 billion. With the launch of FTA talks with the Republic of Korea and other major trading partners possible this year, the United States could tap the vast potential of improved ties to markets with which it already has a strong trade relationship.

In addition to simply increasing the volume of trade, FTAs serve to encourage market reforms and liberalization beyond the text of a particular agreement. For example, our FTA with Jordan, which became effective in late 2001, required improvements in that country's legal and regulatory systems,

particularly with regard to intellectual property rights enforcement and transparency of governmental procedures. As a result, investors have become more confident in the business climate in Jordan. Over the last five years, they have poured hundreds of millions of dollars into that country. Jordan's efforts to make its governmental and commercial policies more transparent have become a model for FTAs with other countries in the region, such as Morocco, Bahrain and Oman.

Similarly, FTAs provide an opportunity to persuade our trading partners to raise their labor and environmental standards. For example, members of Congress who shared Administration concerns about labor reforms helped secure commitments for changes in Bahrain's labor laws. In addition, CAFTA-DR signatory countries enacted new labor protection statutes in the course of negotiations in response to the United States' commitment to safeguarding basic rights for workers. The CAFTA-DR also includes a groundbreaking new public submissions mechanism that will promote greater transparency in environmental law enforcement. The CAFTA-DR requires signatory countries to enforce their environmental and labor laws or be subject to dispute settlement and monetary assessments. The money collected from those monetary assessments will be channeled into efforts to address environmental problems or protect worker rights in the country that is failing to appropriately enforce its laws. In addition, the Administration worked with members of Congress on a package of up to \$180 million to help CAFTA-DR countries create the legal and governmental infrastructure needed to ensure that labor protection and environmental laws are enforced.

Trade capacity building is also a fundamental feature of bilateral cooperation in the completed CAFTA-DR and the Peru and Columbia Trade Promotion Agreements, and our possible FTAs with the SACU countries, Ecuador, Panama, and Thailand.

Bilateral and regional trade agreements, such as CAFTA-DR, also promote more economic integration and cooperation and open the doors to new commercial opportunities in so-called South-South trade. CAFTA-DR will knock down barriers between that region and the United States, facilitate trade among Central American countries, and promote regional economic growth.

Likewise, our recently concluded agreements with Peru and Columbia and our ongoing negotiations with Ecuador are aimed at building on the close trade ties the United States has with the Andean region and creating more economic opportunities and hope for the people in that area. Over recent years, Andean countries have benefited from preference programs that have created incentives for farmers to abandon the cultivation of coca and harvest other crops or take up new occupations. Free and fair trade expands economic choices and diminishes the power of drug lords in the region.

The Administration believes that CAFTA-DR and a free trade pact with Andean countries will serve as building blocks for the long-held goal of establishing the Free Trade Area of the Americas (FTAA) – a zone of open commerce extending from the outer islands of Alaska to the tip of Argentina. This would be the largest free trade area in the world, encompassing more than 800 million people in 34 countries with a combined GDP of over \$16 trillion a year.

In May 2003, President Bush proposed the establishment of the U.S.-Middle East Free Trade Area (MEFTA) by 2013 to expand trade in the Middle East. There are tremendous commercial opportunities in this 18-nation region with 290 million people, and MEFTA provides a chance to sow the seeds of democratic reform and political stability. The national 9-11 Commission cited expanded trade as one of the ways to bring greater openness and prosperity to the Middle East and stem the political turmoil that has gripped the region for so many decades.

This year opened with significant movement toward making the MEFTA a reality. The FTA with Morocco went into effect on January 1, 2006. Also in January, the President signed legislation to implement an agreement with Bahrain, and the United States and Oman formally signed the FTA concluded in the fall of 2005. In addition, Saudi Arabia joined the WTO late in 2005, and the United States is supporting the bids of Lebanon, Algeria, and Yemen to join the WTO as well. The Administration is encouraged by these developments and believes the current and future benefits to Jordan, Israel, Morocco, Bahrain, and Oman have created an incentive for other countries in the region to strengthen trade ties with the United States.

The United States also continues to strengthen its trade and investment relations throughout the Asia-Pacific region, cementing our ties to this dynamic and strategically important region. We have concluded FTAs with Singapore and Australia and have ongoing FTA negotiations with Thailand. The United States also launched FTA talks with Korea. The United States is also working closely with our Asia-Pacific trading partners in the Asia-Pacific Economic Council (APEC) to promote trade liberalization across the Pacific. The United States continues to strengthen and deepen the trade relationship with the fast-growing economies of China and India through special standing trade dialogues. We have also expanded our economic relationships with Japan, Indonesia, Philippines, and Brunei through trade and investment dialogues that address a range of bilateral issues and to facilitate coordination on regional and multilateral issues.

The launch of a FTA with South Korea is one of the most important new initiatives for 2006. In the last 40 years, South Korea has grown into an economic powerhouse with an annual GDP approaching \$1 trillion. This nation of 48 million people represents not only a tremendous new commercial opportunity for U.S. businesses and farmers but also an opportunity to strengthen political ties with an important regional partner.

In Africa, the United States is working to enhance its trade and investment relationship with sub-Saharan African nations through preference programs such as the African Growth and Opportunity Act (AGOA), Trade and Investment Framework Agreements (TIFAs), and the negotiation of the first-ever FTA with sub-Saharan African countries. AGOA has more than doubled two-way U.S.-sub-Saharan-African trade since its passage in 2000, helped create tens of thousands of jobs, and attracted hundreds of millions of dollars in new investment.

When completed, a U.S.-SACU FTA could significantly increase U.S. trade with our largest trading partners in sub-Saharan Africa, spur investment, and facilitate economic integration in the region. This could also serve as a model for trade agreements with other African nations.

With the new commercial opportunities and potential for bilateral and regional accords to raise the bar for a global free trade framework and promote regional growth and cooperation, the United States is eager to make important strides in bilateral and regional negotiations. The United States will also continue its efforts to establish and to use effectively TIFAs with countries all over the world. TIFAs are important steps toward a free trade relationship and help open markets and generate investment.

Just as in the Doha Round, the Administration remains willing to advance discussions when our trade partners are prepared to take the steps needed to clear longstanding stumbling blocks and offer new proposals. However, with the expiration of TPA in 2007, the Administration will be focused on agreements that are most likely to be achieved in order to maximize the opportunities for U.S. farmers and workers and to best advance broader national and strategic interests.

Consultation with Congress

This Administration is committed to working with and consulting Congress and the American people at every step of its ambitious 2006 trade agenda. In 2005, the Administration reached out to lawmakers on many occasions with frequent face-to-face meetings on trade with Members and their staffs. The Administration intends to build upon these efforts and consultations in 2006.

Close bipartisan consultation with Congress and Trade Advisory Committees, and more informally with companies and industries involved in trade, is vital to accomplishing the Administration's ambitious agenda. Opening up new markets to U.S. goods and services and rigorously enforcing our trade laws and rights creates opportunities for all Americans. Lawmakers from both parties should play an important role in bringing the concerns, goals, and values of their constituents to the discussion of trade liberalization and enforcement of trade agreements. The Administration will consult actively, frequently, and intensively to make sure it can advance its trade policy objectives with the broadest support possible. The Administration looks forward to the active support of its free and fair trade allies in Congress to join in making the case all over the country for opening markets, knocking down barriers to trade, and debunking the arguments for economic isolation.

Fair Trade in Rules-Based System

Free trade must flow across a level playing field to realize the full promise and benefits of open markets. The rules-based trading system depends on the willingness of all participants to abide by the rules and their commitments. The Administration agrees with lawmakers from both parties that free trade works only if the parties agree to trade fairly. The Administration will continue to use all available tools to ensure that our trading partners live up to their obligations as WTO Members and FTA partners. We will challenge and confront our trade partners who pursue policies and actions that create illegal barriers to U.S. exports.

In the past year, the United States went to the WTO to seek formal panel proceedings after the EU proved unwilling to negotiate an end to its illegal subsidies of its aircraft manufacturer, Airbus. The United States also initiated legal action to challenge inconsistent customs procedures and regulations within the European Union that we believe are hindering U.S. exports. The confusing array of customs rules presents particularly difficult obstacles for small and mid-sized businesses.

The United States has won a series of important proceedings before the WTO over the past year while advocating U.S. rights. For example, the United States prevailed in a case in which Mexican anti-dumping laws unfairly discriminated against U.S. long grain and white rice producers. The United States also won a case involving Japan's restrictions on U.S. apples that were alleged, without any scientific basis, to have carried a disease called "fireblight." In addition, the United States prevailed in a dispute with the EU over so-called "geographical indications," which means that, for example, only potatoes from Idaho or oranges from Florida may be marketed as "Idaho potatoes" or "Florida oranges" in Europe, the same type of protection afforded European products such as Roquefort cheese. In yet another case, the United States prevailed in a case involving unfair subsidies provided to a Korean semiconductor maker by the Korean government. In that case, the United States won the right to maintain countervailing duties on the illegally-subsidized semiconductors.

The Administration will also continue its Strategy Targeting Organized Piracy (STOP!) initiative, in which nine U.S. government agencies work together and reach out to trade partners in Europe, Singapore, Hong Kong, Japan, and South Korea in an effort to work together to confront the global scourge of intellectual property theft.

The Administration will consider all options to stand up for U.S. interests. While disputes can often be resolved by other means, we will not hesitate to pursue litigation in protecting our interests. The Administration's willingness to bring a legal action against our trading partners has often led to the resolution of cases before formal proceedings commence. For example, early in 2006, China agreed to drop anti-dumping duties it had imposed on Kraft linerboard – a paper product used to make corrugated boxes – after it became evident that the United States was about to bring a strong legal challenge before the WTO.

In many other cases, direct and frank engagement with our trading partners best promotes the interests of U.S. companies without the need for a protracted legal battle. For example, the Administration held several negotiating rounds with China throughout last year regarding China's sharp increase in textile exports to the United States. The Administration had already invoked a special safeguard to stem the tide of cotton shirts and other items, but it was clear that a longer-term framework was needed. The Administration worked with China on an arrangement that gives U.S. textile and apparel makers a measure of security and predictability until the safeguard mechanism expires in 2008. In 2006, we will continue to work with other trading partners to resolve a range of major issues from beef exports to South Korea to the use of biotechnology in food products and aircraft subsidies provided by the European Union.

China

The emergence of China as a global power has created new opportunities and new challenges. The U.S. trade deficit with China has grown markedly in recent years. There is concern that the U.S.-China trade relationship lacks balance in opportunity, as well as equity and durability, with China's focus on export growth and developing domestic industries not being matched by a comparable focus on fulfilling market-opening commitments and on the protection of intellectual property and internationally recognized labor rights. At the same time, this growing deficit is not solely a function of our trade policy or China's trade practices. It is also caused by macroeconomic factors, including national savings rates, consumption rates, investment levels, economic growth, and changing consumer tastes. In addition, China has become an increasingly important market for U.S. exports. The United States and China are bound by a mutual interest in supporting each other's economic growth and stability.

The United States also has the potential to continue to expand exports dramatically as China's 1.3 billion people become more prosperous and seek a variety of goods and services. We are already seeing the years of engagement with China begin to pay off. Between 1997 and 2002, China's tariffs on many industrial goods important to the United States have dropped from an average of 25 percent to just 7 percent. As a result of market access gains as well as strong growth in the Chinese economy, U.S. exports to China have risen five times faster than to rest of the world, and China has gone from being our 9th largest to our 4th largest export market. As our trade deficit with China has increased, our trade deficit with many other Asian countries has declined. On balance, our trade balance with Asia as a whole has been fairly stable compared to other regions.

Though the U.S. trade deficit in goods with China is rising rapidly, the share of the U.S. global trade deficit represented by the Asia Pacific Rim (including China) has actually fallen from 57 percent in 1999 to 43 percent in 2005. These statistics reflect that China, as a final assembler for companies located elsewhere in Asia, is now exporting products to the United States that formerly were exported from other countries.

We must be sure that China continues to make progress and abide by the commitments it made when it joined the WTO five years ago. China's complex legal and governmental structures have contributed to delays in full implementation. In addition, China must shoulder its share of the market opening commitments in the Doha negotiations. As an emerging economy and a regional power, China must step up to its obligation to be a responsible leader that advocates free and fair trade and that promotes and respects the global trading system that has nurtured its growth and increasing prosperity.

Intellectual property theft, counterfeiting, and copyright infringement in China continue to be a source of serious concern for the Administration. Chinese officials have made some progress to protect intellectual property, but the United States will continue to work with the Chinese government to demonstrate more reliable and consistent progress in this area.

China's exchange rate policy also affects China's trade and plays an important role in the adjustment of global imbalances. The Administration has insisted that China swiftly carry out the commitments to move to a market-based, flexible exchange rate regime. But to date, China's actions have been insufficient. On delivering his last Report to Congress on International Economics and Exchange Rate Policies, Treasury Secretary Snow declared that China's "progress to date is limited and far too slow to be sufficient. The actual operation of the new system is highly constricted. As a result, the distortions and risks created by China's rigid exchange rate still persist." Treasury's next foreign exchange report is scheduled to be released in April 2006 and will focus on the Chinese government's progress in allowing significant exchange rate flexibility.

The size and scope of the changes in U.S.-Chinese trade ties and the long-term implications for how these changes are managed have been the subject of a top-to-bottom review that USTR began in mid-2005 and the results of which were announced in early 2006. The review focused on ways to encourage China's role as a participant and stakeholder in the global trading system and what can be done to remove barriers to its markets and facilitate compliance with global trade rules. This forward-looking, balanced, and comprehensive review lays out our priority objectives in achieving these goals and identifies how to best allocate resources to this effort.

Among the proposals to achieve these goals are increased resources devoted to addressing China issues, improved interagency coordination within the U.S. government, better monitoring of China's trade practices, greater efforts to assist the Chinese government to step up its enforcement and compliance efforts, and holding China accountable to its commitments as a full-fledged WTO member and a major beneficiary of the global trading system.

Conclusion

The Administration has worked diligently and vigorously to strengthen the global trading system, open markets, and knock down barriers to free and fair trade. This year presents many historic opportunities to build on that record, whether in securing a successful conclusion to the WTO Doha Round, through the pursuit of FTAs with willing and able partners, or the aggressive enforcement of U.S. rights under international rules and domestic laws. The Administration's

trade agenda can deliver substantial economic benefits for U.S. businesses, workers, farmers, ranchers and consumers and improve the lives of people around the world. The Administration is eager to engage the American people and Congress in this important work and lead the world closer to the President's vision for peace and prosperity through expanded trade. Free and fair trade is the engine of economic expansion, the catalyst of political freedom, and the foundation for a rules-based system of global economic interdependence. This Administration commits to leading a bold and proactive trade agenda that will keep the United States in the vanguard of the global economy in the 21st century.

Robert J. Portman
United States Trade Representative
March 1st, 2006

**THE PRESIDENTS
2005 ANNUAL
REPORT ON THE
TRADE
AGREEMENTS
PROGRAM**

II. The World Trade Organization

A. Introduction¹

Over the past year, the 149 Members of the World Trade Organization (WTO) continued to address the important business of moving forward a major round of global trade negotiations – the Doha Development Agenda (DDA), launched in Doha, Qatar two months after the events of September 11, 2001. The DDA is the ninth round of multilateral negotiations to be carried out since the end of World War II, and the first under the WTO—which itself was created as a significant result of the Uruguay Round of negotiations that were completed in December 1993. At the core of the Doha Round is the creation of new economic opportunities through new and real market openings, as well as with agricultural reform. These negotiations, along with the day-to-day implementation of the rules governing world trade, represent a dynamic approach to furthering global trade liberalization and strengthening of the trading system that is so vital to the growth of the world economy and continued peace and prosperity.

This chapter outlines the progress in the work of the WTO, and most importantly the path ahead for 2006. Following the course set by the Sixth WTO Ministerial Conference, held in Hong Kong December 13-18, 2006, will be a year of challenge, as the United States continues to press other Members to join in moving toward a conclusion of the negotiations that brings about bold and aggressive trade liberalization and agricultural reform.

Ambitious results emerging from the DDA will carry the potential for a significant contribution to global development, and the United States and other WTO Members continue to provide unprecedented contributions to strengthen technical assistance and capacity building to ensure the participation of all Members in the negotiations. This chapter will detail the progress of the DDA, and provide a review of the implementation of existing Agreements, including the critical negotiations to expand the WTO's membership to include new members seeking to reform their economies and join the rules-based system of the WTO.

B. The Doha Development Agenda under the Trade Negotiations Committee

The DDA was launched in Doha, Qatar in November 2001, at the 4th WTO Ministerial Conference where ministers provided a mandate for negotiations on a range of subjects and 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 Agreements. The goal of the DDA is to reduce trade barriers so as to expand global economic growth, development and opportunity. The main focus of the ongoing negotiations is in the following areas: agriculture; industrial market access; services; trade facilitation; WTO rules (i.e., trade remedies, regional agreements and fish subsidies); 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 works closely with the Chairman of the General Council, Ambassador Amina Mohamed of Kenya. The Chairman of the General Council, along with Director-General Pascal Lamy, played a central role in ensuring that the Sixth Ministerial Conference at

¹ The information in this section is provided pursuant to the reporting requirements contained in sections 122 and 124 of the Uruguay Round Agreements Act.

Hong Kong in December 2005 produced incremental progress, particularly on issues of importance to the least-developed countries. (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.)

Following on a productive year in 2004, in which the negotiations were re-energized by the frameworks agreed in the General Council decision of 1 August 2004, work on the DDA in 2005 culminated with the Ministerial Declaration of the Sixth WTO Ministerial Conference in Hong Kong in December, which is discussed in detail below. In early 2005, U.S. aims for achieving good progress in the negotiations were stymied on a number of fronts, particularly in the area of agriculture, where difficulties on the technical details of a conversion formula for non-*ad valorem* tariffs provided a preview of an unfortunate negotiating dynamic that emerged later in the year.

In a speech before the United Nations in September 2005, President Bush stated forthrightly that the United States was ready to eliminate *all* tariffs, subsidies and other barriers to free flow of goods and services as other nations do the same. Following this important speech, the United States tabled a comprehensive proposal for the agriculture negotiations on October 10th to eliminate all tariffs and subsidies in a two-phased process.

The U.S. proposal was roundly welcomed as an important push to move the WTO agriculture negotiations forward, and presented a path for breaking what had become a logjam for the other core negotiations of industrial tariffs and services. The proposal was not a unilateral offer; it was contingent on others stepping up to the plate on these bold reforms.

In response, on October 28th, the EU tabled its own proposal, which was widely viewed as a disappointment that fundamentally fell short of the Doha mandate to provide “substantial improvements” in agricultural market access. The proposal put forth small tariff cuts, generous flexibilities for sensitive products and opportunities for safeguards which would effectively deny access to the EU market, and could not be a template for ambitious results in the key market access pillar of the agriculture negotiations. Thus, as negotiations headed toward the Hong Kong meeting, the progress necessary for achieving ambitious results in the DDA overall remained elusive, and expectations diminished as to what could be achieved at the December Ministerial. The United States and others, however, made it clear that there was no erosion of the expectation that the DDA must ultimately achieve a robust and ambitious set of market-opening results.

On December 8, WTO General Council Chairman Mohamed forwarded to WTO Members a draft ministerial text with a covering note enclosing questions for Ministers to focus on in the key areas of agriculture (including cotton), non-agricultural market access (NAMA) and development. The draft declaration covered all negotiating areas and work programs agreed at the launch of the DDA. For agriculture and NAMA, there were no forward mandates, simply a reporting of areas of possible convergence and areas for further work. With the exception of trade facilitation where a consensus-based text was achieved, the Chairs of the individual negotiating areas submitted annexes that comprised onward negotiating mandates on their own responsibility. One important decision prior to Hong Kong was the General Council agreement to the amendment on TRIPS and Health, resolving the longstanding so-called “paragraph six” issue regarding compulsory licensing. This agreement helped to sharpen the focus on agriculture and other development related issues. Discussions in Hong Kong focused on “topping up” or making incremental progress in the negotiations that would yield a way forward in the outstanding areas and the tabling of offers in the first quarter of 2006.

Modest Progress made at the Hong Kong Ministerial

The Hong Kong Ministerial Conference in December 2005 advanced the Doha negotiations and set a new deadline of April 30, 2006 for achieving agreements on the platform for final negotiations in the core areas of agriculture and non-agricultural market access. Despite intensive efforts leading up to and at the meeting, agriculture remains the main stumbling block towards progress, with the EU unable to meet the challenge of providing new and real market access in agriculture. Ministers did, however, establish 2013 as the end date for the elimination of all export subsidies. The Hong Kong Ministerial resulted in modest progress across-the-board, most particularly agreement on key aspects of a development package to assuage the concerns of developing country Members, particularly the least-developed, that their interests were taken into account in the negotiations. Least-developed country Members succeeded in further defining the commitments made when the Doha Round was launched to obtain duty-free quota free market access as part of the overall results of the Round.

Agriculture

Although there were no major breakthroughs in agriculture, negotiators did set 2013 as the date for full elimination of agricultural export subsidies and fleshed out the mandate for work on cotton as part of the larger agricultural negotiations. The declaration confirms that market access for agriculture, where substantial improvements in market access are envisioned, remains the most difficult issue to address.

On cotton, the Hong Kong Declaration lays the groundwork for near-term and future action on cotton, within the context of the overall agriculture negotiations. It addresses both the trade and development aspects of the challenges facing global trade in cotton—an issue of particular importance to a number of West and Central African countries.

Non-Agricultural Market Access (NAMA)

The NAMA text coming out of the Hong Kong Ministerial locks in the progress made since adoption of the July 2004 Framework and tops-up that progress in a few key areas. The text also reaffirms the important role of liberalizing sectoral tariffs and reducing non-tariff barriers to trade.

Services

The agreement at the Hong Kong Ministerial establishes a solid platform for future progress in the services negotiations. It includes a commitment to intensify negotiations and sets deadlines for submitting plurilateral requests, outstanding initial offers and revised offers, and finalizing negotiations. Highlights of the services text also include a commitment to intensify market access negotiations to achieve progressively higher levels of liberalization across all service sectors and modes of supply – providing a basis to press for robust results in key sectors such as financial services, telecommunications, computer and related services, express delivery, distribution, and energy services.

Trade Facilitation

Ironically, the question of whether to commence negotiations on Trade Facilitation was one of the make or break issues at the WTO Ministerial meeting in Cancun, Mexico.

On the basis of excellent work in the Geneva negotiating group since its formation in late 2004, Ministers endorsed recommendations setting the stage for intensifying the WTO negotiations on Trade Facilitation and moving toward a conclusion in 2006.

Development Package

Most notable among several results from the Hong Kong Ministerial pertaining to least-developed country Members (LDC's) was the political commitment to provide duty-free/quota-free market access to products from LDC's, with implementation to be done autonomously, through preference regimes, coincident with the implementation of the results of the DDA negotiations.

Ministers agreed to provide duty-free/quota-free market access for at least 97 percent of tariff lines, and to take steps to progressively expand beyond 97 percent– but to take into account any impact on other developing countries at similar levels of development as LDC's. (LDC's are already eligible for duty-free access to the United States on 83 percent of the tariff lines in the U.S. tariff schedule; LDC's covered by the African Growth and Opportunities Act and the Caribbean Basin Initiative are eligible for duty-free access on up to 91 percent of the tariff lines in the U.S. tariff schedule.)

At the Hong Kong Ministerial, Members agreed to allow LDCs to maintain and create measures that deviate from the TRIMS Agreement, under the conditions that the measures be duly notified and are terminated by 2020.

Access to Medicines. WTO Members formalized an agreement on the rules governing intellectual property rights that balances the needs of protecting patent rights with delivering life-saving medicines to areas hardest hit by epidemic disease. This will be of great importance to countries struggling to cope with HIV/AIDS, malaria and other health crises.

Aid for Trade. Nations reinforced their commitment to development with significant new pledges of so-called “Aid for Trade”. This commitment will help create the legal, administrative and physical infrastructures needed to help developing country Members participate fully in the market openings we hope to achieve in the DDA. The United States is proud to lead the world in providing such assistance, and as part of the DDA, at Hong Kong the United States announced a doubling of our contributions over the next five years from the current level of roughly \$1.3 billion a year to \$2.7 billion annually.

Prospects for 2006

The United States will work with other WTO Members to pursue a successful and ambitious outcome to the negotiations before the end of 2006. This goal is consistent with the objective announced by President Bush earlier this year at the United Nations, where he laid out a bold vision for open trade to bring renewed economic growth, prosperity and hope to the developing world. Achieving new and real market openings, particularly in agriculture, is the key to achieving a final agreement. Unless the negotiations in the core areas are unblocked early in 2006, the world will risk missing a unique opportunity to enhance global economic growth and alleviate poverty.

The disappointing amount of progress made in the core areas in 2005 leaves virtually no breathing room in the negotiations if work is to be completed in 2006. Key decisions on the size and shape of cuts will need to be made early on to enable the tabling of the draft schedules by mid year and the subsequent intensive bilateral request/offer negotiations to be completed by the end of 2006. The Hong Kong Ministerial Declaration provides deadlines for the work in several negotiating groups which will guide their work and influence the overall pace and direction of the DDA in 2006:

Agriculture. Ministers agreed 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.

NAMA. Ministers 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

Services. Ministers established the following timeline: The submission of outstanding initial offers should be submitted as soon as possible. Groups of Members presenting plurilateral requests to other Members should submit these requests by 28 February 2006 or as soon as possible thereafter. A second round of revised offers shall be submitted by 31 July 2006. Final draft schedules of commitments shall be submitted by 31 October 2006.

Development-Related Issues

Ministers agreed to review all the outstanding Agreement-specific proposals and make recommendations to the General Council by December 2006.

Regarding the trade-related issues of small economies, Ministers set out the aim of providing responses by 31 December 2006.

On outstanding implementation issues, Ministers directed the General Council to review progress and take any appropriate action by 31 July 2006.

Ministers created a Task Force on the Integrated Framework (IF) and directed to recommend enhancements on the IF by April 2006. Enhanced operations are to be put into effect by 31 December 2006.

On Aid for Trade, Ministers asked the Director-General to create a task force that would provide recommendations on how to operationalize Aid for Trade by July 2006.

Rules – Ministers directed the Chairman of the Rules Negotiating Group to prepare consolidated texts of the AD and SCM Agreements to serve as the basis for the final stage of the negotiation early enough to assure a timely outcome within the context of the completing the DDA by the end of 2006. With respect to regional trade agreements, Ministers requested that work proceed with a view to a provisional decision on RTA transparency by 30 April 2006.

1. Committee on Agriculture, Special Session

Status

Negotiations in the Special Session of the Committee on Agriculture are conducted under the ambitious mandate agreed at the Fourth WTO Ministerial Conference in Doha, Qatar which 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 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.

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 the Japanese 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.

Major Issues in 2005

Following agreement in July 2004 on an agricultural framework, discussions in the WTO focused on developing specific approaches to reduce tariffs and trade-distorting domestic support and eliminate export subsidies. The United States has long advocated fundamental reform of all trade-distorting measures by all WTO Members and in 2002 made specific proposals to phase-out all tariffs, trade-distorting domestic support, and export subsidies in the Doha negotiations. While the July 2004 framework made progress by establishing a basic structure for the negotiations, the critical element of the actual formulas detailing how far and fast to cut tariffs and subsidies remained to be agreed. U.S. negotiators met bilaterally with interested Members, with small groups of like-minded Members, in informal groups of Members with varied interests in the negotiations, and in large informal and formal meetings organized by the Chairman of the WTO agriculture negotiations. Negotiations were stalled through the spring of 2005 on the technical issue of establishing *ad valorem* equivalents (AVEs) for specific tariffs. AVEs are necessary to provide a database for moving into the formula based negotiations because tariffs based on a weight of measure, such as €5 a kilogram, need to be represented as a simple percent, such as 50 percent. Due to the leadership of the United States, Members reached an agreement on an AVE methodology in May. As discussions continued into the summer some additional marginal progress was made, but the negotiations lacked the critical spark to tackle the issue of the level of ambition.

The United States took the lead in breaking the negotiating deadlock by submitting a comprehensive proposal on 10 October in all three areas of the agriculture negotiations: export subsidies, market access, and domestic support. The U.S. proposal, consistent with the 2002 U.S. proposal and the 2004 WTO framework, called for substantial reductions in tariffs and trade-distorting domestic support, with higher tariffs and countries with higher subsidy levels subject to deeper cuts. These reductions would be phased-in over a five-year period for developed countries, with developing countries taking slightly lesser cuts and given more time to implement. In the second five-year phase (immediately following the first), all tariffs and trade-distorting domestic support would be eliminated. Under the U.S. proposal, export subsidies would be eliminated within the first phase of reform, with parallel commitments undertaken on export state trading enterprises, export credits, and food aid programs.

The U.S. proposal sparked counter-proposals by other Members, including the G-20 group of developing countries and the EU. Despite the bold U.S. proposal, negotiations bogged down in the autumn over the failure of other key countries to provide proposals that delivered meaningful reforms in their own programs particularly in the area of market access. While numbers and formulas for making the cuts are now on the table, the differences between Members were too large to be resolved at the Hong Kong Ministerial Conference and substantive discussions on agriculture there focused on setting an end date for export subsidies. At the Hong Kong Ministerial, Members further narrowed some of their key differences.

Perhaps most importantly, Members agreed to an end date for export subsidies -- 2013 -- with the further commitment that the substantial part of the elimination would be completed by 2010. Members also agreed to some further refinements of the 2004 framework, including on cotton where they agreed to: eliminate export subsidies for cotton in 2006; ensure 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 that developed country Members would eliminate tariffs on cotton exports from the least-developed country Members.

Prospects for 2006

In 2006, negotiations will focus on reaching agreement on the basic formulas and rules for cutting tariffs and trade-distorting support by the April 30, 2006 deadline established at the Hong Kong Ministerial. These formulas will set the stage for the final bargaining through the end of the year over specific commitments, product-by-product and country-by-country. WTO Members must submit initial lists of these product commitments by the end of July, another deadline set at the Hong Kong Ministerial. In addition, bilateral discussions and sectoral negotiations for reductions beyond those called for in the basic modalities will occur when progress is achieved on the core modalities. As talks move forward, the United States will work to achieve a high level of ambition in all three pillars. U.S. objectives for agriculture reform will continue to focus on the principles of greater harmonization across countries, substantial overall reforms, and specific commitments of interest in key developed and developing country markets.

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 recognized 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. As of December 7, 2005, 69 Members had submitted initial offers.

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. 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.

Major Issues in 2005

In 2005, the United States continued to assert leadership in pressing Members to pursue a high level of engagement and ambition. Pursuant to the General Council Decision of July 2004, the United States participated actively in bilateral negotiations and provided a significantly improved revised services offer in May 2005. As of December 7, 2005, a total of 31 Members had submitted revised offers.

Recognizing the limited progress of the services negotiations, the United States along with India reached out to Members with diverse interests to form a Core Services Group to enhance communication on critical issues and help steer the negotiations.

The Core Group ultimately produced the major elements of the services work program agreed to by Ministers in Hong Kong.

The United States also worked closely with other Members to consider alternative approaches to the negotiations, including multilateral and plurilateral approaches. The constructive work of various “Friends Groups” continued as well, through which Members with similar market access priorities worked together to develop common priorities and understandings. Friends Groups of particular interest to the United States include those concerning financial services, telecommunication services, computer and related services, logistics services, express delivery services, energy services, audiovisual services, legal services, and environmental services.

Issues concerning Mode 4 (temporary entry of persons) and development continue to be a prominent fixture in discussions of the Special Session. With respect to Mode 4, the United States has emphasized that few Members have matched our level of commitments. Nevertheless, it is clear that developing country Members see new and improved Mode 4 commitments from developed country Members, including the United States, as a critical element to the successful conclusion of the services negotiations. Regarding development in general, the United States has consistently supported flexibility for the least-developed country Members while noting that trade liberalization itself is important to sustainable economic development. The United States also expanded its financial support for the International Trade Centre in Geneva Services pilot project.

Another important issue addressed during 2005 was the work program contained in the Hong Kong Ministerial Declaration. The United States was successful in pushing for a clear signal from Ministers on the importance of intensifying the services negotiations and the potential value of alternative approaches. The resulting Ministerial Declaration provides the necessary framework aimed at bringing the services negotiations to a successful conclusion.

Prospects for 2006

In addition to calling for the intensification of bilateral request-offer negotiations, the Hong Kong Ministerial Declaration breaks new ground by encouraging plurilateral negotiations. Such negotiations are expected to build upon the work of the various “Friends Groups” to identify areas of common interest and encourage the submission of “collective requests.” The plurilateral process is intended to focus on specific sectors and issues, which in turn will foster more directed and productive discussions in the bilateral request-offer process. The Hong Kong Ministerial Declaration also sets 2006 deadlines of February 28 for collective requests generated from the plurilateral negotiations, July 31 for a second round of revised offers, and October 31 for submission of final draft schedules of commitments.

3. Negotiating Group on Non-Agricultural Market Access

Status

At the Hong Kong Ministerial Conference, Members agreed to lock in the progress that had been made in the Non-Agricultural Market Access (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, the exact structure and details to be worked out during 2006. The United States seeks to level the playing field for U.S. businesses through the NAMA negotiations.

The Hong Kong Ministerial text also recognizes the work that has been done on moving discussions on sectoral initiatives forward and that the discussions have gained momentum over the past year. Members are pursuing sectoral discussions in a variety of global industry sectors that represent key economic building blocks. The discussions have increasingly involved a mixture of developed and developing countries from every trading region. This creates a solid platform for interested Members to negotiate the specifics in 2006.

Members also provided a boost to the important efforts to reduce or eliminate non-tariff barriers (NTBs) by recognizing the work accomplished to date and calling for introduction of detailed negotiating proposals early in 2006. This recognition sets the stage for the United States and other governments to address the variety of NTBs that impede market access for industries such as automobiles, electronics, and forest products. These barriers often are as damaging and more trade-distorting than tariff barriers. It also opens the door to push for an agreement on new horizontal rules to liberalize trade in remanufactured goods.

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 2004, U.S. exports of industrial goods rose to \$710 billion – almost 11 times the level of U.S. agricultural exports. This figure is up 13 percent from 2003 and up 81 percent from 1994. The Doha Round provides an opportunity to lower tariffs in key markets like India and Egypt, which still retain ceiling rates as high as 150 percent. Likewise, gains from tariff rate reductions made as a result of the Round will accrue to developing countries, which currently pay over 70 percent of duties collected to other developing countries.

Major Issues in 2005

In 2005, Members continued to try to advance work on the substantive elements of the July 2004 Framework Agreement including (1) a non-linear formula; (2) a sectoral component; (3) work on non-tariff barriers; and (4) the flexibilities to be provided for least-developed country Members, poor and revenue-strapped Members just above the LDC level, and other developing country Members. Final consensus on these issues proved elusive throughout the year, although progress was made in narrowing differences on the key elements.

The key U.S. objective is to achieve an ambitious outcome that results in significant real market access in key markets, including both developed and developing country markets. The United States believes that a Swiss formula with dual coefficients will effectively achieve the objectives laid out in the Doha mandate to reduce or eliminate tariff peaks, high tariffs and tariff escalation, particularly on products of export interest to developing countries. 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 and sectors, as well as flexibilities.

Based on the July Framework, discussions on formula options intensified throughout 2005. A number of Members made specific presentations on different formula scenarios. Members also discussed technical aspects related to the formula including treatment of unbound tariffs, conversion of non *ad valorem* tariffs, and narrowing differences on product coverage. These discussions culminated with consensus at the Hong Kong Ministerial on a Swiss formula and recognition of the progress that has been made on technical aspects of the NAMA formula discussions.

Further progress was made on sectoral initiative discussions throughout 2005. In the past year, the United States continued to educate other Members on the benefits of approaching sectoral liberalization using the “critical mass” concept and to reach consensus with other countries on moving forward on specific sectoral initiatives in the DDA. Critical mass is defined as a negotiated level of participation by interested Members based on the share of world trade Members determine should be covered in order to reduce or eliminate tariffs through a sectoral agreement. Members have formally and informally proposed several sectors that might be considered for negotiation.

NAMA Chairman Johanneson’s July 2005 report listed the following sectors as under discussion by WTO Members: electronics and electrical goods, bicycles and parts, chemicals, minerals and raw materials, fish, footwear, forest products, gems and jewelry, medical equipment, automobiles, pharmaceuticals, sporting goods, textiles and apparel. In addition, sub-paragraph 31(iii) of the Doha Declaration instructs WTO Members to reduce barriers to trade in environmental goods.

Flexibility for developing countries, or “less than full reciprocity,” continues to be an important area of discussion, with a number of approaches under consideration. Decisions on this element will be closely linked to the outcome of negotiations on the formula and sectors. Several developing country Members continue to raise their concerns with the potential erosion of preferences or loss of government revenue due to tariff cuts.

Non-tariff barriers are an integral and equally important component of the NAMA negotiations. Following up on its indicative list of NTBs (tabled in November 2004), the United States in 2005 tabled detailed negotiating proposals to address NTBs affecting automobiles, textiles, and remanufactured products. In addition, the United States co-sponsored with New Zealand a proposal to address NTBs in the forest products sector. The Hong Kong Ministerial Declaration reiterated that Members are addressing NTBs horizontally (i.e., across all sectors), vertically (i.e., pertaining to a single sector) and through bilateral request/offer.

Prospects for 2006

In 2006, work will focus on negotiating the final details of the Swiss formula, identifying specific sectors and country participation in the sectoral component, determining the final balance of flexibilities for developing countries, and advancing negotiations on identified NTBs. At the Hong Kong Ministerial, Members agreed to establish formula modalities no later than April 30, 2006 and to submit comprehensive tariff offers based on the modalities no later than July 31, 2006. Meeting these deadlines will be crucial to ensure a successful conclusion of the NAMA negotiations.

The United States continues to seek an ambitious approach that will deliver real market access in key developed and developing country markets, while supporting elements of additional flexibility for developing countries.

4. Negotiating Group on Rules

Status

In paragraph 28 of the Doha Declaration, Ministers agreed to negotiations aimed at clarifying and improving disciplines under the Agreements on Implementation of Article VI of the GATT 1994 (the Antidumping Agreement) and on Subsidies and Countervailing Measures (the Subsidies 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 participants.

The Doha mandate specifically calls for the development of disciplines on trade-distorting practices, which are often the underlying causes of unfair trade, and also calls for clarified and improved WTO disciplines on fisheries subsidies.

The Doha Declaration provides for a two-phase process for the negotiations, in which participants would identify in the initial phase of negotiations the provisions in the Antidumping and Subsidies Agreements that they would seek to clarify and improve in the subsequent phase. Members have submitted over 190 formal papers to the Rules Group thus far, the majority of them identifying issues for discussion rather than making specific proposals. In order to deepen the understanding of the very technical issues raised by these papers, in 2004 the Group began a process of in-depth discussion of elaborated proposals in informal session. As of the end of 2005, Members have submitted over 90 such elaborated informal proposals to the Rules Group, with a number of these proposals containing suggestions for specific textual changes to the Agreements.

On fisheries subsidies, Ministers at the Hong Kong Ministerial 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 countries. Members will intensify their work on a text as soon as possible.

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 (including proposals already before the Group and those yet to be submitted), and to complete the process of analyzing proposals as soon as possible. Ministers also directed the Rules Chairman to prepare consolidated texts of the Antidumping and Subsidies Agreements early enough to assure a timely outcome within the context of the 2006 end date for the DDA and taking account of progress in other areas of the negotiations, stating that such texts shall be the basis for the final stage of the negotiations.

Pursuant to paragraph 29 of the Doha Declaration, the Rules Group has also been working to “clarif[y] and improv[e] disciplines and procedures” governing regional trade agreements (RTAs) under the existing WTO provisions. The Group has focused on developing procedures to increase transparency of RTAs and their operation and to establish meaningful standards to ensure that RTAs are used to liberalize trade and complement the global trading system, not simply create sector-selective preferential programs.

Major Issues in 2005

The Rules Group held seven sets of meetings in 2005 under the Chairmanship of Ambassador Guillermo Valles Galmés of Uruguay. The Group based its work primarily on the 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) regional trade agreements. In 2005, Chairman Valles 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 by Members, particularly focusing on proposals for specific textual changes to the Antidumping and Subsidies Agreements. In 2005, as part of the Rules Group’s work, the Chairman also established a technical group examining in detail issues relating to antidumping questionnaires and verification outlines, with a view to seeking to reduce costs in antidumping investigations.

Given the Doha mandate that the basic concepts and principles underlying the Antidumping and Subsidies Agreements must be preserved, the United States outlined in a 2002 submission the basic concepts and principles of the trade remedy rules, and identified four core principles to guide U.S. proposals for the Rules Negotiating Group. The United States' work in the Rules Group in 2005 continued to be guided by these principles: (1) negotiations must maintain the strength and effectiveness of the trade remedy laws and complement a fully effective dispute settlement system which enjoys the confidence of all Members; (2) trade remedy laws must operate in an open and transparent manner, and transparency and due process obligations should be further enhanced as part of these negotiations; (3) disciplines must be enhanced to address more effectively underlying trade-distorting practices; and (4) it is essential that WTO dispute settlement panels and the Appellate Body, in interpreting obligations related to trade remedy laws, follow the appropriate standard of review and not impose on Members obligations that are not contained in the Agreements.

Antidumping and Countervailing Duty Remedies: In accordance with the principles noted above, the United States submitted elaborated proposals to the Rules Group in 2005 on a number of antidumping (AD) and countervailing duty (CVD) issues: addressing circumvention of AD/CVD measures; preventing abuse of AD "new shipper" reviews; addressing the injury causation standard in AD/CVD investigations; ensuring disclosure by investigating authorities to the general public of non-confidential information from AD/CVD investigations; and (in a proposal co-sponsored with Brazil) ensuring that investigating authorities take appropriate steps for the identification of parties in AD/CVD investigations. The United States submitted textual proposals on four of these issues. The U.S. proposals on circumvention and injury causation were discussed in detail as part of the Chairman's plurilateral consultations. In addition to these proposals, the United States submitted a paper containing detailed comments and criticisms of proposals by other Members for a mandatory lesser duty rule in AD investigations.

A group calling itself the "Friends of Antidumping Negotiations" (FANs) has also been active in the Rules Group, generally seeking to impose limitations on the use of antidumping, and submitting elaborated proposals on a dozen issues in 2005. 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, although only one of the FANs' papers in 2005 was sponsored by all 15 "Friends." As the discussion of antidumping issues has become more technical and detailed, in 2005 many of the "Friends" submitted proposals individually without any co-sponsors: Chinese Taipei, Hong Kong China, Mexico, and Norway each submitted three elaborated AD proposals individually; Japan and Turkey two each; and Brazil and Chile one each. As noted above, Brazil also co-sponsored a proposal with the United States in November 2005 on identification of parties in AD/CVD investigations.

In addition to the proposals submitted by the United States and members of the FANs, in 2005 Canada submitted five elaborated proposals on antidumping issues; and China, Egypt, India, and South Africa each submitted one such elaborated proposal. While the EU has been a major participant in the Rules AD discussions, it has not submitted any elaborated proposals on AD issues, but did in 2005 submit an elaborated proposal addressing CVD proceedings.

The United States has been 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 been 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 mandate for the Rules Group is fulfilled.

Subsidies: In 2005, the United States, Australia, Brazil, and Canada submitted elaborated proposals in the subsidies area. (As noted above, the EU also submitted a paper on CVD proceedings). The United States paper followed up on previous papers with respect to the calculation of subsidy benefits. Importantly, this issue was discussed in detail as part of the Chairman's plurilateral consultations and was generally well received. Australia submitted revised proposals to clarify the definition of a *de facto* subsidy and the "withdrawal of subsidy" remedy for prohibited subsidies.

Brazil submitted a follow-up paper on export credits, which was discussed in the Chairman's plurilateral consultations, and three other papers commenting on previously submitted subsidy papers by other Members. Most notably, among the latter three papers, Brazil supported Canada's earlier paper calling for the reinstatement of the "dark amber" category of subsidies under Article 6.1 of the Subsidies Agreement. Lastly, Canada submitted a follow-up paper on the "pass-through" of subsidy benefits that contained a modified and scaled-back version of an earlier proposal on the same topic.

In early 2006, the United States is submitting an elaborated paper regarding prohibited subsidies. Noting that serious market and trade distortions can result from types of subsidies other than those currently prohibited by the Subsidies Agreement (*i.e.*, export subsidies and import-substitution subsidies), the United States calls upon Members to consider expanding the current prohibition. Specifically, the United States suggests considering practices similar to those listed in the now-lapsed "dark amber" category of subsidies as the first candidates for inclusion in an expanded prohibited category. Other possible additional candidates could include other forms of egregious government intervention such as equity investment in, or lending to, companies with poor financial prospects unable to attract commercial financing, or other funding of companies or projects that would not otherwise receive conventional commercial financing. In addition to proposing the expansion of the prohibited category, the paper makes a significant new proposal to address the United States' increasing concerns with foreign state-owned and state-controlled enterprises. The paper proposes that there be a requirement that Members notify the WTO Subsidies Committee of any intended provision of equity capital as well as other transparency measures for all government-controlled companies, such that Members can be assured of a consistently commercial, arm's-length relationship between the government-owner and the state-owned enterprise.

Fisheries Subsidies: The United States continued to play a major leadership role in advancing the discussion of fisheries subsidies reform in the Rules Group in 2005, working closely with a broad coalition of developed and developing country Members, including Argentina, Australia, Chile, Ecuador, Iceland, New Zealand, and Peru. The United States is seeking stronger WTO rules that will include a broad-based prohibition of the most harmful fisheries subsidies, *i.e.*, those that lead to overexploitation and depletion of fish stocks. At the Hong Kong Ministerial Conference, the United States was instrumental in securing greater focus on the issue among Members and heightened public awareness of our efforts among a variety of constituencies. The United States views these negotiations as a groundbreaking opportunity for the WTO to show that trade liberalization can benefit the environment and contribute to sustainable development as well as addressing traditional trade concerns. The Hong Kong Ministerial Declaration acknowledges the environmental dimension of the fisheries subsidies negotiations and notes Members' broad agreement that improved disciplines should include a prohibition of certain forms of subsidies that contribute to overcapacity and overfishing.

Leading up to the Hong Kong Ministerial, Members in late 2004 and early 2005 discussed possible frameworks for improved disciplines. The United States and other proponents of stronger disciplines advocated a framework that would center on a prohibition, combined with appropriate exceptions (the "top down" approach).

In contrast, Japan and Korea, joined by Chinese Taipei, advocated a framework premised on a potentially large number of permitted subsidies and a small number of prohibited subsidies (the “bottom up” approach). Following the discussion of structure, Members then focused on providing technical information and analysis about particular categories of fisheries programs, with suggestions as to how they would be treated under new disciplines.

The United States submitted a paper on programs for decommissioning fishing vessels and withdrawing fishing licenses (generally known as buyback programs), drawing upon recent U.S. experience with such programs. Papers by other Members included discussions of management services and aquaculture. Brazil introduced a comprehensive proposal essentially premised on the top down approach, detailing, in particular, ideas for addressing developing country interests. In the final negotiating session prior to the Hong Kong Ministerial, the United States co-sponsored a paper with Brazil, Chile, Colombia, Ecuador, Iceland, New Zealand, Pakistan, and Peru providing an overview of the U.S. position (including reaffirmation of support for the top down approach), as well as assessing progress to date and suggesting next steps in the negotiations.

Regional Trade Agreements: The discussions in the Rules Group on regional trade agreements (RTAs) have focused on ways in which WTO rules governing customs unions and free trade agreements, and economic integration agreements for services, might be clarified and improved. The discussions have followed two tracks -- transparency and systemic (or substantive) issues. During 2005, significant progress was made in the area of transparency. The Group has worked from a Chair’s draft proposal, setting out specific steps to improve the effectiveness of the current WTO system for reviewing and analyzing trade agreements. In addition, the Group worked with the Secretariat to develop a Factual Presentation to use as the basis for the examination of a RTA. The Group has also discussed ways to address the backlog of examinations in the Committee on Regional Trade Agreements. On systemic issues, work has centered on such issues as the GATT Article XXIV requirement that RTAs eliminate tariffs and “other restrictive regulations of commerce” on “substantially all the trade” between parties (and the analogous provisions for the GATS). Some developing country Members have proposed introducing flexibilities for RTAs involving both developed country and developing country Members.

In 2005, papers on RTA issues submitted to the Rules Group by Australia, Chile and Korea, China, Chinese Taipei, the EU, Japan, and Norway contributed to the discussions on both transparency and systemic issues. The United States has been an active participant in the RTA discussions in the Group.

Prospects for 2006

Given the Ministerial direction provided at Hong Kong, the Rules Group will intensify and accelerate its work in 2006, focusing on working to complete its analysis of the detailed textual proposals on antidumping, countervailing duty, and subsidies issues that are now before the Group, as well as of additional proposals to be submitted in 2006. In addition, pursuant to the Hong Kong Declaration, the Rules Chairman will prepare consolidated texts of the Antidumping and Subsidies Agreements to serve as the basis for the final stage of the negotiations. The United States will continue to pursue an aggressive affirmative agenda in 2006, based on the core principles summarized above, and 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; strengthening the existing subsidies rules; and strengthening WTO disciplines on harmful fisheries subsidies. The United States intends to submit additional proposals on these issues in 2006, including detailed textual proposals, while continuing its scrutiny of proposals by other Members to ensure compliance with the Doha Rules mandate. Concerning fisheries subsidies, the United States will press for an ambitious outcome, including a broad-based prohibition of the most harmful subsidies and improved transparency and accountability in the sector.

On RTAs, the Hong Kong Declaration instructed the Group to intensify negotiations “with a view to a provisional decision on RTA transparency by 30 April 2006.” Consequently, discussions on transparency will intensify to meet that deadline. On systemic issues, 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 1 August 2004 Decision by the General Council on the Doha Work Program. Commencing 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 the equivalent of five to fifteen percent tariff.

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.

Since being formally established by the Trade Negotiations Committee in late 2004, the Negotiating Group on Trade Facilitation (TFNG) has met eleven times under the chairmanship of Ambassador Muhamad Noor Yacob of Malaysia. During 2005, 60 written submissions sponsored by more than 100 Members were submitted. On November 21, 2005, the TFNG achieved a consensus-based report for transmittal to the Trade Negotiations Committee, including specific recommendations on proceeding in 2006, as well as a matrix of the proposals submitted. The report was endorsed as one of the outcomes of the Hong Kong Ministerial Conference.

Major Issues in 2005

The modalities for conducting the trade facilitation negotiations, set forth as part of the 1 August 2004 General Council decision, 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 least developed country Members, and the work of other international organizations.

Hallmarks of the 2005 work on Trade Facilitation were the 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.

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.

At the same time, the negotiations are seen by most Members as potentially removing some of the non-tariff barriers most frequently cited by exporters, while bringing particular benefits to the ability of small and medium-size business to participate in the global trading system.

In 2005, understandable concerns emerged on the part of many developing country Members about the challenge of implementing the results of the negotiations, and the negotiating group has begun to take up these issues in a practical and problem-solving manner. For example, there has been a focus on ways for developing country Members to undertake assessments of their individual situations regarding capacity and progress toward implementing the proposals submitted. In conjunction with this, there has 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 having an "offensive" interest in seeking implementation by their neighbors of any future new commitments in this area. This has led to broad developed and developing country Member alliances on some of the proposals.

With this as a context, leadership in advancing Trade Facilitation in the WTO continues to be provided by the Members from varying developing levels known as the "Colorado Group": the United States, Australia, Canada, Chile, Colombia, Costa Rica, EU, Hong Kong China, Hungary, Japan, Korea, Morocco, New Zealand, Norway, Paraguay, Singapore, and Switzerland. Additional leaders emerged in 2005 that contributed to a positive and constructive negotiating environment, including India, Rwanda, and the Philippines. At various times throughout 2005, the United States worked closely with each of these Members, and others, to take the work forward.

A boost to the momentum of the WTO negotiations continues to be provided by the U.S. work in its recent free trade agreements. With partners as diverse as Chile, Singapore, Australia, Morocco, and Bahrain, 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 important partners and champions in Geneva toward moving the negotiations ahead and toward a rules-based approach to Trade Facilitation.

The proposals submitted to the Trade Facilitation negotiations in 2005 generally reflect measures that would capture, as WTO commitments, 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 United States' 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). Overall, the United States made seven submissions outlining specific proposals:

TRADE FACILITATION PROPOSALS OF UNITED STATES

Proposed new WTO commitment	Citation	Background
- Provide advance rulings to traders (e.g., tariff classification, customs valuation).	TN/TF/W/12 Feb 4, 2005; GATT Article X	- Creates “up-front” certainty and diminishes expensive and often politicized disputes between customs and traders.
- Internet publication of Laws, Regulations, and other elements that are currently required to be “published” by GATT Article X - Internet publication of national import procedures.	TN/TF/W/13 Feb 4, 2005; GATT Article X	- Ready access to information on procedures through Internet is critical for small enterprises taking initial steps toward market opportunities.
- Expedited treatment for express shipments.	TN/TF/W/15 Feb 4, 2005; GATT Article VIII	- Critical to manufacturers relying on speed of supplies. - Small exporters are beneficiaries; opportunity to ‘leapfrog’ infrastructure issues getting to market and customers.
- Internet publication of fees; - Clarify parameters for WTO-consistent fees.	TN/TF/W/14 Feb 4, 2005; GATT Article VIII and X	- Important to small enterprises, disproportionately burdened by arbitrary fees and lack of transparency.
- Maintain system that provides, through guarantee, for release of goods before final payment of duties and resolution of other customs formalities.	TN/TF/W/21 Mar 21, 2005; GATT Article VIII	- Linchpin to rapid release of goods and advancing use of risk management by Customs; allows inspection resource re-direction and savings.
- Prohibition of consularization and related fees.	TN/TF/W/22 Mar 21, 2005; GATT Article VIII (with Uganda)	- Eliminates procedure that has become outdated and has effects ranging from being an “irritant” to a significant market access barrier.
- Multilateral mechanism for information exchange, utilizing the WCO “Data Model.”	TN/TF/W/57 July 25, 2005 (with India)	- Result would be tool for meeting both facilitation and compliance challenges; create virtual network for cooperation among border authorities of Members.

Another significant submission was made by the United States to inform the work of the Negotiating Group under the Trade Facilitation negotiating mandate on technical assistance, providing a detailed overview of U.S. activities (TN/TF/W/71; November 10, 2005). The submission noted that, between 2000 and 2005, U.S. trade-related technical assistance more than doubled, from \$504 million to \$1.3 billion, and that trade facilitation assistance was the fastest growing and largest share, comprising \$368 million in FY 2005. Since 2000, the United States has carried out such activities in 101 countries, including work on transparency, administrative practice and organization, risk management, customs valuation, tariff classification, rules of origin, customs integrity, and automation. The 216 page U.S. submission provided a description of each individual project, noting that the assistance was conducted in a coordinated fashion through many agencies of the U.S. government.

Prospects for 2006

In accordance with the recommendations of the Negotiating Group endorsed at the Hong Kong Ministerial, the negotiations will intensify on all aspects of the mandate, including a recognized need to “move into focused drafting mode” early enough in 2006 to allow for a timely conclusion of text-based negotiations. It is possible that some further proposals may be submitted, but it is likely that much of the focus will involve the consideration of the proposals listed below and, potentially, the refinement and articulation of some into agreed text of an agreement.

There is a great potential for new and strengthened WTO commitments that could provide short-term if not immediate “on the ground” positive effects and offer a true “win-win” opportunity for all Members. One of the most frequently-cited impediments to the growth of South-South trade is the absence of a rules-based approach to goods crossing the border. While negotiations toward new and strengthened disciplines move forward, it will be important that negotiations also proceed in a methodical and practical manner on the issue of how all Members can meet the challenge of implementing the results of the negotiations. In particular, the negotiations represent an opportunity to address longstanding issues of redundancy in assistance efforts, lack of coordination, and frequent failure to specifically target technical assistance toward concrete results. The aim of the United States in 2006 will be to ensure a continued negotiating dynamic that makes clear that every Member, as both an importer and an exporter, has a real stake in robust results and in their implementation.

MEASURES PROPOSED² BY WTO MEMBERS 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

A. Time Periods between Publication and Implementation

- Interval between Publication and Entry into Force

B. Consultation and Comments on New and Amended Rules

- Prior Consultation and Commenting on New and Amended Rules
- Information on Policy Objectives Sought

C. Advance Rulings

- Provision of Advance Rulings

² As of November 2005, 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 Hong Kong Ministerial and included in Annex E of the Hong Kong Ministerial Declaration.

D. Appeal Procedures

- Right of Appeal
- Release of Goods in Event of Appeal

E. Other Measures to Enhance Impartiality and Non-Discrimination

- Uniform Administration of Trade Regulations
- Maintenance and Reinforcement of Integrity and Ethical Conduct Among Officials
- Establishment of a Code of Conduct
- Computerized System to Reduce/Eliminate Discretion
- System of Penalties
- Technical Assistance to Create/Build up Capacities to Prevent and Control Customs Offences
- Appointment of Staff for Education and Training
- Coordination and Control Mechanisms

F. Fees and Charges Connected with Importation and Exportation

- General Disciplines on Fees and Charges Imposed on or in Connection with Importation and Exportation
- Specific Parameters for Fees/Charges
- Publication/Notification of Fees/Charges
- Prohibition of Collection of Unpublished Fees and Charges
- Periodic Review of Fees/Charges
- Automated Payment
- Reduction/Minimization of the Number and Diversity of Fees/Charges

G. 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

H. Consularization

- Prohibition of Consular Transaction Requirement

I. Border Agency Cooperation

- Coordination of Activities and Requirement of all Border Agencies

II. The World Trade Organization| 19

J. Release and Clearance of Goods

- Expedited/Simplified Release and Clearance of Goods
- Pre-arrival Clearance
- Expedited Procedures for Express Shipments
- Risk Management /Analysis, Authorized Traders
- Post-Clearance Audit
- Separating Release from Clearance Procedures
- Other Measures to Simplify Customs Release and Clearance
- Establishment and Publication of Average Release and Clearance Times

K. Tariff Classification

- Objective Criteria for Tariff Classification

L. Matters Related to Goods Transit

- Strengthened Non-discrimination
- Disciplines on Fees and Charges
- Publication of Fees and Charges and Prohibition of Unpublished ones
- Periodic Review of Fees and Charges
- More effective Disciplines on Charges for Transit
- 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

6. Committee on Trade and Environment, Special Session

Status

Following the Fourth WTO Ministerial Conference at Doha, the 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 specific reference 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 2005

The CTE in Special Session (CTESS) had three formal meetings and three informal meetings in 2005 to discuss the above-mentioned negotiating mandates.

In addition to the CTESS meetings, the CTE also met in Regular Session (CTERS) three times during 2005, debating important trade liberalization issues, including market access under Doha sub-paragraph 32(i), TRIPS and environment under Doha sub-paragraph 32(ii), labeling for environmental purposes under Doha sub-paragraph 32(iii), capacity building and environmental reviews under Doha paragraph 33 and the environmental effects of negotiations under Doha paragraph 51 (See Section on Other General Council Bodies/Activities, Committee on Trade and the Environment).

Sub-Paragraph 31(i): MEA Specific Trade Obligations and WTO Rules. During 2005, discussions under this mandate were less active due to Members' intense focus on environmental goods negotiations. Members continued to provide information on their experiences with respect to negotiation and implementation of specific trade obligations set out in MEAs, noting the value of coordination between trade and environment officials at the national and international levels.

A large majority of Members, including the United States, have noted their interest in continuing experience-based discussions and have resisted any premature consideration of potential results in the negotiations. However, some Members have advocated the development of certain "principles and parameters" to help govern the WTO-MEA relationship, such as the principles of no hierarchy, mutual supportiveness and deference between the trade and environment regimes.

Sub-Paragraph 31(ii): Procedures for Information Exchange and Criteria for Observer Status. While this mandate has not been the subject of active discussions recently, Members are generally supportive of identifying additional means to enhance information exchange between MEA secretariats and WTO bodies.

In this regard, delegations have suggested a number of options, including formalizing a structure of regular information exchange sessions with MEAs; organizing parallel WTO events at meetings of the conferences of the parties of MEAs; organizing joint WTO, United Nations Environment Program and MEA technical assistance and capacity building projects; promoting regular exchange of documents between secretariats; and creating additional avenues for communication and coordination between trade and environment officials. On the issue of observer status for MEA secretariats in WTO bodies, little progress was made, although Members were able to agree on a separate decision to allow certain MEA secretariats to be invited on an ad hoc basis to attend CTESS meetings. With respect to a more permanent status, a number of delegations expressed the view that the issue of criteria for observership is dependent on an outcome in more general ongoing General Council and TNC deliberations.

Sub-Paragraph 31(iii): Environmental Goods and Services. Members intensified their discussions on environmental goods in 2005, seeking to clarify the scope of the mandate. Discussions of a technical nature were held at the formal CTESS meetings, as well as at informal information exchange sessions organized in the latter half of 2005. Nine Members have put forward lists of environmental goods, 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*.³ Also in 2005, an alternative approach to multilateral negotiations was proposed by one delegation, described as the national "Environmental Project Approach." There is, at this stage, a divergence of views as to how the work should proceed in the CTESS, and how the CTESS should interface with the Non-Agriculture Market Access Negotiating Group and the Council on Trade in Services in Special Session, where environmental goods and services market access are also under discussion.

Prospects for 2006

In 2006, the CTESS will need to move toward fulfillment of all aspects of the mandate under Paragraph 31 of the Doha Declaration. Under sub-paragraph 31(i), Members are expected to wrap-up their discussions of national experiences in 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. Discussions under sub-paragraph 31(ii) are likely to become more concrete in the coming year. Several Members have 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 conflict prevention between the trade and environment regimes. Finally, the CTESS will remain the 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.

7. Dispute Settlement Body, Special Session

Status

Following the Fourth Ministerial Conference at Doha Qatar in November, 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 (i) that 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) that this continued work 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; and (iii) that the first meeting of the Special Session of the DSB 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

³ This publication is contained in document TN/TE/W/63, which is available on the WTO website, www.wto.org.

Members should continue work towards clarification and improvement of the DSU, without establishing a deadline.

Major Issues in 2005

The Special Session of the DSB met several times during 2005 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. Notwithstanding these efforts, Members were unable to conclude discussions.

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, joined by 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.

Prospects for 2006

In 2006, Members will continue to work to complete the review of the DSU. Members will be meeting several times over the course of 2006 in an effort to complete their work.

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 Agreements), Ministers agreed at the Doha Ministerial Conference 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. Further, in the August 1, 2004 decision on the Doha Work Programme, the WTO General Council reaffirmed Members’ commitment to progress in this area of negotiation in line with the Doha Mandate. At the Hong Kong Ministerial Conference, Ministers agreed to intensify negotiations in order to complete them within the overall time-frame for the conclusion of the negotiations foreseen in the Doha Ministerial Declaration. This topic is the only issue before the Special Session of the TRIPS Council.

Major Issues in 2005

During 2005, the TRIPS Council continued its negotiations under Article 23.4, which are intended to facilitate protection of certain geographic indications. Argentina, Australia, Canada, Chile, Colombia, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Japan, Namibia, New Zealand, the Philippines, Taiwan, and the United States continued to support the Joint Proposal under which Members would notify their geographical indications for wines and spirits for incorporation into a register on the WTO website, and several Joint Proposal co-sponsors 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 geographical indications or, in some cases, trademarks. Implementation of this proposal would not impose any additional obligations with regard to geographical indications 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 countries continued to support their alternative proposal for a binding, multilateral system for the registration and protection of geographical indications for wines and spirits.

In June 2005, the EU submitted a draft legal text that combines two of their 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 the new proposal is 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. At the international level, Members would have eighteen months in which to object to the registration of particular notified geographical indications that they believed were not entitled to protection within their own territory. If no objections were made, each notified geographical indication would be registered and all Members would be required to provide protection as required under Article 23. If an objection were made, the notifying Member and the Member objecting would negotiate a solution, but the geographical indication would have to be protected by all Members that had not objected. In addition, although certain limited objections to the registered GI would be available in domestic judicial proceedings, the notified GI would be presumed valid against a competing rightholder, including a prior rightholder. Essentially, in both cases in which an objection is made at the international or national levels, the system proposed by the EU would, as a practical matter, enable one country 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.

Hong Kong China's proposal of April 2003 remains on the table, 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 of: (a) ownership; (b) that the indication is within the definition of geographical indications 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 rebuttable presumption is created in favor of owners of geographical indications in relation to the three relevant issues. Although this proposal was discussed in the Special Session, it has not been endorsed by either supporters of the Joint Proposal or the EU proposal.

With the intention of facilitating discussion, the WTO Secretariat presented a document (TN/IP/W/12) which contains a side-by-side presentation of the three proposals. There was no shift in currently-held positions among the Members, nor any movement towards bridging the sharp differences between the co-sponsors of the Joint Proposal and the EU.

Prospects for 2006

In his report to the Trade Negotiating Committee, the Chair of the Special Session of the TRIPS Council noted that differences remain on the two key issues of (1) the extent to which legal effects at the national level should be consequent on the registration of a geographical indication for a wine or a spirit in the system and (2) the question of participation, including whether any legal effects under the system should apply in all Members or only in those opting to participate in the system. The Chair also noted that further work is also required on a range of other points, including on questions of costs and administrative burdens for Members. In addition, Ministers agreed to intensify negotiations in order to complete them within the overall time-frame for the conclusion of the negotiations foreseen in the Doha Ministerial Declaration.

The United States will aggressively pursue additional support for the Joint Proposal in the coming year, 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) was established by the Trade Negotiations Committee 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, the WTO provides 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 better-than-MFN access to markets for developing country Members.

As part of the S&D review, the CTD in Special Session (CTD-SS) provided recommendations to the General Council on a number of proposals for consideration at the Cancun Ministerial, but no decisions were taken. Discussions on other proposals have continued in the CTD-SS and, in some cases, in negotiating groups or Committees that address the respective subject matter of the proposals. In recent months, informal discussions have focused on better ways to address the mandate, reflecting a desire to find a more productive approach than that associated with the specific proposals tabled by individual Members or groups. Developed countries have emphasized willingness to provide greater S&D treatment to the least-developed countries than to those Members that are now more advanced. However, while there is some recognition that any additional S&D provisions will likely focus on the needs of the least-developed and more vulnerable Members, developing countries want to ensure there is no diminution of their existing rights under S&D.

Major Issues in 2005

In 2005, work on the CTD Special Session’s mandate focused on two areas: an effort to redirect and refocus discussion to make it more productive; and a series of proposals pertaining to the least-developed

countries (LDCs). Initially, the Chairman of the Negotiating Group put forward a different, potentially more productive approach to the work of the CTD-SS, with the objective to recognize the differences among developing country Members in their needs and capacities across areas of negotiation, and in their abilities to implement WTO rules. This approach was ultimately rejected by a number of developing country Members sensitive to differentiation among developing country Members. Other developing country Members would like to see more individualized results available under S&D provisions. Ultimately, Members agreed to focus work as a priority on five LDC proposals. These included proposals on: access to WTO waivers, coherence, duty free and quota free treatment for LDCs, Trade Related Investment Measures (TRIMS), and flexibility for LDCs that have difficulty implementing their WTO obligations. At the Hong Kong Ministerial, delegations reached agreement in these five areas.

Prospects for 2006

In 2006, it is anticipated that work will continue on the outstanding proposals of other developing country Members and on the underlying issues inherent in them. The Africa Group has indicated an interest in taking a more holistic approach to these negotiations and discussing an overall framework for S&D in the future, but the precise ideas have not been fully elaborated. Still other developing Members are concerned that this type of approach also would raise the prospect of differentiation or graduation. Much of the practical work on S&D in 2006, however, 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 Fourth Ministerial Conference at Doha in November, 2001 established the mandate for the Working Group on Trade, Debt and Finance (TDF). Ministers instructed the Working Group 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 countries. The Group was also instructed 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 2005

The Working Group held three formal meetings in 2005. The first meeting addressed the inter-linkages between external liberalization and internal reforms. The WTO Secretariat provided a background document that was the basis for the exchange of Members' views on external liberalization and internal reforms. At the second meeting, the Working Group addressed the topics of external liberalization and internal reforms; trade liberalization as a source of growth; the importance of market access and the reduction of other trade barriers in the DDA's negotiations; and external financing, commodity markets and export diversification. The WTO Secretariat provided a background document that was used as a basis for Members to exchange views on the agenda topics. At the third meeting, the Members discussed the working group's report to the General Council.

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

Prospects for 2006

In 2006, the Working Group will continue to examine the relationship between trade, debt and finance, and of any possible recommendations on steps that might be taken within the existing 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.

2. Working Group on Trade and Transfer of Technology

Status

During the Fourth Ministerial Conference in Doha, 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 TNC established the Working Group on Trade and Transfer of Technology (WGTTT), under the auspices of the General Council, asking it to report on its progress to the Fifth Session of the Ministerial Conference (Cancun). The WGTTT met three times in 2005, continuing its Doha Ministerial mandate to examine the relationship between trade and the transfer of technology. During the Sixth Ministerial Conference in Hong Kong, 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 2005

In the period since the Doha Ministerial, the WGTTT considered submissions from the Secretariat, WTO members, other WTO bodies, and other inter-governmental organizations. Members discussed two documents prepared by the Secretariat, a general background paper and “A Taxonomy of Country Experiences on International Technology Transfers.” The latter paper suggested a framework for classifying the policies that governments have adopted to promote technology transfer and included a series of country case studies. The WGTTT also considered several papers circulated for discussion by Members. One submission by the EU argued for the development of a common understanding of the definition of technology transfer and identified various channels for the transfer of technology. Another EU submission highlighted the importance to technology transfer of commercial trade and investment, effective intellectual property rights protection, and the absorptive capacities of host countries. Several developing countries submitted a paper that identified provisions relating to the transfer of technology in WTO agreements.

In 2003, a group of developing countries, 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.” This paper has been the focus of much of the discussion to date. The United States and several other Members objected too 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 discussions on this issue and other inputs into the working group's deliberations, the United States and other countries 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 also argued that the contribution of commerce to technology transfer reinforces the case for continued trade and investment liberalization. The United States and other countries suggested that developing countries 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 countries expressed the view that many of the issues raised should be discussed in WTO bodies with expertise on the particular subject matter.

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." 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 countries expressed appreciation for the pragmatic tone, and viewed it as a good basis for further discussions.

The Working Group on Trade and Transfer of Technology was not a major focus of the Sixth Ministerial Conference at Hong Kong, as Members had agreed by consensus ahead of time on language for the Ministerial Declaration, as follows: 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.

Prospects for 2006

As of this writing, no WGTTT meetings have been scheduled in 2006. It is expected that the group will continue its examination of issues raised in the October 2005 India/Pakistan/Philippines paper.

3. Work Programme on Electronic Commerce

Status

In the Hong Kong Ministerial Declaration adopted on December 18, 2005, WTO Members agreed to reinvigorate the Work Programme on Electronic Commerce.

In particular, Members agreed to examine development-related issues and to discuss the trade treatment, *inter alia*, of electronically delivered software through the Work Programme.

The Ministers also agreed to extend the moratorium on imposing customs duties on electronic transmission 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 issues identified by the various sub-bodies as cross-cutting, i.e., those that impacted 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. No agreement has been reached on this issue, but it will be examined more thoroughly in the coming year.

Major Issues in 2005

The Work Programme on Electronic Commerce remains an item in the Doha mandate. In November 2005, a dedicated discussion 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 permanent decisions were made on either issue, but the discussion reinvigorated and provided direction for the Work Programme for 2006, as outlined in paragraph 46 of the Hong Kong Ministerial Declaration.

Prospects for 2006

As in the past, the United States is 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. More sessions of the Work Programme are expected in 2006 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. 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. All accessions to the WTO must be approved by the General Council or the Ministerial Conference. Technically, meetings of both the Dispute Settlement Body (DSB) and the Trade Policy Review Body (TPRB) are meetings of the General Council 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. 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 Trading Arrangements 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. 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. The mandates are part of DDA and their work is reviewed elsewhere in this chapter.

The General Council uses both formal and informal processes to conduct the business of the WTO. Informal groupings, which generally include the United States, play an important role in consensus-building. Throughout 2005, the Chairman of the General Council 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 to making progress on the core issues in the Doha Work Program in the run-up to the Sixth WTO Ministerial Conference held December 13-18, 2005 in Hong Kong, China.

Major Issues in 2005

Ambassador Amina Mohamed of Kenya served as Chairman of the General Council in 2005. Following a months-long process early in the year, the General Council selected Pascal Lamy to be the new Director General of the WTO, replacing Dr. Supachai Panitchpakdi. The major focus of Chairman Mohamed, Director-General Lamy and the General Council over the course of the remainder of the year was the effort to produce a draft text for consideration by Ministers in Hong Kong on the core negotiating issues of the Doha Development Agenda. This draft was successfully completed in early December 2005. The Ministerial declaration agreed in Hong Kong is described at length earlier in this Chapter. In addition to work on the DDA, activities of the General Council in 2005 included:

Accessions: In 2005, the General Council approved the accessions of Saudi Arabia and Tonga. (See section on accessions.) The General Council also approved requests from Iran, Serbia, Montenegro and Sao Tome to initiate accession negotiations and directed that working parties be established with standard terms of reference to develop their protocols for accession.

Consultative Board Report: In 2003, former Director-General Supachai appointed a board of eight persons, all eminent in international trade, to study the challenges facing the WTO and to recommend ways in which the WTO could be better equipped to meet them. Released in January 2005, the report of the Consultative Board reviewed the fundamental principles of the trading system and recommended practical institutional changes. The General Council subsequently met to review the recommendations contained in the report (“The Future of the WTO: Addressing Institutional Challenges in the New Millennium”) with the members of the Consultative Board and to exchange views. Members are continuing to reflect on the recommendations.

TRIPS and Public Health: On December 6th, WTO members approved an amendment to the TRIPs Agreement making permanent a decision on TRIPs and public health originally adopted in 2003. This General Council decision is the first time that an amendment to a WTO Agreement is offered for Members' acceptance.

Enlargement of the European Union: In connection with the negotiations for compensation under Article XXIV.6 of GATT 94 relating to May 2004 enlargement of the EU, the General Council twice approved an extension of the deadline for withdrawal of concessions.

Bananas: Several banana-producing Latin American countries registered complaints regarding impact 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 may refer the matter to the General Council for a formal determination. The General Council considered these complaints over the course of 2005, but the issue remains unresolved.

Waivers of Obligations: The General Council approved requests from Albania, Argentina, Malaysia, Panama and Israel for waivers of WTO obligations relating to tariff concessions and schedules in 2005. The General Council also agreed to allow the Goods Council to extend consideration of the three waiver requests from the United States for its preference programs (AGOA, ATPA and CBTPA) and to report back to the General Council once it had completed this work. As part of the annual review required by Article IX of the WTO Agreement, the General Council considered reports on the operation of a number of previously agreed waivers, including those applicable to the United States for the Caribbean Basin Economic Recovery Act, and preferences for the Former Trust Territories of the Pacific Islands. Annex II contains a detailed list of Article IX waivers currently in force.

Capacity Building through Technical Cooperation: The General Council continued its supervision of technical assistance for the purpose of capacity building in developing countries (*i.e.*, modernizing their government operations to facilitate effective participation in the negotiation and implementation of WTO Agreements).

China Transitional Review Mechanism: In December, the General Council concluded its fourth 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 IPR enforcement and urged China to make further progress toward the institutionalization of market mechanisms, fairness, transparency and predictability in its trade regime.

Jones Act Review: The General Council conducted its fourth review of the exception provided under Paragraph 3 of GATT 1994. This exemption applies to certain statutory provisions that the United States notified to the WTO that prohibit foreign-built or repaired ships from engaging in the coastwise trade (*i.e.*, cabotage); however, the United States loses the exemption if the Jones Act is amended to become less WTO-consistent.

Prospects for 2006

The General Council is expected to be extremely active in 2006. In addition to its management of the WTO and its oversight of implementation of the WTO Agreements, the General Council will direct the DDA negotiations in the critical work needed to conclude the 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. The CTG was also responsible for overseeing the Textiles Monitoring Board during its 10-year life, which ended in December 2004.

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 9 waiver provisions, for example, is considered in the CTG. Trade preferences granted to African, Caribbean and Pacific (ACP) and the Caribbean Basin Initiative (CBI) countries by the European Union and the United States, respectively, required waivers given initial approval by the CTG.

Major Issues in 2005

In 2005, the CTG held four formal meetings. As the central oversight body in the WTO for all agreements related to trade in goods, the CTG primarily devoted its attention 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 taken by individual Members with respect to the operation of the WTO Agreements. Many of these complaints were resolved through consultation. In addition, five major issues were debated extensively in the CTG in 2005:

Waivers: The CTG approved several requests for waivers, including those related to the implementation of the Harmonized Tariff System and renegotiation of tariff schedules. In addition, the CTG took up three waiver requests for which discussions are continuing:

the U.S. request concerning AGOA, CBERA and ATPA

Pakistan's request concerning its auto sector TRIMS.

the EU request for an extension of its ACP banana TRQ.

TRIMS Article 9 Review: The Council met on several occasions to consider proposals by India and Brazil that would lower the level of obligations for developing countries under the TRIMS Agreement. Developed countries opposed any changes to the TRIMS agreement. Consultations continue concerning a proposal by developing countries to have the Secretariat undertake a study of developing countries experiences with various TRIMS.

China Transitional Review: On November 25, the CTG conducted the fourth of China's Transitional Review Mechanism (TRM), as mandated by the Protocol on the Accession of the People's Republic of China to the WTO. China supplied the CTG with information; answered questions posed by Members, and reviewed the TRM reports of CTG subsidiary bodies. (See Chapter IV Section F on China for more detailed discussion of its 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-ATC adjustment problems. These countries argued that the elimination of quotas will result in a disastrous loss of market share from small suppliers to the large exporters such as China and India. They asked that the CTG study this adjustment issue with a view to adopting proposals to ease the transition. These proposals were blocked by the large exporting Members such as China and India. They argued that 40 years of textile restraints were long enough and it was necessary for this sector to return to normal trade rules. China and India contended that any attempt to ease the transition to a quota-free environment would perpetuate the distortions which had characterized this sector for so long.

EU Enlargement: At its meeting on March 11, the CTG agreed to extend the deadline for compensation negotiations and referred the matter to the General Council for adoption.

Prospects for 2006

The CTG will continue to be the focal point for discussing agreements in the WTO dealing with trade in goods. Post-ATC adjustment, TRIMS Article 9 review and the three outstanding waiver requests will be prominent issues on the agenda.

1. Committee on Agriculture

Status

In 1995, the WTO formed the Committee on Agriculture (the Committee) to oversee the implementation of the Agreement on Agriculture (the Agreement) and to provide a forum for Members to consult on matters related to provisions of the Agreement. In many cases, the Committee resolves problems on implementation, thus permitting Members to avoid invoking lengthy dispute settlement procedures. The Committee also has responsibility for monitoring the possible negative effects of agricultural reform on least-developed and net food-importing developing countries (NFIDC).

The Agreement represents a major step forward in bringing agriculture more fully under WTO disciplines. The Agreement established disciplines in three critical areas affecting trade in agriculture. First, the Agreement places limits on the use of export subsidies. Products that had not benefited from export subsidies in the past are banned from receiving them in the future.

Where Members had provided export subsidies in the past, the future use of export subsidies was capped and reduced. Second, the Agreement set agricultural trade on a more predictable basis by requiring the conversion of non-tariff barriers, such as quotas and import bans, into simple tariffs with all agricultural tariffs “bound” and made subject to reduction commitments. Third, the Agreement calls for reduction commitments on trade-distorting domestic supports, while preserving criteria-based “green box” policies that can provide support to agriculture in a manner that minimizes distortions to trade.

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

Under the watchful eye of the Committee, Members have, for the most part, complied with the agricultural commitments that they undertook in the WTO.

However, there have been important exceptions where the U.S. agricultural trade interests have been adversely affected. In these situations, the Committee has frequently served as an indispensable tool for resolving conflicts before they become formal WTO disputes

Major Issues in 2005

The Committee held three formal meetings in March, June, and September 2005, to review progress on the implementation of commitments negotiated in the Uruguay Round. This review was undertaken on the basis of 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, 119 notifications were subject to review during 2005. The United States actively participated in the notification 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 mechanism to enhance the transparency of China's tariff-rate quota (TRQ) system and to help address low quota-fill in several global markets. As another example, the United States was successful in gaining EU agreement to double the amount authorized for import under any license issued under the EU's pork TRQ, thereby reducing red-tape and making shipment sizes more commercially viable. In addition, the United States made progress through using the consultative process in addressing problems with Turkey's import licensing regime for rice.

The United States also raised questions concerning elements of domestic support programs used by Brazil, Canada, the EU, Venezuela, and Japan; identified restrictive import licensing and TRQ quota administration practices by Romania, Tunisia, Chinese Taipei, China, and Switzerland; questioned the use of the special agricultural safeguard by Japan and the Philippines; and raised concerns with the use of export subsidies by the European Union, Tunisia, and China.

During 2005, the Committee addressed a number of other agricultural implementation-related issues: (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 Agreement on Agriculture, taking into account the effect of such disciplines on net food-importing countries, and (2) the review process 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. Due to the cancellation of the November 2005 meeting of the Committee because of the Hong Kong Ministerial, the annual monitoring exercise on the follow-up to the NFIDC Decision will be undertaken at the January 2006 meeting of the Committee, on the basis of, inter alia, donor Member notifications as well as contributions by observer organizations.

At its March 2005 meeting, the Committee accepted the application by Mongolia to be included in the WTO list of net food-importing developing countries. This list comprises the following developing country Members of the WTO: Barbados, Botswana, Côte d'Ivoire, Cuba, Dominica, Dominican Republic, Egypt, Gabon, Honduras, Jamaica, Jordan, Kenya, Mauritius, Mongolia, Morocco, Namibia, Pakistan, Peru, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Senegal, Sri Lanka, Trinidad and Tobago, Tunisia, and Venezuela.

At the September meeting, the Committee held its annual Transitional Review under paragraph 18 of the Protocol of Accession of the People's Republic of China. The United States, with support from other Members, raised questions and concerns regarding China's implementation of its WTO commitments in the areas of TRQ administration, import licensing, state trading enterprises, and export subsidies.

Prospects for 2006

The United States will continue to make full use of the Committee to ensure transparency through timely notification by Members and to enhance enforcement of Uruguay Round commitments as they relate to export subsidies, market access, domestic support or 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 net food-importing developing countries in accordance with the WTO Agreement on Agriculture.

2. Committee on Market Access

Status

In January 1995, WTO Members established the Committee on Market Access, 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 Committee on Market Access supervises the implementation of concessions on tariffs and non-tariff measures where not explicitly covered by another WTO body (e.g., the Textiles Monitoring Body). The Committee is also responsible for verification of new concessions on market access in the goods area. The Committee reports to the Council on Trade in Goods.

Major Issues in 2005

By 2005, WTO Members had completed implementing almost all tariff reductions agreed to in the Uruguay Round. The Committee is responsible for verifying that such implementation proceeded on schedule. The Committee held three formal meetings and three informal meetings in 2005 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; (3) finalizing consolidated schedules of WTO tariff concessions in current HTS nomenclature; (4) reviewing the status of notifications on quantitative restrictions and reverse notifications of non-tariff measures; and (5) implementation issues related to "substantial interest." The Committee also conducted its fourth annual transitional review of China's implementation of its WTO accession commitments.

Updates to the HTS nomenclature: Under this task, the 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.

In 1993, the Customs Cooperation Council -- now known as the World Customs Organization (WCO) -- agreed to approximately 400 sets of amendments to the HTS, which entered into effect January 1, 1996. Further modifications entered into effect January 1, 2002. These amendments resulted in changes to the WTO schedules of tariff bindings.

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 WTO Members have completed the process of implementing HTS 1996 changes, but Argentina, Israel, Panama, and South Africa continue to require waivers.

The Committee agreed to new procedures using the Consolidated Schedule of Tariff Concessions 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 (HTS2002). Conversion to HTS2002 is essential to laying the technical groundwork for analyzing tariff implications of the DDA negotiations. Funding for this project has been provided from the global trust fund and work will continue in 2006. The United States submitted its proposed HTS2002 changes to the Secretariat in December 2001.

At its meeting of March 30, 2005, the Committee reviewed detailed information on the changes in the Harmonized System to be introduced on 1 January 2007 (HTS2007).

Integrated Data Base (IDB): The 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. In recent years, the United States has taken 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. As of December 2005, 111 Members and five acceding countries had provided IDB submissions. In 2005, the Committee granted requests from three new NGOs for access to the IDB and CTS databases.

Consolidated Schedule of Tariff Concessions (CTS): The 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; HTS96 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 will be linked to the IDB and will serve as the vehicle for conducting Doha negotiations in agriculture and non-agricultural market access.

China Transitional Review: In October 2005, the Committee conducted its fourth 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 trading rights, tariffs, export restrictions, tariff-rate quota administration and value-added tax administration.

Prospects for 2005

The ongoing work program of the Committee, while highly technical, will ensure that all WTO Members' schedules are up-to-date and available in electronic spreadsheet format. The Committee will likely explore technical assistance needs related to data submissions. The Committee will continue to review Members' amended schedules based on the HTS2002 revision as the Secretariat generates HTS2002 schedules for all Members. The successful completion of conversion to HTS2002 will be a tremendous step forward in technical preparation for the implementation of the DDA results.

3. Committee on the Application of Sanitary and Phytosanitary Measures

Status

The WTO Agreement on the Application of Sanitary and Phytosanitary Measures (“SPS Agreement”, or “the Agreement”) establishes rules and procedures that ensure that WTO Members’ SPS measures address legitimate 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; additives, contaminants, toxins and disease-causing organisms in foods, beverages and feedstuffs.

Fundamentally, the Agreement requires that such measures be based on science, developed using systematic risk assessment procedures 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. At the same time, the Agreement recognizes each Member’s right to choose the level of protection it considers appropriate with respect to SPS risks.

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: for food, the Codex Alimentarius Commission; for animal health, the World Organization for Animal Health (OIE); for plant health, the International Plant Protection Convention (IPPC). 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). Based on discussions in the SPS Committee as well as bilateral discussions between Members, there is a general consensus that prevailing SPS issues and concerns stem from the failure of Members to implement fully existing obligations under the SPS Agreement, and that the current text of the SPS Agreement does not need to be changed. 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; equivalence; and transparency regarding the provision of special and differential treatment.

U.S. Inquiry Point

Office of Food Safety and Technical Services
Foreign Agricultural Service
U.S. Department of Agriculture
AG Box 1027
Room 5545 South Agriculture Building
14th and Independence Ave., SW
Washington, DC 20250-1027

Telephone: (202) 720-2239
Fax: (202) 690-0677
Email: FSTSD@FAS.USDA.GOV

Participation in the SPS Committee is open to all WTO Members. Certain non-WTO Members also participate as observers, in accordance with guidance agreed to by the General Council. 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 2005

In 2005, the SPS Committee met on three occasions. The March and June meetings were regular meetings with full agendas. The agenda for the October meeting was abbreviated and dealt with a limited set of issues; the remainder of the agenda is set to be completed at a February, 2006 meeting. WTO Members have increasingly utilized SPS Committee meetings to raise concerns regarding the new and existing SPS measures of other Members. 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 are also providing information to the Committee on efforts to achieve freedom 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.

With assistance from the United States and other donors, most of the 34 countries participating in the Free Trade Area of the Americas (“FTAA”) negotiations attended each Committee meeting in 2003, 2004, and 2005. This has significantly expanded capital-based and Geneva-based participation in Committee meetings. Immediately prior to each Committee meeting, representatives from the FTAA countries have met to exchange views on issues on the agenda.

- *BSE - TSE*⁴: The SPS Committee devoted considerable time to discussing Members’ measures restricting trade in beef and beef products due to BSE-related concerns. U.S. beef and other bovine-related exports were severely restricted by several WTO Members after the detection of a single imported cow in Washington state infected with the disease and another isolated case in Texas. The United States raised Japan’s restrictions on U.S. beef exports due to BSE-related concerns at each of the full Committee meetings in 2005. 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 provided updated reports on its BSE status and the steps taken to control the disease, and encouraged Members to conform to the OIE standard. Several other WTO Members supported the U.S. views. The United States expects that BSE will continue to be an issue raised in the SPS Committee.

- *Avian Influenza*: During the 2005 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. WTO Members, including the United States, expressed concerns with the restrictions implemented by certain WTO 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. The United States encouraged Members to base all AI restrictions on science and relevant international standards, and, for those Members with country-wide prohibitions, to make use of the regionalization provisions of the SPS Agreement with regard to U.S. poultry exports.

⁴[1] Bovine Spongiform Encephalopathy and Transmissible Spongiform Encephalopathy.

- *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 2005, the United States and other WTO Members expressed concern about the failure of some Members to notify SPS measures which could have significant trade impacts.

- *Regionalization:* The SPS Committee held informal meetings on regionalization in advance of each formal Committee meeting in 2005. 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. The IPPC and OIE have important contributions to offer to this debate, and participated in both the informal and formal Committee meetings on regionalization. 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 does not believe that the Committee should develop timeframes. Rather, the United States believes that the OIE and IPPC should consider the need for and utility of timelines given the unique characteristics of individual disease or pest. The SPS Committee will continue to discuss this issue.

- *Review of the Agreement:* Paragraph 3.4 of the Decision on Implementation-Related Issues and Concerns adopted at the Fourth Session of the Ministerial Conference directs the SPS Committee to review the operation and implementation of the SPS Agreement at least once every four years. The first review under this mandate was completed during 2005. In 2005, the Committee held informal meetings on the review in advance of the formal Committee meetings in March and June. The United States and several other Members submitted proposals which were discussed and resulted in a number of recommendations for in-depth discussions by the Committee. These recommendations constitute the work program that will guide the Committee's agenda for the next several years.

- *China's Transitional Review Mechanism:* The United States participated in the SPS Committee's fourth 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 2006

The SPS Committee will hold three meetings in 2006 (in addition to the continuation of the October 2005 meeting, which will be held February 1-2, 2006). 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 United States anticipates that the Committee will continue to monitor Members' implementation activities and that 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 WTO Members to exchange information on SPS related issues, including BSE, AI, food safety measures and technical assistance.

The Committee will also begin discussions on recommendations developed during the recent review of the implementation and operation of the SPS Agreement. The United States anticipates that the Committee will continue to discuss transparency and notifications, technical assistance, special and differential treatment, and regionalization. The Committee will also monitor the use and development of international standards, guidelines and recommendations by Codex, OIE and IPPC. The Committee will also prepare for and conduct the fifth review of China's implementation of the Agreement.

4. Committee on Trade-Related Investment Measures

Status

The Agreement on Trade-Related Investment Measures (TRIMS), 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 the prohibitions on quantitative restrictions set out in Article XI:1 of GATT 1994. The TRIMS Agreement thus 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 GATT 1994.

Developments relating to the TRIMS Agreement are monitored and discussed both in the Council on Trade in Goods (CTG) and in 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. Much of the discussion has related to TRIMS in the context of the automotive sector.

Major Issues in 2005

The TRIMS Committee held three formal meetings during 2005. TRIMS issues were also discussed during several meetings of the CTG.

As part of the review of special and differential treatment provisions at an informal meeting in May 2005, the TRIMS Committee considered several TRIMS-related proposals submitted by a group of African countries.

One proposal argued that Members should interpret and apply the TRIMS Agreement in a manner that supports WTO-consistent measures taken by African countries to safeguard their balance of payments. A second proposal argued that least-developed or other low-income WTO 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 African proposal would require the CTG to grant new requests from certain African countries 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 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 least-developed countries to date, it was not clear that a policy of

automatically granting requests for longer TRIMS transition periods was warranted. The TRIMS Committee is expected to continue to discuss these issues in 2006.

With respect to the outstanding issues related to the TRIMS Agreement, Brazil and India submitted a proposal that would allow developing country Members to use TRIMS prohibited by the TRIMS agreement if they are deemed to be useful in promoting development. The United States and developing country Members argued that renegotiation of the TRIMS agreement was not within the Doha mandate. In addition, TRIMS were an inefficient means of promoting development and could prove to be counterproductive.

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 fourth annual review in 2005 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 October meeting of the TRIMS Committee, U.S. questions focused in particular on China's new regulations concerning foreign investment and in particular rules governing the auto and steel sectors. 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 2006

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 Measures⁵

Status

The Agreement on Subsidies and Countervailing Measures (the 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. The Agreement nominally divides subsidy practices into three classes: prohibited (red light) subsidies; permitted yet actionable (yellow light) subsidies; and permitted non-actionable (green light) subsidies.⁶ Export subsidies and import substitution subsidies are prohibited.

⁵ 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 2006.

⁶ Prior to 2000, Article 8 of the Agreement provided that certain limited kinds of government assistance granted for industrial research and development (R&D), regional development, or environmental compliance purposes would be treated as non-actionable subsidies. In addition, Article 6.1 of the Agreement provided that certain other subsidies (*e.g.*, subsidies to cover a firm's operating losses), referred to as dark amber subsidies, could be presumed to cause serious prejudice. If such subsidies were challenged on the basis of these dark amber provisions in a WTO dispute settlement proceeding, the subsidizing government would have the burden of showing that serious prejudice had *not* resulted from the subsidy. However, as explained in our 1999 report, these provisions expired on January 1, 2000.

All other subsidies are permitted, but are actionable (through CVD or dispute settlement action) 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 WTO Member. With the expiration of the Agreement’s provisions on green light subsidies, at present, the only non-actionable subsidies are those which are not specific, as defined above.

Major Issues in 2005

The Committee on Subsidies and Countervailing Measures (the Committee) held two meetings in 2005. In addition to its routine activities of reviewing and clarifying the consistency of WTO Members’ domestic laws, regulations, and actions with the Agreement’s requirements, the Committee, including the United States, continued to accord special attention to the general matter of subsidy notifications made to and considered by the Committee. During the fall meeting, the Committee undertook its fourth transitional review with respect to China’s implementation of the Agreement. Other issues addressed in the course of the year included: the examination of the export subsidy program extension requests of certain developing countries, the updating of the methodology for Annex VII (b) of the Agreement and consideration of an appointment to 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: (i) new or amended CVD legislation and regulations; (ii) CVD investigations initiated and decisions taken; and (iii) 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 Committee at both of its meetings.

In reviewing notified CVD legislation and subsidies, 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. To date, 88 Members of the WTO (counting the 25 Members of the European Union as one) have notified that they currently have CVD legislation in place, while 35 Members have not, as yet, made a notification. Among the notifications of CVD laws and regulations reviewed in 2005 were those of: China, the European Communities, Jordan, Mexico, and South Africa.⁷

As for CVD measures, 14 WTO Members notified CVD actions taken during the latter half of 2004, and 13 Members notified actions taken in the first half of 2005. Specifically, the Committee reviewed actions taken by Argentina, Australia, Brazil, Canada, Chinese Taipei, Costa Rica, the EU, Japan, Mexico, New Zealand, Peru, South Africa, the United States, and Venezuela. In 2005, 27 subsidy notifications covering 2004 were reviewed. The Committee also continued its examination of new and full notifications and updating notifications for earlier time periods. Unfortunately, numerous Members have never made a subsidy notification to the WTO, although many are lesser developed countries.

The lack of a subsidy notification by China has been of particular concern to the United States, as well as numerous other WTO Members (see *China Transitional Review* below).

because a consensus could not be reached among WTO Members on whether to extend or the terms by which these provisions might be extended beyond their five-year period of provisional application.

⁷ 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.

Although China became a WTO Member in 2001, it has yet to provide a subsidy notification as required under Article 25.1 of the Agreement and China's Protocol of Accession. While recognizing the problems inherent in compiling the first subsidy notification for a large country, the United States took the lead in the Committee in urging China to file its subsidy notification as soon as possible. In addition, to obtain specific information regarding known assistance programs that potentially should be notified, in October 2004, the United States exercised its rights under Article 25.8 of the Agreement and submitted detailed written questions to China requesting information on the nature and extent of the programs in question. As of the end of 2005, China had not yet provided any responses to this request, even though Article 25.9 of the Agreement directs that WTO Members shall respond to this type of request "as quickly as possible and in a comprehensive manner."

China Transitional Review. At the fall meeting, the Committee undertook, pursuant to the Protocol on the Accession of the People's Republic of China, the fourth annual transitional review with respect to China's implementation of its WTO obligations in the areas of countervailing measures, subsidies and pricing policies. Taking a leading role, the United States, along with other Members, presented written and oral questions and concerns to China in these areas. In 2005, China continued its efforts to conform its CVD regulations and procedural rules to the provisions of the Agreement and the commitments in its WTO accession agreement. The United States and other WTO Members sought to clarify a variety of issues concerning China's legislative and regulatory framework and pressed China for greater transparency. The United States also continued to raise questions regarding potentially prohibited and actionable subsidies maintained by China, including tax incentives, preferential bank financing and regional benefits provided to producers of agricultural and industrial goods. In addition, Canada and Mexico joined the United States in seeking clarifications with respect to China's new steel industrial policy issued in July 2005. China orally described a limited number of its subsidy programs during the meeting, as well as its pricing policies, in response to Members' inquiries.

As noted above, however, China has not submitted a subsidies notification since becoming a WTO Member, citing numerous practical difficulties in assembling and submitting the appropriate information. The United States urged China to provide a subsidy notification and a response to the United States' request under Article 25.8 of the Agreement noted above. Although China committed at the Council for Trade in Goods meeting in late 2004 to provide a subsidies notification within a year, as of the end of 2005, nothing had been submitted.

Extension of the transition period for the phase out of export subsidies: Under the Agreement, most developing countries were obligated to eliminate their export subsidies by December 31, 2002. Article 27.4 of the Agreement allows for an extension of this deadline provided consultations were entered into with the Committee by the end of 2001. If the Committee grants an extension, annual consultations with the Committee must be held to determine the necessity of maintaining the subsidies.⁸ If the Committee does not affirmatively sanction a continuation, the export subsidies must be phased out within two years.

To try and address the concerns of certain small developing countries, a special procedure within the context of Article 27.4 of the Agreement was adopted at the Fourth Ministerial Conference under which countries whose share of world exports was not more than 0.10 percent and whose Gross National Income was not greater than \$20 billion could be granted a limited extension for particular types of export subsidy

⁸ Any extension granted by the Committee would only preclude a WTO dispute settlement case from being brought against the export subsidies at issue. A Member's ability to bring a countervailing duty action under its national laws would not be affected.

programs subject to rigorous transparency and standstill provisions. Members meeting all the qualifications for the agreed upon special procedures were eligible for a five-year extension of the transition period, 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 Grenadines, and Uruguay have made yearly requests since 2001 under the special procedures adopted at the Fourth Ministerial Conference for small exporter developing countries.⁹ These requests were approved by the Committee in 2002, 2003 and 2004.

Extension requests were again made in 2005 by all of the countries listed above. These requests required, *inter alia*, a detailed examination of whether the applicable standstill and transparency requirements had been met. In total, the Committee conducted a detailed review of more than 40 export subsidy programs. At the end of the process, all of the requests under the special procedures were granted. Throughout the review and approval process, the United States took a leadership role in ensuring close adherence to all of the preconditions necessary for continuation of the extensions.

The Methodology for Annex VII (b) of the Agreement: Annex VII of the Agreement identifies certain lesser developed countries that are eligible for particular special and differential treatment. Specifically, the export subsidies of these countries are not prohibited and, therefore, are not actionable as prohibited subsidies under the dispute settlement process. The countries identified in Annex VII include those WTO Members designated by the United Nations as “least developed countries” (Annex VII(a)) as well as countries that had, at the time of the negotiation of the Agreement, a per capita GNP under \$1,000 per annum and are specifically listed in Annex VII(b).¹⁰ A country automatically “graduates” from Annex VII(b) status when its per capita GNP rises above the \$1,000 threshold. When a Member crosses this threshold it becomes subject to the subsidy disciplines of other developing country Members.

Since the adoption of the Agreement in 1995, the de facto interpretation by the Committee of the \$1,000 threshold was that it reflected current (i.e., nominal or inflated) dollars. The concern with this interpretation, however, was that a Member could graduate from Annex VII on the basis of inflation alone, rather than on the basis of real economic growth.

In 2001, the Chairman of the Committee, in conjunction with the WTO Secretariat, developed an alternative approach to calculate the \$1,000 threshold in constant 1990 dollars. At the Fourth Ministerial Conference, decisions were made which led to the adoption of this methodology. The WTO Secretariat updated these calculations in 2005.¹¹

⁹ Bolivia, Honduras, Kenya and Sri Lanka are all listed in Annex VII of the Subsidies Agreement and thus, may continue to provide export subsidies until their “graduation”. Therefore, these countries have only reserved their rights under the special procedures in the event they graduate during the five-year extension period contemplated by the special procedures. Because these countries are only reserving their rights at this time, the Committee did need to make any decisions as to whether their particular programs qualify under the special procedures.

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

¹¹ See G/SCM/110/Add. 2.

Permanent Group of Experts: Article 24 of the 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 provide, at the request of a dispute settlement panel, a binding ruling on whether a particular practice brought before that panel constitutes a prohibited subsidy, within the meaning of Article 3 of the 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 WTO 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. As of the beginning of 2005, the members of the Permanent Group of Experts were: Professor Okan Aktan (Turkey); Dr. Marco Bronckers (Netherlands); Mr. Yuji Iwasawa (Japan); Mr. Hyung-Jin Kim (Korea); and Mr. Terence P. Stewart (United States). Mr. Hyung-Jin Kim’s term expired in the spring of 2005. The Committee has been unable to reach a consensus as to his replacement.

Prospects for 2006

In 2006, the United States will continue to work with others to encourage Members to meet their subsidy notification obligations, and to provide technical assistance with their notifications when available and where appropriate. Second, the United States will particularly focus on China’s Transitional Review Mechanism, continuing the effort to ensure that China meets its obligations under its Protocol of Accession and the Agreement.

Thirdly, the United States will continue to ensure the close adherence to the provisions of the agreed upon export subsidy extension procedures for small exporter developing countries. Finally, the United States is prepared to take a leadership role in addressing any technical questions or developing country issues that the Subsidies Committee may be asked to consider in the context of issues that may arise within the Rules Negotiating Group.

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 “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 provided through market access gains achieved through tariff reductions are not negated by unwarranted and unreasonable “uplifts” in the customs value of goods to which tariffs are applied.

Major Issues in 2005

The Agreement is administered by the Committee on Customs Valuation, which held two formal meetings in 2005. The Agreement established a Technical Committee on Customs Valuation under the auspices of the World Customs Organization (WCO).

In accordance with a 1999 recommendation of the WTO Working Party on Preshipment Inspection that was adopted by the General Council, the Committee on Customs Valuation 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 on Customs Valuation, continues to diminish as more developing countries undertake full implementation of the Agreement. The United States has used the 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. 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.

Achieving universal adherence to the Agreement on Customs Valuation 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 to 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 countries toward reforming their customs administrations and diminishing corruption, and ultimately moving to a rules-based trade facilitation environment.

Because the Agreement precludes the use of arbitrary customs valuation methodologies, an additional positive result is to diminish one of the incentives for corruption by customs officials. For all of these reasons, as part of an overall strategic approach to advancing trade facilitation within the WTO, the United States has taken an aggressive role on matters related to customs valuation during the past decade.

U.S. exporters too many developing countries have had market access gains undermined the application of arbitrarily-established minimum import prices, often used as a crude, broad-brush type of trade remedy - one that provides no measure of administrative transparency or procedural fairness. A notable development of the past 10 years has been a broad number of developing country Members moving toward implementing rules-based trade remedy procedures as a direct result of their implementation of the Agreement and moving away from the use of minimum import prices.

While many developing country Members undertook timely implementation of the Agreement, the Committee continued throughout 2005 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 Committee's work is the examination of implementing legislation. As of October 2005, 72 Members had notified their national legislation on customs valuation. During 2005, the Committee concluded the examinations of the legislations of Burkina Faso and Peru and it agreed to revert to the examination of the customs legislations of Armenia, China, India, Mexico, and Thailand.

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 comprehensive questions as well as suggestions toward improved implementation, particularly with regard to China, India, and Mexico. These examinations will continue into 2006.

In 2005, the Committee continued to discuss China's responses to questions submitted by the United States in connection with the Fourth Transitional Review in accordance with the Protocol of Accession of the People's Republic of China to the WTO. During 2005, the United States continued to seek 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 Committee's work throughout 2005 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 2006

The Committee's work in 2006 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 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 is to increase transparency, predictability, and consistency in both the preparation and application of rules of origin. The Agreement on Rules of Origin 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 request. In addition to setting forth disciplines related to the administration of rules of origin, the Agreement provides for a work program leading to the multilateral harmonization of rules of origin used for non-preferential trade. The Harmonization Work Programme (HWP) is more complex than initially envisioned under the Agreement, which originally set for the work to be completed within three years after its commencement in July 1995. This work program continued throughout 2005 and will continue into 2006.

The Agreement is administered by the Committee on Rules of Origin, which met formally once in 2005. 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 Agreement also established a Technical Committee on Rules of Origin in the World Customs Organization to assist in the HWP.

Major Issues in 2005

As of the end of 2005, 77 WTO Members notified the WTO concerning non-preferential rules of origin, of which 36 Members notified that they had non-preferential rules of origin and 41 Members notified that they did not have a non-preferential rule of origin regime.

Eighty-three Members notified the WTO concerning preferential rules of origin, of which 79 notified their preferential rules of origin and four notified that they did not have 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, discrimination, and a lack of predictability. Substantial attention has been given to the implementation of the Agreement's important disciplines related to transparency, which constitute internationally recognized "best customs practices."

Many of the Agreement's commitments, 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.

For the past ten years, the Agreement has provided a means for addressing and resolving many problems facing U.S. exporters pertaining to origin regimes, and the 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 Committee on Rules of Origin continued to focus on the work program on the 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 being conducted by the U.S. International Trade Commission pursuant to a request by the U.S. Trade Representative. The proposals reflect input received from the private sector ongoing consultations with the private sector as the negotiations have progressed from the technical stage to deliberations at the WTO Committee on Rules of Origin. Representatives from several U.S. Government agencies continue to be actively involved in the WTO origin HWP, including the Bureau of Customs and Border Protection (formally the U.S. Customs Service), the U.S. Department of Commerce, and the U.S. Department of Agriculture.

In addition to the September 2005 formal meeting, the Committee conducted numerous informal consultations and working party sessions related to the HWP negotiations. The Committee's work in 2005 proceeded in accordance with an August 1, 2004 General Council extension of the deadline for completion of the 94 core policy issues by July 31, 2005. The General Council also agreed that following resolution of the core policy issues, the Committee would complete its remaining work on the HWP by December 31, 2005.

While the Committee has made significant progress towards fulfilling the mandate of the Agreement to establish harmonized non-preferential rules of origin, the Committee is still grappling with a number of fundamental issues, including the scope of the prospective obligation to equally apply 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.

The Committee continued to make progress in reducing the number of issues that remained outstanding under the HWP, and is proceeding on a track toward achieving consensus on product-specific rules of origin for more than 5000 tariff lines. In 2005, the Committee focused on 94 unresolved issues identified as “core policy issues.” Many of these issues are particularly significant due to their broad application across important product sectors, including fish, beef products, dairy products, sugar, industrial and automotive goods, semiconductors and electronics, and steel. Specific origin questions among these “core policy issues” include, for example, how to determine the origin of fish caught in an Exclusive Economic Zone, or whether refinement, fractionation, and hydrogenation substantially transform oil and fat products to a degree appropriate to confer country of origin. A cross-cutting unresolved “core policy issue” continues to arise from the absence of common understanding among Members concerning the scope of the Agreement’s prospective obligation, upon completion of the harmonization and implementation of the results, for Members to “apply rules of origin equally for all purposes.”

As a result, positions have sometimes been divided between a strictly neutral analysis under the criterion of ‘substantial transformation’ and an advocacy of restrictiveness for certain product-specific rules that would be unwarranted for application to the normal course of trade, but is perceived as necessary for the operation of certain regimes or measures covered by other Agreements, such as trade remedy measures pursued under the Agreements on Anti-Dumping, Subsidies and Countervailing Measures, and Safeguards.

Prospects for 2006

Further progress in the HWP will remain contingent on achieving appropriate resolution of the “core policy issues” and to reaching a consensus on the scope of the prospective obligation to equally apply for all purposes the harmonized non-preferential rules of origin for all purposes. In accordance with a decision taken by the General Council in July 2005, work will continue on addressing these issues. The General Council, at its meeting in July 2005, extended the deadline for completion of the 94 core policy issues to July 31, 2006. The General Council also agreed that following resolution of these core policy issues, the CRO would complete its remaining technical work by December 31, 2006.

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 TBT Agreement’s aim is to prevent the use of technical requirements as unnecessary barriers to trade.

II. The World Trade Organization| 49

U.S. Inquiry Point

National Center for Standards and Certification
Information
National Institute of Standards and Technology (NIST)
100 Bureau Drive Gaithersburg, MD 20899-2160
Telephone: (301) 975-4040
Fax: (301) 926-1559
email: ncsci@nist.gov
website: <http://www.nist.gov/ncsci/>

NIST offers a free web-based service, Notify U.S., that provides U.S. customers with the opportunity to review and comment on proposed foreign technical regulations that can affect them. By registering for the Notify U.S. Service, U.S. customers receive, via e-mail, notifications of drafts or changes to foreign regulations for a specific industry sector and/or country. To register on-line contact:

<http://www.nist.gov/ncsci/>

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 TBT Committee¹² serves as a forum for consultation on issues associated with the implementation and administration of the TBT Agreement. This purpose includes discussions and/or presentations concerning specific standards, technical 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 maintains the U.S. inquiry point pursuant to the Sanitary and Phytosanitary Agreement.

A number of documents relating to the work of the TBT Committee are available to the public directly from the WTO website: www.wto.org. TBT Committee documents are indicated by the symbols, "G/TBT/..." Notifications by Members of proposed technical regulations and conformity assessment

¹² Participation in the Committee is open to all WTO Members. Certain non-WTO Member governments also participate, in accordance with guidance agreed on by the General Council. Representatives of a number of 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, pending final agreement by the General Council on the application of the guidelines for observer status for international intergovernmental organizations in the WTO.

procedures which 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 country or Member).¹³ Parties in the United States interested in submitting comments to foreign governments on their proposals should send them through the U.S. inquiry point at the address above. Minutes of the 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). As a general rule, written information provided by the United States to the Committee is provided on an “unrestricted” basis and is available to the public on the WTO website.

With the implementation of the Marrakesh Agreement establishing the WTO, *all* Members assumed responsibility for compliance with the TBT Agreement. Although a form of the TBT Agreement had existed as a result of the Tokyo Round, the expansion of its applicability to all Members in the Uruguay Round was significant and resulted in new obligations for many Members. The TBT Agreement has secured the right for interested parties in the United States to have information on proposed standards, technical regulations and conformity assessment procedures being developed by other Members. It provides an 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, though 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. Committee monitoring and oversight has served an important role. The Committee has served as a constructive forum for discussing and resolving issues, and this has perhaps alleviated the need for more dispute settlement undertakings. Since its inception, an increasing number of Members have used the Committee to highlight trade problems, including a number of developing country members. To date, there has been only one WTO dispute concerning the rights and obligations under the TBT Agreement (Peru’s challenge of the European Communities’ trade description of sardines).

The TBT Agreement obliges the TBT Committee to review every three years the operation and implementation of the Agreement. Three such reviews have now been completed (*G/TBT/5*, *G/TBT/9*, and *G/TBT/13*). 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 review also identifies some practical problems associated with implementation and ways to address them. For example, in response to questions about how to define “international standard” for purposes of implementing the TBT Agreement, the Committee adopted a decision containing a set of principles it considered important for international standards development (*i.e.*, openness, transparency, impartiality; consensus; relevance and effectiveness; and coherence and development).

Members were encouraged to promote adherence to these principles by their standardizing bodies and participants in the international bodies and thereby advance the objectives of the Agreement. (Decisions and recommendations adopted by the Committee are contained in *G/TBT/1/Rev.8*.)

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

The reviews have also stimulated the Committee to host workshops on various topics of interest, including technical assistance, conformity assessment, labeling and good regulatory practice.

Major Issues in 2005

The TBT Committee met three times in 2005. At those meetings, the Committee addressed implementation of the Agreement, including an exchange of information on actions taken by Members domestically to ensure implementation and ongoing compliance.

A number of Members used the Committee meetings to raise concerns about specific technical regulations that affected, or had the potential to affect, trade adversely and were perceived to create unnecessary barriers to trade. U.S. interventions were primarily targeted at a variety of proposals from the EU that could seriously disrupt trade (e.g., the EU's proposed regulation on the Registration, Evaluation and Authorization of Chemicals ("REACH")). The minutes of the meetings are contained in G/TBT/M/35, 36 and 37.

The TBT Committee also carried out its Fourth Annual Transitional Review of China, which is mandated in the Protocol Accession of the People's Republic of China. The United States (G/TBT/W/257), the EU (G/TBT/W/256), and Japan (G/TBT/W/255) submitted written questions to China which provided a written response in G/TBT/W/260.

The TBT Committee also conducted its Tenth Annual Review of the TBT Agreement based on information contained in G/TBT/15, and its Tenth Annual Review of the Code of Good Practice for the Preparation, Adoption and Application of Standards (Annex 3 of the Agreement) based on information contained in G/TBT/CS/1/Add.9 and G/TBT/CS/2/Rev.11.

Follow-up to the Third Triennial Review of the Agreement: In November 2003, the TBT Committee concluded its Third Triennial Review (G/TBT/13). In follow-up to that review, priority attention has been given to an exchange of information on good regulatory practice, conformity assessment procedures, transparency and technical assistance, and the implementation needs of developing countries. The Committee held a workshop (March 21, 2005) on implementation of supplier's declaration of conformity and discussed preparations for one on other approaches to facilitate the acceptance of conformity assessment results (planned for March 2006).

It has also explored ways to facilitate coordination, both within the WTO and with other bodies, of technical assistance in response to identified needs, and agreed upon a voluntary notification format to be applied on a trial basis for two years.¹⁴

Preparations for the Fourth Triennial Review of the Agreement: The following documents have been submitted in follow-up to the Third Triennial Review and to advance preparations for the Fourth, which the Committee will conclude at its third meeting in 2006:

Good Regulatory Practice: the European Communities (G/TBT/W/253) and the United States (G/TBT/W/258).

Transparency: Canada (G/TBT/W/234), China (G/TBT/W/252) and the European Communities (G/TBT/W/253).

Technical Assistance and Differential Treatment: China (G/TBT/W/252).

¹⁴ G/TBT/16.

Other: Intellectual Property Right Issues in Standardization (China G/TBT/W/251).

Prospects for 2006

The TBT Committee will continue to monitor implementation of the TBT Agreement by WTO Members. The number of specific trade concerns raised in the Committee appears to be increasing. The Committee has been a useful forum for Members to raise concerns and facilitate bilateral resolution of such concerns. In March 2006, the TBT Committee will host a workshop on conformity assessment procedures. Follow-up on issues raised in past reviews, or discussion of new issues in preparation for the Fourth Review, are driven by Member statements and submissions. The U.S. priorities are likely to continue to focus on good regulatory practice, transparency and technical assistance. At its last meeting in 2004, the Committee agreed upon a work program for the Fourth Triennial Review which it expects to conclude at its third meeting in 2006. Drafting of the text of the review, which normally includes a factual reflection of the Committee's discussion, followed by any agreed recommendations for action, is scheduled to begin at the Committee's second meeting in 2006. The initial list of topics for the Fourth Triennial Review include: good regulatory practice; conformity assessment procedures; transparency; technical assistance and special and differential treatment.

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 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: (1) pre-initiation notifications under Article 5.5 of the Antidumping Agreement; (2) the periods used for data collection in investigations of dumped imports and of injury caused or threatened to be caused by such imports; (3) extensions of time to supply information; (4) the timeframe to be used in calculating the volume of dumped imports for making the determination under Article 5.8 of the Antidumping Agreement as to whether the volume of such imports is negligible; and (5) guidelines for the improvement of annual reviews under Article 18.6 of the Antidumping Agreement.

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. Under this framework, the Informal Group has discussed the

topics 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 circumvention can be dealt with under existing WTO rules and what other options may be deemed necessary.

Major Issues in 2005

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 experience with respect to Members' application of antidumping remedies.

In 2005, the Antidumping Committee held two meetings; on April 7, and on October 31-November 1. At its meetings, the Antidumping Committee focused on implementation of the Antidumping Agreement, in particular, by continuing its review of Members' antidumping legislation. The Antidumping Committee also reviewed reports required of Members that provide information as to preliminary and final antidumping measures and actions taken in each case over the preceding six months.

Among the more significant activities undertaken in 2005 by the Antidumping Committee, the Working Group on Implementation and the Informal Group on Anticircumvention are the following: *Notification and Review of Antidumping Legislation:* To date, 68 Members have notified that they currently have antidumping legislation in place, while 28 Members have notified that they maintain no such legislation. In 2005, the Antidumping Committee reviewed notifications of new or amended antidumping legislation submitted by Albania, Australia, China, Croatia, the European Union, Former Yugoslav Republic of Macedonia, Jordan, Mongolia, and Turkey. 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 2005, 24 Members notified that they had taken antidumping actions during the latter half of 2004, whereas 23 Members did so with respect to the first half of 2005. (By comparison, 36 Members notified that they had not taken any antidumping actions during the latter half of 2004, and 30 Members notified that they had taken no actions in the first half of 2005). 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.

China Transitional Review: At the October-November 2005 meeting, the Antidumping Committee undertook, pursuant to the Protocol on the Accession of the People's Republic of China, its fourth 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, with a focus on injury determinations. 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 two rounds of meetings in April and October 2005. 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; the United States has submitted papers describing its practices on all four topics. In 2005, the Working Group discussed papers on these topics by the United States, Egypt, India, and Pakistan.

The Working Group continues to serve as a venue for active work regarding the practical implementation of WTO antidumping provisions. It offers Members the opportunity to examine issues and exchange views and information across a broad range of topics. It 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. Implementation concerns and questions stemming both from one's own administrative experience and from observing the practices of others are equally addressed. 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.

Informal Group on Anticircumvention: The Antidumping Committee's establishment of the Informal Group on Anticircumvention in 1997 marked an important step towards fulfilling the Decision of Ministers at Marrakesh to refer this matter to the Committee. In 2005, the Informal Group on Anticircumvention 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.

Members have submitted papers and made presentations outlining scenarios based on factual situations faced by their investigating authorities, 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, responded to inquiries from other Members as to how such legislation operates and the manner in which certain issues may be treated. In 2005, the Informal Group met in April, but did not hold a meeting in October, and no new papers were submitted for consideration by the Informal Group. A major reason for the lessened activity in the Informal Group in 2005 is that circumvention has become a significant issue under discussion in the WTO Rules negotiations, with the United States submitting two elaborated proposals in the Rules negotiations in 2005 addressing the issue of circumvention.

Prospects for 2006

Work will proceed in 2006 on the areas that the Antidumping Committee, the Working Group on Implementation and the Informal Group on Anticircumvention 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 to ensuring that antidumping laws around the world are properly drafted and implemented, thereby contributing to a well-functioning, liberal trading system. As notifications of antidumping legislation are not restricted documents, U.S. exporters will continue to enjoy access to information about the antidumping laws of other countries 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 2006. These reports are becoming accessible to the general public, in keeping with the objectives of the Uruguay Round Agreements Act. (Information on accessing WTO notifications is included in Annex II).

This 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 and more Members enact 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 rely upon 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 which Members employ to implement them. Therefore, as Members continue to submit papers on the topics being considered and participate actively in the discussions, the Group's utility should continue to grow. In 2006, the Working Group will continue its discussion of the four topics that it began discussing in the 2003 meeting: (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. However, given the mandate in the Hong Kong Ministerial Declaration to the WTO Rules Group to intensify and accelerate its work in 2006 regarding submission and analysis of detailed textual proposals on, *inter alia*, antidumping issues, it is possible that Members will have less time to devote to submission and discussion of papers on antidumping practices in the Working Group in 2006.

The work of the Informal Group on Anticircumvention will also continue in 2006 according to the framework for discussion on which Members agreed. Many Members, including the United States, recognize the importance of using the Informal Group to pursue the 1994 decision of Ministers at Marrakesh, who expressed the desirability of achieving uniform rules in this area as soon as possible. However, given the increased focus on anticircumvention issues in the WTO Rules negotiations, it is possible that, as in 2005, there may be less activity on these issues in the Informal Group in 2006.

10. Committee on Import Licensing

Status

The Committee on Import Licensing (the 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 Committee meets at least twice a year to review information on import licensing requirements submitted by WTO Members in accordance with the obligations of the Agreement. The Committee also receives questions from Members on the licensing regimes notified by other Members, and addresses 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 receive information on specific issues and to clarify problems and possibly to resolve them before they become disputes. Every other year, the Committee conducts an overall review of its activities. Since the accession of China to the WTO in December 2001, the Committee has also 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.

The Import Licensing Agreement establishes rules for all WTO 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 such procedures does not create additional barriers to trade beyond the policy measures implemented through licensing (the 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 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 Agreement.

Major Issues in 2005

At its meetings in June and September 2005, the Committee reviewed 55 submissions from 31 Members,¹⁵ including initial or revised notifications, completed questionnaires on procedures, and questions and replies to questions. This count represented a slight increase in the number of notifications submitted to the Committee, but a reduction in the number of Members notifying. The Chairman reported that at the end of 2005, only 24 of 123¹⁶ Committee Members had never submitted a notification to the Committee, bringing the percentage of Members with at least an initial notification to over three-quarters of the total. Concern remained, however, that even participating Members are not submitting notifications with the frequency required by the Import Licensing Agreement. The Chairman of the Committee 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 submitted a notification of its extension and modification of the automatic import licensing program for certain steel products

The United States remained one of the most active members of the 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. The issue is under review by the Brazilian Government. As the EU proceeds to review its international agreements in terms of licensing restrictions on imports of natural and enriched uranium, the United States continued to use the Committee to push for further information, noting that the EU has not notified these restrictions to the Committee. The problem, notified to the Committee last year, on EU pigmeat

¹⁵ The Members making submissions were Armenia, Bahrain, Bangladesh, Brazil, Bulgaria, Cameroon, China, Croatia, Ecuador, EU, Georgia, Hong Kong China, Iceland, India, Jamaica, Jordan, Korea, Macedonia,, Macao, Madagascar, Morocco, Mexico, Oman, Peru, Qatar, Singapore, Chinese Taipei (Taiwan), Turkey, Tunisia, United States, and Uruguay.

¹⁶ The EU and its member states are considered 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, Central African Republic, Cambodia, Congo, Democratic Republic of the Congo, Djibouti, Egypt, Guinea, Guinea Bissau, Israel, Kuwait, Lesotho, Mauritania, Mozambique, Myanmar, Nepal, Rwanda, St. Vincent & Grenadines, Sierra Leone, Solomon Islands, Tanzania, and Thailand.

Import TRQs was resolved in favor of U.S. exporters. Further comments were presented on Indonesia's non-automatic licensing system for selected textile products, noting that the system was clearly restrictive and appeared not to be consistent with WTO rules. The United States also submitted further written questions on the administration of Turkey's licensing system for import quotas on rice. Receiving no response, in November 2005, the United requested consultations with Turkey under WTO dispute resolution procedures concerning these issues.

Malaysia and Columbia were pressed to update their responses to the Import Licensing Procedures Questionnaire to cover products requiring import licenses but not notified, i.e., motor vehicles, construction equipment, and paper and wood products for Malaysia, and non-automatic import licensing requirements on used goods for Colombia. Neither Member has yet provided a response. Jamaica, however, responded to the U.S. question on import licensing of auto parts.

At its September meeting, the Committee conducted, pursuant to the Protocol on the Accession of the People's Republic of China, its fourth transitional review of China's implementation of its WTO accession commitments in the area of import licensing procedures. The United States and other WTO Members returned to concerns with China's implementation of its commitments expressed at the last two TRMs and previous Committee meetings, in particular the use of import licensing to administer import quotas on automobiles, the tariff-rate quota administration, and inspection-related requirements for agricultural imports. New questions were tabled on import licensing requirements for steel and iron ore. China indicated that both programs were for non-automatic licenses.

Prospects for 2006

The administration of import licensing continues to be a significant issue of discussion in the context of the DDA, as well as in the day-to-day administration of current obligations. As discussions continue to liberalize tariffs, the correct use of import licensing procedures becomes more critical, both in the administration of agricultural TRQs and in ensuring 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 and technical and sanitary requirements applied to imports as well. The 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 recent U.S. request for formal consultations with Turkey on its import licensing regime, these discussions could 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 Committee) was established to administer the WTO Agreement on Safeguards (the Agreement). The 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, thus 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 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). The Agreement requires all WTO Members to use transparent and objective procedures when taking safeguard actions to prevent or remedy serious injury to a domestic industry caused by increased imports.

Among its key provisions, the Agreement: requires a transparent, public process for making injury determinations; sets out clearer definitions than GATT Article XIX 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, which had been utilized by countries to avoid GATT disciplines and which adversely affected third-country markets.

The Agreement requires Members to notify to the Committee their laws, regulations and administrative procedures relating to safeguard measures. It also requires Members to notify to the Committee various safeguards actions, such as (1) 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 2005

During its two regular meetings in April and November 2005, the Committee continued its review of Members’ laws, regulations, and administrative procedures, based on notifications required by Article 12.6 of the Agreement. The Committee reviewed new or amended legislative texts from Albania, Barbados, Canada, China, Croatia, the European Union, the Former Yugoslav Republic of Macedonia, Jordan, Peru, South Africa, and Chinese Taipei. The 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: Canada on bicycles; Chile on wheat flour; Colombia on domestic blenders; the EU on strawberries; Indonesia on ceramic tableware and on lighters; Jordan on insecticides; Morocco on ceramic tiles; and Pakistan on footwear.

The Committee reviewed Article 12.1(b) notifications, regarding a finding of serious injury or threat thereof caused by increased imports, from the following Members: Canada on bicycles; Chile on wheat flour; the EU on salmon; India on starches; Indonesia on ceramic tableware; Jordan on insecticides; Morocco on ceramic tiles; and Turkey on voltmeters and ammeters and on active earth and clays.

The Committee reviewed Article 12.1(c) notifications, regarding a decision to apply or extend a safeguard measure, from the following Members: Chile on wheat flour; the EU on salmon; Indonesia on ceramic tableware; Jordan on insecticides; Morocco on ceramic tiles; and Turkey on voltmeters and ammeters and on active earth and clays.

The Committee reviewed Article 12.4 notifications, regarding the application of a provisional safeguard measure, from the following Members: Chile on wheat flour; Moldova on cosmetics and perfumery products; and Peru on certain made-up textile articles.

The Committee received notifications from the following Members of the termination of a safeguard investigation with no safeguard measure imposed: Colombia on electric smoothing irons and on domestic blenders; Pakistan on footwear; Peru on made-up textile articles; and Turkey on unframed glass mirrors, on thermometers, and on certain glassware.

China Transitional Review: At the November 2005 meeting, the Committee undertook, pursuant to the Protocol on the Accession of the People's Republic of China, its fourth transitional review with respect to China's implementation of the 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 both the April and November 2005 meetings, the Committee discussed various issues pertaining to Article 9.1 of the Agreement, concerning the exclusion of developing country Members from the application of safeguard measures when certain criteria are met.

Prospects for 2006

The Committee's work in 2006 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 laws.

12. Working Party on State Trading Enterprises

Status

Article XVII of the GATT 1994 requires Members, *inter alia*, to ensure that state trading enterprises 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 ("Article XVII Understanding") defines a state trading enterprise and instructs Members to notify the Working Party of all enterprises in their territory that fall within the agreed definition, whether or not such enterprises have imported or exported goods.

A WTO Working Party on State Trading Enterprises was established in 1995 to review, *inter alia*, Member notifications of state trading enterprises and the coverage of state trading enterprises that are notified, and to develop an illustrative list of relationships between Members and their state trading enterprises and the kinds of activities engaged in by these enterprises. All Members are required under Article XVII of the GATT 1994 and paragraph 1 of the Article XVII Understanding to submit annual notifications of their state trading activities.

Major Issues in 2005

In February 2005, the United States responded to questions from Australia concerning previous STE notifications. In May 2005, Egypt responded to questions from the United States concerning the operations of the Alexandria Cotton Exporters' Association (ALCOTEXCA) and its members. Egypt explained that the right to practice or engage in the cotton trade in Egypt is not limited to members of ALCOTEXCA, and that ALCOTEXCA does not set the sale price and other terms and conditions for the sale of cotton exported from Egypt. In 2005, the United States made a full and new notification of its state trading enterprises (STEs), the Commodity Credit Corporation, Isotopes Production and Distribution Programme, Power Administrations, and Strategic Petroleum Reserve. The Working Party on State Trading held no formal meetings in 2005.

Prospects for 2006

The Working Party is scheduled to meet in January 2006. As part of the agricultural negotiations in the WTO, the United States proposed specific disciplines on export agricultural state trading enterprises that would increase transparency improve competition and tighten disciplines for these entities.

In 2006, the Working Party 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 state trading enterprises.

F. Council on Trade Related Aspects of Intellectual Property Rights

Status

The Agreement on Trade-Related Aspects of Intellectual Property Rights (the “TRIPS Agreement”) is a multilateral agreement that sets minimum standards of protection for copyrights and neighboring rights, trademarks, geographical indications, 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 requires as well that, with very limited exceptions, WTO Members provide national and most-favored-nation treatment to the nationals of other WTO Members with regard to the protection and enforcement of intellectual property rights. Disputes between WTO Members regarding implementation of the TRIPS Agreement can be settled using the procedures of the WTO’s Dispute Settlement Understanding.

The TRIPS Agreement entered into force on January 1, 1995, and its obligations to provide “most favored nation” and national treatment became effective on January 1, 1996 for all Members. Most substantive obligations are phased in based on a Member’s level of development. Developed country Members were required to implement fully the obligations of the Agreement by January 1, 1996; developing country Members generally had to implement fully by January 1, 2000; and least-developed country Members as a result of the decision of the TRIPS Council of November 29, 2005, have had their deadline 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 WTO Ministerial Conference, of the transition period for least-developed countries to implement or apply Sections 5 and 7 of Part II of the TRIPS Agreement with respect to pharmaceutical products, or to enforce rights with respect to such products, until January 1, 2016. In 2002, the WTO General Council, on the recommendation of the TRIPS Council, similarly waived until 2016 the obligation for least-developed country Members to provide exclusive marketing rights for certain pharmaceutical products if those Members did not provide product patent protection for pharmaceutical inventions.

The WTO TRIPS Council monitors implementation of 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 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.

Major Issues in 2005

In 2005, the TRIPS Council held three formal meetings, including “special negotiation sessions” on the establishment of a multilateral system for notification and registration of geographical indications for wines and spirits called for in Article 23.4 of the Agreement (see separate discussion of this topic under section D, “Council for Trade-Related Intellectual Property Rights, Special Session”, and below). In addition to continuing its work reviewing the implementation of the Agreement by developing countries and newly-acceding Members, the Council’s work in 2005 focused on TRIPS issues addressed in the Doha Ministerial Declaration and the Declaration on the TRIPS Agreement and Public Health.

- **Review of Developing Country Members’ TRIPS Implementation:** As a result of the Agreement’s staggered implementation provisions, the TRIPS Council during 2005 continued to devote time to reviewing the 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 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 geographical indications and implementation of the Agreement’s enforcement provisions, and to provide detailed information on their implementation of Article 27.3(b) of the Agreement. During the TRIPS Council meetings, 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 Members’ implementation, particularly with regard to China, of its obligations.

Of particular importance has been the review mechanism for China, especially the transitional review mechanism under Section 18 of the Protocol on the Accession of the People’s Republic of China. 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 breadth of intellectual property matters and in raising concerns about protection of intellectual property in China, especially regarding enforcement of intellectual property rights.

In furtherance of that effort, the United States submitted a formal request to China in October 2005 seeking additional enforcement-related information pursuant to Article 63.3 of the TRIPS Agreement.

During 2005, the TRIPS Council undertook reviews of the implementing legislation of China (as part of China’s transitional review mechanism), Armenia, Former Yugoslav Republic of Macedonia, and Zimbabwe.

- *Intellectual Property and Access to Medicines:* The August 30 solution (the General Council Decision on “Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health”, in light of the statement read out by the General Council Chairman), will apply to each Member until an amendment to the TRIPS Agreement replacing its provisions takes effect for each Member. At its meeting in June 2004, the TRIPS Council agreed to extend the original deadline for transforming the August 30 solution into an amendment until the end of March 2005. A series of discussions took place in March, June and September of 2004 evidencing differing viewpoints, on the form and content of such an amendment. The first proposal for an amendment was submitted by the African Group during the December 2004 meeting of the TRIPS Council. However, this proposal raised a number of concerns from various Members because it did not refer to the shared understandings of the Chairman’s Statement and included only some elements of the General Council Decision. As a result of intense consultations held by the TRIPS Council Chairman between March 2005 and December 2005, the General Council was able to agree to submit to Members an amendment to the TRIPS Agreement that preserves all elements of the General Council Chairman’s statement and the General Council Decision of the August 30, 2003

solution. In accomplishing this goal, the General Council agreed to adopt the amendment text, on December 6, 2005, in light of a statement read out by the Chairman. The amendment text 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 only changes made were those technical changes necessary to change the original waiver decision to an amendment decision.

Ministers at the Hong Kong Ministerial Conference in December 2005 reaffirmed the importance of the General Council Decision of August 30, 2003 and welcomed the work in the TRIPS Council as well as the December 6, 2005 decision of the General Council on the amendment.

On December 16th, the United States submitted its acceptance of the amendment to the WTO. The amendment will enter into force, for those Members that have accepted it, upon its acceptance by two-thirds of the membership of the WTO.

- *TRIPS-related WTO Dispute Settlement Cases:* As a result of a WTO dispute launched by the United States, the WTO Dispute Settlement Body (DSB), on April 20, 2005, ruled that the EU's regulation on food-related geographical indications (GIs) is inconsistent with the EU's obligations under the TRIPS Agreement and the GATT 1994. The DSB ruled that the EU's GI regulation impermissibly discriminates against non-EU products and persons and also agreed with the United States that the regulation could not create broad exceptions to trademark rights guaranteed by the TRIPS Agreement. The DSB recommended that the EU amend its GI regulation to come into compliance with its WTO obligations. The EU has indicated an intent to comply, and, by agreement with the United States, has until April 3, 2006, to do so.

There are a number of other WTO Members that appear not to be in full compliance with their TRIPS obligations. The United States, for this reason, is still considering initiating dispute settlement procedures against several Members. We will continue to consult informally with these countries in an effort to encourage them to resolve outstanding TRIPS compliance concerns as soon as possible. We will also gather data on these and other countries' enforcement of their TRIPS obligations and assess the best cases for further action if consultations prove unsuccessful.

- *Geographical Indications:* The Doha Declaration directed the TRIPS Council to discuss "issues related to extension" of Article 23-level protection to geographical indications for products other than wines and spirits and to report to the 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 geographical indications for products other than wines and spirits, and, in light of the strong divergence of positions on the way forward on geographical indications and other implementation issues, the TNC Chair closed the discussion by saying he would consult further with Members. In a decision on August 1, 2004, to move the DDA forward, the Ministers directed the Director-General to continue his consultative process on all outstanding implementation issues, including on extension of the protection of geographical indications. 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 in 2005.

Throughout 2005, the United States and many like-minded Members maintained the position that *demandeurs* had not established that the protection provided geographical indications 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 geographical indications, and that the benefits accruing to those few Members

that had longstanding statutory regimes for the protection of geographical indications would represent a windfall, and other Members with few or no geographical indications 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. Ministers at the Hong Kong Ministerial Conference in December 2005, reiterated their instructions to Members in August 1, 2004 for all implementation issues, including extension of the protection of geographical indications and requested the Director-General to intensify his consultative process in 2006.

The United States and other Members have also steadfastly resisted efforts by some Members to obtain new GI protections in the WTO agriculture negotiations. The United States views such initiatives as efforts to take back the names of many famous products, such as feta and parmesan, from U.S. producers who have invested considerable time and resources to make these names famous and who are currently using such terms in a manner fully consistent with international intellectual property agreements.

No further progress has been made on the Article 24.2 review of the application by Members of TRIPS provisions on geographical indications in spite of the review continuing to be on the TRIPS Council's agenda. In 2005 TRIPS Council meetings, the United States continued to urge developing country Members that have not yet provided information on their regimes for the protection of geographical indications (most of them have not) to do so.

The United States also maintained its support for the proposal by New Zealand in 2000, and by Australia in 2001, that the Council conduct the review by addressing each article of the TRIPS Agreement covering geographical indications in light of the experience of Members as reflected in the responses to the "checklist." No new documents were received from Members on this topic in 2005.

- *Review of Current Exceptions to Patentability for Plants and Animals:* 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) and, because of the interest expressed by some Members, the discussion continued through 2000 and 2001. Regrettably, 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. In 2004, several developing countries, led by India and Brazil, submitted a series of papers based on an unsuccessful proposal for a "checklist" approach to structuring the discussions on the relationship between TRIPS and CBD, the protection of genetic resources, and traditional knowledge. This "checklist" approach was not acceptable to the United States and certain other Members as it presupposes the position of the *demandeurs* that the patent provisions of the TRIPS Agreement should be amended 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 response to this proposal, the United States submitted a paper in November 2004 which provides counter-arguments to mandatory disclosure requirements for patent applications as well as a number of alternative proposals for better achieving certain objectives. In addition, the U.S. paper proposes a structure for future discussions that will not prejudice the position of any Members by focusing on shared objectives related to the protection of genetic resources and traditional knowledge, and sharing national experiences that may provide effective alternative models outside intellectual property right regimes to achieve the shared objectives.

In 2005, a number of documents were presented on these issues. The delegations of Brazil and India presented a point-by-point response to the U.S. paper. The United States then responded again in another paper in June 2005, to which a further response was filed from Brazil, India and a number of other Members. This debate, while unfortunately not appearing to narrow significantly differences on key issues, has clarified a number of points of divergence and convergence, and 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.

The United States has suggested that any Member that has a question about whether a particular CBD implementation proposal would run afoul of TRIPS obligations raise the issue with the TRIPS Council so that it might obtain the views of other Members. In that light and, further pursuant to a suggestion by the delegation of Canada to have a more “fact-based approach” to the discussions, a number of developing countries, including India and Peru, have provided a number of patents granted in the United States, Japan and Europe, which they feel represent some type of misappropriation.

The United States has already presented its analysis of the turmeric patent, raised by India, and shown how in that case, the proposed disclosure requirements would have had no effect, but alternative solutions would have helped to remedy the problem. The United States will continue to analyze particular cases in this manner with the intent of furthering a more “fact-based” discussion on this issue. Ministers at Hong Kong, in December 2005, reiterated the instructions given to Members in August 1, 2004 for all implementation issues, including the relationship of the TRIPS Agreement and the CBD and requested the Director-General to intensify his consultative process in 2006. Furthermore, Ministers agreed that work would continue in the TRIPS Council on this issue.

- *Non-violation:* The Doha Declaration on Implementation directs the TRIPS Council to continue its examination of the scope and modalities for non-violation nullification and impairment complaints related to the TRIPS Agreement, to make recommendations to the Fifth Ministerial Conference, and, during the intervening period, directs Members not to make use of such complaints. No consensus on a recommendation to establish scope and modalities or to extend the moratorium emerged by the time of the 5th Ministerial meeting. However, the General Council agreed, in its decision of August 1, 2004, on the Doha Work Program, to extend the moratorium until the Sixth Ministerial Conference in Hong Kong, at which point the Ministers agreed to extend the moratorium until the Seventh Ministerial Conference, which has not yet been scheduled.

The TRIPS Council took up the issue of non-violation nullification and impairment complaints in the context of the TRIPS Agreement at its formal sessions in 2005. As in past years, the United States continued to support the automatic expiration of the moratorium at the Hong Kong Ministerial Conference, arguing that TRIPS is no different than other agreements where non-violation nullification and impairment claims are permitted, and that Article 26 of the Dispute Settlement Understanding and GATT decisions on non-violation provide sufficient guidance to enable a panel or the Appellate Body to make appropriate determinations in such cases.

- *Further reviews of the TRIPS Agreement:* Article 71.1 calls for a review of the Agreement in light of experience gained in implementation, beginning in 2002. The Council continues to consider how the review should best be conducted in light of the Council’s other work. The Doha Ministerial Declaration directs that, in its work under this Article, the Council is also to consider the relationship between intellectual property and the CBD, traditional knowledge, folklore, and other relevant new developments raised by Members pursuant to Article 71.1. No further issues were raised under this Article by Members in 2005.

- *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.
- *Implementation of Article 66.2:* Article 66.2 requires developed countries 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. During 2003, the TRIPS Council adopted a Decision calling on developed countries to provide detailed reports every third year, with annual updates, on these incentives. The reports are to be reviewed in the TRIPS Council at its last meeting each year. In late 2005, the United States provided detailed reports on specific U.S. government institutions (e.g., the African Development Foundation and Agency for International Development) and incentives as required.

Prospects for 2006

In 2006, 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 geographical indications 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 2006 continue to be to:

- resolve differences through dispute settlement consultations and panels, where appropriate;
- continue its efforts to ensure full TRIPS implementation by developing country Members; 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 provided across national borders or that discriminate against locally-established services firms with foreign ownership. 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 national schedules, similar to the national schedules for tariffs.

The Council for Trade in Services in Regular Session (CTS) oversees implementation of the GATS and reports to the General Council. In addition, the CTS is responsible for a technical review of GATS Article XX.2 provisions; waivers from specific commitments pursuant to paragraphs 3 and 4 of Article IX of the Marrakesh Agreement Establishing the WTO; the transition review 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 meeting in 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 Regulations, and the Working Party on GATS Rules. The following section discusses work in the CTS regular session.

Major Issues in 2005

In September 2005, as part of China's Transitional Review Mechanism, the CTS carried out its fourth annual review of China's implementation of its WTO services commitments. The United States, with support from other WTO Members, raised questions and concerns regarding China's implementation of certain commitments in the distribution, direct selling, franchising, express delivery, telecommunications, construction, and legal services sectors.

Members began a second review of MFN exemptions in 2004 in accordance with the decision adopted by the CTS at the conclusion of the previous review. The Council concluded its review in 2005 and decided to undertake the next review no later than June 2010.

In September 2005, the CTS formally commenced its second mandated review of the Annex on Air Transport Services. A consensus was reached among Members to task the WTO Secretariat with gathering and preparing the necessary background documentation to conduct the review. Members agreed to resume discussion in dedicated sessions in 2006.

The CTS received a number of notifications pursuant to GATS Article III.3 (transparency), GATS Article V (economic integration), and GATS Article VII.4 (recognition). Albania, Honduras, Hong Kong China and Uruguay made notifications under Article III.3. and the EU notified under Article V. The EFTA States and Chile, the United States and Australia, Thailand and Australia, Panama and El Salvador, and Japan and Mexico provided notifications under Article VII.4.

The Article V notification by the EU continues to be discussed in the CTS. In 2003, the EU belatedly notified its 1995 enlargement to include Austria, Finland and Sweden. In 2004, the EU withdrew that notification and submitted a new one to cover the 1995 enlargement as well as the ten newest Member States who joined the EU on May 1, 2004. Under Article XXI, Members who believe their access to EU services markets will be adversely affected by the changes to its schedule of commitments resulting from the enlargement process are entitled to seek compensation. Eighteen countries have filed claims of interest, including the United States. The mandated consultation period is scheduled to conclude on February 26, 2006, at which time interested parties may file a request for arbitration.

Prospects for 2006

The CTS will continue discussions pursuant to the Air Annex review 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 2005

The CTFS met three times in 2005. Brazil, Jamaica and the Philippines are the only remaining participants from 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). WTO Members have urged those three countries to accept the Fifth Protocol as quickly as possible. At the request of Members, the three countries provided some information on the status of their domestic ratification efforts.

During a June 2005 meeting, interested Members, including the United States, introduced and highlighted the major aspects of a joint communication regarding the importance of financial services liberalization for economic growth and including benchmarks for financial services market access offers.

In September 2005, as part of China's Transitional Review Mechanism, the CTFS carried out its fourth annual review of China's implementation of its WTO financial services commitments. The United States and other Members took that opportunity to raise questions and express concerns with China's implementation of certain commitments concerning insurance, banking, securities, pensions and financial information.

The CTFS also considered reports from Egypt and Chinese Taipei regarding recent developments in their financial services regimes.

Prospects for 2006

The Members of the Committee 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, direct the Members to develop any necessary disciplines relating to qualification requirements and procedures, technical standards, and licensing requirements and procedures. A 1994 Ministerial Decision assigned priority to the professional services sector, for which the Working Party on Professional Services (WPPS) was established. The WPPS developed Guidelines for the Negotiation of Mutual Recognition Agreements in the Accountancy Sector, adopted by the WTO in May 1997. The WPPS completed Disciplines on Domestic Regulation in the Accountancy Sector in December 1998 (The texts are available at www.wto.org).

After the completion of the Accountancy Disciplines, in May 1999 the Council for Trade in Services (CTS) established a new Working Party on Domestic Regulation (WPDR) which also took on the work of the predecessor WPPS and its existing mandate. The WPDR is now charged with determining whether these or similar disciplines may be more generally applicable to other sectors. The Working Party shall report its recommendations to the CTS not later than the conclusion of the DDA services negotiations.

Major Issues in 2005

Throughout 2005, Members discussed a number of new and previously submitted proposals submitted by Members who believed that certain elements of regulatory disciplines related to licensing procedures and requirements, technical standards, qualification procedures and requirements, and transparency should be developed. Such disciplines would be aimed at ensuring that domestic regulations do not in themselves constitute a barrier to trade in services. At the same time Members reaffirmed the right of Members to regulate.

Members devoted considerable discussion to whether any new disciplines for domestic regulation should be adopted on a horizontal basis (applying to all sectors) or whether new disciplines should be tailored to the specific characteristics of individual sectors. Some Members advocated a single horizontal text covering licensing requirements and procedures, technical standards, qualifications requirements and procedures, and transparency. The United States took the position that horizontal or sector-specific application of any new disciplines should depend on the nature of the proposed disciplines, and that in some cases, for example in the case of licensing and qualifications, a sector-specific approach would be most feasible.

The United States' priority in 2005 continued to be horizontal disciplines for regulatory transparency. The United States considers transparency disciplines to be appropriate for horizontal implementation, because they involve universal principles that promote governmental accountability, rule of law and good governance. Greater transparency benefits not only services exporters, but also domestic producers, consumers, and the public at large. The 2004 U.S. submission on horizontal transparency disciplines was well received by the WPDR and transparency was actively debated in 2005 by both developed- and developing-country Members.

At the Hong Kong Ministerial Conference in December 2005, 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 negotiations, and called upon Members to develop texts for adoption. Such texts are to be based on individual proposals, current or future, submitted by Members and/or an illustrative list of possible elements for disciplines under Article VI:4.

Prospects for 2006

The Working Party will continue discussion of possible regulatory disciplines, both horizontal and sector-specific, to promote the GATS objective of effective market access. In order to fulfill the directive in the December 2005 Ministerial Declaration, Members will likely continue to work intensively in both formal and informal sessions, with proponents of the various proposals moving to develop texts for adoption.

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, or subsidies. The WPGR held formal meetings in February, June and September of 2005.

The Doha Work Program resulting from the Hong Kong Ministerial Conference in December 2005 calls for Members to 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.

Major Issues in 2005

Regarding emergency safeguard measures, delegations continued discussion on the basis of an informal communication from a group of ASEAN Members as well as a paper presented by UN Conference on Trade and Development. Issues touched upon in the discussion included: the purpose and effects of a safeguard mechanism in services; the definition of domestic industry; availability of appropriate statistics; link to progressive liberalization; the use of safeguard-type entries in schedules; and relevant comparisons with rules in the area of goods. Divergent views were expressed on the various aspects raised in relation to emergency safeguard measures, including desirability and feasibility. The United States continues to raise concerns with respect to feasibility, pointing out that a determination of trade-related injury would be difficult given weaknesses in services trade data; and implementing remedial measures could be problematic, particularly for services supplied through locally-established enterprises.

On government procurement, delegations continued their discussion of an earlier framework proposal by the EU as well as a new EU communication proposing an annex to the GATS on procedural rules for government procurement. Issues raised in the discussion included the application of the MFN obligation, the relationship to the Government Procurement Agreement (GPA), modal application, the possibility of distinguishing between goods and services, scheduling approaches, comparisons with approaches taken in regional trade agreements, thresholds, and elements of procedural rules. Divergent views were expressed. The United States remains willing to engage on the topic of procurement, while pointing out that the GPA already provides coverage of services.

With respect to subsidies, delegations pursued their discussion on issues relating to the information exchange, the definition of subsidy, and trade distortion. Issues raised included the scope and depth of the information exchange provided for in Article XV:1, the selection of sectors and timelines for the provision of information, the relevance of the Agreement on Subsidies and Countervailing Measures concepts for a provisional definition in services, the treatment of public services, and flexibility for developing countries. In January 2005, the United States submitted a paper titled, "Working Toward a Productive Information Exchange." The paper suggests that to facilitate an exchange of information on Members' services subsidies would be to first agree on a basic definition of a services subsidy and then narrow the scope of that exchange to a manageable level by concentrating first on certain types of subsidies (e.g., by focusing on subsidies to specific sectors). The United States continues to work constructively to foster a productive exchange of information to develop a better understanding of services subsidies and their relationship to trade.

Prospects for 2006

Pursuant to the mandate of the Hong Kong Ministerial Declaration, Members will intensify their efforts to conclude 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; and the fulfillment of the 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 Article XXI of the GATS. The CSC also oversees implementation of commitments in Members' schedules in sectors for which there is no sectoral body, currently the case for all sectors except financial services. The CSC works to improve the classification of services, so that scheduled commitments reflect the services activities, in particular to ensure coverage of evolving services. The CSC met three times in 2005, in February, June, and September.

Major issues in 2005

The CSC addressed three items in 2005: classification issues, scheduling issues, and editorial conventions for the submission of revised offers.

Classification: The CSC continued the previous year's discussion on energy services and legal services. In June, the United States, in cooperation with Australia, Canada, Chile, the EU, Japan, Korea, New Zealand, Singapore, Switzerland, and Chinese Taipei, submitted a joint statement on how to schedule legal services. In February, the United States and the EU separately made submissions on telecommunications services, which were discussed throughout the year. In addition, issues pertaining to consulting services, postal and courier services, audiovisual services, construction and related engineering services, distribution services, education services, energy services, and environmental services were discussed in the informal mode.

Scheduling Issues: The CSC continued to address general scheduling questions raised in 2004 and to discuss technical issues related to economic needs tests. In this regard, in June, Canada submitted a communication regarding economic needs tests pertaining to the temporary movement of natural persons (mode 4).

Editorial Conventions for the Submission of Revised offers: During the February meeting, the CSC considered and adopted formatting procedures for revised offers suggested by the Chairman.

Prospects for 2006

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.

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.” Annex II provides more background information on the WTO dispute settlement process.

Major Issues in 2005

The DSB met 22 times in 2005 to oversee disputes and to address responsibilities such as consulting on proposed amendments to the Appellate Body working procedures and approving additions to the roster of governmental and non-governmental panelists.

Roster of Governmental and Non-Governmental Panelists: Article 8 of the DSU makes it clear that panelists may be drawn from either the public or private sector and must be “well-qualified,” such as persons who have served on or presented a case to a panel, represented a government in the WTO or the GATT, served with the Secretariat, taught or published in the international trade field, or served as a senior trade policy official. Since 1985, the Secretariat has maintained a roster of non-governmental experts for GATT 1947 dispute settlement, which has been available for use by parties in selecting panelists. In 1995, the DSB agreed on procedures for renewing and maintaining the roster, and expanding it to include governmental experts. In response to a U.S. proposal, the DSB also adopted standards increasing and systematizing the information submitted by roster candidates. These modifications aid in evaluating candidates’ qualifications and encouraging the appointment of well-qualified candidates who have expertise in the subject matters of the Uruguay Round Agreements. In 2005, 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 2005.

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 to a dispute an opportunity to address potential material violations of these ethical standards. The coverage of the Rules of Conduct exceeds the goals established by Congress in section 123(c) of the URAA, which directed USTR to seek conflict of interest rules applicable to persons serving on panels and members of the Appellate Body. The Rules of Conduct cover not only panelists and Appellate Body members, but also: (1) arbitrators; (2) experts participating in the dispute settlement mechanism (e.g., the Permanent Group of Experts under the Subsidies 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. The names and biographical data for the Appellate Body members during 2005 are included in Annex II of this report.

The Appellate Body has also adopted Working Procedures for Appellate Review. On February 28, 1997, the Appellate Body issued a revision of the Working Procedures, providing for a two-year term for the first Chairperson, and one-year terms for subsequent Chairpersons. In 2001 the Appellate Body amended its working procedures to provide for no more than two consecutive terms for Chairperson. Mr. Lacarte-Muró, the first Chairperson, served until February 7, 1998; Mr. Beeby served as Chairperson from

February 7, 1998 to February 6, 1999; Mr. El-Naggar served as Chairperson from February 7, 1999 to February 6, 2000; Mr. Feliciano served as Chairperson from February 7, 2000 to February 6, 2001; Mr. Ehlermann served as Chairperson from February 7, 2001 to December 10, 2001; Mr. Bacchus served as Chairperson from December 15, 2001 to December 10, 2003; Mr. Abi-Saab served as Chairperson from December 13, 2003 to December 12, 2004; Mr. Taniguchi served as Chairperson from December 17, 2004 to December 16, 2005; and Mr. Ganesan's term as Chairperson runs from December 17, 2005 to December 16, 2006.

In 2005, the Appellate Body issued nine reports, of which six involved the United States as a party and are discussed in detail below. The remaining reports concerned the challenge of Australia, Brazil and Thailand to the EU's sugar subsidies; Honduras' challenge to the Dominican Republic's measures on cigarettes; and Brazil's and Thailand's challenge to the EU's tariff classification for frozen chicken. The United States participated in these proceedings as an interested third party.

Dispute Settlement Activity in 2005: During its first eleven years in operation, WTO Members filed 335 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, and 11 in 2005). During that period, the United States filed 70 complaints against other Members' measures and received 98 complaints on U.S. measures. Several of these complaints involved the same issues (4 U.S. complaints against others and 22 complaints against the United States). A number of disputes commenced in earlier years remained active in 2005. What follows is a description of those disputes in which the United States was either a complainant, defendant, or third party during the past year.

Prospects for 2006

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 2006, we expect that the DSB will 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 2006.

a. Disputes Brought by the United States

In 2005, 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 2005 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 ("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 arose as a result of Argentina's failure to fully implement its remaining TRIPS obligations as required on January 1, 2000. These concerns included 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 began July 17, 2000. On May 31, 2002, the United States and Argentina notified the DSB that a partial settlement of this dispute had been reached. Of the ten claims raised by the United States, eight were settled. The United States reserved its rights with respect to two remaining issues: protection of test data against unfair commercial use and the application of enhanced TRIPS Agreement rights to patent applications pending as of the entry into force of the TRIPS Agreement for Argentina (January 1, 2000). 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 reported that Brazil uses officially-established minimum reference prices both as a requirement to obtain import licenses and/or as a base requirement for import. In practice, this system works to prohibit the import 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—Measures relating to exports of wheat and treatment of imported grain (DS276)

On December 17, 2002, the United States requested consultations with Canada regarding trade in wheat. The United States challenged the wheat trading practices of the Canadian Wheat Board (CWB) as inconsistent with WTO disciplines governing the conduct of state-trading enterprises. The United States also challenged as unfair and burdensome Canada's requirements to treat imported grain differently than Canadian grain in the Canadian grain handling system, along with Canada's discriminatory policy that affects U.S. grain access to Canada's rail transportation system. Consultations were held January 31, 2003. The United States requested the establishment of a panel on March 6, 2003. The DSB established a panel on March 31, 2003. The Director-General composed the panel as follows: Ms. Claudia Orozco, Chair, and Mr. Alan Matthews and Mr. Hanspeter Tschaeni, Members. Following a preliminary procedural ruling, the DSB established a second panel on July 11, 2003, with the same panelists and the same schedule. In its report circulated on April 6, 2004, the panel found that Canada's grain handling system and rail transportation system discriminate against imported grain in violation of national treatment principles. However, the panel found that the United States failed to establish a claim that Canada violated WTO disciplines governing the conduct of state trading enterprises. The United States appealed the panel's findings related to state trading enterprises.

On August 30, 2004, the Appellate Body upheld the panel's findings on state trading enterprises. Canada did not appeal the panel's findings that Canada's grain handling and transportation systems discriminate against U.S. grain. The DSB adopted the panel and Appellate Body reports on September 27, 2004. Canada and the United States subsequently agreed to a reasonable period of time for implementation of the DSB's recommendations and rulings that ended on August 1, 2005.

Prior to the end of the reasonable period of time, Canada announced that it had remedied the discriminatory aspects of its grain handling and rail transportation systems.

China–Value-added tax on integrated circuits (DS309)

On March 18, 2004, the United States requested consultations with China regarding its value-added tax (VAT) on integrated circuits (ICs). While China provided for a 17 percent VAT on ICs, enterprises in China were entitled to a partial refund of the VAT on ICs that they have produced. Moreover, China allowed for a partial refund of the VAT for domestically-designed ICs that, because of technological limitations, were manufactured outside of China. As a result of the rebates, China appeared to be according less favorable treatment to imported ICs than it accorded to domestic ICs. China also appeared to be providing for less favorable treatment of imports from one WTO Member than another and discriminating against services and service suppliers of other Members. The United States considered these measures to be inconsistent with China's obligations under Articles I and III of the GATT 1994, the Protocol on the Accession of the People's Republic of China, and Article XVII of the General Agreement on Trade in Services (GATS). Consultations were held on April 27, 2004 in Geneva, and additional bilateral meetings were held in Washington and Beijing. On July 14, 2004, the United States and China notified the WTO of their agreement to resolve the dispute. Effective immediately, China no longer certified any new IC products or manufacturers for eligibility for VAT refunds, and China no longer offered VAT refunds that favored ICs designed in China. By April 1, 2005, China stopped providing VAT refunds on Chinese-produced ICs to current beneficiaries. Based on these developments, the United States and China notified the DSB on October 5, 2005, that they had reached a mutually satisfactory solution.

Egypt–Apparel tariffs (DS305)

On December 23, 2003, the United States requested consultations with Egypt regarding the duties that Egypt applied to certain apparel and textile imports. During the Uruguay Round, Egypt agreed to bind its duties on these imports (classified under HTS Chapters 61, 62 and 63) at rates of less than 50 percent (*ad valorem*) in 2003 and thereafter. The United States believed the duties that Egypt actually applied, on a "per article" basis, greatly exceeded Egypt's bound rates of duty. In January and September 2004, Egypt issued decrees applying *ad valorem* rates to these imports and setting the duty rates within Egypt's tariff bindings. Based on these developments and after reviewing the operation of the new decrees, Egypt and the United States agreed in May 2005 that a mutually satisfactory solution had been reached to the matter raised by the United States.

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 ("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 EC – 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.

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 biotech products (DS291)

On May 13, 2003, the United States filed a consultation request with respect to the EU's moratorium on all new biotech approvals, and bans of six member states (Austria, France, Germany, Greece, Italy and Luxembourg) on imports of certain biotech products previously approved by the EU. The United States asserted that the moratorium is not supported by scientific evidence, and the EU's refusal even to consider any biotech applications for final approval constitutes "undue delay." The national import bans of previously EU-approved products appear not to be based on sufficient scientific evidence. Consultations were held June 19, 2003. The United States requested the establishment of a panel on August 7, 2003, and the DSB established a panel on August 29, 2003.

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.

European Union—Selected customs matters (DS315)

On September 21, 2004, the United States requested consultations with the EU with respect to (1) lack of uniformity in the administration by EU member States of EU customs laws and regulations and (2) lack of an EU forum for prompt review and correction of member State customs determinations. On September 29, 2004, the EU accepted the U.S. request for consultations, and consultations were subsequently held on November 16, 2004. The panel was established on March 21, 2005. On May 27, 2005, the Director-General composed the panel as follows: Mr. Nacer Benjelloun-Touimi, Chair, and Mr. Mateo Diego-Fernandez and Mr. Hanspeter Tschani, Members.

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 Agreement on Subsidies and Countervailing Measures (Subsidies 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 February 13, 2004, the Deputy Director-General composed the panel as follows: Mr. Carlos Pérez del Castillo, Chair, and Mr. John Adank and Mr. Thinus Jacobsz, Members.

Japan—Measures Affecting the Importation of Apples (DS245)

On March 1, 2002, the United States requested consultations with Japan regarding Japan's measures restricting the importation of U.S. apples in connection with fire blight or the fire blight disease-causing organism, *Erwinia amylovora*. These restrictions included: the prohibition of imported apples from U.S. states other than Washington or Oregon; the prohibition of imported apples from orchards in which any fire blight is detected; the prohibition of imported apples from any orchard (whether or not it is free of fire blight) should fire blight be detected within a 500 meter buffer zone surrounding such orchard; the requirement that export orchards be inspected three times yearly (at blossom, fruitlet, and harvest stages) for the presence of fire blight for purposes of applying the above-mentioned prohibitions; a post-harvest surface treatment of exported apples with chlorine; production requirements, such as chlorine treatment of containers for harvesting and chlorine treatment of the packing line; and the post-harvest separation of apples for export to Japan from those apples for other destinations. Consultations were held on April 18, 2002, and a panel was established on June 3, 2002. The Director-General selected as panelists Mr. Michael Cartland, Chair, and Ms. Kathy-Ann Brown and Mr. Christian Haerberli, Members.

In its report issued on July 15, 2003, the panel agreed with the United States that Japan's fire blight measures on U.S. apples are inconsistent with Japan's WTO obligations. In particular, the panel found that: (1) Japan's measures are maintained without sufficient scientific evidence, inconsistent with Article 2.2 of the SPS Agreement; (2) Japan's measures cannot be provisionally maintained under Article 5.7 of the SPS Agreement (an exception to the obligation under Article 2.2); and (3) Japan's measures are not based on a risk assessment and so are inconsistent with Article 5.1 of the SPS Agreement. Japan appealed the panel's report on August 28, 2003. The Appellate Body issued its report on November 26, 2003, upholding panel findings that Japan's phytosanitary measures on U.S. apples, allegedly to protect against introduction of the plant disease fire blight, are inconsistent with Japan's WTO obligations. In particular, the Appellate Body upheld the three panel findings, detailed above, that Japan had appealed. The DSB adopted the panel and Appellate Body reports on December 10, 2003. Japan notified its intention to implement the recommendations and rulings of the DSB on January 9, 2004. Japan and the United States agreed that the reasonable period of time for implementation would expire on June 30, 2004.

On expiration of the reasonable period of time, Japan proposed revised measures which made limited changes to its existing measures, and which continued to include an orchard inspection and a buffer zone. On July 19, 2004, the United States requested the establishment of a DSU Article 21.5 compliance panel to evaluate Japan's revised measures. Simultaneously, the United States requested authorization to suspend concessions or other obligations under DSU Article 22.2 in an amount equal to \$143.4 million. Japan objected to this amount on July 29, 2004, referring the matter to arbitration. The parties suspended the arbitration pending completion of the compliance proceeding. The compliance panel was established on July 30, 2004. The original three panelists agreed to serve on the compliance panel. The panel issued its final report on June 23, 2005, finding Japan's revised measure in breach of Articles 2.2, 5.1 and 5.6 of the SPS Agreement. The DSB adopted the compliance panel report on July 20, 2005.

On August 25, 2005, Japan issued revised regulations eliminating its unnecessary and unjustified measures on U.S. apples, including among other things orchard inspections, buffer zones, and the surface disinfection of apple fruit. On August 30, 2005, the United States and Japan informed the DSB that they had reached a mutually agreed solution to the dispute.

Accordingly, the United States withdrew its Article 22.2 request to suspend concessions and other obligations to Japan, and Japan withdrew its Article 22.6 request for arbitration regarding the proposed level of suspension of concessions.

Mexico—Measures affecting telecommunications services (DS204)

II. The World Trade Organization| 79

On August 17, 2000, the United States requested consultations with Mexico regarding its commitments and obligations under the GATS with respect to basic and value-added telecommunications services. The U.S. consultation request covered a number of key issues, including the Government of Mexico's failure to: (1) maintain effective disciplines over the former monopoly, Telmex, which is able to use its dominant position in the market to thwart competition; (2) ensure timely, cost-oriented interconnection that would permit competing carriers to connect to Telmex customers to provide local, long-distance, and international service; and (3) permit alternatives to an outmoded system of charging U.S. carriers above-cost rates for completing international calls into Mexico. Prior to such consultations, which were held on October 10, 2000, the Government of Mexico issued rules to regulate the anti-competitive practices of Telmex (Mexico's major telecommunications supplier) and announced significant reductions in long-distance interconnection rates for 2001. Nevertheless, given that Mexico still had not fully addressed U.S. concerns, particularly with respect to international telecommunications services, on November 10, 2000, the United States filed a request for establishment of a panel as well as an additional request for consultations on Mexico's newly issued measures. Those consultations were held on January 16, 2001. The United States requested the establishment of a panel on March 8, 2002. The panel was established on April 17, 2002. On August 26, 2002, the Director-General appointed as Chairperson Mr. Ulrich Petersmann, and Mr. Raymond Tam and Mr. Björn Wellenius as panelists.

On April 2, 2004, the panel released its final report, siding with the United States on most of the major claims in this dispute. Specifically, the panel found that: (1) Mexico breached its commitment to ensure that U.S. carriers can connect their international calls to Mexico's major supplier, Telmex, at cost-based rates; (2) Mexico breached its obligation to maintain appropriate measures to prevent its dominant carrier from engaging in anti-competitive practices, by granting Telmex the exclusive authority to negotiate the rate that all Mexican carriers charge U.S. companies to complete calls originating in the United States; and (3) Mexico breached its obligations to ensure that U.S. carriers operating within Mexico can lease lines from Mexican carriers (and thereby provide services on a resale basis). The panel concluded, however, that Mexico may prohibit U.S. carriers from using leased lines in Mexico to complete calls originating in the United States.

Mexico did not appeal the panel report, which the DSB adopted on June 1, 2004. At that DSB meeting, Mexico and the United States informed the DSB that they had reached agreement on the steps required to implement the panel report. Mexico and the United States subsequently agreed that the reasonable period of time for implementation of the DSB's recommendations and rulings would expire on July 1, 2005.

In August 2004, Mexico modified its international telecommunications rules to allow the competitive negotiation of international interconnection rates, and in July 2005 Mexico enacted new rules to allow the resale of international and long distance services. Based on these developments, the United States and Mexico informed the DSB on August 31, 2005, that Mexico had taken the steps required under their agreement.

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 Agreement on Subsidies and Countervailing Measures, 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 WTO Agreement on Subsidies and Countervailing Measures.

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.

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 the General Agreement on Tariffs and Trade 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.

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 appears 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.

Venezuela–Import Licensing Measures on Certain Agricultural Products (DS275)

On November 7, 2002, the United States requested consultations with Venezuela concerning its import licensing systems and practices that restrict agricultural imports from the United States. The United States considers that Venezuela's discretionary import licensing regime appears to be inconsistent with the Agreement on Agriculture, the TRIMS Agreement, and the Import Licensing Agreement. The United States held consultations with Venezuela on November 26, 2002.

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 2005 in which the United States was a defendant.

United States–Foreign Sales Corporation (“FSC”) tax provisions (DS108)

The EU challenged the FSC provisions of the U.S. tax law, claiming that the provisions constitute prohibited export subsidies and import substitution subsidies under the Subsidies Agreement, and that they violate the export subsidy provisions of the Agreement on Agriculture. A panel was established on September 22, 1998. On November 9, 1998, the following panelists were selected, with the consent of the parties, to review the EU claims: Mr. Crawford Falconer, Chairman; Mr. Didier Chambovey and Mr. Seung Wha Chang, Members. The panel found that the FSC tax exemption constitutes a prohibited export subsidy under the Subsidies Agreement, and also violates U.S. obligations under the Agreement on Agriculture. The panel did not make findings regarding the FSC administrative pricing rules or the EU's import substitution subsidy claims. The panel recommended that the United States withdraw the subsidy by October 1, 2000. The panel report was circulated on October 8, 1999 and the United States filed its notice of appeal on November 26, 1999. The Appellate Body circulated its report on February 24, 2000. The Appellate Body upheld the panel's finding that the FSC tax exemption constitutes a prohibited export subsidy under the Subsidies Agreement, but, like the panel, declined to address the FSC administrative pricing rules or the EU's import substitution subsidy claims. While the Appellate Body reversed the panel's findings regarding the Agreement on Agriculture, it found that the FSC tax exemption violated provisions of that Agreement other than the ones cited by the panel.

The panel and Appellate Body reports were adopted on March 20, 2000, and on April 7, 2000, the United States announced its intention to respect its WTO obligations. On November 15, 2000, the President signed legislation that repealed and replaced the FSC provisions, but the EU claimed in further panel proceedings that the new legislation failed to bring the United States into compliance with its WTO obligations.

In anticipation of a dispute over compliance, the United States and EU reached agreement in September 2000 on the procedures to review U.S. compliance with the WTO recommendations and rulings. Pursuant to a request approved by the WTO, the deadline for U.S. compliance was changed from October 1, 2000, as recommended by the panel, to November 1, 2000. The procedural agreement also outlined certain procedural steps to be taken after passage of U.S. legislation to replace the FSC. The essential feature of the agreement provided for sequencing of WTO procedures as follows: (1) a panel would determine the WTO-consistency of FSC replacement legislation (the parties retained the right to appeal); (2) only after the appeal process was exhausted would arbitration over the appropriate level of retaliation be conducted if the replacement legislation was found WTO-inconsistent. Pursuant to the procedural agreement, on November 17, the EU requested authority to impose countermeasures and suspend concessions in the amount of \$4.043 billion. On November 27, the United States objected to this amount, thereby referring the matter to arbitration, which was then, suspended pending a review of the legislation's WTO-consistency. On December 7, the EU requested establishment of a panel to review the legislation, and the panel was reestablished for this purpose on December 20, 2000. In a report circulated on August 20, 2001, the panel found that the FSC Repeal and Extraterritorial Income Exclusion Act of 2000 (ETI Act) does not bring the United States into conformity with its WTO obligations. The United States appealed the panel ruling on October 15, 2001. On January 14, 2001, the Appellate Body affirmed the findings of the panel. On January 29, 2002, the panel and Appellate Body reports were adopted, and the suspended arbitration to determine the amount of concessions was reactivated, with the original panelists serving as the arbitration panel pursuant to the procedural agreement. The arbitration panel circulated its report on August 30, 2002, and found that the EU was entitled to impose trade sanctions in the amount of \$4.043 billion. On May 7, 2003, the DSB granted the EC authorization to suspend concessions consistent with the decision of the arbitrator. On December 8, 2003, the Council of the EU adopted Council Regulation (EC) No. 2193/2003, which provided for the graduated imposition of sanctions. These sanctions took effect on March 1, 2004.

On October 22, 2004, the President signed the American Jobs Creation Act of 2004 (AJCA). The AJCA repealed the FSC/ETI regime and, consistent with standard legislative practice regarding major tax legislation, contained a transition provision and a "grandfather" provision for pre-existing binding contracts. On November 5, 2004, the EU requested consultations regarding the transition and grandfather provisions. Consultations took place on January 11, 2005. On January 31, 2005, the EU published a regulation that suspended the sanctions with effect from January 1, 2005. The EU requested establishment of a panel on January 13, 2005, and the DSB established a panel on February 17. On May 2, the Director-General selected Mr. Germain Denis to replace Mr. Crawford Falconer as chairman, Mr. Falconer having earlier indicated that he was no longer able to serve on the panel. On September 30, 2005, the panel issued its report, finding that the AJCA maintains prohibited FSC and ETI subsidies through its transition and grandfathering provisions, and that the United States has therefore not fully brought its measures into conformity with its obligations under the relevant covered agreements.

The United States appealed the report on November 14, 2005.

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 is 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 United States' 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-B-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 to the WTO 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 1999, 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, the Department of 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. A panel was established at the EU's request on September 10, 2001. In its panel request, the EU challenged 12 separate 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 Subsidies 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 Subsidies 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 twelve 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 the 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, 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 redo 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.

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 USC § 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. 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 Subsidies 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 Subsidies Agreements. The United States prevailed against the complainants' claims under the Antidumping and Subsidies 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 Subsidies 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 Subsidies 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 Subsidies 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, 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 has 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 nine 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.

United States–Countervailing duties on certain carbon steel products from Brazil (DS218)

On December 21, 2000, Brazil requested consultations with the United States regarding U.S. countervailing duties on certain carbon steel products from Brazil, alleging that Commerce’s “change in ownership” (or “privatization”) methodology, which was ruled inconsistent with the WTO Subsidies Agreement when applied to leaded steel products from the United Kingdom, violates the Subsidies Agreement as it was applied by the United States in this countervailing duty case. Consultations were held on January 17, 2001.

United States–Antidumping duties on seamless pipe from Italy (DS225)

On February 5, 2001, the EU requested consultations with the United States regarding antidumping duties imposed by the United States on seamless line and pressure pipe from Italy, complaining about the final results of a “sunset” review of that antidumping order, as well as the procedures followed by Commerce generally for initiating “sunset” reviews pursuant to Section 751 of the Tariff Act of 1930 and 19 CFR §351. The EU alleges that these measures violate the Antidumping Agreement. Consultations were held on March 21, 2001.

United States–Calculation of dumping margins (DS239)

On September 18, 2001, the United States received from Brazil a request for consultations regarding the *de minimis* standard as applied by Commerce in conducting reviews of antidumping orders, and the practice of “zeroing” (or, not offsetting “dumped” sales with “non-dumped” sales) in conducting investigations and reviews.

Brazil submitted a revised request on November 1, 2001, focusing specifically on the antidumping duty order on silicon metal from Brazil. Consultations were held on December 7, 2001.

United States–Final countervailing duty determination with respect to certain softwood lumber from Canada (DS257)

On May 3, 2002, Canada requested consultations with the United States regarding Commerce’s final countervailing duty determination concerning certain softwood lumber from Canada. Among other things, Canada challenged the evidence upon which the investigation was initiated, claimed that Commerce imposed countervailing duties against programs and policies that are not subsidies and are not “specific” within the meaning of the Subsidies Agreement, and that Commerce failed to conduct its

investigation properly. Consultations were held on June 18, 2002, and a panel was established at Canada's request on October 1, 2002.

The panel was composed of Mr. Elbio Rosselli, Chair, and Mr. Weislaw Karsz and Mr. Remo Moretta, Members. In its report, circulated on August 29, 2003, the panel found that the United States acted consistently with the Subsidies Agreement and GATT 1994 in determining that the programs at issue provided a financial contribution and that those programs were "specific" within the meaning of the Subsidies Agreement. It also found, however, that the United States had calculated the benefit incorrectly and had improperly failed to conduct a "pass-through" analysis to determine whether subsidies granted to one producer were passed through to other producers. The United States appealed these issues to the Appellate Body on October 21, 2003, and Canada appealed the "financial contribution" issue on November 5.

On January 19, 2004, the Appellate Body issued a report finding in favor of the United States in all key respects. The Appellate Body reversed the panel's unfavorable finding with respect to the rejection of Canadian prices as a benchmark; upheld the panel's favorable finding that the provincial governments' provision of low-cost timber to lumber producers constituted a "financial contribution" under the Subsidies Agreement; and reversed the panel's unfavorable finding that Commerce should have conducted a "pass-through" analysis to determine whether subsidies granted to one lumber company were passed through to other lumber companies through the sale of subsidized lumber. The Appellate Body's only finding against the United States was that Commerce should have conducted such a pass-through analysis with respect to the sale of logs from harvester/sawmills to unrelated sawmills.

The DSB adopted the panel and Appellate Body reports on February 17, 2004. The United States stated its intention to implement the DSB recommendations and rulings on March 5, 2004. On December 17, 2004, the United States informed the DSB that Commerce had revised its countervailing duty order, thereby implementing the DSB's recommendations and rulings.

Following a request by Canada, on January 14, 2005, the DSB established an Article 21.5 compliance panel to review the new Commerce determination. Canada also requested authorization to suspend concessions or other obligations pursuant to Article 22.2 of the DSU, in the amount of C\$200,000,000. The United States objected to this level, referring the matter to arbitration. The parties agreed to request that the arbitration be suspended pending completion of the compliance proceeding.

On August 1, 2005, the compliance panel issued a report finding deficiencies in Commerce's implementation with respect to both the revised determination of subsidies and the first assessment review.

On September 6, the United States appealed the panel's inclusion of the first assessment review in the compliance proceeding. On December 5, 2005, the Appellate Body upheld that aspect of the panel report. The DSB adopted the panel and Appellate Body reports on December 20, 2005.

United States–Sunset reviews of antidumping and countervailing duties on certain steel products from France and Germany (DS262)

On July 25, 2002, the EU requested consultations with the United States with respect to antidumping and countervailing duties imposed by the United States on imports of corrosion-resistant carbon steel flat products ("corrosion resistant steel") from France and Germany, and on imports of cut-to-length carbon steel plate ("cut-to-length steel") from Germany. Consultations were held on September 12, 2002.

United States–Final dumping determination on softwood lumber from Canada (DS264)

On September 13, 2002, Canada requested WTO dispute settlement consultations concerning the amended final determination by Commerce of sales at less than fair value with respect to certain softwood lumber from Canada, along with the antidumping duty order with respect to imports of the subject products. Canada alleged that Commerce’s initiation of its investigation concerning the subject products, as well as aspects of its methodology in reaching its final determination, violated the GATT 1994 and the Antidumping Agreement. Consultations were held on October 11, 2002. On December 6, 2002, Canada requested establishment of a panel, and the DSB established the panel on January 8, 2003. On February 25, 2003, the parties agreed on the panelists, as follows: Mr. Harsha V. Singh, Chairman, and Mr. Gerhard Hannes Welge and Mr. Adrian Makuc, Members. In its report, the panel rejected Canada’s arguments: (1) that Commerce’s investigation was improperly initiated; (2) that Commerce had defined the scope of the investigation (i.e., the “product under investigation”) too broadly; and (3) that Commerce improperly declined to make certain adjustment based on difference in dimension of products involved in particular transactions compared. The panel also rejected Canada’s claims on company-specific calculation issues. The one claim that the panel upheld was Canada’s argument that Commerce’s use of “zeroing” in comparing U.S. price to normal value was inconsistent with Article 2.4.2 of the Antidumping Agreement.

On May 13, 2004, the United States filed a notice of appeal regarding the “zeroing” issue. Canada cross-appealed with respect to two company-specific issues (one regarding the allocation of costs to Abitibi, and the other regarding the valuation of an offset to cost of production for Tembec). The Appellate Body issued its report on August 11, 2004. The report upheld the panel’s findings on “zeroing” and the Tembec issue. It reversed a panel finding regarding the Abitibi issue concerning interpretation of the term “consider all available evidence” in Article 2.2.1.1 of the Antidumping Agreement; however, it declined to complete the panel’s legal analysis. The panel and Appellate Body reports were adopted at the August 31, 2004 DSB meeting. The United States and Canada agreed that the reasonable period of time for implementation in this dispute would expire on April 15, 2005. On February 14, 2005, by mutual agreement between the United States and Canada, the reasonable period of time was extended to May 2, 2005.

On May 2, 2005, Commerce issued a revised antidumping determination in which it established the existence of dumping using the transaction-to-transaction comparison methodology, rather than the average-to-average methodology found to be inconsistent by the panel. On May 19, 2005, Canada challenged the measure taken to comply under Article 21.5 of the DSU.

Also on that date, Canada sought recourse to Article 22.2 of the DSU. On May 31, 2005, the United States objected to the level of suspension of concessions proposed by Canada pursuant to Article 22.2 and, accordingly, the matter was referred to arbitration under Article 22.6 of the DSU. On June 10, 2005, the United States and Canada jointly asked that the Article 22.6 arbitration be suspended pending conclusion of the Article 21.5 proceeding.

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 Subsidies Agreement, Article 19 of the Antidumping Agreement, and Article 4 of the DSU. The Brazilian consultation request on U.S. support measures that benefit upland cotton claimed that these alleged subsidies and measures are inconsistent with U.S. commitments and obligations under the Subsidies Agreement, the Agreement on Agriculture, and the GATT 1994. Consultations were held on December 3, 4 and 19 of 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 Dariusz Rosati of Poland, Chair, Daniel Moulis of Australia and Mario Matus of Chile, 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 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 certain administrative changes relating to its export credit guarantee programs. 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 the amount of \$3 billion. 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 6, 2005, Brazil made a separate request for authorization to impose countermeasures and suspend concessions in the amount of \$1.04 billion per year in connection with the "serious prejudice" findings. The United States objected to Brazil's request on October 17, 2005, and that matter was also referred to arbitration. On November 21, 2005, the United States and Brazil agreed to suspend the arbitration.

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. 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, thus bringing the United States into compliance with the recommendations and rulings of the DSB.

United States–Investigation of the U.S. International Trade Commission in softwood lumber from Canada (DS277)

On December 20, 2002, Canada requested consultations concerning the May 16, 2002 determination of the USITC that imports of softwood lumber from Canada, which Commerce found to be subsidized and sold at less than fair value, threatened an industry in the United States with material injury. Canada alleged that flaws in the USITC's determination caused the United States to violate various aspects of the GATT 1994, and the Antidumping and Subsidies Agreements.

Consultations were held January 22, 2003. Canada requested the establishment of a panel on April 3, 2003, and the DSB established a panel on May 7, 2003. On June 19, 2003, the Director-General composed the panel as follows: Mr. Hardeep Singh Puri, Chairman, and Mr. Paul O'Connor and Ms. Luz Elena Reyes De La Torre, Members. In its report circulated on March 22, 2004, the panel agreed with Canada's principal argument was that the USITC's threat determination was not supported by a reasoned and adequate explanation, and agreed with Canada that the USITC had failed to establish that imports threaten to cause injury. However, the panel: (1) declined Canada's request to find violations of certain overarching obligations under the Antidumping and Subsidies Agreements; (2) rejected Canada's argument that a requirement that an investigating authority take "special care" is a stand-alone obligation; (3) rejected Canada's argument that the USITC was obligated to identify an abrupt change in circumstances; (4) agreed with the United States that, where the Antidumping and Subsidies Agreements required the USITC to "consider" certain factors, the USITC was not required to make explicit findings with respect to those factors; (5) and rejected Canada's argument that the United States violated certain provisions of the applicable agreements that pertain to present material injury. The DSB adopted the panel report on April 26, 2004.

At the May 19, 2004 meeting of the DSB, the United States stated its intention to implement the rulings and recommendations of the DSB. On November 24, 2004, the USITC issued a new threat determination, finding that the U.S. lumber industry was threatened with material injury by reason of dumped and subsidized lumber from Canada. On December 13, Commerce amended the antidumping and countervailing duty orders to reflect the issuance and implementation of the new USITC determination.

At the January 25, 2005 DSB meeting, the United States announced that it had come into compliance with the DSB's recommendations and rulings. Canada sought recourse to Article 21.5 of the DSU, and an Article 21.5 panel was established on February 25, 2005. The panel was composed on March 2, 2005, consisting of the same members as the original panel. Canada also sought recourse to Article 22 of the DSU. The United States objected to the level of concessions that Canada proposed to suspend, and the matter was referred to arbitration under Article 22.6. The Article 22.6 arbitration was suspended pending the outcome of the Article 21.5 proceeding.

In its report circulated on November 15, 2005, the Article 21.5 panel rejected Canada's claim that the USITC's threat determination was not supported by evidence and analysis such that an objective and unbiased investigating authority could have made that determination.

United States–Countervailing duties on steel plate from Mexico (DS280)

On January 21, 2003, Mexico requested consultations on an administrative review of a countervailing duty order on carbon steel plate in sheets from Mexico.

Mexico alleges that Commerce used a WTO-inconsistent methodology – the “change-in-ownership” methodology – to determine the existence of countervailable benefits bestowed on a Mexican steel producer. Mexico alleges inconsistency with various articles of the Subsidies Agreement. Consultations were held April 2-4, 2003. Mexico requested the establishment of a panel on August 4, 2003, and the DSB established a panel on August 29, 2003.

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.

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 challenges 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.

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.

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

On March 13, 2003, Antigua & Barbuda 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 & Barbuda from lawfully offering gambling and betting services in the United States. Consultations were held on April 30, 2003.

Antigua & Barbuda 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 & Barbuda, 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 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 needs to clarify an issue concerning Internet gambling on horse racing.

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

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.

United States–Countervailing duty investigation on dynamic random access memory semiconductors (DRAMs) from Korea (DS296)

On June 30, 2003, Korea requested consultations regarding determinations made by Commerce and the USITC in the countervailing duty investigation on DRAMS from Korea, and related laws and regulations. Consultations were held August 20, 2003. Korea requested further consultations on August 18, 2003, which were held October 1, 2003. Korea requested the establishment of a panel on November 19, 2003. The panel request covered only the Commerce and USITC determinations made in the DRAMS investigation. The DSB established a panel on January 23, 2004.

On March 5, 2004, the Director-General composed the panel as follows: H. E. Mr. Hardeep Puri, Chair, and Mr. John Adank and Mr. Michael Mulgrew, Members. On February 21, 2005, the panel found that certain aspects of the Commerce and USITC determinations were inconsistent with provisions of the Subsidies Agreement.

On March 29, 2005, the United States appealed the portion of the panel report dealing with the Commerce determination. On June 27, the Appellate Body issued its report in which it reversed the findings of the panel. The DSB adopted the Appellate Body report and the panel report (as modified by the Appellate Body) on July 20. On August 3, the United States informed the DSB of its intent to implement the panel's adverse finding regarding the USITC determination.

The United States and Korea agreed that the reasonable period of time for implementation in this dispute will expire on March 8, 2006.

United States–Determination of the International Trade Commission in hard red spring wheat from Canada (DS310)

On April 8, 2004, Canada requested consultations regarding the USITC's determination on hard red spring wheat. In its request, Canada alleged that the United States has violated Article VI:6(a) of the GATT 1994 and various articles of the Antidumping and Subsidies Agreements. Canada alleged that these violations stemmed from certain errors in the USITC's determination. In particular, Canada claims that the USITC: (1) failed "to properly examine the effect of the dumped and subsidized imports on prices in the domestic market for like products;" (2) failed "to properly examine the impact of the dumped and subsidized imports on domestic producers of like products;" (3) failed "to properly demonstrate a causal relationship between the dumped and subsidized imports and material injury to the domestic industry;" (4) failed "to properly examine known factors other than dumping and subsidizing that were injuring the domestic industry;" and (5) attributed to the dumped and subsidized imports the injuries caused by other factors. Consultations were held on May 6, 2004. On June 11, 2004, Canada requested the establishment of a panel, the United States objected, and Canada made but withdrew a second panel request.

United States–Reviews of countervailing duty on softwood lumber from Canada (DS311)

On April 14, 2004, Canada requested consultations concerning what it termed "the failure of the United States Department of Commerce (Commerce) to complete expedited reviews of the countervailing duty order concerning certain softwood lumber products from Canada" and "the refusal and failure of Commerce to conduct company-specific administrative reviews of the same countervailing duty order." Canada alleged that the United States had acted inconsistently with several provisions of the Subsidies Agreement and with Article VI:3 of the GATT 1994. Consultations were held on June 8, 2004.

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 Subsidies 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 PeZa and Mr. David Unterhalter, Members.

United States–Section 776 of the Tariff Act of 1930 (DS319)

On November 5, 2004, the EU requested consultations with the United States with respect to the “facts available” provision of the U.S. dumping statute and the Department of Commerce’s dumping order on Stainless Steel Bar from the United Kingdom.

The EU claims that both the statutory provision on adverse facts available and Commerce’s determination and order are inconsistent with various provisions of the Antidumping Agreement and the GATT 1994. Consultations were held on January 11, 2005 and May 20, 2005.

United States–Continued suspension of obligations in the EC - 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 EC – 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. 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) the Department of 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. On April 15, 2005, the Director-General composed the panel as follows: David Unterhalter, Chair, and Simon Farbenbloom and Jose Antonio Buencamino, Members.

United States–Provisional antidumping measures on shrimp from Thailand (DS324)

On December 9, 2004, Thailand requested consultations with respect to Commerce’s imposition of provisional antidumping duties on certain frozen and canned warmwater shrimp from Thailand. Specifically, Thailand has alleged that Commerce’s use of a “zeroing” methodology is inconsistent with Article 2.4 of the Antidumping Agreement. Thailand also has alleged that Commerce’s resort to “adverse facts available” in calculating normal value for one Thai producer violates provisions of Article 6 and Annex II of the Antidumping Agreement; and that Commerce’s alleged failure to make due allowances for certain factors in its calculations for the Thai exporters violates Article 2.4 of the Antidumping Agreement.

United States–Antidumping determinations regarding stainless steel from Mexico (DS325)

On January 5, 2005, 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 February 4, 2005.

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.

I. Trade Policy Review Body

Status

The Trade Policy Review Body (TPRB), a subsidiary body of the General Council, was created by the Marrakesh Agreement Establishing the WTO to administer the Trade Policy Review Mechanism (TPRM). The TPRM is a valuable resource for improving the transparency of Members’ trade and investment regimes and in ensuring adherence to WTO rules. The TPRM examines national trade policies of each Member on a schedule designed to cover the full WTO Membership on a frequency determined by trade volume. The process starts with an independent report by the WTO Secretariat on the trade policies and practices of the Member under view.

This Member works closely with the Secretariat to provide relevant information for the report. The Secretariat report is accompanied by another report prepared by the government undergoing the review. Together these reports are discussed by the WTO Membership in a TPRB session. At this session, the Member under review will discuss the report and answer questions on its trade policies and practices. The express purpose of the review process is to strengthen Members observance of WTO provisions and contribute to the smoother functioning of the multilateral trading system. A number of Members have remarked that the preparations for the review are helpful in improving their own trade policy formulation and coordination. The current process reflects improvements to streamline the TPRM and gives it broader coverage and greater flexibility. Reports cover the range of WTO agreements including goods, services, and intellectual property and are available to the public on the WTO’s web site at www.wto.org. Documents are filed on the site’s Document Distribution Facility under the document symbol “WT/TPR.”

Major Issues in 2005

During 2005, the TPRB reviewed the trade regimes of Bolivia, Ecuador, Egypt, Guinea, Jamaica, Japan, Mongolia, Nigeria, Paraguay, The Philippines, Qatar, Romania, Sierra Leone, Trinidad and Tobago, and Tunisia. This group included two least-developed country (LDC) Members and five Members reviewed for the first time. As of the end of 2005, the TPRM had conducted 212 reviews, covering 123 out of 148 Members (counting the EU as twenty-five) and representing almost 90 percent of world trade.

Reviews emphasized the macroeconomic and structural context for trade policies, including the effects of economic and trade reforms, transparency with respect to the formulation and implementation of trade

policy, and the current economic performance of Members under review. Another important issue has been the balance between multilateral, bilateral, regional and unilateral trade policy initiatives.

Closer attention has been given to the link between Members' trade policies and the implementation of WTO Agreements, focusing on Members' participation in particular Agreements, the fulfillment of notification requirements, the implementation of TRIPS, the use of antidumping measures, government procurement, state-trading, the introduction by developing countries of customs valuation methods, the adaptation of national legislation to WTO requirements, and technical assistance.

In the history of the TPRB, 23 of the WTO's 32 least-developed country Members have been reviewed. For least-developed countries, the reports represent the first comprehensive analysis of their commercial policies, laws and regulations and have implications and uses beyond the meeting of the TPRB.

The TPRB's report to the Singapore Ministerial Conference recommended greater attention be paid to LDCs in the preparation of the TPRB timetable, and a 1999 appraisal of the operation of the TPRM also drew attention to this matter. Trade Policy Reviews of LDCs have increasingly performed a technical assistance function and have been useful in broadening the understanding of LDC's trade policy structure. These reviews tend to enhance understanding of WTO Agreements, enabling better compliance and integration in the multilateral trading system. In some cases, the TPR has facilitated better interaction between government agencies. The TPRM's comprehensive coverage of trade policies also enables Members to identify shortcomings in specific areas where further technical assistance may be required.

The review process for an LDC now includes a multi-day seminar for its officials on the WTO and, in particular, the trade policy review exercise and the role of trade in economic policy; such seminars were held in 2005 for the review process of Guinea and Sierra Leone. Similar exercises have been conducted in Belize, Benin, Burkina Faso, The Gambia, Mali, Rwanda, and Suriname. The Secretariat Report for an LDC review includes a section on technical assistance needs and priorities with a view to feeding this into the Integrated Framework process. The seminars and the technical assistance involve close cooperation between LDCs and the WTO Secretariat. This cooperation continues to respond more systematically to technical assistance needs of LDCs.

Annex III of the GATT 1994 recommends that Members review periodically the operation of the TPRM. WTO Members conducted the second such appraisal of the TPRM in 2005. With the goal of improving substantive discussion during reviews, Members agreed to advance deadlines for circulation of the Secretariat and Government Reports and submission of Member questions to the country under review by one week. To increase transparency, Members also agreed to publish the findings of the review within three months of the review date. Members decided to conduct a further appraisal of the TPRM within two years after the conclusion of the Sixth Ministerial Conference.

Prospects for 2006

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. The 2006 program schedules 20 Members for review, including Angola, Argentina, Bangladesh, China, Chinese Taipei, Congo, Djibouti, Hong Kong China, Iceland, Israel, Kenya, Kyrgyz Republic, Malaysia, Nicaragua, Tanzania, Togo, Uganda, United Arab Emirates, the United States, and Uruguay. Angola, China, Chinese Taipei, Congo, Djibouti, Kyrgyz Republic, and the United Arab Emirates will undergo their first Reviews. Six Members – Angola, Bangladesh, Djibouti, Guinea, Tanzania, Togo, and Uganda – are LDCs.

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. Following the Fourth Ministerial Conference at Doha concluded in November 2001, the CTE in Regular Session continued discussion of many important issues with a focus on those identified in the Doha Declaration, including market access associated with environmental measures, TRIPS and environment, and labeling for environmental purposes under paragraph 32; capacity-building and environmental reviews under paragraph 33; and discussion of the environmental aspects of Doha negotiations under paragraph 51. These issues identified in the Doha Declaration are separate from those that are subject to specific negotiating mandates and that are being taken up by the CTE in Special Session.

Major Issues in 2005

In 2005, the CTE met in Regular Session (CTERS) three times. In general, Members have been less active in meetings of the CTERS, given the increased work load and intensified negotiating schedule of the CTE in Special Session. That said, the United States has continued its active role in CTERS 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 national experience sharing, particularly with respect to market access issues for developing countries. Attention was also given to specific sectors, including illegal logging. The CTE heard information regarding a Sub-regional Workshop on Environmental Requirements and Market Access for Electrical and Electronic Goods held in Thailand in May 2005, as well as other work underway by UN Conference on Trade and Development.
- **TRIPS and 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 of further discussions under this agenda item include studying the impacts, 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 demonstrate a considerably lower level of interest. Most Members continued to question the rationale for singling out environmental labeling for special consideration separate from ongoing work in the Committee on Technical Barriers to Trade on labeling more generally.

- **Capacity Building and Environmental Reviews under Doha Paragraph 33:** Many developing country Members stressed the importance of benefiting from technical assistance related to negotiations in the WTO 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 Committee of its trade and environment technical assistance activities undertaken in 2005 and planned for the year 2006.

- **Discussion of Environmental Effects of Negotiations under Doha Paragraph 51:** The highlight under this item was a WTO Symposium on Trade and Sustainable Development held in October 2005. The symposium brought together international experts on issues such as fisheries and agricultural subsidies. Representatives included the World Bank, OECD and UNEP. 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 negotiations on Agriculture, Market Access for Non-agricultural Products, WTO Rules and on 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 2006

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 the next year.

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, it 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 countries into the trading system, technical cooperation and training, commodities, market access in products of interest to developing countries, and the special concerns of the least developed countries, 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 implementation or operation of a specific agreement. Since Doha and the establishment of the Doha Development Agenda (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 countries, reliance on a narrow export base, coherence in the work of the World Bank, the IMF and the WTO, the WTO's technical assistance and capacity building activities, and sustainable development goals. Work in the Sub-Committee on LDCs and the Dedicated Session on Small Economies has identified challenges faced by LDCs in their WTO accession processes and the special characteristics of small, vulnerable economies, including island and landlocked states.

Major Issues in 2005

Following on work of the CTD in the Dedicated Session (CTD-DS) in 2004 and early 2005 to identify the unique characteristics and problems of Small Economies in the trading system, in mid-2005 the proponents of this work requested a change in focus in the work of the Dedicated Session. Specifically, the proponents requested that the CTD-DS monitor the progress of their proposals recently submitted in the negotiating and other bodies.

The work of the CTD in 2005 focused primarily on the development aspects of the ongoing negotiations under the DDA, and considered presentations on a wide range of traditional and non-traditional issues in the trade and development nexus.

These issues included commodity dependence; the role of electronic commerce and regional trade agreements in development; and the growth of developing country participation in the global economy. In the discussions on the development aspects of the DDA, notable interventions by several developing country Members emphasized that while flexibilities afforded through Special and Differential Treatment were important, developing countries needed to seek greater participation in world trade, greater market access and less trade barriers in the negotiations.

Outlook for 2006

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, particularly into developed countries' markets, is expected to continue. On commodities, in contrast to the positive experiences of those Members that have been able to successfully diversify their export bases examined by the CTD in 2005, the CTD is expected to review case studies of developing country Members that have not successfully met the challenge of export diversification.

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 2005

During 2005, no Member imposed new balance-of-payments restrictions. The BOP Committee held two meetings during the year, in April and July. At the April meeting, the Chairman reviewed the status on the two outstanding implementation issues relating to balance of payments issues. As part of the work program agreed at Doha, BOP Committee Members continued to consider proposals by delegations and certain suggestions provided by the Chair to clarify the respective roles of the IMF and BOP Committee in balance of payment proceedings. The BOP Committee did not arrive at a consensus on implementation issues in 2005.

Prospects for 2006

Should other Members resort to new BOP measures, WTO rules require a thorough program of consultation with this Committee. We expect the BOP Committee to continue to ensure that BOP provisions are used as intended to address legitimate problems through the imposition of temporary, price-based measures.

4. Committee on Budget, Finance and Administration

Status

The Committee on Budget, Finance and Administration (the “Budget Committee”) is responsible for establishing and presenting the budget for the WTO Secretariat to the General Council for approval. The Committee meets throughout the year to address the financial requirements of the organization. In 2003, the WTO moved to a biennial budget process. Under this new approach, Members agreed in December 2005 on the WTO’s second biennial budget, covering 2006 and 2007. As envisaged in the decision establishing biennial budgeting, toward the end of 2006 the Secretariat may propose adjustments to the 2007 budget to take into account unforeseen and uncontrollable developments. As is the practice in the WTO, decisions on budgetary issues are taken by consensus of the Members.

The United States is an active participant in the Budget Committee. The total assessments of WTO Members are based on the share of WTO Members’ trade in goods, services, and intellectual property, and the United States, as the Member with the largest share of such trade, also makes the largest contribution to the WTO budget. For the 2006 budget, the U.S. contribution is 15.410 percent of the total budget assessment, or Swiss Francs (CHF) 26,767,170 (about \$20.5 million).

Details on the WTO’s budget required by Section 124 of the Uruguay Round Agreements Act are provided in Annex II. Reflecting the move to a biennial budget process, Annex II contains consolidated budget data for both 2006 and 2007.

Major Issues in 2005

- *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 began in 2005 and will continue through the 2006-2007 biennium.
- *Critical Review of the Structure of the WTO Secretariat*: The Director General has indicated that he intends to initiate 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.
- *Policy on the Use of Temporary Assistance*: In December 2004, the Budget Committee endorsed a new policy on the use of temporary assistance. The new policy is designed to enhance the control of long term costs to the WTO by ensuring that temporary assistance is used for truly temporary needs and does not lead to uncontrolled long term obligations. In December 2005, the General Council approved decisions marking the final phase of the process of putting in place the controls to ensure that these objectives are met.
- *New WTO Annex*: In July 2005, the General Council agreed to increase the authorized funding for construction of the new WTO Annex to Swiss Francs 60 million, 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 will replace temporary facilities that have been needed to house those staff and functions that do not fit in the main building. Construction is expected to begin in summer 2006.

Prospects for 2006

The Budget Committee will be regularly consulted and kept informed of all aspects concerning the formulation and implementation of the restructuring plan. The Committee will also actively follow the implementation of the Security Enhancement Program and the Director General's new human resources reform program.

5. Committee on Regional Trade Agreements

Status

The Committee on Regional Trade Agreements (CRTA or Committee), 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 by the Uruguay Round Agreements, and considering the systemic implications of such agreements and regional initiatives on the multilateral trading system. Prior to 1996, these reviews were typically conducted by a "working party" formed to review a specific agreement.

The WTO addresses regional trade agreements in more than one agreement. In the GATT 1947, Article XXIV is the principal provision governing Free Trade Areas (FTAs), Customs Unions (CUs), and interim

agreements leading to an FTA or CU. 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 countries. The Uruguay Round added three more provisions: the Understanding on the Interpretation of Article XXIV, which clarifies and enhances the requirements of GATT Article XXIV; and Article 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. Second, duties and other restrictions of commerce applied to third countries upon the formation of a CU must not, on the whole, be higher or more restrictive than was the case before the agreement. For an FTA, no duties or restrictions may be higher than was the case previously. Finally, while interim agreements leading to FTAs or CUs are permissible, transition periods to full FTAs or CUs should exceed ten years only in exceptional cases.

With respect to the formation of a CU, the parties must notify Members to negotiate compensation to other Members for exceeding their WTO bindings with market access concessions. 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 CU or FTA may not exclude *a priori* any mode of supply from the agreement.

As with agreements on goods, any barriers or restrictions to trade in services applicable to third parties 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 2005

As of 30 September 2005, 334 RTAs have been notified to the GATT/WTO. Of the notified agreements, 183 are currently in force. Of these RTAs, 130 are GATT Article XXIV agreements; 22 are Enabling Clause agreements; and 31 are GATS Article V agreements.

During 2005, the Committee held two sessions. The Committee has currently under examination a total of 141 agreements, of which 110 are in the area of trade in goods and 31 in trade in services. Forty four RTAs are currently undergoing factual examination, while for 48 RTAs, the Committee has not yet started the factual examination. For the remaining 49 RTAs the factual examination has concluded; no progress was made, however, on the completion of the corresponding examination reports due to lack of consensus on the content of each report with respect to assessment of WTO consistency.

During its 40th Session in July 2005, in accordance with the modified Chairman’s Guidelines on Procedures to Improve and Facilitate the Examination Process, the Committee for the first time made use of a factual presentation prepared by the Secretariat as the basis for the examination of an RTA. On October 4, at the invitation of the Chairman of the Negotiating Group on Rules (the WTO Body responsible for “clarifying and improving” the rules governing RTAs under the Doha Development Agenda, discussed above), the Chairman of the CRTA presented an assessment of the exercise to the Group. He indicated that the factual presentation, which had been well received by delegations, had significantly helped Members in their review exercise and had made a positive contribution to the process of transparency.

In February 2005, the CRTA reviewed the U.S.-Chile and U.S.-Singapore FTAs. Japan, Australia, the EU, Malaysia, Switzerland and Korea were among the delegations that sought additional information in the review of the U.S.-Chile FTA. Questions addressed such issues as the coverage of the FTA, TRQ fill rates, the length of the transition periods, rules of origin on goods re-entered after repair or alteration, safeguards, relationship to the WTO TRIPs Agreement, and the schedule of commitments in relation to the Parties' commitments under the GATS. In the review of the U.S.-Singapore FTA, Australia, the EU, Japan, and Switzerland raised questions addressing, *inter alia*, TRQ fill rates; asymmetrical liberalization (Singapore did not have a transition period for its tariff elimination); export restrictions on unprocessed timber; the Integrated Sourcing Initiative and goods from Indonesia; safeguards; government procurement; and the schedule of commitments in relation to the Parties' commitments under the GATS.

In September, 2005, the United States filed its Biennial Report on the Operation of the United States-Israel Free Trade Agreement.

Prospects for 2006

During 2006, the Committee will continue to review regional trade agreements notified to the WTO and referred to the Committee. The CRTA is scheduled to conduct a second round of reviews of the United States -Chile, the United States-Singapore and the United States-Jordan FTAs in January, 2006; it may also discuss the Biennial Report on the United States-Israel FTA. The United States-Australia FTA is expected to be reviewed in the CRTA's meeting in mid-2006.

6. Accessions to the World Trade Organization

Status

By the end of 2005, there remained twenty-eight accession applicants with established Working Parties; about one-third of them were least-developed countries (LDCs).¹⁷ Saudi Arabia completed its accession and became the 149th WTO Member on December 11, in time to attend the Sixth Ministerial Conference in Hong Kong as a Member. Tonga also completed its accession process, but must ratify the accession package before officially accepting the WTO Agreement. The General Council accepted the withdrawal of the application of the state union of Serbia and Montenegro and established separate Working Parties for the Accession of the Republic of Montenegro and the Republic of Serbia as separate customs territories. In May, the General Council also approved the applications of Iran and Sao Tome and Principe to begin accession negotiations and established their Working Parties.

First sessions of Working Parties (composed of all interested WTO Members) convened for Serbia and for Montenegro, conducting the initial review of the information submitted by these applicants on their separate foreign trade regimes. The Working Parties of Algeria, Belarus, Bhutan, Tajikistan, Uzbekistan and Yemen continued to review the trade regimes of the respective applicants, and all have initiated market access negotiations. Working Party meetings for Cape Verde, Kazakhstan, Russia, Saudi Arabia, Tonga, Ukraine and Vietnam, had a different character, as these accessions were either nearing completion or approaching an advanced stage where the draft Working Party report (WPR) text, including

¹⁷ There are ten LDCs pursuing WTO accession at this time. Negotiations are ongoing with Bhutan, Cape Verde, Laos, Samoa, Sudan, and Yemen. Afghanistan, Ethiopia and Sao Tome and Principe have not yet activated their accessions by providing descriptions of their trade regimes. Vanuatu has not finalized the package approved by its Working Party in 2001.

Protocol commitments, is under negotiation and domestic legislative implementation of WTO rules is underway.

Six of the twenty-eight applicants (primarily the most recent applicants) have not yet submitted initial descriptions of their trade regimes. They are Afghanistan, Bahamas, Ethiopia, Libya, Iran, and Sao Tome and Principe. The Working Parties of Andorra and Seychelles remained dormant. Six more, the Working Parties for Azerbaijan, Bosnia and Herzegovina, Laos, Lebanon, Samoa, and Sudan, did not meet in 2005. Iraq submitted its Memorandum on the Foreign Trade Regime, and at the very end of 2005, Samoa submitted revised market access requests to restart its accession negotiations. Working Party meetings are contemplated for most of those countries during 2006. Accession applicants are welcome in all WTO formal meetings as observers. Equatorial Guinea is a WTO observer that has not yet sought accession.¹⁸ The chart included in Annex II reports the current status of each accession negotiation.

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. It is widely recognized that 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 expanded market access opportunities and to address outstanding trade issues in a multilateral context.

In a typical accession negotiation, the applicant submits an application to the WTO General Council, which establishes a Working Party to review information on the applicant's trade regime and to conduct the negotiations. 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 make necessary legislative changes to implement WTO institutional and regulatory requirements, to eliminate existing WTO-inconsistent measures, and to make trade liberalizing specific commitments on market access for industrial and agricultural goods, and services. Most accession applicants take these actions prior to accession. When addressing LDC accession applications, Members are guided by the simplified and streamlined procedures developed for these countries at the end of 2002, using the accession process as a tool for economic development. The protocols of accession developed under these guidelines reflect both the goal of full implementation of WTO rules and the need to address realistically the difficulties faced by LDCs in achieving that objective.

The terms of accession developed with Working Party members in these bilateral and multilateral negotiations are recorded in an accession "protocol package" consisting of a Working Party report 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 to the General Council or Ministerial Conference for approval. After General Council approval, accession applicants normally

¹⁸ The Holy See is a permanent observer, and will not apply for accession.

submit the package to their domestic authorities for ratification. Thirty days after the applicant's instrument of ratification is received in Geneva, WTO Membership becomes effective.

The United States takes a leadership role in all aspects of the accessions, including bilateral, plurilateral, and multilateral negotiations. The objective is to ensure a high standard of implementation of WTO provisions by new Members 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.

The 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, Estonia, Georgia, Jordan, Kyrgyz Republic, Latvia, Lithuania, Macedonia, Moldova, and Nepal. Most of these countries had U.S.-provided resident experts for some portion of the process.

Among current accession applicants, the United States provides a resident WTO expert for the accessions of Azerbaijan, Cape Verde, Ethiopia, Iraq, Montenegro, Serbia, and Ukraine; in addition a U.S.-funded WTO expert resident in the Kyrgyz Republic provides WTO accession assistance to Kazakhstan, Tajikistan, and Uzbekistan.

The United States also offers other forms of technical and expert support on WTO accession issues to Afghanistan, Algeria, Bosnia and Herzegovina, Lebanon, Russia, and Vietnam.

Major Issues in 2005

As in 2004, Members focused a great deal of attention on the accessions of countries that had credibly demonstrated through their negotiating positions and domestic efforts to implement WTO-consistent legislation that they were prepared to work towards completion of the accession process. These countries included Cape Verde, Kazakhstan, Russia, Saudi Arabia, Ukraine, Tonga, and Vietnam. Completion of Saudi Arabia and Tonga accessions required consolidation of many individual bilateral market access agreements, and careful development of their Protocol commitments and Working Party report texts. Russia, Ukraine, and Vietnam all established a fast pace of work, and declared their intent to finish work by the end of 2005. While this goal was not achieved, a great deal of progress was made, including with the United States towards bilateral market access agreements. Efforts to enact legislation to implement the WTO in domestic law in each of those three countries were accelerated, to keep pace with progress in the Working Party on development of the draft report and Protocol of Accession. Cape Verde, which has LDC status through 2007, completed its market access negotiations with most WTO Members in 2005, and its WPR and protocol are in the last stages of development.

Kazakhstan minimized the time spent in Working Party meetings in Geneva (only one formal and one informal Working Party meeting and some plurilaterals during 2005) and focused instead on legislative implementation and intensive bilateral work with interested Working Party Members on market access and protocol commitments. The results of this strategy will be circulated to WTO Members early in 2006, in the form of revised market access offers, legislative texts, and WPR text.

Members are interested in accelerating the accession process of LDCs, and in making WTO accession more accessible to them. Discussions continued in various WTO fora, including during the Hong Kong Ministerial, on how the WTO guidelines on LDC accessions, now three years old, are being implemented. Using the guidelines, WTO Members exercise restraint in seeking market access concessions, and are pledged 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 technical assistance to help achieve them, using the framework of commitments established in the accession as a development tool--an opportunity to mainstream trade in the development programs of the LDC applicants, to build trade capacity, and to provide a better economic environment for investment and growth.

Prospects for 2006

It is clear that the accessions of Cape Verde, Kazakhstan, Russia, Ukraine, and Vietnam will receive priority efforts in 2006, despite the fact that the Doha Development Agenda has entered a decisive phase and will engage an increasing share of WTO Members' time and resources during the year. All applicants must maximize opportunities for progress given the competition for Members' resources and meeting times and venues at the WTO. Efforts to advance the accessions of LDCs will also continue.

K. Plurilateral Agreements

1. Committee on Trade in Civil Aircraft

The Agreement on Trade in Civil Aircraft ("Aircraft Agreement") concluded in 1979, is a plurilateral agreement. The Aircraft Agreement is part of the WTO Agreements; however, it is in force only for those WTO Members that have accepted it.

The Aircraft Agreement requires Signatories to the Aircraft Agreement ("Signatories") to eliminate tariffs on civil aircraft, their engines, subassemblies and parts, and ground flight simulators and their components, and to provide these benefits on a nondiscriminatory basis to other Members covered by the Aircraft Agreement. The Signatories have also provisionally agreed to 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.

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.

As of January 1, 2006, there were 30 Signatories to the Aircraft Agreement. Those Signatories are: Austria, Belgium, Bulgaria, Canada, Chinese Taipei, Egypt, Estonia, the European Communities¹⁹, Denmark, France, Georgia, Germany, Greece, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Macau, Malta, the Netherlands, Norway, Portugal, Romania, Spain, Sweden, Switzerland, the United Kingdom, and the United States.

Major Issues in 2005

During 2005, the Aircraft Committee met on one occasion. The Aircraft Committee continued to consider proposals to revise terminology in the Aircraft Agreement to conform with the Uruguay Round agreements; “end use” customs administration, including a proposal from Canada concerning the definition of “civil” and “military” aircraft based on initial certification; and enlargement of the European Union and Article 9 of the Agreement.

Prospects for 2006

The United States will continue to encourage observers²⁰ and other WTO Members to become Signatories to the Aircraft Agreement, including Oman, Albania and Croatia, which committed to become Signatories pursuant to their protocols of WTO accession.

2. Committee on Government Procurement

Status

The WTO Government Procurement Agreement (GPA) is a “plurilateral” agreement included in Annex 4 to the WTO Agreement. As such, it is not part of the WTO’s single undertaking and its membership is limited to WTO Members that specifically signed the GPA in Marrakesh or that have subsequently acceded to it. WTO Members are not required to join the GPA, but the United States strongly encourages all WTO Members to participate in this important Agreement. Thirty-eight WTO Members are covered by the Agreement: the United States; the European Union and its 25 Member States (Austria, Belgium, Czech Republic, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom); the Netherlands with respect to Aruba; Canada; Hong Kong, China; Iceland; Israel; Japan; Liechtenstein; Norway; the Republic of Korea; Singapore; and Switzerland.

Nine WTO Members are in the process of acceding to the GPA: Albania, Bulgaria, Chinese Taipei, Georgia, Jordan, the Kyrgyz Republic, Moldova, Oman, and Panama. Five additional WTO Members have provisions in their respective Protocols of Accession to the WTO regarding accession to the GPA: Armenia, China, Croatia, the Republic of Macedonia, and Mongolia.

¹⁹ At the June 2004 meeting of the Committee on Trade in Civil Aircraft, the representative from the European Communities announced that the ten countries that had become members of the European Union on 1 May 2004 were automatically linked by the Agreement on Trade in Civil Aircraft Agreement by means of the extension of the territory of the European Union. However, six of the ten countries (Poland, Hungary, Czech Republic, Slovenia, Cyprus, and Slovak Republic) have not deposited an instrument of accession to the Agreement.

²⁰ The observers include Argentina, Australia, Bangladesh, Brazil, Cameroon, China, Colombia, Gabon, Ghana, India, Indonesia, Israel, Korea, Mauritius, Nigeria, Oman, Singapore, Sri Lanka, Trinidad and Tobago, Tunisia and Turkey.

Twenty WTO Members, including those in the process of acceding to the GPA, have observer status in the Committee on Government Procurement: Albania, Argentina, Armenia, Australia, Bulgaria, Cameroon, Chile, China, Chinese Taipei, Colombia, Croatia, Georgia, Jordan, the Kyrgyz Republic, Moldova, Mongolia, Oman, Panama, Sri Lanka, and Turkey.

Major Issues in 2005

Article XXIV: 7 of the GPA calls for negotiations to expand market access under the GPA, as well as to improve the Agreement. During 2005, the WTO Committee on Government Procurement (GPA Committee) held five meetings (in March, June, July, October, and December), in which it focused primarily on the revision of the GPA text. The revision of the text is aimed at streamlining and modernizing the GPA, reflecting the use of advanced technologies, and promoting increased membership in the GPA by making it more accessible to non-Parties. The United States has played a principal role in advocating significant streamlining and clarification of the GPA's procedural requirements, while continuing to ensure full transparency and predictable market access. During 2005, the Committee made significant progress in its revision of the text of the Agreement.

GPA Article XXIV: 7(c) calls for the Parties to undertake negotiations with a view to achieving the greatest possible extension of its coverage among all Parties and eliminating remaining discriminatory measures and practices.

Following the exchange of requests for improvements in the coverage of the Parties, the Committee set a deadline of the Hong Kong Ministerial (December 13-18, 2005) for the exchange of offers. The United States and the European Communities tabled their initial offers in accordance with the deadline; the other GPA Parties are expected to submit their offers early in 2006.

Israel agreed to reduce the level of its offsets to 28 percent on January 1, 2006 and to offer compensatory adjustments in the form of expanded coverage of services and to reduce its threshold for construction services from 8.5 million Special Drawing Rights (SDRs) to 5 million SDRs, which is the threshold applied by all the other GPA Parties, except Japan and Korea. Israel also agreed to negotiate a schedule for the reduction of its offsets in the upcoming market access negotiations.

Prospects for 2006

In 2006, the Committee will hold five meetings with the aim of completing the revision of the text of the GPA and the market access negotiations to expand GPA coverage. It is anticipated that the completion of the GPA negotiations will coincide with the end of the Doha Round in 2006.

The Committee plans to hold informal plurilateral consultations with Jordan and Georgia as part of efforts to advance their respective accessions to the GPA. In 2006, the Committee will also continue its review of the legislation of the Netherlands with respect to Aruba.

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. The Agreement eliminated tariffs as of January 1, 2000 on a wide range of information technology products. Currently, the ITA has 68 participants representing more than 95 percent of world trade in information technology products.²¹ The Agreement covers computers and computer equipment, electronic components including semiconductors, computer software products, telecommunications equipment, semiconductor manufacturing equipment and computer-based analytical instruments.

Major Issues in 2005

The WTO Committee on the Expansion of Trade in Information Technology Products held three formal meetings in 2005, during which the Committee reviewed the implementation status of the Agreement. While most participants have fully implemented tariff commitments, a few countries are still awaiting the completion of domestic procedural requirements or have not yet submitted the necessary documentation. Work in the Committee in 2005 focused primarily on the admission of new participants as well as reconciliation of classification divergences of ITA products. The Kingdom of Saudi Arabia, Honduras, Nicaragua, and Guatemala circulated schedules of commitments and were approved for Membership by the Committee in 2005. The Committee membership also appointed a new Chairperson, Simon Chan of Hong Kong, China, in 2005.

The Committee also continued its work on the Non-Tariff Measures (NTMs) Work Programme. The Chair of the Committee reported to the Chair of the Negotiating Group on Market Access on the ITA Committee's ongoing work on NTMs. With regard to conformity assessment for ITA products, the Committee also approved Guidelines for EMC/EMI Conformity Assessment Procedures.

The Committee also continued to examine classification differences on ITA products. During 2005, ITA Participants held three discussions on 20 products for which a specific question on classification was posed to the Committee.

Prospects for 2006

Committee participants will continue to determine whether there are other non-tariff measures that should be examined and how work on non-tariff measures in the ITA context can be coordinated with the Doha negotiations. Building on the success of the October 2004 Symposium, participants will continue to discuss how to address some of the issues discussed in that forum, specifically (1) how to pursue tariff liberalization for new technologies in the context of the ITA and the Doha Development Agenda and (2) how to broaden developing country participation in the ITA. As a result, a number of ITA Participants are also active in discussions on a potential sectoral initiative for electronics and electrical products in the

²¹ ITA participants are: Albania; Australia; Austria; Bahrain; Belgium; Bulgaria; Canada; China; Costa Rica; Croatia; Cyprus; Czech Republic; Denmark; Egypt; El Salvador; Estonia; European Communities (on behalf of 25 Member States); Finland; France; Georgia; Germany; Greece; Guatemala, Hong Kong, China; Honduras, Hungary; Iceland; India; Indonesia; Ireland; Israel; Italy; Japan; Jordan; Republic of Korea; Krygyz Republic; Latvia; Liechtenstein; Lithuania; Luxembourg; Macau, China; Malaysia; Malta; Mauritius; Moldova; Morocco; Netherlands; New Zealand; Nicaragua, Norway; Oman; Panama; Philippines; Poland; Portugal; Romania; Kingdom of Saudi Arabia; Singapore; Slovak Republic; Slovenia; Spain; Sweden; Switzerland; Chinese Taipei; Thailand; Turkey; United Kingdom; and the United States.

Doha round. Participants will also continue to work on reconciling divergent tariff classifications for ITA products with an aim to narrow the list of products under discussion. Throughout 2006, the Committee will continue to undertake its mandated work, including reviewing new applicants' tariff schedules for ITA participation and addressing further technical classification issues.

III. BILATERAL AND REGIONAL NEGOTIATIONS

A. Free Trade Agreements

1. Australia

The United States-Australia Free Trade Agreement (FTA) entered into force on January 1, 2005. Increased access to Australia's market under the FTA is already boosting trade in both goods and services, which will improve employment opportunities in both countries. In the past year, U.S. exports to Australia have increased by \$1.6 billion. U.S. goods imports from Australia totaled 7.5 billion in 2005, a 17.6 percent increase (\$1.1 billion) from 2003, and up 136 percent since 1994. Two-way annual goods and services trade is nearly \$31 billion, an increase of approximately 50 percent since 1994. Australia purchases more goods from the United States than from any other country. In 2004, the United States enjoyed a bilateral goods and services trade surplus of \$9.4 billion.

Manufactured goods currently account for 93 percent of the total value of U.S. goods exports to Australia. When the FTA entered into force, duties on more than 99 percent of tariff lines covering industrial and consumer goods were eliminated. Duties on remaining manufactured goods will be phased out over the next 10 years. The FTA brought immediate benefits to key U.S. manufacturing sectors, including autos and autos parts; chemicals, plastics, and soda ash; construction equipment; electrical equipment and appliances; fabricated metal products; furniture and fixtures; information technology products; medical and scientific equipment; non-electrical machinery; and paper and wood products. The Agreement also mandated elimination of many non-tariff barriers that previously restricted or distorted trade flows.

The FTA achieves a balanced approach for agriculture, providing expanded export opportunities for a range of U.S. agricultural goods, while responding to U.S. import sensitivities. Duties on all U.S. agricultural exports to Australia were eliminated immediately upon entry into force of the Agreement. U.S. duties are maintained on Australian sugar and certain dairy products. In addition, for certain products imported from Australia, including beef, dairy, cotton, peanuts and certain horticultural products, the Agreement includes other mechanisms, such as preferential tariff-rate quotas and safeguards. The Agreement also established a new forum for scientific cooperation between U.S. and Australian authorities, which met for the first time in 2005, to address specific bilateral animal and plant health matters based on science and with a view to facilitating trade.

Under the FTA, services suppliers enjoy the benefits of expanded Australian commitments for access to its market. U.S. financial service suppliers already have a significant presence in the Australian market through subsidiaries, joint ventures and branches, and Australia agreed to provide new rights for life insurance branching. In addition, Australia and the United States agreed to high standards for regulatory transparency, including procedures applying to licensing systems.

The FTA also establishes a secure, predictable legal framework for U.S. investors operating in Australia. All U.S. investment in new businesses is exempted from screening under Australia's Foreign Investment Review Board. Thresholds for acquisitions by U.S. investors in nearly all sectors are raised significantly, from A\$50 million to A\$800 million (to be adjusted annually), exempting the vast majority of transactions from screening.

Australia also has locked in existing good practice regarding the review of acquisitions in the banking and insurance sectors. Government-to-government dispute settlement procedures are available to resolve investment-related disputes.

The FTA includes other key elements. On electronic commerce, this is the first Agreement to include provisions on facilitating authentication of electronic signatures, encouraging paperless trade and establishing a program for cooperation on other electronic commerce issues. Regarding intellectual property rights, the FTA complements and enhances existing international standards for the protection of intellectual property and the enforcement of intellectual property rights, consistent with U.S. law. In addition, under the FTA's government procurement provisions, U.S. suppliers have been granted non-discriminatory rights to bid on contracts to supply Australian Government entities, including all major procuring entities and administrative and public bodies. The FTA requires that tendering procedures are conducted in a transparent, predictable, and fair manner. The Agreement also proscribes anticompetitive business conduct, sets out basic procedural safeguards and rules against harmful conduct by government-designated monopolies, and establishes special rules covering state enterprises to deter abuse that may harm the interests of U.S. companies or discriminate in the sale of goods and services.

The FTA contains innovative provisions relating to public health and pharmaceuticals, whereby the United States and Australia affirmed their commitment to several basic principles related to their shared objectives of facilitating high quality health care and improvements in public health. The FTA also requires that federal health care programs apply transparent procedures in listing new pharmaceuticals for reimbursement. In addition, the two countries established a Medicines Working Group to promote discussion and understanding of pharmaceutical issues. Australia has begun establishing and maintaining procedures to enhance transparency and accountability in the listing and pricing of pharmaceuticals under its Pharmaceutical Benefits Scheme, and is in the final stages of setting up an independent review process for listing decisions.

2. Morocco

In April 2002, President Bush and King Mohammed VI agreed to pursue a Free Trade Agreement (FTA) between the United States and Morocco and on June 15, 2004, the two countries signed an Agreement. The U.S. Congress subsequently ratified 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 U.S. - Morocco FTA is a comprehensive agreement and is an important part of the Administration's effort to promote more open and prosperous Middle Eastern societies. The FTA will support the significant economic and political reforms underway in Morocco, and create improved commercial and market opportunities for U.S. exports to Morocco by reducing and eliminating trade barriers. This FTA is the first to be ratified and entered into force under the President's Middle East Free Trade Area (MEFTA) initiative, and is an important step towards forming the MEFTA by 2013.

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 the first nine months of 2005, the United States has already exported more to Chile than it did in all of 2004. From January to September 2005, the U.S. sent \$3.89 billion in exports to Chile, while in all of 2004 U.S. exports to Chile totaled \$3.61 billion and 2003 exports totaled \$2.72 billion. U.S. imports from Chile continue to grow as well. U.S. imports from Chile in the January-September 2005 period totaled \$4.70 billion, which neared the \$4.73 billion imported from Chile in all of 2004 and clearly surpassed the \$3.71 billion imported in 2003.

Especially telling are figures comparing trade in 2005 to trade in 2003, before the FTA took effect. U.S. exports to Chile in the first nine months of 2005 totaled \$3.89 billion, nearly double the \$1.98 billion exported to Chile in the first nine months of 2003. This growth surpasses the 26 percent increase in U.S. exports to the world and the 40 percent increase in U.S. exports to Central and South America and the Caribbean in the first nine months of 2005 compared to the same time period in 2003. U.S. imports from Chile grew from \$2.82 billion in the first nine months of 2003 to \$4.70 billion in the first nine months of 2005, an increase of 67 percent.

U.S. construction equipment exports rose 147 percent in the first nine months of 2005 compared to the same time period in 2003, increasing from \$167.5 million to \$414.3 million. Medical equipment exports grew from \$50.3 million to \$80.6 million (60 percent increase), agricultural equipment exports grew from \$7.5 million to \$16.8 million (124 percent increase) and paper exports grew from \$34.1 million to \$63.2 million (85 percent increase) when comparing the first nine months of 2003 to the first nine months of 2005. A majority of the top categories of goods at the HS four-digit level exported from the United States to Chile also showed impressive increases.

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 anti-competitive business conduct, and requires effective labor and environmental enforcement.

Deputy U.S. Trade Representative Susan C. Schwab and Director General Carlos Furche held the second meeting of the United States-Chile Free Trade Commission in December 2005. They reviewed various aspects of the implementation of the FTA. The Agreement provides for the creation of a number of specialized committees to resolve problems, exchange information, and promote trade. The Ministers concluded that good progress was being made in establishing those groups and in other technical aspects of implementation. For example, the United States-Chile FTA Sanitary and Phytosanitary Committee is providing a forum to resolve several outstanding issues in order to allow U.S. agricultural exporters to benefit from FTA tariff reductions.

During 2005, the United States and Chile held a series of meetings on implementation of Chile's FTA obligations in the area of intellectual property, specifically data protection. Several reports from the pharmaceutical industry have indicated that safety and efficacy information submitted for the approval of pharmaceutical products may not be adequately protected from unfair competition in Chile. The United States will continue to work with the Chilean government toward 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. The first Labor Affairs Council meeting under the FTA was held in Santiago on December 15-16, 2004. 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, and U.S. methodologies for collecting and using labor data in policy making; and a training seminar for Chilean labor judges in Chile conducted by DOL Administrative Law Judges in the context of the International Seminar on the Modernization of the Labor Justice system held in Santiago in September of 2005.

4. Singapore

The United States-Singapore Free Trade Agreement, the first comprehensive U.S. FTA with an Asian nation, entered into force on January 1, 2004.

Singapore is our 12th largest trading partner, with two-way trade of goods and services exceeding \$40 billion in 2005. The provisions of the United States-Singapore FTA build on the WTO and NAFTA and make important advances in many key areas. Most tariffs were eliminated immediately upon entry into force of the Agreement, with the remaining tariffs phased out over a 3-year-to-10-year period. More than 97 percent of U.S.-Singapore trade in goods is now free of duty. The FTA chapters cover trade in goods, rules of origin, customs administration, textiles and apparel, technical barriers to trade, safeguards, services, telecommunications, financial services, temporary entry, competition policy, government procurement, investment, intellectual property, electronic commerce, customs cooperation, transparency, labor and environment, and dispute settlement.

Trade grew during the first two years of the FTA. On an annualized basis, U.S. exports to Singapore grew by more than ten percent, while U.S. imports from Singapore grew by more than four percent. There have been significant increases in U.S. exports of aerospace equipment; agriculture equipment; auto parts; construction equipment; chemicals, including plastics, cosmetics, rubber and pharmaceuticals; metals; medical equipment and travel goods.

Three sectors in particular have had significant increases in exports from the United States over the first two years of the FTA, including an 89 percent increase (valued at \$356 million) in exports of aerospace equipment, an 88 percent increase (valued at \$150 million) in exports of chemicals, and a 59 percent increase (valued at \$330 million) in exports of construction equipment.

The FTA provides strong disciplines in the most competitive U.S. services sectors. U.S. firms now enjoy improved market access, a more transparent regulatory environment and non-discriminatory treatment across a wide range of services, including financial services (banking, insurance, securities and related services), computer and related services, direct selling, telecommunications services, audiovisual services, construction and engineering, tourism, advertising, express delivery, professional services (architects, engineers, accountants, etc.), distribution services (such as wholesaling, retailing and franchising), adult education and training services, environmental services, and energy services.

The FTA has other important features. It provides a secure legal environment for U.S. investors operating in Singapore, explicit guarantees on the treatment of electronic commerce and digital products, enhanced protection for intellectual property, specific commitments regarding the conduct of Singapore's government enterprises, and commitments to strong and transparent disciplines on government procurement procedures. The Agreement also includes strong and transparent rules of origin, firm commitments to combat illegal transshipments of all traded goods and to prevent circumvention for textiles and apparel, and requirements to ensure effective enforcement of domestic labor and environmental laws. An innovative enforcement mechanism includes monetary assessments to enforce commercial, labor, and environmental obligations of the FTA.

Implementation of the provisions of the agreement has proceeded during 2005 largely according to the time frames contemplated in the FTA. Singapore has made changes to a wide variety of laws to implement its commitments and has sought public comment on its draft legislation. U.S. industries were particularly interested in Singapore's intellectual property and competition legislation and provided comments to the Singapore Government on its drafts. Extensive government-to-government discussions were held in 2004 and 2005, culminating in passage of amendments to the Singapore Copyright Act in August 2005.

5. Jordan

The United States and Jordan continued their efforts in 2005 to help their business communities take advantage of the opportunities afforded by 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 an extensive United States-Jordanian collaboration in economic relations. Close economic cooperation between the two countries began in earnest with joint efforts on Jordan's accession to the World Trade Organization (WTO) in 2000. The United States and Jordan continue to work together closely in the WTO, particularly on issues of special concern to developing nations. 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.

These measures have played a significant role in boosting United States-Jordanian economic ties. In 1998, U.S. imports of goods from Jordan totaled only \$16 million. By 2004, U.S. goods imports had increased to \$1.1 billion, a total that Jordan appeared likely to pass in 2005. In 2004, U.S. goods exports to Jordan were \$552 million, up 12 percent from 2003. As of November 2005 U.S. exports to Jordan totaled \$580 million, surpassing the total for the entire previous year.

6. Israel

2005 marked the 20th anniversary of the 1985 U.S.-Israel FTA, the first FTA signed by the United States. The agreement continues to serve as a foundation for the expanding trade and investment relationship between the United States and Israel. Israel is currently the United States' 21st largest goods trading partner with \$23.7 billion in total two way goods trade during 2004.

Bilateral trade in goods appeared likely to rise in 2005 with the total in November 2005 amounting to \$23.2 billion, a 7 percent increase over the same period in 2004. Trade in services with Israel (exports and imports) totaled \$4.1 billion in 2003 (the latest data available). The FTA has helped foster significant investment between the two countries, as well. Total U.S. foreign direct investment (FDI) in Israel was \$6.2 billion in 2003 (latest data available), a 10.2 percent increase from 2002, and was concentrated in the manufacturing sector. Israel's FDI in the United States was \$3.8 billion in 2003 (latest data available), up 3.6 percent from 2002. Israeli direct investment in the United States is focused in the manufacturing, and banking sectors.

The Joint Committee process established under the FTA remains a key mechanism through which the United States and Israel identify specific measures to strengthen bilateral trade ties. As discussed in Chapter III, section E, the two countries engaged in extensive efforts in 2005 to address issues affecting the access of U.S. firms to the Israeli market in such important areas as intellectual property protection, government procurement and standards.

7. Central America and the Dominican Republic

The United States began free trade negotiations with five Central American countries (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua) in January 2003 and concluded negotiations with all nations except Costa Rica in December 2003.

The United States concluded negotiations with Costa Rica in January 2004, and later that year, the Central American countries engaged in negotiations with the Dominican Republic to integrate that country into the free trade agreement. On August 5, 2004, the seven countries signed the Dominican Republic – Central America – United States Free Trade Agreement (CAFTA-DR).

To date all countries except Costa Rica have ratified the agreement. The United States is in the process of working with the CAFTA-DR partners on implementation of the Agreement. CAFTA-DR expands economic freedom and opportunity for all people, and supports regional stability, democracy and economic development. El Salvador was the first CAFTA-DR partner to ratify the Agreement, followed by Honduras, Guatemala, the Dominican Republic, and Nicaragua.

The resulting free trade agreement (FTA) with Central America and the Dominican Republic (CAFTA-DR) is the first FTA between the United States and a group of smaller developing economies. The CAFTA-DR is a regional trade agreement among all seven signatories, and will contribute to the transformation of a region that was consumed by internal strife and border disputes just a decade ago. 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 countries and further regional integration. The CAFTA-DR will not ease U.S. immigration laws and regulations.

Central America and the Dominican Republic make up the second largest U.S. export market in Latin America, behind only Mexico. The CAFTA-DR nations covered by this agreement buy more than \$15 billion in U.S. exports annually. In 2004, combined total two-way trade between the United States and the countries of Central America and the Dominican Republic was \$33.4 billion.

Throughout the negotiations, U.S. officials consulted closely with Congress, industry representatives, and labor and environmental groups to ensure the FTA advanced U.S. interests and reflected the goals contained in the Trade Act of 2002. President Bush notified Congress of his intent to enter into an FTA with Central America on February 20, 2004. On March 25, 2004, President Bush formally notified Congress of his intent to enter into an FTA with the Dominican Republic.

On August 5, 2004, U.S. Trade Representative Robert B. Zoellick signed the CAFTA-DR, which integrated the five Central American countries and the Dominican Republic into a single agreement.

During the summer of 2005, the U.S. Congress passed CAFTA-DR, sending a powerful signal to the region and the world that the United States would continue to lead in opening markets and leveling the playing field worldwide.

Under the CAFTA-DR, more than 80 percent of U.S. consumer and industrial goods will enjoy tariff-free access to Central America and the Dominican Republic immediately upon entry into force, with remaining tariffs phased out over 10 years.

Key U.S. exports, such as yarns and fabrics, information technology products, agricultural and construction equipment, paper products, chemicals, and medical and scientific equipment, will gain immediate duty-free access to Central America and the Dominican Republic.

Virtually all Central American and Dominican nonagricultural goods will receive immediate duty-free access to the U.S. market.

More than half of current U.S. farm exports to Central America and the Dominican Republic will become duty-free immediately, including high quality cuts of beef, cotton, wheat, soybeans, key fruits and vegetables, processed food products, and wine. Tariffs on most U.S. farm products will be phased out within 15 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 existing tariff preference programs, the United States provides duty-free treatment to over 99 percent of Central American and Dominican Republic agricultural exports into the U.S. market. This access will be maintained under the agreement.

Duty-free access for other products will be phased in over time, with the exception of sugar, where liberalization is handled through a slowly expanding tariff-rate quota. Under the agreement, the Central American countries and the Dominican Republic will accord substantial market access across their entire services regime, subject to very few exceptions, including for telecommunications, express delivery, and computer and related services. The agreement disciplines the use of dealer protection regimes, reducing significant barriers to distribution in the region. It maintains market openness and prohibits cross-subsidies for express delivery services. U.S. financial service suppliers will have non-discriminatory rights to establish subsidiaries, joint ventures or branches for banks and insurance companies. The agreement offers state of the art protections for digital products such as software, music, text and video. Protection for patents and trade secrets meets or exceeds obligations under WTO TRIPS.

The Agreement establishes a secure, predictable legal framework for U.S. investors, sets strong anti-corruption rules in government contracting, and guarantees U.S. firms transparent procurement procedures to sell goods and services to Central American and Dominican government entities.

With respect to labor and the environment, all Parties commit to not fail to effectively enforce their domestic labor and environment laws. An innovative enforcement mechanism provides for monetary assessments to enforce this obligation where a dispute settlement panel finds a Party to be in breach and the Party fails to come into compliance in a reasonable period of time.

Under this mechanism, such assessments would be expended in the territory of the Party in question to help bring it into compliance with its labor or environment obligation. The commission that oversees implementation of the Agreement would decide collectively on the projects on which to spend the proceeds of an eventual assessment.

In addition, the agreement establishes a framework for cooperative environmental projects, and a labor cooperation mechanism, and it promotes internationally recognized labor standards. CAFTA-DR includes unprecedented provisions that improve access to procedures that provide for fair, equitable and transparent proceedings in the administration of labor laws, protecting the rights of workers and employers -- including American investors.

The language in the labor chapter of the CAFTA-DR is stronger and more comprehensive than earlier FTAs negotiated by the United States, such as Jordan and Chile. The CAFTA-DR takes a more proactive approach than the Chile and Singapore FTAs obligating the Parties to not fail to effectively enforce existing labor laws, working to improve practices affecting key labor rights, and to build local capacity to improve protections for workers.

As part of the capacity-building effort, the U.S. Department of Labor is funding a \$7.75 million project to increase public awareness of labor laws, improve inspection systems, and promote the use of alternative dispute resolution mechanisms in the CAFTA-DR countries.

The Administration committed an additional \$20 million in FY2005 for labor and environment initiatives in CAFTA-DR countries and also sought \$40 million in FY2006 for this purpose. For FY2006 the \$40 million was appropriated in the form of \$20 million in Economic Support Funds and \$20 million in Developmental Assistance (DA).

8. Bahrain

On May 21, 2003, the United States and Bahrain announced their intention to negotiate a Free Trade Agreement (FTA). After four months of negotiations, the completed FTA was signed on September 14, 2004. Bahrain's Parliament passed and the King of Bahrain ratified the Agreement in July 2005. The U.S. Congress enacted legislation approving and implementing the Agreement in December 2005, and the President signed the legislation on January 11, 2006. The Agreement is expected to enter into force in 2006. The United States-Bahrain FTA will generate 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. The FTA will also promote the President'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

In April 2004, the United States and Panama began negotiating a free trade agreement (FTA). U.S. and Panamanian negotiators continue to work through issues toward an FTA. Negotiations have proceeded through nine rounds, the most recent of which concluded in January 2006.

Panama is currently the 65th largest US goods trading partner with \$2.2 billion in total two-way goods trade during 2004.

The United States had a \$1.5 billion trade surplus with Panama in 2005. U.S. goods exports in 2005 were \$2.2 billion, up 19.4 percent from the previous year. Corresponding U.S. imports from Panama were \$301 million, down 4.8 percent. Panama is currently the 48th largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in Panama in 2004 was \$5.9 billion, up from \$5.5 billion in 2003. U.S. FDI in Panama is concentrated largely in the finance and wholesale sectors.

A bilateral FTA with Panama would be a natural extension of an already largely open trade and investment relationship. Panama is unique in Latin America, and is like the United States, in that it is predominantly a services-based economy; with services represent about 80 percent of Panama's GDP.

10. Andean Countries

On November 18, 2003, after consulting with relevant congressional committees and the Congressional Oversight Group, the Office of the United States Trade Representative notified the Congress of the President's intent to initiate free trade agreement negotiations with Colombia, Peru, Ecuador, and Bolivia and identified specific objectives. Negotiations on the United States-Andean Free Trade Agreement were launched on May 18, 2004 in Cartagena, Colombia. Through 2005 there were twelve additional negotiating rounds involving the governments of Colombia, Peru, and Ecuador, with Bolivia observing the negotiations.

The United States and Peru have concluded their work on a bilateral free trade agreement. This comprehensive trade agreement will eliminate tariffs and other barriers to trade in goods and services and will expand trade between the United States and Peru. The conclusion of the negotiations with Peru was announced on December 7, 2005 by U.S. Trade Representative Portman and Alfredo Ferrero Diez Canseco, Peru's Minister of Foreign Trade and Tourism in Washington, DC. The United States will continue to negotiate with Colombia and Ecuador in an effort to broaden the trade agreement.

In 2005, total two way goods trade with Peru was \$7.5 billion. U.S. goods exports to Peru in 2005 were \$2.3 billion. Top export categories included machinery and electrical machinery, plastics, cereals, and mineral fuel. U.S. exports of agricultural products to Peru totaled \$209 million in 2005. Leading categories included wheat, cotton, and coarse grains. The stock of foreign direct investment (FDI) in Peru in 2004 was \$3.9 billion. Colombia, Peru and Ecuador collectively represent a market of nearly \$10 billion for U.S. exports, and are home to close to \$8 billion in U.S. foreign direct investment. Colombia is the largest market for U.S. agricultural exports in South America. Energy supplies from the Andean region help reduce our dependence on Middle East oil.

The Andean region is important to the United States for a variety of reasons. One is simply its size and economic scale. The four countries have a combined population of about 93 million people, which is about a third of that of the United States, and a combined gross domestic product, on a purchasing power parity basis, of about \$453 billion.

The United States has a significant stake in the success of the region and stands to gain substantially from a lowering of barriers in the markets of the Andean countries, as there is much unrealized potential for U.S. exports to the region. The Administration is addressing these issues in the FTA negotiation, to the benefit of U.S. companies, workers and farmers. An FTA also holds the potential to help the region meet its own needs, helping solidify stable democracies as allies in facing our many common challenges. Throughout the process, negotiators have consulted closely with Congress, industry representatives, and labor and environmental groups to ensure the FTA advanced U.S. interests and, that in its final provisions, it will reflect the goals contained in the Bipartisan Trade Promotion Authority Act of 2002.

11. United Arab Emirates

After consulting with Congress in September 2004, USTR announced on November 15, 2004 the United States' intent to negotiate a Free Trade Agreement (FTA) with the United Arab Emirates. Negotiations are ongoing and began in March 2005. An FTA with the UAE will build on existing FTAs in the region to promote the President's Middle East Free Trade Area (MEFTA) initiative to advance economic reforms and openness in the Middle East and the Persian Gulf, and to establish a regional free trade area by 2013.

The successful conclusion of a comprehensive FTA will generate export opportunities for U.S. goods and service providers, solidify the UAE's trade and investment liberalization, and strengthen intellectual property rights protections and enforcement.

12. Southern Africa

On November 4, 2002, USTR notified Congress of President Bush's decision to negotiate a free trade agreement (FTA) with the five member countries of the Southern African Customs Union (SACU). These nations—Botswana, Lesotho, Namibia, Swaziland (collectively BLNS), and South Africa—are key beneficiaries of the African Growth and Opportunity Act (AGOA) with U.S. imports valued at \$2.6

billion in 2004. They comprise the largest U.S. export market in sub-Saharan Africa, with \$3.3 billion in U.S. exports in 2004. The negotiations began in Pretoria, South Africa in June 2003, and six subsequent rounds have been held. The last full negotiating round was held in Atlanta in June 2004 and talks resumed in a “mini-round” held in September 2005. In 2004 and 2005, there were several high-level discussions and meetings on the FTA, including a Ministerial meeting in Walvis Bay, Namibia in December 2004 that was attended by former U.S. Trade Representative Robert B. Zoellick and a “deputies” meeting in Geneva, Switzerland in July 2005. During these discussions and meetings, the United States and the SACU countries have been working together cooperatively to resolve divergent views on critical areas of the negotiations, including the scope and level of ambition of the FTA. This FTA – which would be the first U.S. FTA with any sub-Saharan African country – offers an opportunity to craft a groundbreaking agreement that will serve as a model for similar efforts in the developing world. Trade capacity building efforts are being undertaken to help the SACU countries participate in the negotiations more effectively and will be key in helping them implement their commitments under the agreement and to benefit from free trade.

By building on the success of AGOA, the SACU countries would secure the kind of guaranteed access to the U.S. market that supports long-term investment and economic prosperity. An FTA would also reinforce ongoing regional economic reforms and integration among the SACU countries.

13. 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.-Oman FTA will build on existing FTAs to promote the President’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. The successful conclusion of a comprehensive FTA will generate export opportunities for the United States goods and service providers, solidify Oman’s trade and investment liberalization, and strengthen intellectual property rights protection and enforcement. The U.S. Congress and Oman’s government are working to approve the agreement in 2006.

14. Thailand

In October 2003, President Bush announced his intent to enter into FTA negotiations with Thailand, reaffirming his commitment under the Enterprise for ASEAN Initiative (EAI) to strengthen trade ties with countries in the ASEAN region that are actively pursuing economic reforms. During two rounds of FTA negotiations between the United States and Thailand in 2004 and four rounds in 2005, good progress was made on the text of all chapters of the FTA, although significant work continues.

An agreement with Thailand, which is currently the United States’ 20th largest trading partner, would significantly increase trade in goods and services, create more commercial opportunities for U.S. exporters, particularly agricultural product exporters, and reduce or eliminate barriers in many sectors. In addition, a United States-Thailand FTA would enhance investment flows by ensuring a stable and predictable environment for investors, and improve the protection and enforcement of intellectual property rights. An FTA also would strengthen longstanding economic and security ties between our countries.

B. Regional Initiatives

1. Free Trade Area of the Americas (FTAA)

The United States and Brazil's Co-Chairmanship of the Free Trade Area of the Americas (FTAA) negotiating process entered its third year in 2005. The year culminated in a meeting of the Presidents and Prime Ministers of the Hemisphere at the Fourth Summit of the Americas in Mar del Plata, Argentina, on November 4-5, 2005. At the Summit, the vast majority of leaders in the hemisphere, including President Bush, called for a continuation of the FTAA negotiations. As the negotiations were suspended during much of 2004, all timelines for the FTAA, including the projected date of January 2005 for conclusion of the negotiations, were suspended as well. While recognizing the difficulties encountered in the FTAA process over the last two years, the leaders remain committed to a balanced and comprehensive FTAA Agreement and called for trade officials to resume their meetings in 2006 to examine and overcome the difficulties in the FTAA process and advance the FTAA negotiations. Some other leaders indicated that the conditions were not yet in place for 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. To that end, Colombia offered to undertake consultations to facilitate a meeting of trade officials. In addition, President Bush met with Brazilian President Lula da Silva in Brazil, and they issued a joint statement on November 6, 2005, in which they noted, as Co-Chairs of the FTAA process, the importance of continuing efforts to promote trade liberalization, reaffirmed their commitment to the FTAA process, and welcomed a hemispheric meeting for the timely resumption of the FTAA negotiations.

The United States and Brazil met three times during 2005 to discuss how to move forward in the FTAA negotiations. The first meeting was held in February 2005 between the Co-Chairs of the Trade Negotiations Committee (TNC) and was aimed at restarting the FTAA negotiations on the basis of the framework for the negotiations that had been agreed at a November 2003 Trade Ministerial meeting. The second meeting was held in May 2005 between U.S. Trade Representative Rob Portman and Brazilian Foreign Minister Celso Amorim. In their introductory discussion, Ambassador Portman emphasized the importance of achieving a balanced and sufficiently robust core set of rights and obligations to ensure the FTAA achieves its economic growth and integration objectives, a viewpoint shared with many other countries participating in the FTAA negotiations. The third meeting held between Presidents Bush and Lula on November 6, 2005 resulted in a recommitment to the FTAA process.

The United States also participated in an informal meeting in August 2005 hosted by the Government of Mexico for the 34 countries participating in the FTAA negotiations. The meeting was aimed at assessing the need for ongoing financial commitment by the Inter-American Development Bank (IDB) and Mexico to the FTAA Administrative Secretariat in light of the current state of the FTAA negotiations. At the Mar del Plata Summit, twenty-nine of the Leaders instructed that the financing of the FTAA Secretariat continue so that it can continue to support the FTAA process, which will entail consultations during 2006.

At the Mar del Plata Summit, twenty-nine leaders agreed to "continue to promote the established practices and activities in the FTAA process that provide transparency and encourage participation of civil society." During 2005, the mechanism created by the FTAA Committee of Government Representatives on the Participation of Civil Society (SOC) continued to forward contributions from civil society to the relevant FTAA entities and disseminate them to the public on the official FTAA website (www.ftaa-alca.org).

Activities under the Hemispheric Cooperation Program (HCP), which is designed to assist countries in participating in the negotiations, preparing to implement the FTAA obligations, and adjusting to hemispheric integration, did not take place pending resumption of the technical FTAA negotiations.

2. Enterprise for ASEAN Initiative

President Bush announced in October 2002 a major new initiative, the Enterprise for ASEAN Initiative (EAI). The EAI is intended to strengthen U.S. trade and investment ties with ASEAN both as a region and bilaterally. With over \$136 billion in two-way goods trade in 2004, the 10-member ASEAN group already is the United States' fifth largest trading partner collectively. The EAI will further enhance our already close relationship with this strategic and commercially important region.

With continued economic growth in the ASEAN countries and a regional population of around 500 million, the United States anticipates significant opportunities for U.S. companies, particularly agricultural exporters. For ASEAN, this initiative will help boost trade and redirect investment back to the ASEAN region.

Under the EAI, the United States offers 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 trade and investment framework agreement (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 in 2004. The United States also has TIFAs in effect with Malaysia, Indonesia, the Philippines, Thailand, and Brunei Darussalam, and continued negotiations in 2005 on a TIFA with Cambodia. The Administration sees progress in addressing bilateral issues under these TIFAs as important to laying the groundwork for entering into FTA negotiations with the confidence that such negotiations can be concluded successfully. In carrying out the EAI, the key U.S. objective is to create a network of bilateral FTAs with ASEAN countries.

U.S. and ASEAN officials met in August 2003 and 2004, as well as in March and August 2005, to discuss progress under the EAI. In November 2005, under the auspices of the ASEAN-U.S. Enhanced Partnership, the United States and ASEAN countries took the EAI to the next level by agreeing to work together to conclude a region-wide U.S. - ASEAN TIFA. Under such a TIFA, the United States would work with ASEAN on areas of mutual interest, such as intellectual property rights, customs and trade facilitation, biotechnology, sanitary and phytosanitary (SPS) issues, small and medium enterprises, and information and communications technology.

Under the EAI, the United States also actively supports the efforts of ASEAN members that do not yet belong to the WTO to complete their accessions successfully and take other key steps to open their economies. With the support of the United States, Cambodia became a WTO Member in September 2003. In 2005, we continued work with Vietnam on its accession to the WTO.

We also maintained support for Laos' efforts to accede to the WTO. In addition, the United States began providing normal trade relations (NTR) tariff treatment to products of Laos in 2005.

3. North American Free Trade Agreement

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 435 million people producing \$13.8 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 labor and environmental cooperation agreements, which are among the most significant that the United States has negotiated as part of a trade agreement. 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 a coordinated effort to better protect 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 2004, from \$142 billion to \$299 billion, significantly higher than export growth of 60 percent for 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 2004, 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.

Elements of NAFTA

A. Rules of Origin

In 2005, following approval by the NAFTA Free Trade Commission (the central oversight body for the Agreement), the Parties implemented changes to the NAFTA rules covering approximately \$20 billion in trilateral trade. These changes included the first ever set of changes to the short supply provisions of the NAFTA. The Free Trade Commission asked that their officials continue considering new requests for changes to the rules of origin from consumers and producers; and to examine the rules of origin in the free trade agreements that each country has negotiated subsequent to the NAFTA, to determine whether those rules should be applied to the NAFTA. In December 2005, the NAFTA Working Group on Rules of Origin agreed on a second and third set of changes to the rules of origin, which they aim to implement in 2006. Together, these changes will cover approximately \$50 billion in total trilateral trade. This work demonstrates that NAFTA continues to provide benefits to businesses, consumers, workers, and farmers.

B. Textiles and Apparel

In 2004, the Free Trade Commission addressed the impending liberalization of international textile and apparel trade at the end of 2004 and asked officials to continue to consider actions to enhance competitiveness. Officials from the NAFTA Parties produced a report on the prospects and opportunities for the North American textile and apparel industries, which is available on the USTR website.

This report outlines the policy tools that the Parties have at their disposal to address the new challenges, and presents a set of recommendations for work in this area.

C. 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. Each NAFTA Party has established a National Administrative Office (NAO) within its Labor Ministry to serve as a contact point for information, to examine labor concerns, and to coordinate cooperative work programs. In addition, the Agreement created a tri-national Commission for Labor Cooperation, comprised of a Ministerial Council and an administrative Secretariat.

The NAALC also provides for the review of public submissions related to labor laws in the NAFTA Parties. During 2005, five public submissions were presented, three to the U.S. NAO concerning Mexico, one to the Mexican NAO concerning the United States, and one to the Canadian NAO concerning Mexico. At the end of 2005, determinations as to whether to accept and review the submissions were pending in all cases. In August 2004, the U.S. NAO issued a public report on submission 2003-01 concerning labor law enforcement in the state of Puebla, Mexico, recommending ministerial consultations between the United States and Mexico, which were formally requested by the Secretary of Labor in October 2004. Mexico agreed to consultations in November 2004. A submission on the same issues also was filed with the Government of Canada. After Canada's acceptance and review of the submission, all three labor ministers agreed to proceed with trilateral ministerial consultations, resolution of which remained pending at the end of 2005.

In April 2004, the United States, Mexico, and Canada formally launched a web site as part of the Trinational Occupational Safety and Health Working Group. The Web site (www.naalcosh.org), which can be navigated in English, Spanish or French, contains links to each government's occupational safety and health programs and practices; promotes education and public involvement; and facilitates the dissemination of information about the occupational safety and health activities of the three governments. Trinational cooperation on occupational safety and health continued in 2005.

As part of their ongoing program of trilateral cooperation under the NAALC, the United States, Mexico, and Canada presented a conference on the Labor Dimensions of Corporate Social Responsibility in North America, hosted by the Canadian NAO in Ottawa, Canada. The goals of the conference were to promote awareness of the benefits and challenges of CSR initiatives in North America, examine private sector examples of best practices in CSR, and explore the potential roles of governments in supporting CSR initiatives. Additionally, in November 2005, the United States and Mexico sponsored a joint regional seminar in Atlanta, Georgia to familiarize Mexican Consulate officials with U.S. labor laws and regulations related to migrant workers and to continue to encourage collaboration between the two countries on Mexican migrant workers in the United States.

D. NAFTA and the Environment

A further supplemental accord, the North American Agreement on Environmental Cooperation (NAAEC), ensures that trade liberalization and efforts to protect the environment are mutually supportive. The NAAEC created the Commission for Environmental Cooperation (CEC), which is comprised 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 2005 Council Session in Quebec City, Canada, the Council adopted a five-year strategic plan that establishes goals and objectives to meet the Council's three priorities: the development of Information for Decision Making, support for Capacity Building, and ongoing work to address Trade and

Environment issues more effectively in order to promote environmental protection and sustainability. Specific information on the CEC's activities can be found in Chapter V.

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 (NADB) are working with more than 100 communities throughout the United States-Mexico border region to address their environmental infrastructure needs. As of September 30, 2005, the NADB had authorized \$704 million in loans and/or grant resources to partially finance 105 infrastructure projects certified by the BECC with an estimated cost of \$2.41 billion.

4. Middle East Free Trade Area (MEFTA)

USTR made significant progress in implementing the Middle East Free Trade Area (MEFTA) initiative in 2005. The U.S. - Morocco Free Trade Agreement (FTA) successfully entered into force on January 1, 2006. Both houses of Congress passed FTA implementing legislation by significant margins. FTA negotiations with Oman were successfully launched and concluded in 2005, and FTA negotiations were launched with the United Arab Emirates. Progress was also made with WTO accessions with Saudi Arabia joining the WTO in December 2005. The United States continues to actively support the WTO accession efforts of Lebanon, Algeria and Yemen. The United States also held Trade and Investment Framework (TIFA) discussions with other countries in the MEFTA initiative region in 2005 including Tunisia, Algeria and Egypt. The Qualifying Industrial Zone (QIZ) program was expanded in 2005 to include Egypt and shipments between Israel, Egypt and the United States under the QIZ program began in June 2005.

5. 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.

The United States worked closely with Korea, the APEC Chair in 2005, to lead APEC economies in pursuing an ambitious trade liberalization agenda.

APEC helped to advance the WTO's Doha Development Agenda (DDA) negotiations, strengthen IPR protection and enforcement, and set high standards for FTAs. The United States will work with Vietnam, the APEC Chair in 2006, to ensure that APEC continues to take concrete actions in each of these areas.

The 21 APEC economies collectively account for 46 percent of world trade and 57 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 62 percent. In 2004, two-way trade with APEC economies totaled \$1.5 trillion, an increase of 15 percent from 2003.

2005 Activities

Leadership in the WTO

APEC economies continued to exercise leadership in the WTO. In November 2005, APEC Leaders issued a strong political statement of support for the DDA negotiations. Their statement affirmed that the DDA must be concluded by the end of 2006 at the high level of ambition established in the Doha Declaration and called for breaking the impasse in agricultural negotiations, particularly with respect to the market access pillar. In June 2005, APEC Trade Ministers unanimously endorsed an ambitious tariff-reducing formula (“Swiss formula”) for nonagricultural goods.

The APEC Geneva Caucus, comprised of ambassadors to the WTO from APEC economies, continued to serve as an important link between APEC and the WTO. In 2005, the Caucus worked to advance the DDA negotiations in areas such as tariff elimination of information technology products and trade facilitation.

Recognizing that capacity building is a key element in advancing the DDA negotiations, APEC Leaders and Ministers agreed to increase APEC’s capacity building efforts, particularly in those areas where APEC can best add value. Several capacity building programs were conducted in 2005, including the May 2005 Workshop on Best Practices in Trade Facilitation Capacity Building.

Advancing Trade Liberalization in the APEC Region

A Mid-Term Stocktake of Progress Towards the Bogor Goals -- Busan Roadmap to Bogor Goals

In 2005, APEC economies undertook a review (“A Mid-Term Stocktake”) to assess progress towards achieving the 1994 “Bogor Goals” of free and open trade and investment in the APEC region by 2010 for industrialized economies and 2020 for developing economies. The review clearly underscores that APEC economies have made significant progress in liberalizing their trade and investment regimes since 1994. For example, average applied tariffs of APEC economies have been reduced significantly since APEC’s inception – from 16.9 percent in 1989 to 5.5 percent in 2004. Reductions in trade and investment barriers have correlated with increased trade and investment flows. Intra-APEC trade in goods and services more than tripled between 1989 and 2003. FDI inflows to the APEC region increased more than five-fold over that same period. Real GDP in the APEC region grew by 46 percent between 1989 and 2003, compared to 36 percent for non-APEC economies over the same period.

APEC economies still have significant work to undertake to achieve the Bogor Goals. Therefore, they agreed on the “Busan Roadmap” as the framework to reach the Bogor Goals. The Busan Roadmap sets out six critical actions, including: (i) redoubling efforts to advance the DDA negotiations; (ii) promoting high-quality FTAs; and (iii) launching a new “Busan Business Agenda” designed to improve the regional business environment. The Busan Roadmap is action-oriented and reflects private sector priorities.

For example, the Busan Business Agenda calls for further reductions in trade transaction costs by five percent by 2010, and new work on IPR protection and enforcement, investment and secure trade.

Intellectual Property Rights Protection and Enforcement

The APEC region is one of the world’s most dynamic economic regions, and intellectual property protection and enforcement have clearly contributed to innovation, investment, and growth in the region. It is appropriate that APEC is at the forefront of combating piracy and counterfeiting.

In June 2005, APEC economies agreed on a comprehensive anti-counterfeiting and piracy initiative sponsored by the United States, Korea, and Japan. The initiative aims to strengthen IPR enforcement, increase cooperation between APEC member economies, and increase capacity building.

Under the anti-counterfeiting and piracy initiative, APEC Leaders and Ministers in November 2005 endorsed three sets of model guidelines. First, model guidelines were developed to reduce trade in counterfeit and pirated goods that deal with the inspection, suspension, seizure, and destruction of those goods. The second set of model guidelines are aimed at helping APEC economies develop domestic measures to reduce on-line piracy and protect against unauthorized copying in digital form. The third set of model guidelines are aimed at helping APEC member economies develop domestic measures to prevent the sale of counterfeit and pirated products over the Internet. These guidelines set high standards for IPR protection and enforcement in the APEC region, and support ongoing work in the Administration's Strategy Targeting Organized Piracy (STOP!) initiative. The United States also obtained APEC Leaders' and Ministers' agreement to pursue work on IPR protection and enforcement in 2006 in close consultation with the private sector and building on the work completed in 2005.

Free Trade Agreements (FTAs) and Regional Trade Agreements (RTAs)

An important issue addressed in APEC in 2005 was the growing number of FTAs and RTAs in the region, and the need to ensure that the APEC economies' agreements are trade-promoting and reflect high-standards. To set a high level of ambition, APEC Leaders in 2004 welcomed a set of "APEC Best Practices for RTAs and FTAs", which provide that, among other things, APEC economies' agreements should go beyond WTO commitments and explore areas not covered by the WTO. In 2005, APEC economies built on the Best Practices by agreeing on trade facilitation model measures for FTAs and RTAs. The model measures cover transparency, consistency, release of goods, modernization and paperless trading, risk management, cooperation, fees and charges, confidentiality of information, express shipments, review and appeal, penalties, and advance rulings. APEC economies agreed to develop model measures for additional FTA and RTA chapters in 2006 and beyond.

To enhance transparency, APEC economies reported for the first time in 2005 on their FTAs and RTAs as part of the annual reviews of APEC economies' trade and investment regimes.

Technology Choice

In 2005, the United States made further progress on its Technology Choice initiative. APEC hosted a special dialogue on technology choice in February, focusing on the relationship between the promotion of innovation and the development of knowledge-based economies and technology neutral policies and regulations; open, international, and voluntary standards; and non-discriminatory, transparent, technology neutral, and merit-based government procurement policies. The United States also obtained APEC Ministers' agreement to work towards developing a set of technology choice principles in 2006.

Private Sector Involvement

The APEC Business Advisory Council

The APEC Business Advisory Council (ABAC) was extremely active in 2005, offering recommendations and participating in government-business dialogues to advance several key APEC priorities, including the DDA negotiations, customs and trade facilitation, cargo security, standards and conformance, and transparency and anti-corruption.

In June 2005, ABAC members met with representatives from WTO members in Geneva to deliver the message that an open and predictable trading environment is necessary for business to flourish, making the successful conclusion of the DDA negotiations vitally important.

They advocated moving forward on agricultural issues to unlock progress in other areas, elimination and substantial removal of barriers to trade in non-agricultural goods, submission of high-quality offers on services, an ambitious outcome in trade facilitation negotiations, and improved disciplines in rules.

Life Sciences Innovation Forum

In 2005, APEC Ministers endorsed recommendations for priority initiatives to implement the Strategic Plan to Promote Life Sciences Innovation. The four priority areas are research, access to capital, harmonization with international standards, and health services. These initiatives will promote the development of an environment that fosters bio-medical life sciences innovation and help APEC economies develop the necessary infrastructure to meet emerging health and economic challenges, including infectious and chronic diseases and the trend in ageing demographics. Under the umbrella of the Life Sciences Innovation Forum, the United States organized a capacity-building workshop to help APEC economies bring their regulatory regimes for medical devices into alignment with the international standards of the Global Harmonized Task Force (GHTF).

Automotive, Chemical, and Non-Ferrous Metals Dialogues

The Automotive, Chemical, and Non-Ferrous Metals 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, chemical, and non-ferrous metals sectors in the APEC region.

In 2005, the Automotive Dialogue introduced its customs and trade facilitation work to the Chair of the WTO Negotiating Group on Trade Facilitation to help support the work of that Group. The Automotive Dialogue approved a Model Port Project, which will develop best practices that would eliminate customs barriers. The Automotive Dialogue shared its work on rules of origin and certification determination with APEC economies in order to influence ongoing FTA negotiations in the APEC region.

The Chemical Dialogue continued its examination of the potential negative impact of the EU's proposed chemical regulations (REACH), with Dialogue Co-Chairs sending a letter in April 2005 to the EU Parliament, followed by a letter in July 2005 to the EU President. Both letters expressed APEC economies' concerns with the proposed REACH system. Also in the regulatory area, the Chemical Dialogue shared information and raised awareness about chemical industry and individual government concerns with the United Nations Environmental Programme's work to conclude a "Strategic Approach to International Chemicals Management."

APEC economies continued their work to adopt the UN Globally Harmonized System of Classification and Labeling (GHS). The Chemical Dialogue also reached agreement on a recommendation on rules of origin for chemicals that APEC economies could use in FTAs.

Further work was undertaken to address priority non-tariff measures on smuggling/counterfeiting more effectively, product registration procedures, and treatment of confidential business data for chemicals.

The Non-Ferrous Metals Dialogue held its first meeting in May 2005. The Dialogue examined ways to strengthen multilateral cooperation in the APEC region to identify and address barriers to trade and investment in non-ferrous metals markets through increased industry participation.

A network of non-ferrous metals industries was established from which to solicit input to develop a collective action plan for the Dialogue. Possible areas of work could include: (1) reduction and elimination of export restrictions on metals/commodities in the form of export taxes, quotas, and other regulatory requirements; (2) reduction and elimination of restrictive policies that deter exploration and foreign investment in the metals and mining sector, i.e., complex licensing requirements; (3) facilitation of transparency in the non-ferrous metals markets to improve conditions for investment; and (4) promotion of good governance. The Dialogue also agreed to coordinate with the Chemical Dialogue and APEC Ministers Responsible for Mining in addressing concerns with the EU's proposed chemical regulation (REACH).

The APEC Privacy Framework

In 2005, Ministers endorsed the Guidance for International Implementation of the APEC Privacy Principles, a key step towards full implementation of the APEC Privacy Framework. The APEC Privacy Framework, which was endorsed by APEC Leaders and Ministers in 2004, will make a significant contribution to increasing cross-border trade in the region by promoting a consistent approach to information privacy protection that avoids the creation of unnecessary barriers to information flows. In 2006, work on this issue will focus on progress towards the domestic implementation of the APEC Privacy Principles, as well as on the development of cross-border privacy rules.

C. The Americas

1. Canada

a. Softwood Lumber

The United States and Canada have been involved in a dispute over trade in softwood lumber for more than two decades. The current dispute began when the Softwood Lumber Agreement expired in 2001.

After the Agreement expired, the U.S. industry filed antidumping (AD) and countervailing duty (CVD) petitions. The U.S. International Trade Commission (ITC) determined that the U.S. lumber industry was threatened with material injury by reason of imports of dumped and subsidized Canadian softwood lumber, and the Department of Commerce ("Commerce") found company-specific antidumping rates ranging from 2.18 percent to 12.44 percent and a country-wide subsidy rate of 18.79 percent.

On December 14, 2004, Commerce announced the results of its first administrative review of the AD and CVD orders, in which it calculated AD duty rates ranging from 0.91 percent to 9.10 percent, and a CVD rate of 17.18 percent.

On December 6, 2005, Commerce announced the results of its second administrative review of the AD and CVD orders, with AD rates ranging from 0.51 percent to 4.43 percent, and a CVD duty rate of 8.70 percent.

To date, Canadian interests have filed more than two dozen cases challenging the orders in various fora, including under the NAFTA, at the WTO, and in the U.S. Court of International Trade.

The United States continues to believe that it is in the interests of both the United States and Canada to reach a negotiated solution to their longstanding differences over softwood lumber. This view is shared by stakeholders on both sides of the border.

The United States is committed to seeking a resolution to this dispute and remains hopeful that we will be able to resume negotiations with Canada in the near future. In the meantime, the litigation will continue, and the United States will vigorously enforce its trade remedy laws to ensure a level playing field for the U.S. industry.

b. Agriculture

Canada is the largest market for U.S. food and agricultural exports. For fiscal year 2005 (October 2004 to September 2005), U.S. agricultural exports to Canada grew by nearly 8 percent to a record breaking \$10.3 billion. In fact, one of every six U.S. dollars of exported agricultural products goes to Canada.

As a result of the 1998 U.S.-Canada Record of Understanding on Agricultural Matters (ROU), the U.S.-Canada Consultative Committee (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.

In 2004, the CCA met twice on issues covering livestock, fruits and vegetables, grain, seed, processed food, and plant trade, as well as pesticide and animal drug regulations. In October 2005, the CCA meeting reinforced the close working relationship between the two governments, as well as their respective private agriculture sectors.

Canada has long maintained regulations that prohibit the entry of bulk shipments of fruits and vegetables. Based on a request of the National Potato Council, the United States, in December 2003, requested negotiations with Canada to discuss removing its trade distortive regulation for U.S. potatoes and other produce. In 2004 and 2005, the United States and Canada held several meetings regarding bulk restrictions and will continue discussions in 2006.

The U.S. Government also has concerns about the monopolistic marketing practices of the Canadian Wheat Board. USTR announced an approach to leveling the playing field for American farmers in 2002 and that strategy is producing important results. Most notably, in WTO dispute settlement proceedings against the Canadian Wheat Board and the Government of Canada, a WTO panel found in favor of the United States on claims related to Canada's grain handling and transportation systems. Canada now must comply with those findings. In order to comply with the WTO panel's findings, the Government of Canada introduced and passed Bill C-40 in May 2005, which amended the Canada Grain Act and Canada Transportation Act.

In addition, the United States is seeking reforms to state trading enterprises (STEs) as part of the WTO agricultural negotiations. The U.S. proposal calls for: (1) the end of exclusive STE export rights to ensure private sector competition in markets currently controlled by single desk exporters;

(2) the establishment of WTO requirements to notify acquisition costs, export pricing, and other sales information for single desk exporters; and (3) the elimination of the use of government funds or guarantees to support or ensure the financial viability of single desk exporters.

c. Intellectual Property Rights

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), the Berne Convention for the Protection of Literary and Artistic Works (1971), and the 1952 Universal Copyright Convention (UCC). Canada is also a signatory of 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. While Canada has not yet ratified either treaty, however, ratification legislation was introduced into Canada's Parliament in 2005. This legislation will have to be reintroduced following the November 2005 fall of the Canadian government, and will not pass until 2006 at the earliest. In addition, the legislation, as presently drafted, does not comply with the WIPO treaties. U.S. intellectual property owners are concerned about Canada's border measures and general enforcement that appear not to comply with TRIPS requirements.

The lack of *ex officio* authority for Canadian Customs officers makes seizure of counterfeit goods entering Canada difficult. For Canadian Customs 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. Once pirated and counterfeit products clear Canadian Customs, enforcement is the responsibility of the Royal Canadian Mounted Police (RCMP) and the local police.

Because Canadian laws are inadequate to address IPR issues, few prosecutors are willing or trained to take on the cases that arise. In those instances when an infringement case has been tried, the penalties imposed can be too weak to act as a deterrent, with jail time rarely imposed. Border enforcement concerns were a major factor in keeping Canada on the Special 301 "Watch List" in 2005.

2. Mexico

Mexico is our second largest single-country trading partner and has been among the fastest-growing major export markets for goods since 1993, with U.S. exports up 188 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 2005, U.S. agricultural exports to Mexico increased 11 percent from 2004, to \$9.4 billion (based on annualized data for the first 11 months of 2005).

The Administration has had notable success over the last year in addressing concerns over Mexico's antidumping regime. In November 2003, at the request of the United States, the WTO established a dispute settlement panel with regard to Mexico's antidumping order on long grain white rice and provisions of its foreign trade law that govern all antidumping proceedings.

In June 2005, the WTO panel ruled in favor of the United States in all major areas of the dispute, determining that Mexico's antidumping duties and various provisions of its antidumping and countervailing duties laws are WTO inconsistent. Mexico appealed the panel's decision, and, in November 2005, the WTO appellate body upheld the earlier panel's findings. This decision is also relevant to the antidumping order imposed by Mexico on U.S. beef, which was also the subject of WTO consultations, and to other products subject to antidumping orders by Mexico.

On December 21, 2005, Mexico announced it was terminating the antidumping investigation against U.S. hams and shoulders that it self-initiated in May 2004. The hams investigation was terminated following the Mexican authorities determination that the Mexican industry was not being injured.

The U.S. and Mexican pork producing and processing industries are increasingly integrated, and the decision to end these investigations will facilitate greater cooperative efforts and trade among our industries.

In May 2005, Mexico announced the elimination of a 46.58 percent antidumping duty on Northwest red and golden delicious apples. However, Mexico subsequently initiated a new antidumping investigation of certain members of the Northwest Fruit Exporters (NFE). In September 2005, Mexico announced the preliminary results of its investigation and imposed a preliminary antidumping duty of 44.67 percent for red and golden delicious varieties on all but three members of the NFE, who received lower or no duties. A final decision is expected in early 2006.

Beyond dumping issues, in June 2004, the United States requested the formation of a WTO dispute settlement panel regarding Mexico's 20 percent tax on soft drinks made with any sweetener other than cane sugar, including high fructose corn syrup (HFCS), in effect since January 1, 2002. In October 2005, the panel ruled in favor of the United States in all major areas of the dispute. In December 2005, Mexico appealed the decision; the Appellate Body's report is expected in spring 2006.

Independent of the WTO action, the United States and Mexico took steps to restart bilateral trade in sweeteners. On September 30, 2005, the Secretariat of the Economy established a duty-free tariff-rate quota for imports of U.S. HFCS of 250,000 metric tons, which will be in place until September 30, 2006. The action mirrored a U.S. decision to establish a duty-free NAFTA tariff-rate quota for imports of 250,000 metric tons of Mexican sugar.

Following U.S. efforts and collaboration with our Mexican partners, Mexico lifted a number of SPS restrictions on U.S. plant and animal products in 2005. Barriers to California avocados, which had been in place for a number of years, were removed in September 2005. Avocados originating in California may, during the first 12 months of the agreement, be distributed in all Mexican states except Michoacán, Jalisco, Morelos, Puebla and Nayarit, and to all Mexican states following this initial 12-month period. Industry sources estimate that annual exports under this agreement could eventually reach as high as \$24 million. Another significant success was ending Mexico's nine-year ban on U.S. wheat from any state with karnal bunt detections. This former ban disqualified a significant number of states, particularly California, from exporting wheat to Mexico. The lifting of the ban will open the Mexican market to exports of durum, red winter, hard white, and soft white wheats. While Mexico has not yet recognized a systems approach for California stone fruit, both sides have agreed to forward this issue to the North American Plant Protection Organization (NAPPO) for dispute settlement and to abide by NAPPO's ruling.

A number of other successes were also achieved regarding plant restrictions, including the lifting of restrictions on propagative material and progress on stem and leaf regulations that were restricting U.S. tomato exports to Mexico. In addition, expanded access for Idaho potatoes was offered by Mexican officials during a visit by Idaho Governor Kempthorne in December 2005.

On issues related to U.S. exports of animals and animal products, the United States pushed to regain access for bone-in beef exports. Although the Mexican government has not yet announced a resumption of U.S. bone-in beef imports (which is expected), the U.S. was successful in 2005 in securing a bone tolerance allowing United States boneless beef with bits of cartilage to enter.

In addition, USDA successfully opposed an increase in animal inspection fees that had been proposed in the Mexican Congress.

The United States has also resolved other issues affecting agricultural trade with Mexico. For example, USDA officials worked with Mexican Customs to expand the time allowed for correcting mistakes on invoices, saving one company \$90,000. USDA officials are also seeking value-added tax exemptions for flavored milks and have already succeeded with some of their requests.

Finally, the United States sought, and received, Mexico's support for an addendum to extend the Trilateral Biotechnology Arrangement (involving NAFTA parties), which had expired October 31. This arrangement was significant, as it addressed the commercial documentation requirements for transboundary shipments containing living modified organisms under the Cartagena Protocol on Biosafety.

b. Telecommunications

Following a successful WTO challenge by the United States in 2004, Mexico complied with the WTO panel's report in 2005. In particular, the provisions of Mexican law that created a uniform tariff and proportional return systems and the requirement that the carrier with the greatest proportion of outgoing traffic to a country negotiate the settlement rate on behalf of all Mexican carriers were removed. As part of its compliance efforts, Mexico's Comisión Federal de Telecomunicaciones (COFETEL) published in August 2005 new regulations for resale-based international telecommunications services in Mexico.

In 2005, COFETEL proposed a rule that would switch mobile phone payment systems to a "calling party pays" system, thereby requiring those placing international and domestic long-distance calls to mobile phones in Mexico to pay for the interconnection and termination of those calls. The proposed rule could result in significant additional costs for U.S. companies and consumers. The United States is awaiting the completion of the Mexican rule-making process.

c. Tequila

Following extensive negotiations, the United States and Mexico reached agreement on tequila in late 2005. Signed on January 17, 2006, the agreement will ensure that Mexican exports of tequila to the United States, valued at approximately \$400 million per year, continue without interruption. Mexico will be prohibited from regulating the marketing of tequila in the United States as well as the labeling, formulation, and marketing of distilled spirits specialty products (i.e., products that contain tequila, such as tequila-based liqueurs) outside of Mexico. Finally, the agreement will not impose any new obligations on the United States beyond current U.S. law. The United States is the destination for more than 80 percent of Mexico's tequila exports.

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, Venezuela joined Mercosur as a full member, but still must make certain policy changes before it gains 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 scheduled for implementation in 2006 may be delayed. The four Mercosur countries generally act as a group in the context of the Free Trade Area of the Americas.

b. Argentina

U.S. goods exports to Argentina were an estimated \$4.1 billion in 2005,²² up 20 percent from 2004, continuing their recovery after a substantial decline in recent years. The overall bilateral trade was an estimated \$8.0 billion, and the U.S. deficit was estimated to be \$676 million in 2005, up from a deficit of \$357 million in 2004. A key factor in the Argentine economy is its trade with Brazil, Argentina's largest trading partner.

Intellectual Property Rights (IPR): Concerns remain as to whether Argentina's IPR regime meets certain TRIPS standards, such as obligations concerning protection for safety and efficacy data submitted to support the approval of pharmaceuticals. Failure to provide adequate protection for copyright and patents has led to Argentina's placement on the Special 301 Priority Watch List and GSP benefits for certain products remain suspended.

c. Brazil

The United States exported goods valued at an estimated \$15.0 billion to Brazil in 2005.²³ Brazil's market accounts for 21 percent of U.S. exports to Latin America and the Caribbean excluding Mexico and 58 percent of U.S. goods exports to Mercosur.²⁴ In 2005, the United States and Brazil met under the auspices of the Bilateral Consultative Mechanism to discuss intellectual property rights (see below), WTO negotiations, SPS issues, and the other issues concerning our bilateral and multilateral trade agenda.

Intellectual Property: The Administration engaged intensively with the Brazilian government on the issue of copyright protection as a result of the review of Brazil's benefits under the GSP trade program that was prompted by an International Intellectual Property Rights Association petition charging that Brazil had failed to offer adequate protection to copyrighted materials. Positive initiatives taken by the Brazilian government, in particular the formation of a public-private National Anti-Piracy Council, the development of a national action plan to combat piracy, and increased police actions, led to closure of the GSP Review in early January 2006.

While the recent progress is significant in improving Brazil's institutional capacity to combat piracy, the Administration will continue to work with Brazil in the Bilateral Consultative Mechanism to seek further improvements to reduce piracy.

d. Paraguay

With a population of just over six million, Paraguay is one of the smaller markets in Latin America. In 2005, the United States exported an estimated \$909 million worth of goods to Paraguay.²⁵ Paraguay is a major exporter of, and a transshipment point for, pirated and counterfeit products in the region, particularly to Brazil.

²² Annualized based on data for January – November 2005.

²³ Annualized based on data for January – November 2005.

²⁴ Defined as Merc 6—Argentina, Brazil, Paraguay, Uruguay, Bolivia, and Chile.

²⁵ Annualized based on 11 months' data.

U.S.-Paraguay Bilateral Council on Trade and Investment: In 2005, the Bilateral Council on Trade and Investment met three times to discuss a wide range of issues including efforts to increase transparency in government-business relationships, implementation of the IPR MOU, ongoing cooperation toward a strategic plan for Paraguay to develop non-traditional exports and other issues concerning our bilateral and multilateral trade agenda.

Intellectual Property Rights (IPR): In January 1998, the USTR identified Paraguay as a “Priority Foreign Country” under the “Special 301” provisions of the Trade Act of 1974. The USTR initiated an investigation of Paraguay in February 1998. During investigations under Special 301, Paraguay indicated that it had undertaken a number of actions to improve IPR protection. In 1998, in light of commitments made by Paraguay in a bilateral Memorandum of Understanding (MOU), USTR concluded its Special 301 investigation. In 2003, the two governments revised and extended the term of the MOU. Paraguay has made a significant effort to implement the MOU, signed in March 2004, and met regularly with the United States under the auspices of the Bilateral Council on Trade and Investment (see below) to discuss MOU implementation.

e. Uruguay

With the smallest population among Mercosur members (3.4 million), Uruguay nonetheless imported an estimated \$354 million of goods from the United States in 2005. In 2005, the United States and Uruguay signed a Bilateral Investment Treaty (BIT), the first BIT concluded by the United States on the basis of its 2004 model BIT text. As in the investment chapters of recent bilateral FTAs, the United States-Uruguay BIT includes several key provisions that respond to the investment negotiating objectives set forth by Congress in the Trade Promotion Act of 2002. The core provisions of the United States-Uruguay BIT will give U.S. investors a number of critical protections when they establish businesses in Uruguay, including non-discriminatory treatment, the ability to transfer funds relating to their investments, and access to binding international arbitration of investment disputes.

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 2005 with respect to the United States-Chile FTA are discussed in Chapter III, section A.3.

4. The Andean Community

a. The Andean Region

i. U.S.-Andean Trade Promotion Agreement Negotiations

On November 18, 2003, after consulting with relevant congressional committees and the Congressional Oversight Group, the Office of the United States Trade Representative notified the Congress of the President’s intent to initiate free trade agreement negotiations with Colombia, Peru, Ecuador, and Bolivia and identified specific objectives. Negotiations on the United States-Andean Free Trade Agreement were launched on May 18, 2004 in Cartagena, Colombia. Through 2005 there were twelve additional negotiating rounds involving the governments of Colombia, Peru, and Ecuador, with Bolivia observing the negotiations.

See Chapter III, Section A.10 for the discussion of these negotiations.

ii. Andean Trade Preference Act

The U.S. trade relationship with the Andean countries is currently conducted 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 for the illegal drug trade, promote domestic development, and thereby solidify democratic institutions. The ATPDEA was signed into law on August 6, 2002 as part of the Trade Act of 2002. The program provides enhanced trade benefits for the four ATPA beneficiary countries. The program will expire at the end of 2006.

The original ATPA expired in 2001. The ATPDEA retroactively restored the benefits of the ATPA, providing for retroactive reimbursement of duties paid during the lapse. In addition, 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 or 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 is set at 2 percent of total U.S. apparel imports, increasing annually in equal increments to 5 percent.

iii. ATPDEA Eligibility

The ATPA established a number of criteria that countries must meet in order to be designated as eligible for the program. The ATPDEA added further eligibility criteria and provided for an annual review of the countries' eligibility. The new criteria relate to issues such as intellectual property rights, worker rights, government procurement procedures, and cooperation on countering narcotics and combating terrorism.

USTR initiated the 2005 ATPA Annual Review through a notice in the *Federal Register* dated August 18, 2005. USTR received petitions to review certain practices in certain beneficiary developing countries to determine whether such countries were in compliance with the ATPA eligibility criteria.

Petitions were filed with respect to an investor dispute with Peru. In addition, USTR kept under review certain of the petitions that had been filed in the 2003 and 2004 ATPA Annual Reviews, as they concerned matters for which a resolution was still pending. In 2005, the ATPA process helped resolve certain investor disputes with Peru worth about \$17 million.

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. Central America

CACM: The United States is Central America's principal trading partner. The Central American Common Market (CACM) consists of Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua, and provides duty-free trade for most products traded among the five countries.

Panama, has observer status and Belize participate in CACM summits but not in regional trade integration efforts. The Central American countries focused largely on CAFTA-DR negotiations and implementation during 2004, 2005, and early 2006, but continued less actively to pursue a range of bilateral and regional trade agreements.

Canada has an FTA with Costa Rica, and Canada's negotiations with El Salvador, Guatemala, Honduras and Nicaragua have made some progress after the completion of the CAFTA. Negotiations for a Panama-CACM free trade agreement have resulted in agreement on common disciplines. All of the countries are participants in the FTAA negotiations.

Panama: The United States and Panama have strong, long-standing commercial and economic ties. Bilateral trade between the United States and Panama totaled \$2.2 billion in 2004, of which U.S. exports accounted for \$1.8 billion. Panama receives about fifty percent of its imports from the United States. In addition, the United States holds approximately \$6 billion in foreign direct investment in Panama, in sectors such as finance, maritime and energy.

As evidence of the mutual commitment to deepen trade relations, the United States and Panama launched negotiations on a bilateral United States-Panama Free Trade Agreement in April 2004. Six rounds of negotiations were held during 2004, and three additional rounds were held in 2005 and early 2006.

Panama is a participant in the FTAA and during 2004 served as chair for the Negotiating Group on Investment.

c. Caribbean Basin Initiative

The Caribbean Basin Initiative (CBI) currently provides 24 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, Dominican Republic, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Montserrat, Netherlands Antilles, Nicaragua, Panama, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, and Trinidad and Tobago.

During 2004, 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.

Since its inception, the CBERA program has helped beneficiaries diversify their exports. On a region-wide basis, this export diversification has led to a more balanced production and export base and has reduced the region's vulnerability to fluctuations in markets for traditional products. Since 1983, the year prior to the implementation of the CBI, total CBI country non-petroleum exports to the United States have more than tripled. Light manufactures, principally printed circuit assemblies and apparel, but also medical instruments and chemicals, account for an increasing share of U.S. imports from the region and constitute the fastest growing sectors for new investment in CBERA countries and territories.

In 2004, the Administration continued to work with Congress, the private sector, CBI beneficiary countries, and other interested parties to ensure a faithful and effective implementation of this important expansion of trade benefits. The United States has concluded negotiations, signed and ratified a free trade agreement (CAFTA-DR) with several CBI beneficiaries (Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and the Dominican Republic), as called for in the legislation. The agreement locks in preferential market access benefits for the Central American countries and the Dominican Republic while simultaneously opening their markets to U.S. products. In the second quarter of 2004, USTR launched FTA negotiations with Panama, another CBI beneficiary.

Apparel remains one of the fastest growing categories of imports from the CBI countries and territories - growing from just 5.5 percent of total U.S. imports from the region in 1984, to nearly 40 percent in 2005, valued at \$10 billion.

When the CAFTA-DR enters into force for El Salvador, Guatemala, Honduras, Nicaragua, Costa Rica, and the Dominican Republic, each country will no longer be eligible for the CBI program benefits, although the CAFTA-DR will provide market access that is the same or better than the access provided under the CBI program.

In co-production arrangements with CAFTA-DR countries, the remaining CBI beneficiary countries will be able to continue to count inputs from the former beneficiaries towards qualifying for CBI benefits.

d. The Caribbean

The Dominican Republic: The Dominican Republic is the largest single U.S. trading partner in the CBI region, with bilateral trade of \$7.9 billion in 2004. Reflecting the importance of this trade relationship, the United States undertook negotiations with the Dominican Republic, between January and March 2004, to integrate that country into the free trade agreement already negotiated with Central America. On August 5, 2004, the United States, the Dominican Republic and five Central American countries together signed the CAFTA-DR.

The Dominican Republic continued to lead all countries in taking advantage of CBI, as they have done in virtually every year since the program became effective, accounting for 25 percent of U.S. imports under CBI provisions.

Following entry into force of CAFTA, the Dominican Republic will no longer be eligible for CBI benefits. However, the Dominican Republic inputs will continue to count as qualifying when incorporated into products of remaining CBI beneficiaries. Textile and apparel goods that are co-produced in Haiti and the Dominican Republic will continue to qualify for duty-free treatment under the CBI program.

The Dominican Republic does not belong to any regional trade association, but has negotiated trade agreements with its partners in Central America and CARICOM. Unilateral liberalization and fiscal reform efforts have made the Dominican Republic one of the fastest growing economies over the last decade and an economic engine in the Caribbean Basin. The Dominican Republic's strong trade relations within the Caribbean, including with neighboring Puerto Rico and with Central America, establish it as an economic bridge within the region. The CAFTA-DR reflects the Dominican Republic's central role and firm commitment to further liberalization of its already relatively open trade and investment regime. The Dominican Republic has also worked with the United States to advance common objectives in the FTAA negotiations and was chair of the FTAA Negotiating Group on Intellectual Property.

CARICOM: Members of the Caribbean Community and Common Market (CARICOM) are: Antigua and Barbuda, The Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, and Trinidad and Tobago. In theory, CARICOM is a customs union rather than a common market. However, progress towards a customs union, which would involve the elimination of all internal tariffs, remains limited.

CARICOM countries participate in the FTAA negotiations and the United States works with them on the Doha Development Agenda. In addition, the United States works with CARICOM countries on trade capacity building initiatives.

D. Europe and Eurasia

1. European Union

Overview

The U.S. economic relationship with Europe is the largest and most complex in the world. Due to the size and the highly integrated nature of the transatlantic economic relationship, serious trade issues inevitably arise. Even when small in dollar terms, especially compared with the overall value of transatlantic commerce, 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 its relations with the 25 countries of the European Union (EU). The EU currently constitutes a market of some 450 million consumers with a total gross domestic product of more than \$11 trillion. U.S. goods exports in 2005 were \$187 billion and U.S. exports of private commercial services (i.e., excluding military and government) to the European Union were \$115 billion in 2004 (latest data available).

During 2005, USTR actively engaged with the EU Member States on the full range of U.S. trade concerns, and also expanded cooperative efforts to enhance the transatlantic economic relationship. Key issues addressed include;

a. Subsidies for Large Commercial Aircraft

The United States has long expressed its concerns with European government subsidization of large commercial aircraft (LCA) development by Airbus. The issue has acquired new urgency in recent years as Airbus sought and received substantial new subsidies (so-called “launch aid”) for the Airbus A380 super jumbo aircraft and commitments of further launch aid subsidies for its new A350 passenger aircraft. At a time when Airbus is delivering more aircraft than its U.S. rival, the Boeing Company, the United States believes that there is no justification for continued subsidies to Airbus. 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 request initiation of dispute settlement procedures at the WTO (as the United States believes Airbus subsidies violate the WTO Agreement on Subsidies and Countervailing Measures). The EU requested its own WTO dispute settlement proceeding in relation to 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.

b. Geographical Indications

As a result of a WTO dispute launched by the United States, the WTO Dispute Settlement Body (DSB) ruled on April 20, 2005 that the EC's regulation on food-related geographical indications (GIs) is inconsistent with the EC's obligations under the TRIPS Agreement and the GATT 1994. The DSB ruled that the EC's GI regulation impermissibly discriminates against non-EC products and persons and also agreed with the United States that the regulation could not create broad exceptions to trademark rights guaranteed by the TRIPS Agreement.

The DSB recommended that the EC amend its GI regulation to come into compliance with its WTO obligations. The EC has indicated an intent to comply, and, by agreement with the United States, has until April 3, 2006, to do so. Separately, the United States continues to have concerns about the EU's regime concerning geographical indications for wine and spirits -- including Council Regulation 1493/99.

c. Agricultural Biotechnology

In May 2003, the United States initiated a WTO dispute settlement process related to the EU's *de facto* moratorium on approvals of agricultural biotechnology products and the existence of individual Member State marketing prohibitions on agricultural biotechnology products previously approved at the EU level. Since that time, consultations were held and a panel formed to consider the case. The first panel meeting was in June 2004. The panel report is expected to be issued in mid 2006.

In 2004, the EC approved some pending agricultural biotechnology crop petitions for products imported for the purposes of processing, animal feed, and food use. These were the first approvals made by the Commission since 1998. The approval process, however, is not yet grounded on scientific principles, and it has not proved possible to assemble in the Council of Ministers a qualified majority of EU Member States to support product approvals, despite the lack of any science-based health or safety reason to reject them. The Council of Ministers has not acted on product applications that have been approved by the relevant scientific committees on the Commission. Therefore, after two lengthy periods of consideration by the Council, petitions have been sent back to the Commission for final adjudication (the Commission approved both petitions). No approval for cultivation has yet made it through the process.

Several EU Member States, including Austria, Luxembourg, and Italy, continue to maintain their national marketing bans on some biotechnology products despite existing EU approvals. After more than five years in some cases, the Commission has begun to take steps to overturn these EU Member State bans.

In April 2004, EC Regulations 1829/2003 and 1830/2003 governing the traceability and labeling of biotechnology food and feed entered into force. The regulations include mandatory traceability and labeling requirements for all agricultural biotechnology and downstream products. In some cases, these directives have already severely restricted market access for U.S. food suppliers, because food producers have reformulated their products for the EU market to exclude agricultural biotechnology product inputs. The regulations are expected to have a negative impact on a wide range of U.S. processed food exports.

d. Customs Administration Procedures

While the customs law of the EU is set forth in the Community Customs Code, the EU does not in fact currently operate as a single customs administration. Administration of the Community Customs Code is the responsibility of EU Member State customs administrations, which do not have identical working practices and are not obliged to follow each other's decisions.

The difficulties presented by non-uniform administration are exacerbated by the absence of any forum for prompt EU-wide review and correction of customs decisions. Review by the European Court of Justice of national decisions regarding customs administrative matters may be available in some cases, but generally only after an affected party proceeds through multiple layers of member state domestic court review. Obtaining corrections with EU-wide effect for administrative actions relating to customs matters may take years.

Given the growing negative consequences of deficiencies in the EU's customs administration and review procedures, the United States in September 2004 initiated WTO consultations on these matters. Subsequently, in March 2005, a dispute settlement panel was formed to consider U.S. complaints. The panel's report is expected in mid-2006.

e. Enhancing Transatlantic Economic Relations

The huge size, 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 in other parts of the world fluctuate. Recognizing the benefits of preserving and enhancing these productive ties, the United States and the EU for some time have been interested in exploring ways to create new opportunities for transatlantic economic activity. The 1995 New Transatlantic Agenda, 1998 Transatlantic Economic Partnership and 2002 Positive Economic Agenda initiatives, all launched at various U.S.-EU Summits, had as their common goal the deepening and systematizing of bilateral cooperation in the economic field.

At the June 2004 U.S.-EU Summit, President Bush, Commission President Prodi and Irish Prime Minister Ahern agreed to the Joint Declaration on Strengthening Our Economic Partnership, which initiated a government discourse with business, labor, consumers and other elements of civil society on concrete ways for governments to improve U.S.-EU economic interaction. The results of these stakeholder consultations yielded the U.S.-EU Initiative to Enhance Transatlantic Economic Integration and Growth which was announced at the June 2005 U.S.-EU Summit. The Summit also yielded a declaration on U.S.-EU cooperation against Global Piracy and Counterfeiting, which is viewed as an important step for promoting enhanced cooperation on IPR matters.

The Economic Initiative includes a forward-looking agenda of cooperative activities intended to expand economic opportunity, promote prosperity, and maintain the health and safety of our citizens. At the U.S.-EU Economic Ministerial in November 2005, the governments issued a work program that details the specific initiatives that U.S. and European officials have agreed to pursue in a range of topics, including regulatory cooperation, innovation, capital markets, trade and security, and intellectual property rights.

f. Regulatory Cooperation

Trade obstacles arising from divergences in U.S. and EU regulations and the lack of transparency in the EU rulemaking and standardization processes are an increasingly important focus of transatlantic economic initiatives. During 2005, USTR expanded efforts to enhance U.S.-EU regulatory cooperation and reduce unnecessary "technical" barriers to transatlantic trade.

Through increased regulatory cooperation, we aim to promote quality regulation, minimize US-EU regulatory divergences and facilitate transatlantic commerce.

At the June 2005 U.S.-EU Summit, the United States and European Commission issued the 2005 Roadmap for U.S.-EU Regulatory Cooperation to significantly expand and deepen the scope of transatlantic regulatory cooperation and promote a stronger economic relationship.

The Roadmap outlines specific cooperation activities in 15 sectors: pharmaceuticals, auto safety, information and communications technology, cosmetics, consumer product safety, food safety, nutritional labeling, consumer protection enforcement, unfair commercial practices, marine equipment, eco-design of electrical/electronic products, chemicals, energy efficiency, telecommunications equipment and medical devices. As a horizontal initiative, the Roadmap established an informal dialogue on good regulatory practices between the U.S. Office of Management and Budget and the European Commission. The United States and EU also initiated a Regulatory Cooperation Forum through which U.S. and European regulators will exchange views, share experiences, and learn from each other regarding general or crosscutting regulatory cooperation approaches and practices of mutual interest. Implementation of the Roadmap and Forum is proceeding.

g. Foreign Sales Corporation Tax Rules

On October 14, 2004, Congress passed the American Jobs Creation Act (AJCA), designed in part to repeal provisions of the FSC Repeal and Extraterritorial Income Exclusion Act (ETI Act) that had been found to constitute a WTO-inconsistent export subsidy. Unfortunately, in November 2004, the EU asked the WTO once again to review the U.S. compliance efforts in the FSC dispute. The EU based its request on its dissatisfaction with transition provisions in the AJCA that provided for a general two-year phase-out of the ETI provision and the grandfathering of certain pre-existing binding contracts. The EU did so notwithstanding the fact that such transition provisions are standard in major U.S. tax legislation and that the grandfathering provision, in particular, was of relatively limited commercial value. The EU's General Affairs and External Relations Council adopted, without debate, a Regulation that provided for the lifting of sanctions on U.S. products in the form of additional duties as of January 1, 2005. However, the Regulation, which entered into force on February 1 (Council Regulation (EC) No 171 / 2005), provides for the automatic re-imposition of sanctions should the WTO find continued non-compliance by the United States. In that event, sanctions would resume on January 1, 2006, or 60 days after (whichever date is later) the WTO Dispute Settlement Body rules that the AJCA is inconsistent with U.S. WTO obligations. On September 30, 2005, a WTO panel found that the transition provisions of the AJCA were inconsistent with U.S. WTO obligations.

On November 14, the United States appealed the panel report, and the appeal is pending at this time. Regardless of the outcome of the appeal, the United States believes the AJCA, providing as it does for a major reform of U.S. tax rules in order to meet WTO requirements, should satisfactorily address EU concerns and that EU retaliatory sanctions should now be lifted in their entirety. (For more information on this dispute, see Chapter II.)

h. Chemicals

The EU is developing a comprehensive new regulatory regime for all chemicals (known as Registration Evaluation and Authorization of Chemicals) that would impose extensive additional testing and reporting requirements on producers and downstream users of chemicals. The expansive EU proposal could impact 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 continued to stress to the EU throughout 2005 that this draft 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.

The proposal also appears to depart from ongoing international regulatory cooperation efforts. We will continue to monitor closely revisions to this draft regulation, and remain engaged constructively with the EU to ensure that U.S. interests are protected.

i. 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 1996 the United States challenged this ban in the WTO and in June 1997, a WTO panel ruled in favor of the United States on the basis that the EU's ban was inconsistent with the EU's obligations under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) because the EU failed to provide an adequate scientific risk assessment. This finding was upheld by a WTO Appellate Body in 1998, and in 1999, the WTO authorized U.S. trade retaliation because the EU failed to comply with the WTO rulings.

In September 2003, the EU announced the entry into force of an amendment to its original hormone directive, which recodified the ban on the use of estradiol for growth promotion purposes and extended the provisional bans on the five other growth hormones included in the original EU legislation. With enforcement of this new Directive, the EU argued that it was now in compliance with the earlier WTO ruling.

At present, the United States continues to apply 100 percent duties on \$116.8 million of U.S. imports from the EU. In November 2004, the EU requested WTO consultations with the United States on this matter, claiming that U.S. sanctions were no longer justified. The first panel meeting was held in September 2005. The United States maintains that the revised EU measure cannot be considered to implement WTO recommendations and rulings on this matter, and that the U.S. sanctions remain authorized.

j. Poultry Meat

U.S. poultry meat exports to the EU have been banned since April 1, 1997, because U.S. poultry producers currently use washes of low-concentration chlorine as an anti-microbial treatment (AMT) to reduce the level of pathogens in poultry meat production, a practice not permitted by the EU sanitary regime. U.S. concerns with respect to poultry intensified in 2004 as a result of EU enlargement and the application of EU restrictions in new Member States that had previously allowed entry of U.S. meat. In 2004, the United States made significant progress in its work with the EU to address differences between U.S. and EU food safety rules for poultry meat. The Commission audited and approved a number of U.S. poultry plants which demonstrated the use of AMTs and the United States developed an action plan to demonstrate the equivalency of U.S. and EU on-farm manufacturing practices. In 2005, the two sides continued to discuss the final details of a series of steps, including approval by EU Member States of the use of AMTs, aimed at re-opening the EU market to U.S. poultry meat products.

k. Wine

Since the mid-1980s, U.S. wines have been permitted entry to the EU market through temporary exemptions from certain EU wine regulations. One such regulation requires wines imported into the EU to be produced using only certain wine-making practices. Other regulations require extensive certification procedures for imported wines and prohibit the use of wine names and grape varieties as regulated in the United States.

Without derogations from these regulations, many U.S. wines would be immediately barred from entering the EU. U.S. wines that are produced with practices for which there are no EU derogations are already barred. For over six years the United States and the EU negotiated an agreement to address this and other issues.

On September 14, 2005, the United States and the European Community reached an agreement on wine-making practices and labeling of wine, aimed at facilitating bilateral trade in wine valued at \$2.8 billion annually. The Agreement provides for acceptance of existing wine-making practices and addresses a number of labeling issues, helping to create marketing certainty for U.S. and EU wine exporters.

The agreement, which will enter into force in early 2006, provides for: (1) recognition of existing current wine-making practices; (2) a consultative process for accepting new wine-making practices; (3) the United States limiting the use of certain “semi-generic” terms in the U.S. market; (4) the EU allowing under specified conditions for the use of certain regulated terms on U.S. wine exported to the EU; (5) recognizing certain names of origin in each other’s market; (6) simplifying certification requirements; and (7) defining parameters for optional labeling elements of U.S. wines sold in the EU market. The Agreement does not address the use of “geographical indications,” a form of intellectual property. The Agreement also provides for a second phase of negotiations to address other outstanding U.S.-EU wine trade issues.

l. Rice -- Margin of Preference

The EU is the top market for US brown rice exports. US brown rice exports into the EU market are valued at \$33 million a year, on average, since 1999. In mid-2003, the EC notified the United States and other WTO Members of its intention to withdraw a key market access concession on rice made during the Uruguay Round. This concession, known as the Margin of Preference (MOP), replaced the EU’s pre-1995 variable levy system for rice to provide market access opportunities for rice imports into the EU. On September 1, 2004, the EU withdrew the MOP concession and replaced it with a bound tariff rate of 65 euros/metric ton for brown rice and 175 euros/metric ton for milled rice.

On February 28, 2005, the United States and the European Union reached an agreement ensuring market access for U.S. brown (husked) rice exports to the EU, resolving this trade dispute and preventing the March 1, 2005 withdrawal of U.S. tariff concessions. A key element of the agreement includes an applied tariff adjustment mechanism that will facilitate trade, namely, if EU imports of brown rice, excluding basmati rice, fall below a certain reference level, the applied tariff will automatically be lowered to 30 euros per metric ton. If there is little change in trade, the applied tariff will be set at 42.5 euros per metric ton. The adjustment mechanism also allows the EU tariff to return to the bound rate of 65 euros per metric ton if imports substantially increase. The adjustment mechanism was applied starting on March 1, 2005. Further, the import reference levels will be adjusted in the future to provide for growth. Finally, the agreement contains consultation and transparency provisions that will facilitate administration of the new import regime.

m. EU Directive on Wood Packaging Material (WPM)

In February 2005, the European Union suspended for one year until March 1, 2006, its plan to implement a new Directive on wood packaging material (WPM) that could affect up to \$80 billion worth of U.S. agricultural and commercial exports to the EU that are shipped on wooden pallets or in wood packaging materials. The Directive, published by the European Commission on October 5, 2004, would place a debarking requirement, in addition to heat treatment fumigation, on WPM from the United States and other countries.

The EU Directive is more restrictive than the international standard established by the International Plant Protection Convention (IPPC), Guidelines for Regulating Wood Packaging Material in International Trade (IPSM-15). IPPC members, including the EU, approved IPSM-15 to harmonize and safeguard WPM requirements in world trade. IPPC members approved specific treatments and the marking of WPM, but did not support a debarking requirement in the absence of a scientific justification. The IPPC continues to assess emerging scientific studies related to this issue. On January 17, 2006 EU Member States approved a further postponement of its unilateral debarking requirement until December 2008, with a review of the issue scheduled for 2007.

n. EU Enlargement

On May 1, 2004, Estonia, Latvia, Lithuania, Poland, Slovakia, the Czech Republic, Slovenia, Hungary, Cyprus and Malta acceded to the European Union. At that time, the United States entered into negotiations with the European Communities within the framework of GATT provisions relating to the expansion of customs unions. The 10 new 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 General Agreement on Tariffs and Trade 1994 (GATT 1994) Articles XXIV: 6 and XXVIII, the United States is entitled to compensation from the EU to offset some of these changes.

The expansion of EU quotas to account for the addition of 10 new countries and more than 75 million new EU consumers was another key element of the negotiations.

On November 30, 2005, the United States and the European Commission initialed a bilateral enlargement compensation agreement. As part of the agreement, the EU will permanently reduce tariffs on protein concentrates, fish (hake, Alaska Pollack, surimi), chemicals (polyvinyl butyral), aluminum tube, and molybdenum wire. The EU also will open country-specific tariff rate quotas for U.S. exports of boneless ham, poultry, and corn gluten meal. Finally, the EU will expand existing global tariff rate quotas for beef, poultry, pork, rice, barley, wheat, maize, sugar, fructose, preserved fruits, fruit juices, pasta, chocolate, pet food preparations, live bovine animals and sheep, and various cheeses and vegetables. Final signature of the agreement and implementation of the tariff and quota concessions is expected in early 2006 after approval by the EU Member States.

As part of broader discussions on EU enlargement, the EU had agreed earlier to expand the maximum quantities allowed in licensing applications for imports into the EU of pork. This measure went into force in March 2005.

2. EFTA

The United States continues to broaden our economic engagement with the countries of the European Free Trade Association (EFTA) and explore ways to foster closer U.S.-EFTA trade. During 2005, USTR engaged in technical discussions with Switzerland about a possible free trade agreement. On October 17, 2005, the United States signed two mutual recognition agreements (MRAs) with the EEA EFTA States (i.e., Norway, Iceland, and Liechtenstein) that parallel our MRAs with the European Community -- one covering telecommunications equipment, electro-magnetic compatibility (EMC) and recreational craft; and the other covering marine equipment. These agreements permit approved U.S. laboratories to conduct required conformity assessment procedures (e.g., product tests) for designated products according to EEA EFTA requirements (U.S. requirements in the case of marine equipment), and vice versa. This saves manufacturers the time and expense of additional product testing, lowers prices for consumers, and conserves regulators' resources.

3. Turkey

a. General

Although Turkey's harmonization of its trade and customs regulations with those of the EU generally benefits third country exporters, Turkey maintains high tariff rates on many agricultural and food products to protect domestic producers. Turkey also levies high duties, as well as excise taxes and other domestic charges, on imported alcoholic beverages that increase wholesale prices by more than 200 percent. Turkey does not permit any meat or poultry imports. In November 2005, the U.S. initiated WTO dispute settlement procedures with Turkey on import restrictions with respect to rice. The two parties are currently in consultation.

b. Investment

While Turkey's legal regime for foreign investment is liberal, private sector investment is often hindered, regardless of nationality, by: excessive bureaucracy; political and macroeconomic uncertainty; weaknesses in the judicial system; high tax rates; a weak framework for corporate governance; and frequent, sometimes unclear changes in the legal and regulatory environment.

c. Intellectual Property

Turkey does not have a 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 instituted a Registration Regulation for protecting confidential test data, but it is not retroactive to January 2000, when Turkey's TRIPS obligations came into effect and has other provisions that may not be consistent with TRIPS requirements. Turkey issued a revised regulation on January 19, 2005 providing a six-year term of data exclusivity protection for confidential pharmaceuticals test data effective January 1, 2005. The regulation contains major loopholes, which the United States is addressing with Turkey. Improving enforcement against copyright piracy and trademark infringement in Turkey also remains an issue.

4. Southeast Europe

a. EU Accession

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 have been working with Bulgaria and Romania to ensure that the accession process does not adversely affect U.S. commercial interests in the region. These countries, as well as Croatia, have concluded Stabilization and Association Agreements with the EU, which set the stage for their EU membership. 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 MFN tariff rates in these countries, creating a tariff differential *vis a vis* EU goods.

b. Generalized System of Preferences

Most of the countries in this region participate in the U.S. Generalized System of Preferences (GSP) program, including Serbia and Montenegro, which were granted eligibility in 2005.

As required by the GSP statute, once a country has joined the EU, it loses its GSP eligibility. The GSP statute provides that a country 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 their granting preferential tariffs to EU exporters compared with U.S. exporters, pursuant to their Europe Agreements with the EU. USTR and the interagency GSP subcommittee are considering several petitions filed by U.S. industry groups requesting that Bulgaria and Romania be removed from the program because of the impact of tariff differentials on U.S. commerce.

c. Intellectual Property Rights

USTR closely monitors WTO Members' compliance with the TRIPS Agreement, works with countries to improve enforcement of their IPR legislation, and counter trends such as increasing copyright piracy and trademark counterfeiting. Piracy and counterfeiting are growing problems in Bulgaria, which was placed on the Special 301 Watch List in 2004. USTR is working to encourage Bulgaria to reestablish strong intellectual property protection, including against optical disc piracy that was in place several years ago. A top USTR priority in 2005 remained protecting the confidential data submitted by pharmaceutical firms to government health authorities to obtain marketing approval.

d. Bilateral Investment Treaties

The United States has Bilateral Investment Treaties (BITs) in force with Albania, Bulgaria, Romania, and Croatia.

5. Russia and the Newly Independent States

The United States has established strong trade and investment links with Russia, including negotiating a bilateral trade agreement and a bilateral investment treaty (BIT). Entry into force for the BIT, however, is pending ratification by Russia and the final exchange of instruments of ratification. Multilaterally, the United States has encouraged Russia's accession to the World Trade Organization (WTO) as an important method of supporting economic reform.

a. Jackson-Vanik Amendment

Russia (as is the case with Ukraine, and seven of the other countries in the region – see below) receives conditional Normal Trade Relations (NTR) 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 any non-market economy that was not eligible for such treatment in 1974 and that fails to meet the statute's 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, through semi-annual reports, the President can determine that an affected country is in full compliance with the legislation's emigration requirements. Affected countries 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.

If a country is still subject to Jackson-Vanik at the time of its accession to the WTO, the United States has 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." This situation, among other things, prevents the United States from bringing a WTO dispute based on a country's violation of the WTO or of commitments the country

undertook as part of its WTO accession package. The Administration continues to consult with the Congress and interested stakeholders regarding the termination of application of Jackson-Vanik and the provision of Permanent Normal Trade Relations status to Russia. The United States extends Generalized System of Preferences (GSP) benefits to Russia. In response to petitions from the U.S. copyright industry, USTR continued a review in 2005 to determine Russia's eligibility to receive GSP benefits.

b. Intellectual Property Rights (IPR)

USTR is working to ensure that Russia takes appropriate actions to protect intellectual property rights. The United States is reviewing Russia's status as a beneficiary country under the U.S. Generalized System of Preferences (GSP) Program. Russia has also been on the Special 301 Priority Watch List since 1997, and will be subject to an Out-of-Cycle Review in early 2006. IPR is also a key issue of discussion in Russia's WTO accession negotiations.

U.S. industry and Congress are increasingly concerned about the deteriorating IPR situation in Russia. U.S. copyright industries estimate they lose in excess of \$1.7 billion annually due to copyright piracy in Russia (films, videos, sound recordings, books and computer software). 2005 saw a continued increase of optical disc production capacity far in excess of domestic demand, with pirated products apparently intended not only for domestic consumption but also for export. Internet piracy also has become a growing concern with the growth of internet access. Russia is home to some of the world's most used internet-based pirate pay download services, such as allofmp3.com, which offers global distribution from its well-protected location inside Russia.

Although Russia has revised a number of IPR laws, including those on the protection of copyrights, trademarks, patents, integrated circuits and plant varieties, Russia continues to not provide national treatment for protection of geographical indications. Russia is required by Article 39.3 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) to protect against unfair commercial use undisclosed data submitted to government authorities to obtain marketing approval of pharmaceutical and agricultural chemical products. Russia currently does not provide such protection; the United States is working with the Russian Government in the WTO accession negotiations to amend its Law on Medicines so that Russia complies with the TRIPS Agreement. In late 2005, the Russian Government proposed legislative changes to address these concerns; however, these changes have not yet been considered by the Russian Duma.

Enforcement of IPR remains 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. Russia's customs administration also needs to significantly strengthen its enforcement efforts. Russian authorities initiated some enforcement actions in late 2005 which included raids on some optical disc production facilities and investigation of internet sites.

c. Market Access for Poultry, Pork and Beef

The United States was actively engaged with the Russian government throughout 2005 to ensure that U.S. producers of poultry, pork, and beef continue to have access to the Russian market. In January 2003, the Russian Government announced the imposition of a quota for poultry and tariff-rate quotas for pork and beef. An agreement for market access parameters on poultry, pork, and beef was signed in Washington, D.C. on June 15, 2005. There have been a number of persistent concerns about how the agreement has been implemented, namely, the potential for the quota to be used by other countries. Discussions between the two sides on current and future quota allocation continue in the WTO accession context.

d. Sanitary and Phytosanitary Restrictions

Sanitary and phytosanitary restrictions have had a major negative affect on U.S. trade, with products deemed as “sensitive” by Russia being blocked, seemingly without a scientific basis. The ban on U.S. beef and liver based on concerns about bovine spongiform encephalopathy (BSE) is approaching its third year. There also are continuing concerns about Russian inspections, of U.S poultry plants, restrictions on U.S. pork exports due to trichinae issues, regulations related to biotechnology, and reporting requirements for avian influenza. U.S. horse’s genetic products (such as bovine semen), dairy, eggs, and other products remain affected by a lack of agreed certification between the United States and Russia.

In addition to these specific issues, in the context of Russia’s WTO accession, the two sides are discussing Russia’s adoption of international standards, guidelines and recommendations set by internationally recognized bodies such as Codex Alimentarius, the Office of International Epizootics (OIE), and the International Plant Protection Convention (IPPC).

e. Product Standards, Certification and Licensing

U.S. companies still cite product certification requirements as a principal obstacle to U.S. trade and investment in Russia. In the context of Russia’s WTO accession negotiations, USTR continues to urge Russia to bring its product regulations and certification requirements into compliance with international practice. In many sectors, type certification or self-certification by manufacturers is currently not possible. The Russian government is now attempting 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 in Russia to better comply with WTO rules. In addition, import and activity licenses to produce or distribute in Russia are also necessary to import products such as alcoholic beverages, pharmaceuticals, and products containing encryption technology.

6. Ukraine

The United States has established strong trade and investment links with Ukraine, including negotiating a bilateral trade relations agreement and a bilateral investment treaty (BIT). Multilaterally, the United States has encouraged Ukraine’s accession to the World Trade Organization (WTO) as an important method of supporting economic reform.

The U.S.-Ukrainian BIT took effect on November 16, 1996. The BIT guarantees U.S. investors the better of national and 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.

a. Jackson-Vanik Amendment

Ukraine receives conditional Normal Trade Relations (NTR) tariff treatment pursuant to the provisions of Title IV of the Trade Act of 1974, also known as the Jackson-Vanik amendment. (See above description Jackson-Vanik in the Russia section). On November 18, 2005, the Senate passed by unanimous consent, S.632, legislation to terminate the application of Jackson-Vanik Amendment to Ukraine.

As of the end of 2005, the House of Representatives had not voted on a similar bill to terminate the application of Jackson-Vanik to Ukraine. The administration continues to consult with congress regarding termination of application of Jackson-Vanik and the provision of Permanent Normal Trade Relations status to Ukraine.

b. Intellectual Property Rights

Ukraine was the only country named a Priority Foreign Country in the 2002 to 2005 Special 301 reviews conducted by USTR based on widespread piracy of copyrighted goods such as CDs and DVDs. The United States withdrew Ukraine's benefits under the Generalized System of Preferences (GSP) program in August 2001 and imposed \$75 million worth of sanctions on Ukrainian imports on January 23, 2002. These sanctions, which affected a number of Ukrainian products, including metal, footwear, and chemicals, were lifted on August 30, 2005 after the Ukrainian Government secured passage of important amendments to the Laser-Readable Disk Law and other laws, which went into effect on August 2, 2005. The United States concluded a Special 301 Out-of-Cycle Review (OCR) of Ukraine in January 2006.

In recognition of the Government of Ukraine's efforts to improve the enforcement and protection of intellectual property rights, the United States reinstated GSP benefits for Ukraine effective January 23, 2006, and lowered Ukraine's designation under Special 301 from Priority Foreign Country to Priority Watch List. Ukraine agreed to work with the U.S. government and with the U.S. copyright industry to monitor the progress of future enforcement efforts through an Enforcement Cooperation Group. The United States will continue to monitor developments in the protection of intellectual property rights in Ukraine pursuant to Section 306 of the Trade Act of 1974.

7. Central Asia and the Caucasus

The United States continues to actively support political and economic reforms in Central Asia and the Caucasus, which includes the former Soviet countries of Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan.

The United States has been striving to construct a framework for the development of strong trade and investment links with this region. This approach has been pursued both bilaterally and multilaterally. Bilaterally, the United States has negotiated trade agreements to extend Normal Trade Relations (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 GSP duty-free benefits to certain exports from eligible beneficiary developing countries and has negotiated bilateral investment treaties to guarantee compensation for expropriation, transfers in convertible currency, and the use of appropriate dispute settlement procedures. 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, USTR and its interagency colleagues are 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 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 held its first meeting in Washington, DC, in 2005.

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.

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 above in Russia section of Jackson-Vanik). 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 under an annual Presidential waiver. Turkmenistan became subject to the annual waiver in 2003, following the re-imposition of an exit visa requirement.

In 2000, pursuant to specific legislation, the President terminated application of Title IV to Kyrgyzstan and Georgia. These countries now receive permanent normal trade relations (PNTR) treatment. In 2004, Congress passed the Miscellaneous Trade and Technical Corrections Act of 2004 which authorized the President to terminate application of Jackson-Vanik to Armenia. On January 7, 2005, the President signed a proclamation terminating application of Jackson-Vanik to Armenia and granting PNTR tariff treatment to products of Armenia. Based on the President's proclamation granting products from Armenia PNTR treatment, the United States and Armenia can apply the WTO between them and have recourse to WTO dispute settlement procedures.

The Administration continues to consult with the 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 provisions.

b. Intellectual Property Rights (IPR)

Since the United States has concluded bilateral agreements covering IPR protection throughout the region, USTR works to ensure compliance by these countries with their IPR obligations. In 2000, the transitional period granted 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 participate in the GSP program. In 2004, Azerbaijan submitted an application for designation as a beneficiary developing country under the GSP program which is under consideration. Tajikistan and Turkmenistan have not yet applied to be designated as eligible beneficiaries in the GSP program. USTR also 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.

In 2003, due to improvements made to Armenia's IPR regime, the U.S. Government closed the review of the IPR industry's petition with respect to Armenia. Country practice petitions have been accepted regarding concerns about the IPR regimes of Kazakhstan and Uzbekistan. Review of these petitions, including bilateral consultations, is continuing.

8. WTO Accessions

Four countries in the region (Kyrgyzstan, Georgia, Moldova and Armenia) are members of the World Trade Organization (WTO). WTO accession working parties have been established for an additional seven countries (the Russian Federation, Ukraine, Azerbaijan, Belarus, Kazakhstan, Tajikistan and Uzbekistan). Turkmenistan has not yet applied for observer status or membership in the WTO. The United States supports accession to the WTO on commercial terms and on the basis of an acceding country's implementation of WTO provisions immediately upon accession. The United States has provided technical assistance, in the form of short- and long-term advisors, to many of the countries in the region in support of their bids for WTO accession. Russia is in the process of negotiating terms of accession. By the end of 2005, the Government of Russia had met over 30 times with WTO members in formal and informal Working Party meetings. Russia tabled its initial goods and services market access offers in February 1998 and October 1999, respectively. Russia has subsequently revised these offers and negotiations with Working Party members are active and ongoing. As of the end of 2005, Russia reported concluding bilateral market access and services negotiations with most WTO members. Among the remaining countries still negotiating bilateral deals with Russia are: the United States, Switzerland, Columbia, Australia, India, and Georgia.

Ukraine is also in the process of negotiating terms of accession. Negotiations with Working Party members are active and ongoing. As of the end of 2005, Ukraine reported concluding bilateral market access and services negotiations with most WTO members. The remaining countries still negotiating bilateral deals with Ukraine at the end of 2005 include: Australia, Columbia, Dominican Republic, Egypt, Kyrgystan, Panama, Chinese Taipei, and the United States. Kazakhstan submitted its application for WTO membership on January 29, 1996 and the fact-finding phase of the accession process was completed in 2003. Kazakhstan's Working Party met most recently in June 2005 to discuss the draft Working Party Report circulated in May 2005. Despite this progress, Kazakhstan has failed to reach agreement on market access with a number of interested WTO Members, including the United States, notwithstanding progress in 2005 with several other WTO Members, including China, Pakistan, Turkey and the Republic of Korea. In the area of WTO rules, additional legislative changes to eliminate WTO-inconsistent practices and fully implement WTO provisions will be necessary in several sectors, including subsidies based on use of local materials, customs practices, SPS, TBT, and taxation.

E. Mediterranean/Middle East

Overview

Strong trade relations with the countries of Northern Africa and the Middle East can help advance important U.S. commercial and foreign policy interests. The events of September 11, 2001 highlighted the importance of supporting peace and stability in the region by fostering economic development. The Free Trade Agreements (FTAs) in force with Israel, Jordan and Morocco, the FTAs concluded with Bahrain and Oman, and the ongoing FTA negotiations with the United Arab Emirates, together with the Trade and Investment Framework Agreements (TIFAs) established with most countries in the region, provide the context for our bilateral trade policy discussions with these countries, which are aimed at increasing U.S. exports to the region and assisting in the development of intra-regional trade.

1. Egypt

Momentum continued to grow in several areas of the United States-Egypt trade relationship in 2005. The ministerial economic team appointed to the Egyptian cabinet in July 2004 continued to implement significant economic reforms long urged by the United States, including in such areas as privatization, customs administration, banking and tax reform. President Mubarak signaled continuing support for the economic policies of Prime Minister Nazif and his ministerial economic team with their reappointment in the December 2005 cabinet reshuffle. The United States and Egypt engaged intensively through the process established by our Trade and Investment Framework Agreement (TIFA), including meetings in Cairo in February 2005 and in Washington in November 2005.

Among the steps taken under the TIFA was the establishment of 14 informal working groups that engaged in an extensive series of discussions aimed at improving each country's understanding of the other's trade regime and identifying specific measures to strengthen bilateral trade ties. Egypt cooperated with Israel to successfully launch the Qualifying Industrial Zones (QIZs) designated in Egypt by USTR in December 2004. The QIZs are proving effective in fostering expanded economic and trade ties between the two countries. In response to a request received from Egypt and Israel, the USTR designated in November 2005 a new Egyptian QIZ and expanded two existing zones. The United States and Egypt also cooperated in the multilateral sphere on issues related to advancing the DDA, including efforts to assure a positive outcome to the December 2005 Hong Kong WTO ministerial meeting.

Despite joint efforts to address issues affecting U.S. companies, Egypt's intellectual property regime remained an area of concern for the United States in 2005. In April 2005 Egypt was raised to the Special 301 Priority Watch List due to marketing approvals granted for locally produced copies of patented U.S. pharmaceutical products, as well as deficiencies in Egypt's copyright enforcement regime, judicial system and trademark enforcement. These issues persisted through 2005, particularly with respect to Egyptian government approval of unauthorized copies of U.S. pharmaceuticals, one instance of which occurred in December 2005. Intellectual property protection is a critical component of U.S. Free Trade Agreements and improvements in Egypt's intellectual property regime will be an important part of Egyptian efforts to lay the basis for any future agreement with the United States.

2. Israel

The United States' 1985 FTA with Israel was its first ever, and the two countries enjoy a robust bilateral trade relationship. The United States and Israel are also cooperating through QIZs to strengthen regional economic integration by expanding trade ties between Israel, Egypt and Jordan.

However, while the United States and Israel continue efforts to further strengthen their trade relationship, the United States remains concerned by longstanding market access issues. Lack of adequate intellectual property rights protection in Israel remains a key concern. Legislation passed by Israel in 2005 on the protection against unfair commercial use of confidential data submitted for marketing approval by U.S. and other foreign firms fell significantly short of OECD-level protections and the standards expected of an FTA partner of the United States. Accordingly, Israel was placed on the 2005 Special 301 Priority Watch List (PWL). The PWL listing also reflected U.S. concerns regarding Israeli legislation that limits the availability of patent extensions to compensate for administrative delays, a key issue for U.S. pharmaceutical firms. Israel passed this measure into law in December 2005, further compounding U.S. government and business worries regarding its intellectual property regime.

The United States will continue to work with Israel to address intellectual property concerns, as well as issues in other areas such as government procurement and standards.

Free Trade Agreements

The FTAs with Morocco, Bahrain and Oman, and the ongoing FTA negotiations with the United Arab Emirates, which are discussed earlier in this chapter (Section A), will support the significant economic and political reforms underway in both countries, and create improved commercial and market opportunities for U.S. exports.

Trade and Investment Framework Agreements

The United States has concluded Trade and Investment Framework Agreements (TIFAs) with Algeria, Egypt, Iraq, Kuwait, Qatar, Tunisia, Saudi Arabia and Yemen. Each TIFA establishes a bilateral Trade and Investment Council that enables representatives to meet directly with their counterparts regularly to discuss specific trade and investment matters and to negotiate the removal of impediments and barriers to trade and investment.

3. WTO Accession

Saudi Arabia completed its WTO accession negotiations and acceded to the WTO in December 2005. Negotiations on the accession to the WTO of Algeria, Lebanon, and Yemen continued in 2005. The United States supports accession to the WTO based on a new Members implementation of WTO provisions immediately upon accession and of a new Members commercially meaningful market access commitments for U.S. goods, services, and agricultural products.

4. Qualifying Industrial Zones

a. Egypt

Qualifying Industrial Zones (QIZs) are established pursuant to legislation passed by the Congress in October 1996, authorizing the President to proclaim elimination of duties on articles produced in the West Bank, Gaza Strip, and qualifying industrial zones in Jordan and Egypt. The President delegated the authority to designate QIZs to the USTR. Until December 2004, all QIZs had been established in Jordan. 2004 saw the fulfillment of the potential for the QIZ initiative to include Egypt.

In December 2004, USTR designated three QIZs in Egypt: the Greater Cairo QIZ, the Alexandria QIZ and the Suez Canal Zone QIZ. In November 2005, at the request of Egypt and Israel, USTR Rob Portman approved a new zone -- the Central Delta QIZ -- as well as the expansion of the already designated Greater Cairo and Suez Canal QIZs.

The USTRs decision to approve Egypts and Israels QIZ request reflects continuing U.S. support for expanded economic and political ties between the two countries. In addition, the QIZs are expected to further Egypts efforts to liberalize its economy and integrate economically with its regional neighbors and in the global market.

b. Jordan

Qualifying Industrial Zones (QIZs) continue to be a bright spot in Jordanian economic performance. Thirteen QIZs have been established in Jordan since 1998. The duty free benefits provided by QIZs remain particularly important for Jordanian products for which duty free treatment has not yet been phased-in under the United States-Jordan FTA. QIZs played an important role in helping to boost Jordan's exports to the United States from \$16 million in 1998 to \$1.1 billion in 2004. Peak QIZ employment is forecast at 40,000 to 45,000. Investment in the establishment of QIZs is approximately \$85 million to \$100 million, which is expected to grow to \$180 million to \$200 million when all projects are completed.

In 2004, USTR designated two QIZs in Jordan, the Resources Company for Development and Investment Zone (RCDI) and Al Hallabat Industrial Park. The Zarqa Industrial Zone was designated in 2001, and five QIZs were designated in 2000: The Investors and Eastern Arab for Industrial and Real Estate Investments Company Ltd. (Mushatta International Complex), El Zay Ready Wear Manufacturing Company Duty-Free Area, Al Qastal Industrial Zone, Aqaba Industrial Estate, and the Industry and Information Technology Park Company (Jordan CyberCity Company). Four QIZs were designated in 1999, Al-Tajamouat Industrial City, Ad-Dulayl Industrial Park, Al-Kerak Industrial Estate, and Gateway Projects Industrial Zone. The first QIZ in Jordan, Irbid, opened in 1998.

The steady growth of QIZs illustrates the economic potential of regional economic integration. In addition to the competitive benefit of duty-free status for QIZ exports to the United States, QIZs increasingly offer participating companies the advantages of modern infrastructure and strong export expertise and linkages. This evolution should serve to increase the economic benefits generated by QIZs.

Intellectual Property Rights

Protection of intellectual property rights remains a priority in the Middle East region. Egypt, Israel, Kuwait and Lebanon are on the Special 301 Priority Watch List, while Saudi Arabia is on the Watch List.

F. Southeast Asia and the Pacific

1. Australia

A discussion of U.S. – Australia relations during 2005 can be found in Section A, describing the U.S. – Australia FTA.

2. New Zealand

United States and New Zealand officials maintained close contact during 2005 on a range of bilateral trade issues and worked to develop common approaches in regional and multilateral trade fora. The United States continued to raise concerns over New Zealand's biotechnology food labeling requirements. With respect to improving protection of intellectual property rights, the New Zealand government passed legislation in 2003 banning parallel imports of newly released films. In 2005, the United States proposed that longstanding concerns related to parallel imports of other copyrighted material, such as software and sound recordings on optical media, be resolved. The United States remains concerned about trademark protection, format shifting of digital media, and pharmaceutical patent protection. The United States has urged New Zealand to accede to the World Intellectual Property Organization (WIPO) treaties on Copyright and Performances and Phonograms and establish a more complete regime governing internet service provider (ISP) responsibility to remove infringing material from the Internet.

U.S. manufacturers continue to assert that the proposed joint New Zealand-Australian regulatory regime could impede the price competitiveness of many U.S. medical devices and complementary goods in the New Zealand market. The United States also remains concerned that New Zealand's pharmaceutical sector policies do not appropriately value innovation and restrict the ability of pharmaceutical companies to sell their products in New Zealand by limiting availability and setting prices on drugs approved for government reimbursement.

In 2005, U.S. officials continued to discuss with New Zealand how it might administer its sanitary and phytosanitary measures (SPS) to permit the importation of additional U.S. agricultural products including beef and live cattle pork, poultry and avocados. United States officials have also urged New Zealand to take steps to increase competition in its telecommunications market. The United States will continue working with New Zealand under our Trade Investment Framework Agreement to address these and other bilateral trade issues. We will also work with the New Zealand government in APEC and the WTO to advance our common trade interests.

3. The Association of Southeast Asian Nations (ASEAN)

a. Indonesia

i. General

The United States has worked throughout 2005 to enhance its Trade and Investment Framework Agreement (TIFA) dialogue with Indonesia, seeking to help strengthen Indonesia's economy and encourage liberalization and other economic reforms that would generate additional trade and foreign investment. The Administration of newly-elected President Susilo Bambang Yudhoyono in 2005 began a review of Indonesia's trade policy regime and to implement reforms to improve the nation's trade and investment climate. The United States will closely monitor the results of Indonesia's trade policy review and the impact of economic reforms that are implemented. Senior U.S. and Indonesian trade officials, including at the minister level, met several times in 2005 to discuss the range of outstanding issues affecting the U.S.-Indonesian economic relationship and other issues covered under our bilateral TIFA. They discussed the need to address unresolved bilateral issues and exchange views on developments in regional and multilateral fora such as APEC and the WTO, as well as to agree on steps to create conditions that will allow the consideration of a possible future free trade agreement. This work is consistent with the objectives outlined in the Enterprise for ASEAN Initiative. Indonesia is currently our 30th largest goods trading partner with \$13.5 billion in total two-way goods trade during 2004.

ii. Intellectual Property Rights (IPR)

The United States has continued to urge Indonesia to take steps to strengthen its IPR regime. USTR placed Indonesia on the Special 301 Priority Watch List in 2005 due to concerns over continued optical media piracy and weaknesses in Indonesia's IPR enforcement efforts. In recognition of the fact that Indonesia had taken some noteworthy steps to strengthen its IPR regime, the 2005 Special 301 Report also included an Out-of-Cycle Review that permitted USTR to work with Indonesia on development of a May 2005 action plan to improve IPR enforcement.

However, significant problems related to IPR piracy remain. Overall, protection of intellectual property rights in Indonesia remains relatively weak and U.S. industries continue to report the presence of illegal optical media production lines. U.S. industries also have raised serious concerns about counterfeiting and trademark violations of a wide range of products in Indonesia.

While a limited number of raids against retail outlets for pirated optical media products have occurred, long delays remain in prosecuting intellectual property cases. Sentences continue to be light and insufficient to deter intellectual property piracy, further undermining the criminal penalties laid out in Indonesia's copyright law.

The United States continued to encourage Indonesia to implement the specific recommendations made in both a May 2002 IPR action plan and a May 2005 action plan, including taking steps to improve inter-ministerial coordination on efforts to combat IPR piracy and to strengthen the legal framework and enforcement mechanisms to protect IPR.

In November 2003, the Indonesian government submitted draft regulations governing optical media production for Presidential approval. In October 2004, these "Optical Disc Regulations" were signed into law by then President Megawati Sukarnoputri and came into force in April 2005. The United States has encouraged Indonesia to fully and actively enforce these Optical Disc Regulations.

iii. Poultry Imports

Appropriate officials in the United States and Indonesia continued to discuss steps that can be taken to ensure that U.S. poultry exports meet Indonesian requirements for Halal certification. Indonesia is maintaining its ban on imports of U.S. poultry parts pending agreement on Halal certification. The U.S. Government continued to raise this issue with the Indonesian government in 2005 and will work with Indonesia to eliminate the ban.

iv. Textiles

In 2005, the United States raised concerns about Indonesia's 2002 Textiles Decree, which effectively precludes the importation of certain textiles into Indonesia other than directly by local manufacturers for use as inputs into other products. The United States also urged Indonesia to work with its domestic textile producers to help them adjust to competition under the post textile quota regime, as the WTO Agreement on Textiles and Clothing expired on December 31, 2004.

b. Malaysia

i. Overview

The United States and Malaysia signed a Trade and Investment Framework Agreement on May 10, 2004. Three meetings have been held under the TIFA since then, most recently in October 2005 in Malaysia. The two countries have held constructive discussions covering a range of issues, including improving market access in the financial services, automotive, and agriculture sectors, strengthening the protection and enforcement of intellectual property rights, upgrading customs procedures, and addressing investment concerns. In addition, Malaysia and the United States discussed cooperation and trade capacity building projects that will help further both countries' interests in enhancing our trade relationship, including areas such as customs, IPR enforcement and sanitary and phytosanitary requirements. The meetings also provided the opportunity to coordinate on APEC and WTO issues. Finally, the United States and Malaysia discussed the President's Enterprise for ASEAN Initiative and the possibility of a U.S.-Malaysia FTA.

ii. Financial Services

Malaysia pledged in 2001 to fully open its financial sector by 2007 under the “Financial Market Masterplan.” While some liberalization has been achieved, access to Malaysia’s financial services sector remains highly restricted. In 2005, we raised serious concerns about this issue and its implications for Malaysia’s growth and development, and urged Malaysia to accelerate its plans for liberalization.

iii. Automotive

The United States raised concerns with the Malaysian Government over Malaysia’s high tariffs, excise taxes and approved import permit requirement (effectively an import licensing system). In the automotive sector, in October 2005 the Malaysian Government announced a new National Automotive Policy Framework, which lowers import duties and excise taxes. We will continue to work with Malaysia to eliminate the remaining barriers in the automotive sector.

iv. Intellectual Property Rights (IPR)

Malaysia has a strong public commitment to IPR enforcement, including working with the United States on the APEC IPR Initiative. It has taken steps to strengthen its IPR regime over the past year. Malaysia announced in October 2005 that it will establish a specialized court dedicated exclusively to intellectual property cases, a move the U.S. Government recommended. It also has increased enforcement in a number of areas. Despite this progress, Malaysia continues to have high piracy rates for optical media (CDs and DVDs) and is a substantial exporter of counterfeit and pirated products. The United States also raised concerns about Malaysia’s requirement that pharmaceuticals carry a hologram security sticker in 2005. While we support Malaysia’s goal of combating pharmaceutical counterfeiting, this program may in fact make it easier for counterfeiters to market pirated products as genuine. The U.S. Government will work with Malaysia to encourage it to adopt best international practices to combat IPR violations and to further strengthen its ability to prosecute IPR crimes.

c. Philippines

i. Overview

The United States furthered its trade and investment dialogue with the Philippines in 2005, holding several rounds of consultations under the bilateral TIFA. The two sides have used these meetings to make progress in addressing outstanding concerns. In addition, the United States used these meetings to urge the Philippines to resist taking any steps that might run counter to continued progress toward liberalizing its trade and investment regime. The United States also asked the Philippines to reaffirm its support for global trade liberalization as outlined in the WTO Doha Development Agenda. President Arroyo announced in June 2004 a “10 Point Agenda” to revitalize the Philippine economy. That agenda sets ambitious goals, such as the creation of six million jobs in six years, balancing the budget, and large investments in infrastructure. The United States will continue to consult with the Philippines on its plans to prioritize and meet the targets in the Agenda. The Philippines is currently our 26th largest goods trading partner with \$16.2 billion in total two-way goods trade during 2004.

ii. Intellectual Property Rights (IPR)

The Philippines made some progress in its efforts to strengthen IPR protection in 2005. To support the Philippines’ efforts to strengthen its IPR regime, the United States in August 2002 provided

recommendations to the government of the Philippines in the form of an IPR Action Plan that included specific steps on judicial, legislative, and enforcement issues. USTR placed the Philippines on the Special 301 Priority Watch List in 2005 due to concerns over, among other things, continued high levels of optical media piracy and weaknesses in IPR enforcement and prosecutions.

The Philippines had taken a number of steps in 2004 and 2005 to strengthen IPR enforcement, leading USTR to also include an out-of-cycle review as part of its 2005 Special 301 findings. The review permitted us to work with the Philippines on development of a May 2005 action plan to improve IPR enforcement.

In 2004, the Philippines passed the Optical Media Act, which was a top U.S. priority. This law creates a regulatory regime for optical media manufacturing equipment in order to curb rampant pirate production of optical media. The law also provides a legal basis for enforcement activities against IP-infringing optical media, such as pirated music, software and film CDs.

The Philippine Intellectual Property Office (IPO) in 2005 worked to upgrade inter-agency coordination and cooperation on IPR enforcement. The Optical Media Board (OMB) significantly increased the number of raids it carried out against IP pirates in 2005 compared to 2004. The OMB has specifically targeted vendors in shopping malls and worked to encourage landlords to agree to include a clause in their leases that makes sale of IP-infringing goods by tenants the basis for eviction. Nonetheless, pirated optical media continues to be widely available across the Philippines, indicating that additional enforcement action remains necessary. The Philippines' Bureau of Customs (BOC) passed regulations aimed at improved enforcement against trade in pirated products and, in 2003, BOC established an IP enforcement unit. Unfortunately, the IP enforcement unit remains under-staffed, perhaps due to the fact that it is not funded by its own BOC budget line item.

Other concerns remain. The Philippines has yet to pass copyright amendments, pending in its Congress as of January 2006, which would update its domestic law to address electronic commerce piracy. In addition, while the increased number of raids carried out by the OMB are commendable, the Philippines has been slow to prosecute IPR offenders and reluctant to impose either criminal or civil penalties as permitted under its domestic law that would act as a deterrent. The IPO in 2005 proposed the creation of three Special IP Courts, but these Courts have not yet been established, and many details about the procedural rules under which these courts would operate have yet to be set. Consequently, the continued lack of effective IPR enforcement and prosecutions in the Philippines results in tens of millions of dollars in losses in intellectual property for U.S. industry every year.

iii. Telecommunications

The U.S. and Philippine governments successfully worked together to begin reopening U.S. access to the Philippines telecommunications networks. In February 2003, Philippines telecommunications companies blocked access to their networks to incoming call traffic from certain U.S. and other foreign telecommunications companies that were unwilling to agree to tariff increases the Philippine companies wanted to impose. Senior U.S. government officials, including from USTR and the FCC, raised concerns over this action with Philippine officials. In November 2003, some telecommunications connections between the two countries were restored and ongoing negotiations resulted in a complete restoration of telecommunications links in 2004. No significant changes to the Philippine regime governing telecommunications took place in 2005.

iv. Customs

The Philippines has made progress over the last several years toward bringing its customs regime into compliance with its WTO obligations, but the United States has continued to have concerns about inconsistent application of customs rules and procedures, undue and costly processing delays, and the role of the Philippine private sector in the valuation process.

The Philippines has outlined steps it has taken and plans to take to strengthen the enforcement and consistency of its customs rules and improve enforcement against IPR piracy at the border. The United States will continue to closely monitor this issue.

v. Sanitary and Phytosanitary (SPS) Issues

Throughout 2005, the United States requested that the Philippines reform the manner in which it administers its Veterinary Quarantine Clearance (VQC) certificate program. Currently, VQCs are issued in fixed tonnage amounts that do not necessarily match the tonnage of a given shipment of U.S. meat and poultry exports the Philippines. VQCs issued with fixed tonnage assigned to them force importers to waste VQC allotments, because excess VQC tonnage can not be reclaimed in any way. This practice impedes the flow of U.S. meat and poultry exports that otherwise meet Philippine VQC standards. We will continue to press the Philippines to permit VQCs to be issued to match the tonnage of incoming shipments or for importers to be able to “carry over” any un-used tonnage to subsequent shipments of U.S. meat and poultry.

d. 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 negotiations (see Chapter III, section A.4).

The FTA significantly liberalizes trade in goods and services, and provides strong protection for intellectual property and for U.S. investors. Trade grew substantially during the first two years of the FTA. On an annualized basis, U.S. exports to Singapore grew by more than ten percent, while U.S. imports from Singapore grew by more than four percent.

e. Thailand

The United States and Thailand initiated negotiation of an FTA in mid-2004. The United States is using these negotiations to secure improved access to the Thai market for U.S. products and to address a variety of long-standing issues, with respect to intellectual property rights and customs procedures. A discussion of U.S. – Thai engagement during 2005 can be found in Section A of this Chapter.

f. Cambodia

Cambodia became the 148th member of the WTO on October 13, 2004. Cambodia was approved by the WTO for membership in September 2003, at the Cancun Ministerial Meeting, but did not complete its domestic ratification procedures until the following year.

The United States and Cambodia began negotiation of a TIFA agreement shortly after Cambodia joined the WTO. These negotiations should be completed in the near future. Cambodia has embarked on a process of reform, both to support its domestic economy and to implement its WTO obligations.

The TIFA will provide a formal mechanism for the United States and Cambodia to engage on economic and trade issues of mutual interest, including Cambodia's reform program and implementation of its WTO commitments.

g. Vietnam

i. Overview

On July 13, 2000, the United States and Vietnam signed an historic bilateral trade agreement (BTA), concluding a four-year negotiation to normalize trade relations. Upon its entry into force on December 10, 2001, the United States extended NTR treatment to products of Vietnam. Under the BTA, Vietnam committed to make sweeping economic reforms, which created trade and investment opportunities for both U.S. and Vietnamese companies, and has been the foundation of United States – Vietnam trade and economic relations. Vietnam remains subject to the Jackson-Vanik provisions of the Trade Act of 1974, however, which link continued eligibility for NTR treatment to sufficient progress on the issue of free emigration. Each year since 1998, the President has granted a waiver under Jackson-Vanik for Vietnam, thus clearing the way for Vietnam to receive annually renewed (as opposed to permanent) NTR treatment from the United States.

The Joint Committee established by the BTA has met annually in formal session since implementation of the agreement, most recently in June 2005. The primary purpose of the Joint Committee is to review implementation of the provisions of the BTA. While applauding Vietnam's commitment to economic reform, the United States underscored the importance of Vietnam moving quickly to meet the timetables for implementation contained in the BTA.

The two countries also discuss Vietnam's pursuit of WTO membership and operation of the United States – Vietnam textile agreement. Further information on WTO accession negotiations is contained in Chapter II of this report. The next meeting of the Joint Committee will be held in the first half of 2006, at which point the first four years of implementation of the BTA will be reviewed.

ii. Agricultural Issues - Poultry

In November 2005, Vietnam imposed an immediate ban on imports of all unprocessed poultry products in an effort to control the spread of avian influenza (AI). The United States emphasized to Vietnam that international guidelines provide for imports to be banned only from infected countries and that WTO rules require that a scientific basis exist for such restrictions. On January 11, 2006, Vietnam effectively lifted the ban on imports of poultry and poultry products from AI free countries.

h. Laos

The U.S. - Laos Agreement on Trade Relations (BTA) came into effect on February 4, 2005, after domestic ratification procedures were completed in both countries. The BTA normalized trade relations between the two countries. Under the BTA, the United States extended normal trade relations status (NTR) to products of Laos. Laos agreed to implement a variety of reforms to its trade regime, including NTR 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-level customs regulations and procedures.

Laos' small economy does not yet support a large retail market in pirated or counterfeit goods, but small outlets are spreading. While enforcement is weak, some elements of the government of Laos are interested in creating strong domestic intellectual property legislation, particularly given Laos' desire to protect the intellectual property created through Lao handicrafts and native music.

The United States is working closely with Laos to implement the terms of the BTA.

4. Republic of Korea

a. Economic and Trade Overview

The Republic of Korea is a significant trading partner of the United States. Korea is the 7th largest export market for U.S. goods, 5th largest export market for U.S. agriculture products, and 7th largest trading partner in terms of two-way goods trade. Further, the United States is the largest foreign investor in the Korean market. Economic growth and trade liberalization in Korea have created many opportunities for U.S. exporters and investors.

During 2005, the United States and Korea made important progress in resolving bilateral trade issues in several key sectors, including strengthening Korea's intellectual property protection regime; lifting an import ban on U.S. poultry; ratifying a WTO rice agreement that will double the amount of rice Korea imports over the next ten years from WTO members, including from U.S. suppliers; resolving a number of automotive standards issues, including those related to average fuel economy, automobile exhaust emissions levels, and license plate size; and improving transparency in Korea's procedures for pricing, reimbursing, and approving innovative pharmaceuticals. Furthermore, the United States in 2005 has worked closely with the Roh Administration to ensure that Korea's efforts at domestic regulatory reform address the priority concerns of U.S. exporters and investors, including enhancing regulatory transparency.

The United States and Korea meet regularly to consult on bilateral trade issues. Meetings held on a quarterly basis serve as the primary forum for discussing these issues; those meetings are augmented by a broad range of senior-level policy discussions. With important progress having been made in 2005 to resolve key bilateral trade concerns, the United States and Korea have intensified discussions on what further steps are warranted to deepen trade relations between our two countries, including the possibility of launching a bilateral Free Trade Agreement (FTA). As a result, the United States and Korean governments convened three meetings during the year to review the objectives and provisions of each country's recent FTAs with other countries.

In 2005, Korea played a constructive role in the World Trade Organization (WTO) Doha Development Agenda (DDA) negotiations, particularly with respect to the non-agriculture market access, services, and trade facilitation discussions. As the host country of APEC in 2005, Korea also played a leadership role in generating APEC-wide support for an ambitious result in the DDA negotiations. Korea also used its APEC chairmanship role to promote trade and investment liberalization in the Asia-Pacific region. In particular, Korea joined the United States and Japan in co-sponsoring a comprehensive anti-counterfeiting and piracy initiative that resulted in model guidelines to reduce trade in counterfeit and pirated goods, to reduce on-line piracy, and to prevent the sale of counterfeit and pirated goods over the Internet (see Chapter III, section B.5 for further details).

b. Regulatory Reform

U.S. exporters and investors seeking to do business in Korea have long cited the lack of transparency in Korea's regulatory system. As more U.S. companies increase their presence in Korea's economy, these administrative practices, which frequently involve regulatory measures rather than traditional trade measures like tariffs or quotas, will have an increasingly important impact on U.S. firms' access to the Korean market.

In 2005, some progress was made in enhancing regulatory transparency for U.S. firms doing business in the Korean marketplace. For instance, the Korean government promulgated a recommendation that all ministries provide a 60-day period for public comment on draft laws and regulations related to trade and economic issues. Further, the Roh Administration has charged the Deregulation Taskforce Team, the Corporate Difficulties Resolution Center, and the standing Regulatory Reform Committee to focus on different aspects of regulatory reform, both systemic and sector-specific. The Korean government agreed in 2005 that it would work closely with the United States and with the U.S. business community, including establishing a specific channel for communication on these topics, as it develops its recommendations to these three bodies in an effort to eliminate or amend certain Korean regulations. We will continue to monitor Korean government implementation of these programs.

During bilateral trade consultations in 2005, the United States continued to raise concerns with respect to transparency, including: unreasonably short public comment periods for draft regulations; final draft regulations not incorporating public comments; inconsistent application of regulations; and concern that foreign investors may be disproportionately targeted by certain Korean regulatory agencies.

c. Telecommunications

The possibility of Korean government intervention in commercial aspects of the telecommunications sector, including in the selection and mandating of technologies, licensing procedures, and procurement, continued to be of concern to the United States in 2005. The Korean government has the ability to influence the sector both directly and indirectly through industry associations, quasi-governmental commissions, and licensing conditions. As a result, U.S. firms with leading-edge technologies have sometimes encountered resistance to their efforts to introduce new software and technologies to the market.

For example, in July 2004 Korea mandated a single standard for a new wireless portable broadband Internet service -- which carries the brand name "WiBro" in Korea -- despite U.S. concerns that a single standard would exclude viable foreign products without sufficient justification for a government-mandated standard. In January 2005, the government allocated three WiBro licenses (although one licensee subsequently decided not to proceed with WiBro), and these licensed firms began to implement their infrastructure build-out in preparation for commercial service.

Some limited progress in entering this market was made by U.S. companies during 2005, as several U.S. technology firms began to supply WiBro-related technology and equipment. The service will be commercialized nationwide in 2006. The United States will continue to urge Korea to allow other technologies to be deployed for providing wireless portable broadband Internet services and, more generally, to ensure that Korea sets standards and licensing requirements consistent with its bilateral and multilateral trade obligations, and that any such measures do not subject foreign firms to discriminatory treatment.

The United States strongly advocated during quarterly trade discussions in 2005 for further liberalization of the Korean telecommunications services market, and called on Korea to remove limits on foreign shareholdings of Korean facility-based telecommunications operators. The United States will continue in both bilateral and multilateral contexts to encourage Korea to eliminate such caps on foreign ownership in the telecommunications sector.

d. Motor Vehicles

In 2005, progress was made on a number of automotive standards issues of concern to the United States. In June, Korea agreed to extend until the end of 2009 a grace period for foreign vehicles to meet average fuel economy targets, and to review the application of this system to foreign cars in the second half of 2009.

Korea also revised an automobile emissions regulation to provide a grace period for compliance until the end of 2008 for small volume sellers of vehicles, including U.S. automakers, in the Korean market. On license plate size and shape, the Korean government agreed to allow small sellers to be exempted from a requirement to use European standards.

The resolution of these standards issues removes certain impediments to access to the Korean market for makers of U.S. motor vehicles. Although overall auto sales in the Korean market were down one percent during the first nine months of 2005, sales of imported vehicles increased 26 percent during the same time period. While sales trends are headed in the right direction, however, imported vehicle sales continue to represent an unreasonably small share of the Korean market – roughly 3 percent.

The United States will continue to work with Korea to ensure fair market access for foreign motor vehicles, consistent with the letter and spirit of the October 1998 United States-Korea Memorandum of Understanding (MOU) Regarding Foreign Motor Vehicles. During 2005, both the United States government and U.S. industry made specific suggestions to the Korean government on fulfillment of the MOU commitment to “steadily reduce the tax burden on motor vehicle owners in the ROK in a way that advances the objectives of this MOU.” To date, Korea has yet to announce a comprehensive tax reform plan. The United States has recognized that this is a complex process, but stressed the importance of developing a comprehensive and transparent plan to meet this critical objective. In addition to standards and tax reform, the United States will also continue to work with Korea on tariff reduction and improving consumer perception of imported vehicles.

e. Pharmaceuticals

The United States and Korea have worked extensively since 1999 to address a number of market access issues in the pharmaceutical sector. Over the past year, bilateral consultations have focused on transparency, pricing and regulatory issues. Progress was made in all three of these areas during 2005.

Transparency: In early 2005, Korea’s Ministry of Health and Welfare (MHW) began to provide written justifications for pricing decisions that differed from the applicant company's request, and agreed to work with the multinational industry to improve the quality of the written justifications, accepting as a basis for its work a template provided by the Korea Research-based Pharmaceutical Industry Association. MHW also assured the United States at the October 2005 quarterly trade discussions that it would work with the multinational pharmaceutical industry to design and implement a truly independent appeals mechanism to review contested reimbursement and pricing decisions.

Pricing: Throughout the year and through multiple channels, the United States continued to press Korea to offer A-7 (the average ex-factory price in the A-7 countries of the United States, United Kingdom, Germany, France, Italy, Switzerland, and Japan) pricing to all new innovative medicines produced by U.S. companies and to better enforce the Actual Transaction Price (ATP) system. In a welcome development, at the October 2005 quarterly trade meeting, MHW announced its agreement that criteria for A-7 pricing should be made less subjective and decision-making should be less arbitrary. As a first step, it announced that it would undertake a review of all previous A-7 decisions to determine which factors were most important for decision-making purposes. On the basis of this review, MHW assured the United States that it would work with industry to develop a clear and objective set of decision-making criteria for A-7 pricing. The Korean government has also assured the United States that it has no immediate plans to implement proposals that would change the calculation methodology of Korea's "triennial re-pricing exercise" to the detriment of innovative foreign pharmaceuticals.

The United States remains concerned that lack of appropriate enforcement of the Actual Transaction Price (ATP) system has led to market distortion, artificially high-priced generic products, and incentives for doctors to prescribe medications for profit. ATP was designed to end hospitals' fraudulent practice of demanding discounts from drug makers when buying drugs and then pocketing the difference between the discounted price and the larger reimbursement price provided by the government-operated health insurance system. However, ineffective enforcement of ATP has allowed such practices to continue. In 2005, a coalition of Korean medical associations agreed to a voluntary charter eschewing the practice of demanding discounts from pharmaceutical companies, but it is not yet clear if this approach will have an impact on the problem.

Regulatory: In October 2004, the Korean Food and Drug Administration (KFDA) considered granting marketing approval to a generic version of a U.S. company's drug even though the original drug was still undergoing post-marketing surveillance in Korea and the generic manufacturer did not provide KFDA with comparable safety and efficacy data as the original. In essence, KFDA considered allowing the generic maker to rely on the data provided in the application of the original drug even though Korea provides a *de facto* period of data protection as required by Article 39.3 of the WTO TRIPS Agreement. Aware of these concerns, KFDA decided on March 31, 2005 that the generic manufacturer would have to supply a full portfolio of clinical data in order to obtain market approval. The United States welcomed this appropriate reconfirmation of Korea's policy, and will continue to monitor Korea's compliance with its WTO TRIPS obligations regarding pharmaceutical data protection.

f. Intellectual Property Rights (IPR)

Korea took significant steps to strengthen its intellectual property regime over the past year. In recognition of Korea's efforts, USTR moved Korea from the Special 301 Priority Watch List to the Watch List in April 2005. Meaningful improvements made by Korea include: introducing legislation that will create protection for sound recordings transmitted over the Internet (using both peer-to-peer and web-casting services); implementing regulations that restore the ability of the Korea Media Rating Board to take necessary steps to stop film piracy; and increasing enforcement activities by the Standing Inspection Team against institutions using illegal software.

In 2005, under the leadership of the Prime Ministers Office, the Korean government developed a "Master Plan" to provide overall policy guidance to the government as it works to improve IPR protection in the country. The U.S. government has been informed that the "Master Plan" will continue to evolve to address new concerns as they arise.

In addition, Korea has created a Copyright Protection Center to improve IPR law enforcement in Korea. Partly as a result of these steps, enforcement statistics show a rapid increase in government action.

While Korea has yet to institute some form of sentencing guidelines for intellectual property crimes, increased penalties and fines have been included in several pieces of proposed legislation covering intellectual property rights, including an amendment to the Computer Program Protection Act. Further, recent Korean court decisions ruling against online service providers that facilitate copyright infringement through peer-to-peer file sharing are encouraging signs of a more aggressive approach to enforcement.

Notwithstanding these improvements, the United States continued to urge Korea to take additional steps to update its intellectual property protection regime to prevent the proliferation of unauthorized copying of copyrighted material, particularly in light of the prevalence of illegal transmission of copyrighted material over Korea's very advanced high-speed data networks. In particular, Korea's record of preventing the illegal digital transmission of sound recordings continues to be of concern, leading to a high piracy rate for U.S. (and Korean) content. Legislation passed by the Korean National Assembly in September 2004 was helpful, but introduced only a limited right of "making available" and not the full "right of communication to the public." New legislation creating a more comprehensive right of transmission for sound recordings transmitted over the Internet, covering both peer-to-peer and web-casting services, remained pending before the National Assembly at the end of 2005. It will be important for the National Assembly to pass the improved legislation as soon as possible.

Other U.S. intellectual property concerns in Korea include: 1) the need to explicitly recognize that temporary copies (e.g., temporary digital copies of software) are a part of the reproduction right and constitute a reproduction; 2) combating high levels of book piracy, especially in university communities; and 3) for computer software, ensuring full respect for the fundamental principle enshrined in international law and practice that rights holders have the exclusive right to determine the manner in which they wish to license their works. The United States has also urged Korea to proceed with the prompt ratification and implementation of the WIPO Performances and Phonograms Treaty (WPPT), to which Korea has already committed. The United States has also asked Korea to strengthen and harmonize its laws on technological protection measures (for copyrighted works) and to extend the copyright term by 20 years.

g. Government Support for Korean Industry

The U.S. government continues to be concerned by support extended to Korean firms by Korean government-owned financial institutions, notably the support given to Hynix Semiconductor, Inc. (Hynix), Korea's second largest semiconductor manufacturer. The assistance provided by the Korean government to Hynix was examined in a formal countervailing duty (CVD) investigation was conducted and completed by the U.S. Commerce Department and the International Trade Commission in 2003. As a result of this investigation, Hynix's exports to the United States are subject to countervailing duties to offset the large subsidies provided to the company. In June 2003, Korea initiated dispute settlement proceedings in the WTO to challenge the U.S. CVD order, but that challenge was unsuccessful. As a result, 44.29 percent CVD duties remain in effect. The EU also enforces has a CVD order on imports of semiconductors from Hynix and Japan is nearing completion of its CVD investigation of Hynix.

The U.S. government also continues to focus on concerns raised by the U.S. paper industry about targeted Korean government aid to its coated paper sector, including low-cost facility investment loans and loan guarantees, tax benefits for facility expansion, government-sponsored creation of a paper manufacturing complex and government sale of debt obligations.

The U.S. government will continue to consult closely with U.S. industry to determine the best course of action to address concerns in this sector.

With regard to government support across all sectors, the U.S. government also has concerns about the role played by the government-owned Korea Development Bank (KDB). Traditionally, the KDB has been one of the government's main sources for policy-directed lending to favored industries. Lending and equity investments by the KDB appear to have contributed to overcapacity of certain Korean industries. The U.S. government will continue to monitor the lending policies of the KDB and other government-owned or affiliated financial institutions.

h. Screen Quota

Under Korea's screen quota system, domestic films must be shown in each cinema for a minimum of 146 days of the year, corresponding to a 40 percent market share. While the domestic market share for Korean films has, for the last several years, far surpassed the 40 percent market share, Korean filmmakers and lawmakers have continued to resist modifications to the system. From January to October 2005, for instance, Korean films have captured approximately a 55 percent market share. The United States continued to raise its concerns on this issue in 2005, particularly its lack of economic justification given the worldwide competitiveness of the Korean film industry.

i. Agriculture

Rice: Agreement on a ten-year extension of Korea's exception to tariffication of rice imports was reached in December 2004. For U.S. rice exporters, three major benefits were provided by this agreement: (1) Korea will double its total rice imports over the next ten years; (2) Korea will purchase at least 50,076 metric tons of U.S. rice in each of the next ten years; and (3) for the first time, imported rice will be made available to Korean consumers at the retail level. The ten-year extension was notified to the WTO in late December 2004 and approved by WTO members in April 2005. The Korean National Assembly ratified the agreement on November 23, 2005. Given this late date for ratification, insufficient time remained for Korea to fulfill its rice tendering obligations under the agreement in 2005. As a result, the 2005 tendering commitments are expected to be fulfilled in early 2006, and 2006 commitments will likely begin in the middle of 2006, if not sooner. USTR will continue to monitor this situation closely.

5. India

a. General

In 2005, the United States and India increased their efforts to develop a constructive long-term trade relationship. These efforts included work to identify areas for cooperation and focused on WTO matters as well as bilateral trade issues, including India's tariff and tax regime, intellectual property rights, and subsidies. India continues to limit market access in various sectors, including through high taxes and tariffs, non-transparent procedures, differential treatment of imports, and non-tariff technical measures.

Total bilateral trade in services and goods will reach about \$27 billion in 2005, an increase from about \$12 billion in bilateral trade ten years ago. The 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 much greater.

b. Trade Dialogue

On July 18, 2005, on the occasion of President Bush's meeting with India's Prime Minister Manmohan Singh, United States Trade Representative Rob Portman and India's Minister of Commerce and Industry Shri Kamal Nath announced the establishment of the United States-India Trade Policy Forum, a new mechanism for the two countries to discuss bilateral trade and related issues. The forum is designed to expand bilateral trade and investment relations between India and the United States, and also will address multilateral issues such as the ongoing Doha Development Round negotiations. The Trade Policy Forum is part of the overall Economic Dialogue between India and the United States. Ambassador Portman and Minister Nath will oversee the Forum and guide its work. Through regular dialogue both sides hope to resolve potential issues before they become problems.

On November 12, 2005, Ambassador Portman and Minister Nath co-chaired the inaugural session of the U.S.-India Trade Policy Forum in New Delhi. The Forum meeting was preceded on November 11 by a full day of intensive consultations between senior officials of concerned departments from the two countries. The agenda included discussions on tariff and non-tariff barriers, agriculture, investment, services, intellectual property, and the Doha Development Agenda. Minister Nath and Ambassador Portman agreed on a series of next steps with a view to facilitating and promoting greater trade and investment flows between the two countries. The two sides agreed to establish focus groups on agriculture, tariff/non-tariff barriers, services, investment and innovation and creativity that will meet on a regular basis, and will function under the supervision of the Forum vice-chairs, India's Commerce Secretary S.N. Menon and Deputy U.S. Trade Representative Karan Bhatia. The next meeting of the Trade Policy Forum will take place in 2006 in Washington, D.C.

6. Pakistan

The year witnessed two important advances in U.S. – Pakistan trade and investment relations.

First, there was significant progress in Pakistan's efforts to strengthen the enforcement of intellectual property rights. In May, Prime Minister Aziz gave enforcement authority to the Federal Investigation Agency's (FIA) new intellectual property unit. Immediately following the order the FIA simultaneously raided five optical disc manufacturing plants and seized a large number of optical disks. Plants producing illegal discs were closed. Other raids were staged in the following months. In addition, President Musharraf signed an ordinance giving authority to the Intellectual Property Organization, an independent regulatory agency.

Second, three rounds of Bilateral Investment Treaty negotiations between the United States and Pakistan were held. Progress was made in narrowing differences over the text. A fourth BIT negotiating round was held in January 2006.

A Trade and Investment Council (TIC) meeting, under the auspices of the U.S. – Pakistan Trade and Investment Framework Agreement was not held in 2005. A mini-TIC meeting on market access liberalization, however, was held following the January BIT negotiations in London. Pakistani officials also participated in a seminar held by USTR in Washington on the details of U.S. Free Trade Agreements.

Several meetings were held between the U.S. Trade Representative and the Pakistani Minister of Commerce. Pakistan played an important role at the Hong Kong WTO Ministerial, with Minister Khan serving as the facilitator of the Non-Agriculture Market Access Negotiations.

7. Afghanistan

Afghanistan and the United States held their inaugural Trade and Investment Council (TIC) meeting in November 2005. The Council was created by the Trade and Investment Framework Agreement (TIFA) that was signed in September 2004. Afghan Minister of Commerce and Senior Advisor to the President Arsala traveled to Washington for the meeting.

Topics discussed were: priorities for trade capacity building and the identification of unmet needs, measures to improve Afghanistan's investment climate and foster exports, trade preferences, and WTO accession.

8. People's Republic of China

Since its accession to the WTO on December 11, 2001, China has taken important steps in implementing the numerous commitments that it undertook in its WTO accession agreement. With most of China's key commitments scheduled to have been phased-in fully by December 11, 2004, this past year provided a first critical glimpse at what to expect of China as a WTO member with its full range of commitments in place. At this point, however, China's implementation of its WTO obligations is still incomplete. While China has made important progress in implementing specific commitments and in adhering to the ongoing obligations of a WTO member, there are still serious problems in some important areas, especially in the enforcement of intellectual property rights (IPR).

Many of the shortfalls in China's WTO compliance efforts seem to stem from China's incomplete transition from being a state-planned economy. China has not yet fully embraced the key WTO principles of market access, non-discrimination and national treatment, nor has China fully institutionalized market mechanisms and made its trade regime predictable and transparent. While China has made some important progress, it continued to use an array of industrial policy tools in 2005 to promote or protect favored sectors and industries, and these tools at times collide with China's WTO obligations. The problems that result continue to foster a view of China in some quarters as an unfair and protectionist trader rather than an open and non-discriminatory economy that is one of the major engines of growth in the world.

When the United States and other WTO members concluded 15 years of negotiations with China over the specific terms of its entry into the WTO at the end of 2001, China had agreed to extensive, far-reaching and often complex commitments to change its trade regime, at all levels of government. China had committed to implement a set of sweeping reforms that required it to lower trade barriers in virtually every sector of the economy, provide national treatment and improved market access to goods and services imported from the United States and other WTO members, and protect intellectual property rights.

China had also agreed to special rules regarding subsidies and the operation of state-owned enterprises, in light of the state's large role in China's economy. The United States and other WTO members envisioned that faithful WTO implementation by China would reduce the ability of non-market forces, including government policies and directives from government officials; to intervene in the market to direct or restrain trade flows. Eventually, it was expected that China's economy would operate on market principles, like its trading partners' economies.

The first year of China's WTO membership – 2002 – saw significant but uneven progress, as China took steps to repeal, revise or enact more than one thousand laws, regulations and other measures, in an effort to bring its trading system into compliance with WTO standards. By 2003, however, China's WTO implementation efforts had lost a significant amount of momentum, and we identified numerous specific WTO-related problems. As those problems mounted in 2003, the Administration responded by stepping up its efforts to engage China's senior leaders, culminating in December 2003, when President Bush and Premier Wen committed to upgrade the level of discussions and undertake an intensive program of bilateral interaction – with a view to resolving problems in the U.S.-China trade relationship and facilitating increased U.S. exports to China. This new approach began to take shape with the high-level Joint Commission on Commerce and Trade (JCCT) meeting in April 2004. At that meeting, the two sides resolved no fewer than seven potential disputes over China's WTO compliance. Three months later, the United States and China were also able to mutually resolve the first-ever dispute settlement case brought against China at the WTO, in which the United States, with support from four other WTO members, challenged discriminatory value-added tax policies that favored Chinese-produced semiconductors over imported semiconductors.

By the end of 2004, expectations for significant WTO implementation progress by China were high, given the success of the April 2004 JCCT meeting and promises by China's senior leaders that China would fully and in a timely manner adhere to the scheduled phase-in of key commitments on trading rights and distribution services by December 11, 2004. However, in 2005, old problems like ineffective intellectual property (IPR) enforcement persisted and new problems in areas such as distribution services began to emerge. The Administration utilized high-level engagement, expert-to-expert discussions and WTO mechanisms to address these problems, and in particular, initiated a comprehensive new strategy for obtaining improvements in China's IPR enforcement. Many of these efforts culminated in a meeting of the JCCT in July 2005, co-chaired by Vice Premier Wu Yi on the Chinese side and Secretary of Commerce Gutierrez and United States Trade Representative Portman on the U.S. side. That meeting achieved measured progress on a range of concerns, but it fell short of realizing the many mutually beneficial outcomes of the April 2004 JCCT meeting.

Many U.S. companies continue to view achievement of the full market access and predictability and transparency in trade envisioned by China's WTO accession agreement as essential and view Chinese governmental efforts to manage trade as the root cause of many of the problems they faced. They are hopeful that China will continue to make progress toward removing the state from the Chinese economy and will recognize that the market, left to its own devices, is the most effective vehicle for Chinese economic growth. In the absence of concrete, sustained and visible progress, however, they believed that China could face a more serious political challenge in the United States. The areas of particular concern to the United States and U.S. industry, and most in need of improved WTO compliance efforts, are summarized below.

Intellectual Property Rights

China has undertaken substantial efforts to implement its commitment to overhaul its legal regime to ensure the protection of intellectual property rights in accordance with the WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement). While the United States continues to work with China in some problem areas, China has done a relatively good job of overhauling its legal regime. However, China has been much less successful in enforcing its laws and regulations and ensuring the effective IPR enforcement required by the TRIPS Agreement. With most in U.S. industry reporting no significant reduction in IPR infringement levels in 2005, IPR enforcement remains problematic. Counterfeiting and piracy in China remain at epidemic levels and cause serious economic harm to U.S. businesses in virtually every sector of the economy.

The Administration places the highest priority on improving IPR enforcement in China. Building on its engagement with China at the April 2004 JCCT meeting, the United States took several aggressive steps in 2005 in an effort to obtain meaningful progress. First, the United States conducted an out-of-cycle review under the Special 301 provisions of U.S. trade law, which involved a systematic evaluation of China's entire IPR enforcement regime, supported by submissions from U.S. manufacturers and businesses to document IPR infringement to the extent possible. At the conclusion of this review in April 2005, the Administration elevated China to the Special 301 "Priority Watch" list and set forth a comprehensive strategy for addressing China's ineffective IPR enforcement regime, which included the possible use of WTO mechanisms, as appropriate. The United States immediately began to pursue this strategy during the period prior to the July 2005 JCCT meeting, as the United States sought to strengthen the commitments that China had made at the April 2004 JCCT meeting and to obtain China's commitment for greater involvement of its police authorities in IPR enforcement matters.

China subsequently agreed to take a series of specific actions designed to increase criminal prosecutions of IPR violators, improve enforcement at the border, counter piracy of movies, audio-visual products and software, address Internet-related piracy and assist small- and medium-sized U.S. companies experiencing China-related IPR problems, among other things. Because lack of transparency on IPR infringement levels and enforcement activities in China has hampered the United States' ability to assess the effectiveness of China's efforts to improve IPR enforcement since the April 2004 JCCT meeting, the United States also submitted a request to China under Article 63.3 of the TRIPS Agreement in October 2005. The United States' request, made in conjunction with similar requests by Japan and Switzerland, seeks detailed information from China on its IPR enforcement efforts over the last four years. China's response to these requests, anticipated in early 2006, will help the United States further evaluate whether China is taking all necessary steps to address the rampant IPR infringement found throughout China.

The United States is committed to working constructively with China to significantly reduce IPR infringement levels in China and continues to devote extra staff and resources, both in Washington and in Beijing, to address the many aspects of this problem. At the same time, the United States remains prepared to take whatever action is necessary and appropriate to ensure that China develops and implements an effective system of IPR enforcement, as required by the TRIPS Agreement.

Trading Rights and Distribution Services

China was scheduled to phase in two key WTO commitments by December 11, 2004. These commitments called for full liberalization of trading rights – the right to import and export – and distribution services, including wholesaling services, commission agents' services, retail services and franchising services, as well as related services. As had been agreed at the JCCT meeting in April 2004, China implemented its trading rights commitments nearly six months ahead of schedule, permitting companies and individuals to import and export goods in China directly without having to use a middleman. However, delay and confusion characterized China's efforts to implement its distribution services commitments, substantially hindering the ability of U.S. and other foreign companies to begin engaging freely in the distribution of goods in China. It took several months and repeated U.S. engagement for China to address many of the problems that arose in this critical area, and some problems still remain. In addition, China only issued the regulations implementing its commitment to open its market for sales away from a fixed location, also known as "direct selling", in September 2005, and these regulations contain several problematic provisions that the United States has urged China to reconsider. The Administration will continue to pursue these important issues in 2006 to ensure that China fully meets its commitments.

Industrial Policies

Since acceding to the WTO, China has increasingly resorted to industrial policies that limit market access by non-Chinese origin goods or bring substantial government resources to support increased exports. The objective of these policies seems to be to support the development of Chinese industries that are higher up the economic value chain than the industries that are able to make full use of China's current labor-intensive base, or simply to protect less competitive domestic industries.

In 2005, examples of these industrial policies are readily evident. They include the issuance of regulations on automotive parts tariffs that serve to prolong prohibited local content requirements for motor vehicles, the telecommunications regulator's interference in commercial negotiations over royalty payments to intellectual property rights holders in the area of 3G standards, the pursuit of unique national standards in many areas of high technology that could lead to the extraction of technology or intellectual property from foreign rights holders, draft government procurement regulations mandating purchases of Chinese-produced software, a new steel industrial policy that calls for the state's management of nearly every major aspect of China's steel industry, continuing export restrictions on coke, and excessive government subsidization benefiting a range of domestic industries in China. Some of these policies appear to conflict with China's WTO commitments in the areas of market access, national treatment and technology transfer, among others.

The United States and China made important progress in resolving U.S. concerns regarding the draft software procurement regulations at the July 2005 JCCT meeting. However, serious disagreements over a number of the other industrial policies remain, particularly regarding China's regulations on auto parts tariffs and China's export restrictions on coke. The United States will continue to press China on these issues and will take further appropriate actions seeking elimination of these policies.

Services

Overall, the United States continued to enjoy a substantial surplus in trade in services with China in 2005, and the market for U.S. service providers in China remains promising. However, in some sectors, the expectations of the United States and other WTO members when agreeing to China's commitments to increase market access and remove restrictions have not been fully realized.

Chinese regulatory authorities continue to frustrate efforts of U.S. providers of insurance, telecommunications, construction and engineering 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. In 2005, China did follow through on commitments made at the April 2004 and July 2005 JCCT meetings by resuming a dialogue on insurance issues, and China also was moving forward with a promised dialogue on telecommunications issues, expected to take place in early 2006.

Agriculture

U.S. agricultural exports to China in 2004 totaled \$5.5 billion, and 2005 was also a very successful year, with China becoming the United States' fourth largest agricultural export market. U.S. exports of agricultural commodities, particularly cotton and wheat, have increased dramatically in recent years, and U.S. exports of soybeans continued to perform strongly in 2005, well exceeding \$2 billion for the third year in a row, with China remaining the leading export destination for U.S. soybeans.

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, China's WTO implementation in the agricultural sector is beset 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 sanitary and phytosanitary standards 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 commodities trade. As a result, trade with China in the agricultural sector remains among the least transparent and predictable of the world's major markets. In 2006, the United States will continue to pursue vigorous bilateral engagement with China in order to obtain progress on its outstanding concerns, particularly with regard to China's continuing ban on the importation of U.S. beef products.

Transparency

One of the fundamental principles of the WTO Agreement, reinforced throughout China's WTO accession agreement, is transparency. Adherence to this principle permits markets to function effectively and reduces opportunities for officials to engage in trade-distorting practices behind closed doors. While China's transparency commitments in many ways require a profound historical shift, China has made important strides to improve transparency across a wide range of national and provincial authorities. China's Ministry of Commerce remains most notable for its impressive moves toward adopting WTO transparency norms. However, many other ministries and agencies continue to resist the changes called for by China's WTO obligations. As a result, many of China's regulatory regimes continue to suffer from systemic opacity, frustrating efforts of foreign and domestic businesses to achieve the potential benefits of China's WTO accession.

Conclusion

In 2006, the Administration will continue its relentless efforts to ensure China's full compliance with its WTO commitments, with particular emphasis on reducing IPR infringement levels in China, and on pressing China to make greater efforts to institutionalize market mechanisms and make its trade regime more predictable and transparent. Throughout this process, the Administration remains committed to working constructively with China to ensure that all of the benefits of China's WTO membership are fully realized by U.S. workers, businesses, farmers, service providers and consumers and that the problems in our trade relationship are appropriately resolved. When this cooperative process is not successful, however, the Administration will not hesitate to employ the full range of dispute settlement and other tools available as a result of China's accession to the WTO. At the same time, the Administration will continue to strictly enforce its trade laws to ensure that U.S. interests are not harmed by unfair trade practices.

9. Japan

The United States continues to place significant importance on promoting regulatory and structural reform in Japan, expanding market access opportunities for U.S. goods and services, and supporting the implementation of pro-competitive policies throughout the Japanese economy. In this connection, the United States welcomes Prime Minister Junichiro Koizumi's commitment to stay the course on reform in order to keep Japan's economic growth on track. It remains as important as ever that Japan continues to sweep away the web of excessive regulations that hinder commerce, to improve transparency in policy making, and to implement reforms that spur competitiveness and create new business opportunities.

While the U.S. government worked with Japan during 2005 to resolve important issues on our bilateral trade agenda, the two governments also cooperated to address new regional and global issues facing our economies, particularly efforts to strengthen the protection and enforcement of intellectual property rights. The United States continues to work closely with Japan in other fora, including the WTO and APEC, to advance our overall trade priorities.

Overview of Accomplishments in 2005

U.S.-Japan Economic Partnership for Growth

The U.S.-Japan Economic Partnership for Growth (the Partnership), the chief vehicle for managing our bilateral trade and economic relations, addresses an array of policy issues to promote sustainable growth in both countries. Issues raised in the Partnership include macroeconomic policies, structural and regulatory reform initiatives, facilitation of foreign direct investment, and the elimination of trade barriers. Fora under the Partnership include the Subcabinet Economic Dialogue, the Regulatory Reform and Competition Policy Initiative (Regulatory Reform Initiative), the Investment Initiative, the Private Sector/Government Commission, the Financial Dialogue, and the Trade Forum. Highlights of Partnership activities in 2005 include:

Throughout 2005, numerous Working Groups and a High-Level Officials Group met under the Regulatory Reform Initiative to discuss reform proposals that culminated in a Fourth Report to the Leaders, which was conveyed to President Bush and Prime Minister Koizumi on November 2, 2005. That report detailed a range of regulatory reform measures that Japan agreed to implement in key areas such as telecommunications, information technologies, intellectual property, medical devices and pharmaceuticals, energy, agriculture, competition policy, and the privatization of Japan Post.

On December 7, 2005, the United States and Japan convened a meeting of the Trade Forum in Seattle, Washington where the two governments addressed a range of key bilateral issues, including the reopening of Japan's beef market, market access concerns related to the public works (design/construction) and marine craft sectors, pending restrictions on establishment of large retail stores, and a plan to raise taxes on wine in a manner that may impact U.S. producers.

In 2005, the United States and Japan convened three working-level meetings of the Investment Initiative and raised a number of topics, including mergers and acquisitions, medical services, and education services. This Initiative includes co-sponsored investment promotion seminars in both countries to bring about better understanding and support for Foreign Direct Investment (FDI) from regional government and business leaders.

a. Regulatory Reform

The November 2005 Report to the Leaders under the Regulatory Reform Initiative specified important progress across a number of areas designed to spur new competition and level the playing field for all companies operating in Japan. Progress, for example, was achieved in the sectors of telecommunications, information technologies, intellectual property, energy, medical devices and pharmaceuticals, agriculture, and financial services. Other important forward movement was made in a number of cross-cutting areas, including improvements in transparency, reform of Japan's legal system and commercial code, new tools to strengthen competition policy, and steps to streamline aspects of the Japanese distribution sector.

Building on progress achieved in the first four years of the Regulatory Reform Initiative, the United States presented Japan on December 7, 2005, with a new set of annual recommendations in its fifth submission under the Regulatory Reform Initiative. These recommendations support the overall objectives of the Partnership by urging Japan to take steps to help continue to grow and open its market. With these recommendations, the United States again placed emphasis in particular areas Japan has identified as reform priorities, including in the medical devices and pharmaceuticals area and the privatization and reform of Japan Post.

The December 2005 recommendations will be discussed in our bilateral High-Level Officials Group and in the various Working Groups established under the Regulatory Reform Initiative. Initial meetings to discuss these recommendations will take place within the first several weeks of 2006. Following additional meetings later in the spring, a fifth annual report to the President and Prime Minister will be completed in mid-2006 to detail progress made under this year's Initiative, including specific measures to be taken by each government.

Highlights of the Fourth Report to the Leaders and key reform recommendations submitted in December 2005 are as follows:

i. Sectoral Regulatory Reform

Telecommunications: Establishment of a pro-competitive telecommunications services market in Japan based on transparent regulation is the primary focus of the United States in pursuing regulatory reform for this sector in Japan. Despite significant progress, Japan's telecommunications regulator, the Ministry of Internal Affairs and Communications (MIC), continues to defer to the interests of Nippon Telegraph and Telephone (NTT) at the expense of business and residential users and to the detriment of promoting competition in the telecommunications services market. While the competitive provision of broadband services is encouraging, the inability of new entrants to make inroads into NTT's control of 98 percent of subscriber telephone lines and 55 percent of mobile customers continues to impair the introduction of innovative, low-cost services to business and residential users in Japan's telecommunications market, one of the world's largest.

The November 2005 Report to the Leaders highlighted measures taken by Japan to promote further competition in this sector. These measures included making substantial blocks of spectrum available primarily for new wireless entrants, thereby creating opportunities not only for telecommunications companies wanting to expand into the wireless business in Japan, but also equipment suppliers to those companies. MIC pre-approved licenses in October for three new market entrants, which have already attracted substantial U.S. investment to deploy new facilities.

MIC continues to grapple with NTT's loss of business to wireless and voice-over-the-Internet while maintaining its universal service obligations. In 2005, MIC implemented a more rational rate structure for wireline interconnection rates by phasing out fixed costs that have been unnecessarily charged to competitors. The United States had pressed Japan for many years to remove these costs from the formula, because they distort the rates for wholesale access to the network, calculated on a per-minute basis. MIC, however, is allowing NTT a five-year transition period, which delays the much-needed reductions for competitors. MIC is expected to continue studying how to revise or replace the rate structure, and the United States will continue discussions with MIC to ensure any changes will improve the competitive environment. The mobile wireless sector also remains an area of concern.

While NTT DoCoMo, designated since 2002 as a "dominant carrier," has reduced its interconnection rates by 25 percent over the past four years, rate reductions slowed dramatically last year to only 3 percent and overall rate levels in Japan remain high. The new entrants have announced their intention to lower such rates, as well as provide more consumer choice in this concentrated market.

In the December 2005 Regulatory Reform submission, the United States urged Japan to take bold steps to improve competition in both the mobile and wireline sectors, including: strengthening regulatory independence; reinforcing dominant carrier safeguards; investigating mobile termination rates to ensure reasonable rates and competitive neutrality; and ensuring transparency, competition, and technological neutrality in Japan's spectrum management policies and practices (such as licensing, allocation, testing, and fees). The United States also noted NTT's intentions to reorganize its group companies, and urged Japan to consider steps to ensure that such changes will not be anticompetitive. In addition, the United States called for the completion of an Agreement on Mutual Recognition of Conformity Assessment Procedures for Telecommunications Equipment with Japan that would facilitate more efficient trade in telecommunications products. These recommendations will be discussed at the next meeting of the Telecommunications Working Group.

Information Technologies: The Information Technologies Working Group (ITWG) strives to promote vibrant and competitive IT and e-commerce sectors in Japan that can benefit the U.S. and Japanese economies. Since 2001, the various e-Japan Strategies and Programs have promoted the use of IT and e-commerce in Japan by removing regulatory barriers and increasingly emphasizing private-sector input and leadership in the development and implementation of IT and e-commerce policies. After focusing on IT infrastructure build-out earlier this decade, Japan's strategies have shifted to highlighting IT and e-commerce use. Notably, the IT Policy Package 2005 promoted the use of IT and e-commerce in areas closely related to the welfare of individual citizens, such as medical services, and prioritized such areas as information security and e-government.

Japan recognizes, however, that legal and other barriers persist which prevent faster growth of IT and e-commerce use. Japan also recognizes that its policies have tremendous effects on businesses and other organizations operating in Japan, on Japanese consumers, and on cross-border online transactions. As Japan responds to the challenges that lie ahead in this pivotal sector, the U.S. government continues to work with it to promote a regulatory framework that ensures competition, promotes innovation, protects users, allows private sector-led regulation where appropriate, and protects intellectual property rights in the digital age. Fostering such a framework will further facilitate the development of Japan's IT and e-commerce markets and provide significant opportunities for U.S. firms. In 2005, ITWG discussions focused on protecting intellectual property rights; removing regulatory and non-regulatory barriers to e-commerce; promoting e-commerce via private-sector self-regulatory mechanisms and technologically neutral, market-driven solutions; and expanding IT procurement opportunities.

With regard to protecting intellectual property, Japan and the United States reaffirmed in the Report to the Leaders their commitment to intensify cooperation to strengthen intellectual property rights protection and enforcement in Asia and around the world. This is part of a broader effort by the United States and Japan to cooperate on IPR, which also included co-sponsorship of the APEC Anti-Counterfeiting and Piracy Initiative in 2005.

In addition, Japan is undertaking a sweeping review of its Copyright Law to address issues stemming from the burgeoning use of digital technology, which the United States hopes, among other things, will result in decisions to implement a statutory damages system and extend the term of protection for sound recordings and all copyrighted works.

With respect to removing barriers to e-commerce, as spelled out in the Report to the Leaders, Japan will continue to lift barriers in existing laws and regulations that hinder e-commerce (such as requirements for face-to-face or paper-based transactions). More broadly, Japan agrees it is generally important to implement laws, regulations, and guidelines related to IT in a manner that strives not to unduly promote, mandate, or favor specific technologies. This in turn helps to promote innovation in e-commerce and other IT sectors.

In the Report to the Leaders, Japan also acknowledged the private sector's leadership role in online consumer protection and management of personal data. Japan agreed to ensure that the implementation of its Law Concerning the Promotion of the Use of Alternative Dispute Resolution (ADR) Procedures does not hinder the use of ADR in e-commerce disputes either within Japan or in the cross-border context. Japan also took steps to implement its law for the Protection of Personal Information in a transparent manner by convening a second public-private sector roundtable in March 2005 that provided U.S. and Japanese industry an opportunity to offer input on this law's implementation, and by affirming that relevant Ministries that implement the law should publicly provide information on enforcement and corrective actions. Finally, Japan took strong anti-spam measures, including amending its law on Regulation of Transmission of Specified Electronic Mail (Anti-Spam Law) to introduce direct penalties, and agreeing to further promote international anti-spam activities in close cooperation with the private sector and the U.S. Government.

In information security and IT procurement reforms, Japan took significant steps as well. It affirmed the importance of private sector input in the development of new information security standards for central government entities by holding a public comment period on a draft of these standards in fall 2005. Japan also confirmed that it would work with the private sector to develop and disseminate voluntary best practices for information security. Finally, Japan recognized the need to continue its efforts to ensure that reforms of government information systems procurement procedures are implemented in a consistent, complete, and timely fashion. These measures are intended to help stimulate competition and innovation among vendors, enhance transparency and fairness in bidding, and promote growth in Japan's market for e-government solutions.

Building on these accomplishments, the United States made numerous recommendations in the December 2005 Regulatory Reform submission designed to foster Japan's IT sector and create greater opportunities for U.S. companies. These recommendations focus on: (1) IT and e-commerce policymaking based on private-sector input and leadership, self-regulation, technology neutrality, and international compatibility; (2) strengthening intellectual property rights and enforcement; (3) promoting online security; (4) promoting e-commerce and online services in sectors such as medicine and finance in a transparent manner; and (5) promoting further IT procurement reforms.

Energy: Japan continued to make progress in implementing energy liberalization reforms adopted by the Diet in 2003. Japan expanded retail choice in its electricity market in April 2005 to about 63 percent of the market. In the natural gas sector, retail choice stands at about 50 percent of the market as Japan continues to look at expanding the scope of liberalization starting in 2007.

The United States, through the Regulatory Reform Initiative process, urged Japan to continue to make progress in its reforms of Japan's domestic electricity and natural gas markets to help spur economic growth through greater competition as well as to create new opportunities in Japan's energy market. The Initiative's November 2005 Report to the Leaders outlined specific progress that brings Japan's energy markets closer to practices found in other developed countries.

For example, Japan saw the launch of new institutions in its energy markets during 2005, including the Japan Electric Power Exchange for electricity trading and the operational start of a Neutral System Organization to help set and enforce transmission rules. Continued efforts were also undertaken to make rule-making and revisions to relevant guidelines a transparent process, including providing opportunities for public comment. These steps are helping to strengthen confidence in the reform process.

In the natural gas sector, Japan reported on steps it has taken to help enhance development of Japan's domestic gas pipeline network and new steps to help facilitate third party access to these pipelines. The United States also continued to emphasize the importance of the establishment of a regulatory system that fosters reliable third party access to liquefied natural gas (LNG) terminals.

In addition, the United States also urged Japan to strengthen its ability to monitor and assess the state of competition in the electricity and natural gas markets. In the 2005 Report to the Leaders, Japan affirmed the importance of market monitoring, including the establishment of benchmarks and other oversight efforts to measure the effect of reforms on actual market competition. The United States applauds the emphasis Japan is placing in this area.

The United States urged Japan to continue to move forward with reforms of its electricity and natural gas sectors, and to make necessary adjustments in policy, including taking additional steps as necessary to ensure these efforts bring about lower domestic energy costs and genuinely bring about opportunities that make new market entry attractive.

Medical Devices and Pharmaceuticals: Japan's regulatory and reimbursement pricing systems unnecessarily slow the introduction of innovative U.S. medical devices and pharmaceuticals in Japan. The United States therefore continues to advocate reforms to facilitate the introduction of new devices and drugs and seeks to ensure that Japan's systems create incentives for the development of innovative products. The United States raised these issues with Japan in 2005 in the Medical Devices and Pharmaceuticals Working Group, which meets under both the Regulatory Reform Initiative and the Market-Oriented, Sector-Selective Agreement.

In April 2005, Japan completed a years-long process of amending its Pharmaceutical Affairs Law to improve its systems for ensuring the safety of medical devices and drugs and for reviewing such products before approval for sale. The establishment of the Pharmaceuticals and Medical Devices Agency (PMDA) in 2004 aimed in part to speed reviews of devices and drugs. In 2005, the U.S. government continued to urge Japan to ensure that an increase in user fees (effective in 2004) paid by drug and device manufacturers increased the size and expertise of PMDA review staff and thereby facilitated faster reviews. The United States continued to carefully monitor Japan's attempts to meet targets for faster product approvals. Among Japan's targets is a goal (to be attained by 2009) to conclude approvals for 90 percent of new medical device applications and 80 percent of new drug applications within one year. In the November 2005 Fourth Report to the Leaders, the United States and Japanese governments noted steps taken by Japan to ensure PMDA meets its performance goals for faster reviews. In the subsequent 2005 Regulatory Reform Initiative submission, the United States recommended that Japan: speed reviews and approvals by using existing performance metrics to improve the efficiency of Japan's regulatory system, help PMDA to increase its expertise, and promote the conducting of clinical trials in Japan.

As for reimbursement pricing, the United States is actively consulting with Japan as it considers changes in drug and device reimbursement prices. Japan is expected to implement price changes in 2006 as part of its existing system of biennial pricing revisions and possibly through potential reforms to its healthcare system designed to remedy fiscal problems caused by the aging of its population.

The United States stressed with the Japanese government the importance of ensuring its reimbursement system rewards the development of innovative products that provide long-run cost savings by reducing the need for surgeries and long hospital stays. In the Fourth Report to the Leaders, the two governments noted that Japan is providing U.S. industry with opportunities to consult on pricing rules, considering data from drug companies when setting reimbursement levels, and recognizing the value of diagnostics when determining reimbursement. In its December 2005 Regulatory Reform Initiative submission, the United States urged the Japanese government to ensure that any changes to the reimbursement system recognize the value of innovation, and use premium pricing rules to foster the development and introduction of advanced products.

Financial Services: Japan has made significant progress in recent years in allowing new financial products, increasing competition within and between financial industry segments, and enhancing accounting and disclosure standards. Foreign financial service providers reach customers in most segments of the Japanese financial system.

There was additional progress in financial sector deregulation in 2005. On June 22, the Diet approved revisions to the Securities and Exchange Law that will apply takeover bid rules in after-hours trading, increase disclosure requirements of parent firms of companies listed in Japan and allow non-Japanese firms to disclose their financial statements in English, with an attached summary in Japanese. On October 26, the Diet approved a bill revising the Banking Law to allow non-financial companies to handle such banking services as taking deposits and providing loans as bank agents, with the approval of the Financial Services Agency. Convenience store chain operators, supermarkets, and automobile dealers are expected to launch banking services as bank agents from April 2006.

Following 2004 legislation that removed a ban on sales of mutual funds at post offices, in 2005 Japan Post chose three private financial firms to produce mutual funds for sale at 550 of its 24,700 post offices in its first phase of mutual fund sales. One U.S. firm and two Japanese firms were selected. Other foreign financial firms operating mutual funds in Japan plan to compete for Japan Post distribution in the future.

Under the Program for Further Financial Reform, the Financial Services Agency (FSA) has encouraged more active use of its No Action Letter (NAL) system by publishing in February 2005 “Detail of the No-Action Letter System” (an English-language version of the bylaws of the NAL system) and distributing in June 2005 a detailed questionnaire to the general public (including regulated firms) on the NAL system and suggestions for improvement of the FSA's implementation of the NAL system and its laws and bylaws. The number of NALs published by the FSA increased from six in the April 2003-March 2004 period to nine since April 2004.

The United States welcomes Japan's progress in increasing the efficiency and competitiveness of its financial markets. In its December 2005 Regulatory Reform recommendations, the United States put forward proposals to support further development of the Japanese financial markets, which will allow Japan to take full advantage of international financial expertise and support future Japanese growth. These recommendations include: (1) further expanding the body of written interpretation of financial law through the No-Action Letter process and other means of promoting regulatory transparency in the financial services sector; (2) creating a legal and regulatory framework for a credit bureau system with fair and open access to full-file credit information; (3) putting foreign bank branches on equal footing with domestic banks by allowing them to engage in trust and banking businesses concurrently; (4) harmonizing the regulatory framework governing investment advisory and investment trust management activities and eliminating inconsistencies or duplication; (5) allowing mergers and reducing obstacles to the early termination of investment trusts; (6) increasing defined contribution (DC) pension plan

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contribution limits; (7) modernizing the legal framework for non-bank consumer and commercial finance to provide a clear basis for the enforceability of loan receivables, and specifically revising the e-Notification Law to include consumer finance lenders; (8) eliminating ambiguity of application of new financial conglomerate regulation; (9) working closely with the private financial services community to review current reporting and record-keeping requirements; and (10) subjecting all financial legislative action to full public notice and comment. These issues will be discussed in March 2006 at the fifth meeting of the U.S.-Japan Financial Services Working Group in Washington, D.C.

ii. Structural Regulatory Reform

Competition Policy: A key goal of our regulatory reform efforts is to ensure that steps to deregulate and introduce competition into Japan's economy are not undone by anticompetitive actions by firms and trade associations resistant to such steps. An active and strong antitrust enforcement policy in Japan is needed to eliminate and deter anticompetitive behavior, including stronger measures to dismantle Japan's bid rigging (dango) system.

Japan took some very important steps in 2005 aimed at strengthening competition in the Japanese market. Most importantly, it enacted amendments to the Antimonopoly Act (AMA) that should substantially strengthen the effectiveness of AMA enforcement. Specifically, the amendments increase the administrative fine (surcharge) for AMA violations by most companies to 10 percent of the sales involved in a conspiracy (up from the current rate of 6 percent), with a further increase of the fine to 15 percent for repeat offenders. In addition, the amendments authorize the Japan Fair Trade Commission (JFTC) to introduce a corporate leniency program, provide the JFTC with criminal investigation powers similar to those already enjoyed by the National Tax Agency, strengthen criminal penalties for interference with JFTC investigations or for non-compliance with JFTC cease and desist orders, and extend the statute of limitations for AMA violations to three years after the conduct stopped. The JFTC announced that it would establish a corporate leniency program effective January 2006 that eliminates administrative fines and criminal penalties for the first company that reports its participation in an unlawful cartel and cooperates in JFTC investigation, and reduces the surcharges for the second and third companies that enter the leniency program.

With regard to measures to strengthen sanctions against bid rigging, in July 2005 the Ministry of Land, Infrastructure and Transport (MLIT) announced additional bid-rigging countermeasures, including expanding the projects subject to open and competitive bidding procedures and strengthening administrative penalties for serious bid-rigging violations. Strengthened penalties include clarification that firms engaged in bid rigging face up to 24-months suspension from bidding and an increase in pre-established damage liability in construction services contracts to 15 percent of the contract price (up from 10 percent). MLIT also began examining the possible introduction of an administrative leniency program to complement the JFTC leniency program.

Transparency and Other Government Practices: Under the Regulatory Reform Initiative, the United States takes up a number of diverse topics that fall within the general category of Transparency and Other Government Practices. Japan's use of its Public Comment Procedure (PCP) has been chief among these topics. In this regard, Japan took a welcome step forward with the Diet's June passage of a government-sponsored bill intended to strengthen the PCP through incorporation in the Administrative Procedure Law. This legislative change aims to compel Japanese Ministries and Agencies to fully consider all submitted comments and to make public the text or summary of all comments.

While the overall effectiveness of these new measures remains unclear, this has been a step in the right direction.

New to the Regulatory Reform Initiative in 2005 were regular discussions on matters relating to agriculture. In particular, the United States and Japan examined the adoption of international regulatory standards in key areas of plant quarantine. These very constructive exchanges are resulting in revised plant quarantine measures in Japan consistent with international standards.

In addition, the November 2005 Report to the Leaders includes progress on Japan's Special Zones for Structural Reform initiative, a local deregulation effort established in 2003. Since the first 57 deregulation zones were created in that year, their number has increased nearly ten fold. As the program grows, Japan continues to put an emphasis on transparency in the zones application process and procedures for implementing the zones. Japan also continues to expand local zone measures nationwide, which is helping to promote deregulation and revitalize the economy.

The 2005 Report to the Leaders also includes measures in several other areas. Japan, for instance, amended regulations to enable sales of certain insurance products through banks beginning in December 2005, with the target of full liberalization after two years. In addition, the Diet passed an amendment in April 2005 that, in principle, begins to bring many unregulated insurance cooperatives (kyosai) under the supervision of financial services regulators.

On the international front, Japan pledged to continue cooperation with the United States to achieve full implementation of APEC Transparency Standards in APEC member nations' domestic legal regimes.

In its December 2005 Regulatory Reform recommendations, the United States urged Japan to implement additional measures to create a more transparent regulatory system including: (1) ensuring and evaluating the effectiveness of recent changes to the PCP; (2) encouraging foreign participation in Special Zones by publishing important zones information in English; (3) continuing to consult with the foreign business community in Japan on translating Japanese laws and ensuring allocation of sufficient resources for timely translations; (4) increasing the transparency of government-sponsored advisory groups and providing meaningful opportunities for input from all interested parties; (5) expanding opportunities for public input into draft legislation; (6) enhancing the effectiveness and increasing the usage of Japan's no-action letter system; (7) securing a level playing field between private companies and all cooperatives (kyosai) that offer insurance; and (8) continuing to take steps to improve plant quarantine procedures.

Privatization: The United States' Regulatory Reform recommendations also continued to place a spotlight on the privatization of public corporations in Japan, including the privatization and reform of Japan Post. The United States welcomed Japan's initiative to reform Japan Post and recognizes that if implemented vigorously, this effort can have a major impact on the Japanese economy, stimulating competition and leading to a more productive use of resources. Following the passage of privatization legislation by Japan's Diet in October 2005, the United States continued to urge Japan to ensure that all necessary measures are taken to fully realize the legislation's principle of establishing equivalent conditions of competition between the Japan Post entities and the private sector and that these efforts are undertaken in a fully transparent manner.

In its December 2005 Regulatory Reform recommendations, the United States recommended that Japan take a number of steps to ensure that a truly level playing field is established between Japan Post (and its successor entities) and other companies in Japan's banking, insurance, and express delivery markets.

These included steps to apply the same tax, supervisory, regulatory, and other obligations to Japan Post as those applied to private sector companies as well as measures to ensure cross-subsidization among the new postal companies does not take place and can be so demonstrated. The United States furthermore continued to urge Japan to ensure that a level playing field is actually 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.

The United States also emphasized the importance of transparency in the reform process, asking Japan to ensure that the process, including with respect to advisory bodies, is made fully transparent and that meaningful opportunities are made available to interested parties to express views before decisions are made. (For a detailed discussion of Japan Post privatization, please see the Insurance section under Bilateral Consultations.)

Legal Services and Judicial System Reform: The creation of a legal environment in Japan that supports regulatory and structural reform and meets the needs of international business is a critical element for Japan's economic health and restructuring. The Japanese legal system must be able to respond to the market's need for the efficient provision of international legal services, and provide a sound and effective foundation for the conduct of business transactions in an increasingly deregulated environment.

In the area of legal services, amendments to the law regulating foreign lawyers (allowing them to enter into partnership arrangements with Japanese lawyers and to hire Japanese lawyers as associates) came into effect on April 1, 2005. The United States has been closely monitoring the adoption of implementing rules by the Japan Federation of Bar Associations from the perspective of ensuring those rules are consistent with both the letter and liberalizing spirit of the 2003 amendments, and Japan's Ministry of Justice agreed to work toward that outcome. Japan also has agreed to study whether foreign lawyers should be permitted to form professional corporations and to establish multiple branch offices in Japan.

In the area of judicial system reform, Japan enacted legislation in late 2004 to create a government certification system for Alternative Dispute Resolution (ADR) providers. While the United States generally supported Japan's efforts to strengthen and revitalize ADR, the United States expressed concerns in 2005 that this certification system, although voluntary, could effectively discourage parties from choosing non-certified ADR providers. In response to those concerns, Japan made a number of clarifications that should work to ensure that the new certification system, when implemented in 2007, will allow ADR to develop in Japan in a manner consistent with international norms and practice.

Commercial Law: Reform of Japan's commercial law to permit the use of modern merger techniques is necessary to facilitate merger and acquisition activities by both foreign and domestic firms in Japan. The Japanese economy also will benefit from additional measures to improve corporate governance, since good corporate governance systems encourage increased productivity and economically sound business decisions as management strives to maximize shareholder value. However, good corporate governance requires active shareholder participation, particularly by large institutional investors such as pension funds and mutual funds, and the encouragement of good information flows through effective whistleblower protection measures.

Japan took some important steps in 2005 toward the introduction of modern merger techniques into Japanese law. In June 2005, Japan enacted a corporate code law that, once implemented, will permit domestic and cross-border triangular mergers, cash mergers, and short form (squeeze out) mergers.

Japan also said it was studying the tax treatment of triangular mergers with the intention to adopt an appropriate policy by the time the Corporate Code provisions come into effect.

In the area of strengthening corporate governance, Japan indicated its support for the promotion of proxy voting by managers of public and private pension funds and by mutual fund and investment trust managers. The Ministry of Health, Labor and Welfare undertook to encourage all of its fund managers to disclose their proxy voting policies, as it continues to study whether to require such disclosure, and the Financial Services Agency undertook to encourage the relevant trade association to require members to publicly disclose their actual proxy voting records.

Distribution: The efficiency of Japan's distribution system is hampered by high airport user fees, relatively inefficient and costly customs procedures, low credit card acceptance at traditional merchants and ATMs, burdensome regulations on operators of fleet vehicles, and excessive rules on the activities of private express delivery companies. In addition, at the end of 2005, the Ministry of Land, Infrastructure, and Transportation (MLIT) announced proposals for changes to Japan's city planning laws that would, if enacted, restrict retailers' ability to meet Japanese consumers' needs by opening larger stores offering cheaper and more varied goods.

The November 2005 Fourth Report to the Leaders nevertheless noted a number of steps by Japan intended to have a positive impact on its distribution sector. The United States welcomes the recent reductions in landing fees by Narita International Airport Corporation. Those reductions, however, have been offset in part by higher airport user fees, and Japan's international airports remain among the most expensive in the world. Transparency remains a concern, including with regard to changing operating rules at Haneda Airport and a costly runway extension project at Narita. Another significant measure Japan took over the past year was acknowledging that airport user fees should be determined in accordance with International Civil Aviation Organization principles.

The United States welcomes Japan's efforts over the past year to further promote the secure and widespread use of credit and debit cards, changes that will benefit consumers and provide for a more smoothly operating economy. In the 2005 Fourth Report to Leaders, the government of Japan recognized the importance of maintaining a level of security equivalent to internationally accepted standards in ATM networks for banks in Japan. Japan also established a MIC study group in 2005 to consider issues related to introducing card payment for local government services.

In its 2005 reform recommendations, the United States continued its focus on seeking improvements in Japan's distribution sector. Reform recommendations included urging Japan to: assure transparency in the setting of user fees at Japan's international airports; take additional steps to streamline customs procedures; further increase acceptance of credit and debit cards as payment for goods and services; mandate compliance with international standards for retail banking and ATM security; streamline changing fleet vehicle registrations and registering title transfers; and ensure new regulations or other measures are not implemented that would limit the ability of large-scale retailers to open stores in Japan.

b. Bilateral Consultations

i. Insurance

Consultations under the 1994 and 1996 bilateral insurance agreements traditionally take place on an annual basis. Given the major reforms of Japan Post that Japan's Diet passed in the fourth quarter of 2005, however, consultations have been scheduled for January 2006 to ensure a timely discussion on Japan's implementation of these reforms.

The United States worked with Japan throughout 2005 in other fora, including through the Regulatory Reform Initiative process, to pave the way for progress in key areas.

With respect to Japan's efforts to privatize and reform Japan Post, the United States continued to call for Japan to create a fully level playing field in Japan's insurance market by eliminating the tax, regulatory, supervisory, and other advantages that Japan Post has had over private sector companies. The United States also continued to urge Japan to ensure that a level playing field is actually created between the postal financial institutions and private financial institutions before the postal insurance business is permitted to introduce its own new or altered insurance products. Reforms of Japan Post that the Diet approved in October 2005 are an important opportunity for Japan to address these concerns over the conditions of competition in Japan's insurance market. The United States welcomes this reform effort, including those measures that Japan identified in the Fourth Regulatory Reform Initiative Report to the Leaders that indicate Japan Post will be held to the same tax, regulatory, supervisory, and related standards as those applied to private companies when the privatization process is launched in October 2007. The United States also urged Japan to take additional measures to create a level playing field, including ensuring that adequate measures are taken to prevent cross-subsidization among the new Japan Post entities, providing for independent and consistent supervision and regulation of related Japan Post entities on the same basis as that applied to the private sector, and requiring the new entities to practice full accounting disclosure. The United States is encouraged that the privatization legislation identified the creation of equivalent conditions of competition between Japan Post and private companies as a basic principle and urged Japan to adhere to this principle as the reforms are implemented. The United States also called on Japan to achieve full transparency in the implementation of the reforms.

Japan reformed its insurance policyholder protection system in 2005 with legislation coming into effect that renews the Life and Non-life Policyholder Protection Corporations (PPCs). The United States welcomed efforts made by the Financial Services Agency (FSA) to step-up its monitoring of troubled companies as a positive step to help reduce the potential for reliance on the PPCs. The PPC reforms did not adopt other measures urged by the United States, however, including allowing PPC members to post-fund the system as necessary (following a company failure) instead of continuing to require pre-funding. The United States continued to urge that Japan adopt these and other steps when it next renews the system. The United States also requested that Japan ensure the process of renewing the system is fully transparent and inclusive, including making meaningful opportunities available for private sector parties to express views to related government officials and advisory bodies.

The United States has continued to raise its concerns about Japan's insurance cooperatives (kyosai), particularly as kyosai have been expanding their product range and customer reach. Kyosai are able to compete directly with the private sector, but are not required to meet the same tax, legal, supervisory, and regulatory obligations as private companies.

The United States, therefore, has welcomed initial steps taken by Japan to begin regulation and supervision of kyosai that heretofore were completely unregulated in the marketplace, and urged that these initial steps be strengthened to bring about fully consistent treatment between kyosai and private sector insurance suppliers. With respect to kyosai regulated by ministries and agencies other than the FSA, the United States remains concerned by their continuing expansion in the insurance market and urged the Japanese government to require these kyosai to meet the same regulatory standards and other obligations, including full supervision by the FSA, as those applied to the private sector.

The United States also welcomed initial steps, effective December 2005, to further open the sale of insurance products through banks. The United States continued to urge Japan to augment this step with full liberalization of the bank sales channel by no later than 2007, the timeframe identified by a key government advisory panel.

ii. Government Procurement

Public Works (Design/Construction): U.S. firms remain largely excluded from Japan's massive (\$180 billion) public works market, obtaining far less than one percent of projects awarded. A number of Japanese practices inhibit the full involvement of U.S. design and construction firms in this sector, which has become increasingly competitive due to decreases in public works spending. These practices continue despite the existence of the 1994 U.S.-Japan Public Works Agreement, which includes the "Action Plan on Reform of the Bidding and Contracting Procedures for Public Works," under which Japan is obligated to use specified open and competitive procedures for public works procurements valued at or above specified thresholds. The requirements set by these procedures go beyond those called for under the WTO Agreement on Government Procurement (GPA). Problematic practices include rampant bid rigging, use of arbitrary qualification and evaluation criteria that exclude U.S. firms, and unreasonable restrictions on the formation of joint ventures.

During the Expert-Level Meeting on Public Works in 2005 under the U.S.-Japan Trade Forum, the United States urged Japan to eliminate the obstacles that prevent U.S. design and construction companies from full and fair participation in its public works sector. The United States welcomed the first Project Management procurement issued in the history of Japan's public works market. The United States urged Japan to increase the use of Project Management, Construction Management, design architect, and city landscaping procurements for all public works projects and to provide earlier information on Private Finance Initiative and Urban Renewal Projects. The United States also asked Japan to eliminate the three-company joint venture rule (which limits to three the number of members in joint ventures for most construction projects) and to implement more widespread use of mixed-type procurements, which allow companies to decide whether to bid independently or as a joint venture. In addition, the United States urged the Japanese government to ensure that the procurement procedures set forth in the 1988 U.S.-Japan Major Projects Arrangement (MPA) are used for all outstanding MPA projects.

iii. Investment

Japan sustained its efforts to reach the goal set by Prime Minister Koizumi in January 2003 of doubling FDI within five years. FDI relative to GDP, however, remains among the lowest of OECD countries. In June 2005, the Diet amended Japan's Corporate Law to ease the process of foreign investment, including provisions that permit the use of cross-border stock swaps in the context of triangular mergers and other modern merger techniques. Some steps have also been taken to facilitate investment in specific sectors. But progress in improving the environment for foreign investment did not come without some setbacks. Public support for FDI was shaken in the aftermath of a media campaign against a high-visibility takeover attempt, contributing to a delay in implementation of reforms to facilitate cross-border mergers and acquisitions (M&A). Some in the Japanese business community have called for stronger takeover protection mechanisms that could inhibit legitimate M&A activity and undermine efforts to improve corporate governance.

In early 2005 Livedoor, an internet services company, attempted a hostile takeover of Nippon Broadcasting. Although both firms were Japanese, media reports cited the case as exposing the vulnerability of undercapitalized Japanese firms to a perceived threat of hostile takeovers by well capitalized foreign firms.

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Partly in response to the Livedoor controversy, the provisions on cross-border M&A will not enter into force until one year after the rest of the new Corporate Law takes effect in May 2006. The decision to postpone triangular merger provisions was portrayed as allowing Japanese firms more time to adopt defensive measures against hostile takeovers, including defenses introduced in the new Corporate Law. The United States welcomed the cross-border merger provisions despite the delay but believes that permitting tax deferral for share swaps by foreign firms will be crucial to their success.

The Ministry of Justice postponed implementing rules for triangular mergers for further consideration in 2006. Some have advocated rules that would allow extreme defensive measures such as golden shares or subject such mergers involving stocks not listed in Japan to an extremely high standard of shareholder approval. The United States has pointed out that cross-border stock swaps are non-hostile transactions and questioned the need for such measures. In November 2005, the Corporate Value Study Group of the Ministry of Economy, Trade and Industry issued new guidelines on takeover defenses calling for caution in adopting golden shares, and the Tokyo Stock Exchange (TSE) took a position against listing firms that issue golden shares which damage shareholder interests.

The Diet also adopted a new measure (Article 821 of the new Corporate Law, replacing Article 482 of the old law) that appears to ban branches of offshore subsidiaries from doing business in Japan. Although the Upper House of the Diet clarified that the provision was not meant to affect legitimate foreign investment, it poses a legal liability for foreign companies of this type. The United States continues to press for an amendment before the changes come into effect in May 2006.

The Investment Initiative meets regularly and presents an annual report to the President and Prime Minister. A working group met in January, May and December 2005 to discuss the issues above related to the new Corporate Law and public perceptions of investment and to look at developments in educational and medical services. The Japanese government initiated a new status for foreign universities' branch campuses in Japan that allows them to sponsor student visas and provides other benefits to students but withholds tax benefits enjoyed by Japanese universities and their students. Three U.S. universities were granted the new status in 2005. The U.S. continues to seek a resolution of the tax issue, as well as relaxation of outdated restrictions on private investment in medical facilities and on outsourcing of medical services.

c. Sectoral Issues

i. Agriculture

Japan slipped from being the United States' second largest export market to its third largest export market (behind Canada and Mexico) for food and agriculture products. Japan maintains many tariff and non-tariff barriers on imports of these products.

Beef: On December 12, 2005, Japan partially reopened its market to U.S. beef after a nearly two-year ban resulting from the December 2003 discovery of a single imported cow with Bovine Spongiform Encephalopathy in Washington State. Achieving this outcome was a top priority of the Administration throughout 2005. With the reopening, the United States is able under a special marketing program to export beef to Japan from cattle 20 months of age and younger. Before the ban, U.S. beef and beef product exports to the Japanese market (the largest export market for U.S. beef) totaled roughly \$1.3 billion annually.

The U.S. Government engaged Japan in an intensive, high-level effort to reopen its market, which involved numerous meetings between officials and technical experts from both governments throughout the year. During those exchanges, the United States provided all the necessary data and assurances to the Japanese government and its citizens to demonstrate the safety of U.S. beef. In addition, to further ensure that potentially infected material cannot enter the food chain, the United States continued its enhanced surveillance program of animals and changes it made in the previous year to slaughter and feed processes.

With the December 2005 initial reopening of the Japanese market for beef from cattle 20 months of age or younger, the United States is now urging Japan to take the next step to bring its measures in line with international guidelines of the World Animal Health Organization (OIE) by allowing imports of all ruminant and ruminant products deemed safe. The United States will aggressively work toward achieving this important objective.

Other Sanitary and Phytosanitary (SPS) Measures: Japan's use of sanitary and phytosanitary measures continues to create many barriers to U.S. food and agricultural goods.

One such measure, involving Japan's import restrictions on U.S. apples was recently examined by a WTO dispute settlement panel and the WTO Appellate Body. The panel and Appellate Body reports concluded these requirements (ostensibly to protect Japanese orchards against fire blight disease), which included inspections of U.S. orchards, were maintained without sufficient scientific evidence and not based on a risk assessment. Japan removed the unjustified fire blight measures in August 2005, paving the way for the resumption of U.S. apple shipments to Japan.

Another example is Japan's fumigation requirement on U.S. fruits and vegetables for cosmopolitan pests, which is imposed despite the fact that these pests are already widely distributed in Japan. The fumigation requirement is particularly detrimental to the quality of these products, many of which do not survive fumigation and must be destroyed. The United States has raised this issue in the WTO Committee on the Sanitary and Phytosanitary Measures as well as in the Regulatory Reform Initiative. As a result, in 2005, Japan removed its fumigation requirements for three citrus pests and committed to reviewing other fumigation requirements, including for lettuce pests, through a scientifically based risk analysis process.

The United States continues to work with Japan to resolve these and other SPS concerns in bilateral and multilateral fora.

Rice: The United States continues to express ongoing concerns over U.S. access to Japan's rice market. Although the United States has supplied about half of Japan's rice import needs since 1995 when it opened its market under its WTO minimum market access agreement, only a minor share of U.S. rice imported under the tariff rate quota (TRQ) is allowed to be sold into the private sector immediately upon entry. In addition, very small quantities are occasionally released from government stocks and eventually permitted to enter the industrial food-processing sector. Since Japan started applying tariffs to rice imports in 1999, only a minuscule amount has been imported outside of the TRQ, because such imports are subject to a duty of 341 yen per kilogram, equivalent to about 1100 percent ad valorem at January 2005 prices and exchange rates.

10. Taiwan

The United States and Taiwan continued to work together to address shortcomings in several areas related to Taiwan's implementation of its WTO commitments in 2005, including 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.

a. Beef

Taiwan reimposed its import suspension on U.S. beef in June 2005, after the discovery of a second case of Bovine Spongiform Encephalopathy (BSE) in the United States. Taiwan initially reopened its market to U.S. beef in April 2005, after banning imports of U.S. beef in December 2003 following the detection of the first positive case of BSE in the State of Washington. As of the end of 2005, the U.S. government was working intensively to re-open the market as quickly as possible and, on January 25, 2006, Taiwan lifted its ban on U.S. boneless beef and beef products from cattle less than 30 months of age with labels of approval from the USDA. However Taiwan continued to ban parts including brains, spinal cords, and certain bones because Taiwan's Department of Health considers those products to carry a higher infection risk. Non-ruminant products for feed use, such as tallow, lard, poultry and porcine meal are banned, while limited exceptions have been approved after a thorough case-by-case review or plant clearance process.

b. Rice

In 2005 the United States and Taiwan made substantial progress in resolving outstanding differences on Taiwan's rice procurement arrangements. However, certain other countries that also supply rice to the Taiwan market have not yet agreed to the proposed modifications to Taiwan's rice import system. As a result, Taiwan will continue its current system while working toward final resolution of this issue. Taiwan is a leading Asian market for U.S. rice exports and, despite concerns associated with the rice tender process, U.S. suppliers won a majority of the tenders conducted in 2005. 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. Intellectual Property Rights (IPR)

IPR protection continues to be an important issue in the U.S.-Taiwan trade relationship. The U.S. recognizes Taiwan's continuing efforts to take measures to improve enforcement of IPR in 2005, including intensifying raids against manufacturers and retailers. In December 2004, Taiwan was moved from the Special 301 Priority Watch List to the Watch List after an out-of-cycle review determined that Taiwan had made sufficient progress to warrant an improved status. In addition, soon after the results of the out-of-cycle review were announced in January 2005, Taiwan's legislature approved a bill to prevent unfair commercial use of pharmaceutical test data.

Following these improvements, the United States will continue to monitor further developments. Significant among them will be the development of implementing regulations for the protection of pharmaceutical test data by Taiwan authorities. Taiwan also needs to take further effective actions against piracy of copyrighted works over the Internet, and to continue strengthening its enforcement efforts so as to effectively reduce piracy and counterfeiting. The United States will continue to follow closely Taiwan Customs' efforts to stop exports of counterfeit materials in order to ensure that these efforts are as effective as, or more effective than, Taiwan's recently abolished Export Monitoring System.

Internet piracy and illegal peer-to-peer downloading remained serious concerns. To deter Internet piracy, the Taiwan Intellectual Property Office (TIPO) in May 2005 initiated an “implementation plan for strengthening preventive measures against internet infringement.” However, efforts to use the legal system to shut down or restrict the activities of such services have met with mixed success. In June 2005, peer-to-peer (P2P) company EzPeer was found not guilty of allowing users to download copyrighted material through their site. However, in September 2005, another popular P2P site, Kuro, was found guilty of the same charge. Rights holder groups have called on Taiwan to further amend the Copyright Law and other regulations to clarify secondary liability of internet service providers and other intermediaries.

In January 2005, Taiwan’s legislature approved a bill to provide data protection for pharmaceutical products - a TRIPS commitment and an incentive for innovative pharmaceutical manufacturers to introduce new products into the Taiwan market, but final implementing regulations are still pending. The United States will monitor Taiwan’s development of implementing regulations to ensure that Taiwan fulfills its commitments regarding the period of protection.

d. Pharmaceuticals

Pharmaceutical piracy in Taiwan is also a significant concern. The former chief of the Bureau of Pharmaceutical Affairs estimated that 25 percent of all pharmaceuticals sold in Taiwan could be counterfeit. The United States is encouraging Taiwan’s Ministry of Justice and the Department of Health to work together to take action to resolve this problem. A continuing concern in the pharmaceutical sector involves pricing, whereby hospitals and doctors in Taiwan buy domestically-manufactured generic drugs at discounted prices and are then disproportionately reimbursed by Taiwan at a fixed higher rate, contrary to regulations requiring that reimbursements be made at the purchase price. This practice benefited local generic manufacturers at the expense of innovative, usually foreign, producers. The United States will continue to work with Taiwan officials and industry to develop ways in which this systemic problem can be addressed. Pharmaceutical pricing issues are exacerbated by the Taiwan health care system, which allows doctors to both prescribe and dispense pharmaceuticals. Research-based pharmaceutical companies see separating these functions as essential to resolving the long-term pricing problem.

In July 2002, Taiwan introduced a “global budget” in selected locations in which hospital reimbursements are capped by the National Health Insurance system. The goal is to increase efficiency and encourage cost-cutting measures. In practice, this has led to increased pressure on pharmaceutical suppliers to provide discounted products.

Despite reports of negative effects on patient care in 2005, Taiwan announced plans to extend the “global budget” to all medical centers in January 2006. This concerns producers of innovative pharmaceuticals and medical devices. The United States is asking Taiwan’s Department of Health to reconsider this measure and hopes Taiwan can set its National Health Insurance on a solid financial footing without resorting to measures that unfairly disadvantage American drug manufacturers.

11. Hong Kong (Special Administrative Region)

a. Intellectual Property Rights (IPR)

The Hong Kong government continued to maintain a robust IPR protection regime. Hong Kong's IPR enforcement efforts have helped reduce losses by U.S. companies, but end-user piracy, the rapid growth

of peer-to-peer downloading from the Internet, and the illicit importation and transshipment of pirated and counterfeit goods (including optical media and name-brand handbags and apparel from mainland China and elsewhere in the region) are continuing problems. The software industry estimates that Hong Kong's software piracy rate was 52 percent in 2004, placing Hong Kong well above the software piracy rates in other advanced economies and resulting in industry-estimated losses of approximately \$116 million to rights-owners.

The Hong Kong government has taken some steps toward addressing each of these problems. In October 2005, in the first successful case of its kind in the world, Hong Kong convicted a man for using BitTorrent file sharing technology to distribute illegally on the Internet three Hollywood movies; he was sentenced to three months imprisonment. The Hong Kong government asserted that the posting of copyrighted materials in Hong Kong using BitTorrent dropped 80 percent in the wake of the man's arrest ten months earlier. Hong Kong Customs routinely seizes IPR infringing products from mainland China. 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. However, end-user piracy, Internet piracy, and the cross-boundary flow of infringing products still create significant losses for American companies, and U.S. officials continue to urge Hong Kong authorities to intensify efforts against these problems.

In November 2005, Hong Kong Customs and four local Internet Service Providers (ISPs), along with trade associations and several brand owners, launched a new program called "E-Auctioning with Integrity" to prevent and stop piracy at online auction sites. Under the program, ISPs step up their monitoring of goods auctioned on their sites and remove infringing items when right holders alert the ISPs of suspected infringement. The information is passed on to Hong Kong Customs for investigation.

The U.S. Government continues to monitor the situation to ensure that Hong Kong sustains its IPR protection efforts and addresses problem areas.

b. Beef

Hong Kong banned imports of U.S. beef in December 2003 following a case of Bovine Spongiform Encephalopathy (BSE). After two years of intensive efforts on the part of the U.S. government and industry, the Hong Kong government announced the lifting of the ban, with certain restrictions, in December 2005. It is estimated that the two-year ban cost U.S. exporters approximately \$160 million.

12. Sri Lanka

At the beginning of the year Sri Lanka suffered a calamitous disaster. The Tsunami not only killed a huge number of people but destroyed infrastructure, hotels, homes, etc. Fortunately, though, the country's main exports were mainly spared.

Late in the year national elections were held and a new President and government installed. These two major events made it inappropriate to schedule intensive formal trade consultations as has been the practice in recent years. Sri Lanka, with the help of the United States and other countries, had to focus on recovery.

USTR did send an official to Sri Lanka to determine whether trade tools could be employed in the restoration efforts. As a result, the U.S. Generalized System of Preferences was amended to allow for cumulation of the rules of origin for members of the South Asian Association for Regional Cooperation, including Sri Lanka.

13. Iraq

The United States continues to assist Iraq in its efforts to accede to the World Trade Organization. The U.S. Agency for International Development has allocated substantial funds to provide technical assistance for Iraq's WTO accession. A team of experts resides in Iraq and is assisting with the drafting of accession documents and WTO-consistent reform legislation.

Reviving Iraq's economy and creating jobs are essential for Iraq's new democracy to succeed. The reforms required for WTO membership could have a positive effect on every sector of Iraq's economy.

USTR participated in the meetings of the U.S. – Iraq Joint Commission on Reconstruction and Economic Development. A Trade and Investment Framework Agreement was signed at the July Commission meeting. At the request of Iraq, certain categories of dates were designated as eligible for Generalized System of Preferences benefits.

H. Africa

1. AGOA

The African Growth and Opportunity Act (AGOA), enacted in May 2000 as part of the Trade and Development Act of 2000, is the centerpiece of U.S. trade policy for sub-Saharan Africa. AGOA provides a number of key economic benefits and incentives to promote economic reform and trade expansion in sub-Saharan Africa, including duty-free access to the U.S. market for almost all products made in beneficiary sub-Saharan African countries. The Act also institutionalizes a process for strengthening U.S. trade relations with sub-Saharan African countries by establishing a regular ministerial-level forum with AGOA-eligible countries.

The AGOA Acceleration Act of 2004 ("the Act"), signed into law by President Bush on July 13, 2004, amended several key provisions of AGOA. It extended the authorization of the overall AGOA program from 2008 to 2015 and extended AGOA's special third-country fabric provision by three years, to September 30, 2007. Under this provision, less-developed beneficiary countries are permitted to use regional or third-country fabric in apparel imported into the United States under AGOA, subject to an overall cap. The cap increased in years one and two of the extension and is reduced 50 percent in year three (FY 2007).

The Act amended several technical aspects of AGOA's apparel provisions to allow broader eligibility for products incorporating certain inputs. The Act encouraged the Administration to develop policies that enhance trade capacity, support infrastructure projects and the ecotourism industry and expressed the Sense of Congress that African countries should participate in and support multilateral trade liberalization under the auspices of the WTO. The Act mandated a one-time study to identify competitive export sectors for each AGOA-eligible country, as well as barriers impeding growth in those sectors and recommendations for trade capacity assistance to address the barriers. This study was provided to Congress in July 2005.

AGOA requires the President to determine annually whether sub-Saharan African countries are, or remain, eligible for benefits based on their progress in meeting criteria set out in the Act. These criteria include establishment of a market-based economy and the rule of law, the elimination of barriers to U.S. trade and investment, implementation of economic policies to reduce poverty, the protection of

internationally recognized worker rights, and 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.

An interagency AGOA Implementation Subcommittee, chaired by USTR, conducts the annual eligibility review, drawing on information from the private sector, non-governmental organizations, U.S. government agencies, and prospective beneficiary governments. Following the eligibility review in the fall of 2005 and based on the recommendation of the U.S. Trade Representative, in December 2005 the President signed a Proclamation listing the 37²⁶ sub-Saharan African countries that meet the Act's requirements for eligibility in 2006. Mauritania was removed from eligibility due to a coup d'etat, which overthrew the democratically elected government. Burundi was determined to have met the eligibility criteria and was designated as a beneficiary country for the first time.

As of December 2005, 24 AGOA-eligible countries had instituted acceptable customs measures to prevent illegal trans-shipment and, accordingly, had been certified for AGOA's textile and apparel benefits.

AGOA establishes a U.S.-Sub-Saharan Africa Trade and Economic Cooperation Forum -- informally known as "the AGOA Forum" -- that annually discusses expanding trade and investment relations between the United States and sub-Saharan African countries, and implementation of AGOA. The fourth AGOA Forum was held in July 2005 in Dakar, Senegal. Participants included the Secretaries of State and Agriculture, the Administrator of the U.S. Agency for International Development, the Millennium Challenge Corporation CEO, the U.S. Global AIDS Coordinator, and ministerial-level officials from almost all AGOA-eligible countries. It is expected that the next AGOA Forum will be held in Washington, D.C. in mid-2006.

In 2005, President Bush announced the Africa Global Competitiveness Initiative (AGCI) which will provide an additional \$200 million over the next five years for trade-related capacity building. AGCI will help build the capacity of African nations to take advantage of trade opportunities and increase their competitiveness. As part of the Administration's goal to make trade capacity building assistance more accessible, a fourth Trade Competitiveness Hub was opened in Dakar, Senegal in 2005. Other regional trade competitiveness hubs are located in Ghana, Botswana, and Kenya. Experts at the Hub are available to help African countries trade more effectively with each other and with the United States.

AGOA January-November 2005 imports were valued at \$34.4 billion, 45 percent more than in the first eleven months of 2004. Top AGOA beneficiary countries included Nigeria, Angola, Gabon, and South Africa followed by Chad, the Republic of Congo, Lesotho, Kenya, and Madagascar.

2. 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 with the Southern African Customs Union (SACU), of which South Africa is a member, and AGOA.

²⁶ The list of countries eligible for AGOA and of those that have met requirements for textiles and apparel benefits can be found at <http://www.agoa.gov>.

Two-way trade increased 8.1 percent in the eleven months of 2005, to \$8.7 billion. South Africa is the largest and most diversified supplier of non-fuel AGOA-eligible products. In the first eleven months of 2005, U.S. imports from South Africa under AGOA and related GSP provisions were valued at \$1.4 billion with imports of a wide-range of goods, including: minerals and metals, diamonds, agricultural products (including fresh citrus fruits and wines), chemicals, transportation equipment, textiles, and apparel. Leading U.S. exports to South Africa include motor vehicles, aircraft, machinery, 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 and it was an active participant at the December 2005 WTO Hong Kong Ministerial meeting. South Africa is a member of the Cairns Group of nations and the G-20 coalition of countries. 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 December 2000 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 failure to provide facilities necessary for U.S. value-added network services (VANS) providers to operate and expand.

The United States is seeking clarification about the specifics of South Africa's 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.

Indeed, 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 companies will be able to seek further clarification through their comments to the South African government. The United States continued to discuss all of these issues with South Africa in 2005.

3. Nigeria

Nigeria is the United States' largest trading partner in sub-Saharan Africa, based mainly on the large volume of U.S. petroleum imports from Nigeria. Total two-way trade was valued at \$22.8 billion in the first eleven months of 2005, a 41 percent increase over the same period in 2004, due to an increase in the value and volume of petroleum imports. Nigerian exports to the United States under AGOA, including it GSP provisions, were valued at \$20.1 billion during the first eleven months of 2005, a 43 percent increase over the same period in 2004, due to a surge in oil prices and exports. However, Nigeria is seeking to utilize AGOA to diversify its export base, especially in the area of manufactured goods.

Nigeria became eligible for AGOA's "Category 9" textile and apparel benefits in July 2005, though it has yet to export textile and apparel items under AGOA. The United States is the largest foreign investor in Nigeria.

The United States is working closely with Nigeria, through the United States-Nigeria Trade and Investment Framework Agreement (TIFA) and other initiatives, to promote expanded trade and investment and a more diversified economy. At the last United States-Nigeria TIFA Council meeting in November 2004, the United States and Nigeria pledged to work together on critical issues such as market access, the WTO Doha Development Agenda, AGOA implementation, and trade capacity building. The United States is concerned about Nigeria's use of protective import bans on certain products, including sorghum, millet, wheat flour, rice, meats, bulk vegetable oil, and a range of textiles and apparel products.

4. Ghana

The United States and Ghana strengthened trade relations in 2005. In June 2005, high-level U.S. and Ghanaian-led delegations held the third meeting under the U.S.-Ghana Trade and Investment Framework Agreement (TIFA). This TIFA meeting focused on AGOA and the diversification of the Ghanaian economy, and views were exchanged on key Doha Development Agenda issues. A number of commercial issues have been resolved through the U.S.-Ghana TIFA process, including the resolution of a dispute between the government of Ghana and a U.S. telecommunications company.

Total two-way trade between Ghana and the United States was valued at \$448 million in the first eleven months of 2005, a 13 percent increase over the same period in 2004. Ghana is the sixth largest sub-Saharan African market for U.S. goods. The leading U.S. exports to Ghana are machinery, wheat, and motor vehicles. U.S. imports from Ghana are primarily timber, oil, cocoa, and apparel. In the first eleven months of 2005, U.S. imports from Ghana under AGOA, including its GSP provisions, were valued at \$55.8 million, a 15 percent decrease over the same period in 2004.

5. COMESA²⁷

The Common Market for Eastern and Southern Africa (COMESA) is the largest regional economic organization in Africa, with twenty member states and a population of over 374 million. The United States and COMESA signed a TIFA agreement in 2001 and have subsequently held three TIFA Council meetings, most recently in Washington in June 2005. The session was co-chaired by the Deputy USTR and COMESA Secretary General. Topics discussed included the WTO Doha negotiations, AGOA implementation, sanitary and phytosanitary issues, and trade capacity building. U.S. trade capacity building assistance to COMESA, delivered mainly through USAID's regional mission and the trade capacity building hub in Kenya, has helped COMESA to advance its internal Free Trade Area (in which eleven COMESA countries participate) 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. Fourteen COMESA members are AGOA-eligible and nine qualify for textile and apparel benefits. A high-level delegation, including the AUSTR for Africa, attended the COMESA Summit in Kigali, Rwanda in June 2005.

²⁷ COMESA members are Angola, Burundi, Comoros, Democratic Republic of Congo, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Swaziland, Uganda, Zambia, and Zimbabwe.

6. UEMOA²⁸

The eight-member West African Economic and Monetary Union (known by its French acronym, UEMOA) represents one of the most successful efforts to date toward regional integration in Africa. UEMOA has established a customs union, eliminated internal duties, and is addressing key non-tariff barriers. There is a UEMOA central bank and a regional stock exchange. Six of the eight UEMOA member countries are eligible for AGOA benefits, and four UEMOA countries – Benin, Mali, Niger, and Senegal – are eligible to receive AGOA's textile and apparel benefits.

UEMOA entered into a TIFA with the United States in April 2002. At the most recent TIFA Council meeting in Senegal in July 2005, a high-level interagency U.S. delegation discussed AGOA and export diversification, issues related to the Doha Development Agenda and trade capacity building with a senior UEMOA delegation led by the UEMOA Commission President.

During a November 2005 visit to UEMOA member country Burkina Faso, U.S. Trade Representative Rob Portman discussed issues related to the Doha Development Agenda, including the handling of cotton in these negotiations.

7. Mozambique

In February 2005, the Government of Mozambique ratified the U.S.-Mozambique Bilateral Investment Treaty (BIT) which had been pending since 1998. The United States had ratified the BIT in 1998. The BIT entered into force in March 2005. U.S. Trade Representative Rob Portman and Mozambican Minister of Industry and Commerce Antonio Fernando signed a U.S.-Mozambique Trade and Investment Framework Agreement (TIFA) in July 2005. The TIFA encourages new trade and investment opportunities in both the United States and Mozambique and established 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 \$61 million in the first eleven months of 2005, a 24 percent decrease over the same period in 2004. This decrease was primarily due to a significant drop in U.S. wheat exports to Mozambique. The leading U.S. exports to Mozambique are petroleum coke, wheat, tractors, and soybean oil. U.S. imports from Mozambique are primarily sugar, shrimp, tobacco, and apparel. In the first eleven months of 2005, U.S. imports from Mozambique under AGOA, including its GSP provisions, were valued at \$8.3 million, a 9 percent increase over the same period in 2004.

8. 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 African 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.

²⁸ UEMOA members are Benin, Burkina Faso, Cote d'Ivoire, Guinea-Bissau, Mali, Niger, Senegal, and Togo.

The United States has provided technical assistance and trade capacity building support on a range of 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 bilateral assistance largely delivered through the four USAID-managed trade competitiveness hubs in sub-Saharan Africa. The United States also provided technical assistance to two African countries -- Cape Verde and Ethiopia -- engaged in the WTO accession process.

WTO issues continued to be a major topic of USTR's engagement with African countries in 2005. Senior USTR officials participated in a wide range of Africa-focused multilateral meetings at which WTO issues were a central focus. In November 2005, USTR Portman and Agriculture Secretary Johanns traveled to Burkina Faso to meet with West African trade and agriculture ministers on the handling of cotton in the Doha negotiations. Deputy USTR Allgeier participated in a WTO mini-ministerial in Nairobi, Kenya in March 2005 and an African Union Trade Ministerial in Cairo in May 2005. Deputy USTR Bhatia attended the G-90 Ministerial in Brussels (most G-90 countries are in Africa). USTR officials also participated in the Least Developed Country (LDC) Ministerial in Lusaka, Zambia in June 2005 and the African Union Trade Ministerial in Arusha, Tanzania in November 2005. In addition, WTO issues were the subject of a special ministerial roundtable at the AGOA Forum in Dakar, Senegal in July 2005.

Issues that figured prominently in U.S.-African discussions on Doha included the three pillars of the agriculture negotiations (domestic support, market access and export subsidies), cotton, the non-agricultural market access negotiations, TRIPS and access to medicines, and the full range of development-related issues, including Aid for Trade and the LDC proposal for duty-free, quota-free market access. The handling of cotton involved particularly high-level engagement. USTR Portman and Deputy USTR Bhatia discussed the issue with the trade and agriculture ministers of the "Cotton-4" countries (Benin, Burkina Faso, Mali, and Chad) on numerous occasions prior to and during the December 2005 Hong Kong Ministerial, including during a November 2005 trip to Burkina Faso. These discussions and intensive engagement with senior African officials in Hong Kong helped lay the basis for the agreement on the treatment of cotton in the Hong Kong Declaration.

IV. OTHER MULTILATERAL ACTIVITIES

The United States pursues its trade and trade-related interests in a wide range of other international fora. In addition to opening new trade opportunities, such efforts focus on establishing an infrastructure for international trade that is transparent, predictable and efficient, and prevents restrictive practices and other impediments to expanded trade and sustainable economic growth and prosperity. These efforts also are aimed at ensuring that U.S. strategies and objectives relating to international trade, environment, labor and other trade-related interests are balanced and mutually supportive.

A. Trade and the Environment

As President Bush stated when he signed the Trade Act of 2002, “history shows that as nations become more prosperous, their citizens will demand, and can afford, a cleaner environment.” The United States, understanding that advancing trade and environmental objectives are mutually supportive, has been very active in promoting a trade policy agenda that pursues economic growth in a manner that integrates economic, social, and environmental policies.

As provided for in the Trade Act of 2002, and consistent with Executive Order 13141 (1999) and its implementing guidelines, the Administration conducts environmental reviews of ongoing trade negotiations. These reviews are the product of rigorous interagency consultations and are an increasingly important dimension of trade policy formulation. The reviews identify environmental issues to be taken into account during trade negotiations and inform the public about trade and environment interactions in the context of specific negotiations. In 2005, the program of work on reviews included preparation and release of interim reviews for the United States-Andean, United States-Oman, United States-UAE and United States-Thailand FTAs; completion of a final review for the United States- CAFTA– DR; and significant progress on the interim review for the WTO Doha Round. USTR and the Council on Environmental Quality (CEQ) also continued their joint effort to assess cumulative experiences with environmental reviews of trade agreements in order to provide a basis for gauging success.

The United States continues to take an active role in the WTO Committee on Trade and Environment (CTE) to put into effect our commitment to the simultaneous promotion of expanded trade, environmental improvement, and economic growth and development.

The Congress specified certain objectives with respect to trade and environment in the Trade Act of 2002, and USTR took these into account in coordinating interagency development of negotiating positions. Also during 2005, USTR consulted closely with Congress on the environmental provisions of each FTA throughout the negotiations.

In addition, USTR has participated both in multilateral and regional economic fora and in international environmental agreements, in conjunction with other U.S. agencies. USTR also has worked bilaterally with U.S. trading partners to avert or minimize potential trade frictions arising from foreign and U.S. environmental regulations.

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 Doha trade and environment agenda. In particular, the United States has contributed to the intensification of work on liberalization of trade in environmental goods in the Committee on Trade and

Environment (CTE) in Special Session in 2005 by introducing a list of 155 environmental products including air pollution filters and solar panels. 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 innovative ideas for developing 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, including the prohibition of the most harmful subsidies.

With respect to the Doha trade and environment agenda that does not specifically involve negotiations, the United States played an active role, particularly in emphasizing the importance of capacity-building. This included environmental reviews of trade negotiations, and the role of the CTE in Regular Session in discussing the environmental implications of all areas under negotiation in the Doha Development Agenda.

USTR co-chairs United States participation in the OECD Joint Working Party on Trade and Environment (JWPTE), which met twice in 2005. 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. These activities are discussed further in the OECD section of this report (Chapter V, Section C).

USTR participates in U.S. policymaking regarding the implementation of various multilateral environmental agreements to ensure that the activities of these organizations are compatible with both U.S. environmental and trade policy objectives. Examples include the Convention on International Trade in Endangered Species of Wild Fauna and Flora, 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, international fisheries management schemes, the Cartagena Protocol on Biosafety and the Stockholm Convention on Persistent Organic Pollutants. USTR also continues to be involved in the trade-related aspects of international forest policy deliberations, including in the newly formed permanent United Nations’ Forum on Forests – the successor to the Commission on Sustainable Development’s *ad hoc* Intergovernmental Forum on Forests – and in the International Tropical Timber Organization. In addition, USTR has participated extensively in U.S. policymaking regarding the International Commission for the Conservation of Atlantic Tuna’s revision of its compliance regime.

2. Bilateral Activities

The Bush Administration has continued to advance the policy of enhancing environmental cooperation with our new FTA partners. To complement negotiation of FTAs, the Department of State leads interagency efforts to negotiate parallel environmental cooperation mechanisms. For example, as a complement to the Morocco FTA negotiations, the United States and Morocco negotiated a Joint Statement on Environmental Cooperation that establishes a Working Group on Environmental Cooperation to set priorities for future environment-related projects. Such cooperative activities are already underway in Morocco. An Environmental Cooperation Agreement (ECA) with parties to the CAFTA-DR was completed in 2005. This ECA identifies several areas, such as institutional strengthening and enforcement of environmental laws, for priority attention and is innovative in its use of mechanisms to establish benchmarks and monitoring procedures to measure progress.

USTR has included in all of its recent FTAs environment chapters core obligations to promote high levels of environmental protection, ensure effective enforcement of environmental laws, and restrict FTA

partner governments from inappropriately derogating from these laws to encourage increased trade or investment.

Additionally, all FTA environment chapters include provisions to advance public participation, remedial action for violations of environmental laws and measures to enhance environmental performance. CAFTA-DR, in particular, includes an innovative public submissions mechanism that allows members of the public to have independent review of their written submissions on enforcement matters and promote action by the Environmental Cooperation Commission under the ECA to build capacity to address enforcement problems. USTR is currently negotiating FTA environment chapters with the five countries of SACU, the United Arab Emirates, Thailand, and Panama.

USTR concluded the Peru Trade Promotion Agreement (PTPA) in December 2005. The PTPA environment chapter included the core provisions of other FTAs and specific recognition of the importance of conserving and protecting biological diversity.

With respect to implementation of recently concluded FTAs, USTR has worked with the State Department, USAID and other agencies to follow up with implementation of eight environmental cooperation projects outlined in the United States-Chile FTA. The U.S.-Chile Environmental Affairs Committee met in October 2005 to discuss progress made on these projects. Additionally, USTR and other agencies focused in 2005 on implementation of other cooperation mechanisms, such as those involving Middle East FTA partners and Singapore. In 2005, the State Department and USTR worked with Central American countries and the Dominican Republic to conclude a work plan for the CAFTA-DR Environmental Cooperation Agreement (ECA) with a goal of beginning project implementation in early 2006.

3. The North American Free Trade Agreement (NAFTA)

USTR continues to work actively with EPA and other agencies in the institutions created by the NAFTA environmental side agreement, the North American Agreement on Environmental Cooperation (NAAEC) and the border environmental infrastructure agreement. These institutions were designed to enhance the mutually supportive nature of expanded North American trade and environmental improvement. The Border Environment Cooperation Commission and the North American Development Bank develops and finances needed environmental infrastructure projects along the U.S.-Mexico border.

The trilateral Commission on Environmental Cooperation (CEC) has responsibility for implementation of the NAAEC. USTR worked closely with EPA to accomplish a first-ever strategic plan on trade and environment in 2005. 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.

Additionally, the CEC sponsored the Third North American Symposium on Assessing the Environmental Effects of Trade in 2005. USTR participated on the Advisory Group that organized this symposium, which resulted in a number of important studies on the environmental aspects of NAFTA.

B. Trade and Labor

The trade policy agenda of the United States includes a strong commitment to protecting the rights of workers, both in America and in countries with which we trade which promotes a level playing field for workers. Expanded trade benefits all Americans through lower prices and greater choices in products available to consumers.

Many American workers benefit from expanded employment opportunities created by trade liberalization. The Bush Administration has consistently supported workers through both trade negotiations and the use of safeguard trade laws to ensure a level international playing field.

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 (TAA) Reform Act of 2002 [Title XXI of the Trade Act of 2002] modifies and expands the 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 introduced in 2002 include expanded eligibility to more worker groups, increased benefits and tax credits for health insurance coverage assistance. In pursuing trade liberalization, 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. During this past year, USTR continued to consult with Congress on the labor provisions of each agreement throughout the negotiations. 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, in pursuing labor provisions in numerous trade agreements consistent with the bipartisan guidance contained in the Trade Act of 2002.

1. Bipartisan Trade Promotion Authority Act of 2002 (TPA) Guidance on Trade and Labor

The importance of the linkage between trade and labor is underscored by the fact that the Bipartisan Trade Promotion Authority Act of 2002 (TPA) contains labor-related clauses in three sections of the legislation: 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 include, most importantly for labor, 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, and to exercise discretion with respect to regulatory and compliance matters, and to make resource allocation decisions with respect to labor law enforcement.

To strengthen the capacity of our trading partners to promote respect for core labor standards is an additional principal negotiating objective, as is to ensure that 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 Department 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 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 the 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. 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 which a group of developing countries adamantly opposed. The text of the Doha Ministerial Declaration, adopted by consensus, therefore, 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 February 2004, the ILO's World Commission on the Social Dimension of Globalization issued its report, “A Fair Globalization: Creating Opportunities for All.” The report presented several general groups of suggestions on how the world could take advantage of the benefits of globalization: national measures that countries could implement to build and strengthen democracy and good governance; measures to reform international trade, production, and financial systems; suggestions concerning specific issues, such as cross-border movement of people, debt relief and greater social protection; and creating stronger, transparent and more accountable international organizations. Since the report was issued, numerous discussions have taken place on how the ILO might implement some of the report's labor related recommendations. In October 2005, the United States participated along with representatives from other ILO member countries, worker and employer organizations, non-governmental organizations, the WTO, and the World Bank in the Tripartite Meeting on Promoting Fair Globalization in Textiles and Clothing in a Post-MFA Environment that was held in Geneva.

In 2005, the ILO released the document “A global alliance against forced labor” as part of its yearly “Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work.” In this document, the ILO proposed action by member states against forced labor. These recommendations included identification of labor market characteristics that facilitate forced labor ensuring law enforcement agents have the capacity and resources to implement the law and establishment of time-bound action programs to eliminate forced labor.

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 2005, including in many of our trading partner countries. Total U.S. contributions to ILO-IPEC and other organizations in fiscal year 2005 amounted to \$69.8 million and helped finance 26 projects in over 30 countries.

3. Regional Activities

The Fourteenth Inter-American Conference of Ministers of Labor (IACML), hosted by Mexico in September 2005, continued the implementation of the labor-related mandates of the Third Summit of the Americas that began with the Ottawa IACML meeting in 2001 and the Brazil meeting in 2003. The Declaration of Mexico, endorsed by labor ministers at the IACML in 2005, focuses on the role of decent work in improving living conditions and recognizes the significant contribution of economic integration and trade liberalization in fighting poverty and strengthening democratic governance. The Fifteenth meeting of the IACML will be hosted by Trinidad and Tobago in September 2007.

The Plan of Action of Mexico endorsed by the Ministers of Labor to implement the Declaration provides for the continued examination of the labor dimensions of free trade agreements and regional integration processes within IACML Working Group 1, with a focus on decent work as an instrument of development and democracy in the context of globalization. Working Group 1 will be chaired by Argentina and vice-chaired by Costa Rica and Chile. Working Group 2 will continue its focus on capacity-building of Labor Ministries and will emphasize strengthening the capacities of the ministries to respond to the challenges of promoting decent work in the context of globalization, including improving the ability of Ministries to promote the ILO Declaration on Fundamental Principles and Rights at Work. This working group will be chaired by El Salvador and vice-chaired by Uruguay and the United States. The ILO, the Organization of American States, the Inter-American Development Bank, the UN's Economic Commission for Latin America and the Caribbean, the Business Technical Advisory Committee on Labor Matters and the Trade Union Technical Advisory Committee will all be involved in the working group's activities.

The North American Agreement on Labor Cooperation (NAALC) Secretariat, along with the IACML and the OAS, sponsored a workshop in 2004 entitled Supporting Economic Growth through Effective Employment Services. This workshop provided a forum for a discussion of how the fundamentals of employment service systems can support economic growth. The workshop marked the first North American contribution to the implementation of the Action Plan of the XIII IACML. The NAALC Secretariat continued its efforts in 2005 by establishing an expert working party to further examine employment services opportunities and committed to continuing support of the IACML process and implementation of the Plan of Action of Mexico in 2006. Other NAALC activities are described in the NAFTA section of this report.

In their November 2002 Quito Declaration, the hemisphere's Trade Ministers not only renewed the commitment to observe the ILO Declaration, but also noted the IACML Working Group's examination of the inter-relation of globalization and labor and requested that the results of that work be shared with them. In response to this request, the IACML "troika" leadership (the Ministers of Labor from Canada,

Brazil and Mexico), attended the FTAA Trade Ministerial in Miami in November 2003 to report on the IACML's work on labor and integration.

The Labor Ministers called for the strengthening of social dialogue in the Summit of the Americas process so that economic integration under the Summit process is pursued in a mutually beneficial manner.

During the January 2004 special Summit held in Monterrey, Mexico, in the Declaration of Nuevo Leon, governments reaffirmed their dedication to observe the ILO Declaration and recognized the importance of achieving poverty reduction and job creation while protecting the rights of workers.

At the Fourth Summit of the Americas, in Mar del Plata, Argentina in November 2005, President Bush joined the other 33 democratically elected leaders of the Western Hemisphere in addressing common 21st Century challenges. In particular, the leaders focused on creating decent job opportunities, especially for the region's poor; creating conditions to achieve sustained economic growth through greater trade, investment and development; fighting poverty; and strengthening democratic governance and institutions. In the Declaration of Mar del Plata, leaders again affirmed their commitment to the ILO Declaration stating: We reaffirm our respect for the rights set forth in the ILO Declaration on Fundamental Principles and Rights at Work (1998) and undertake to promote these fundamental rights. We will develop and implement policies and programs that help labor markets to function efficiently and transparently and that help workers respond to the opportunities created by economic growth and new technologies.

In the Declaration of Mar del Plata, leaders also recognized "the vital contributions of Ministries of Labor to the achievement of the objectives of the Fourth Summit of the Americas" and committed to strengthening the ministries with the goal of ensuring that they have sufficient national budgetary and technical resources to carry out their duties. Leaders called upon ministers of labor to promote skills development; to implement programs that provide for efficient functioning of labor markets; and to effectively enforce national labor laws. The leaders further committed to combat gender-based discrimination in the work place and to promote equal opportunities for men and women in the working world, as well as to protect children from economic exploitation and from any tasks that may interfere with their education and integral development, and to take immediate and effective measures to prevent and eradicate the worst forms of child labor.

Other regional trade and labor activities carried out under NAFTA/NAALC and the OECD are noted in those sections of this report.

4. Bilateral Activities

i. FTAs

The Administration continued to negotiate bilateral trade agreements that fully incorporated the congressional guidance on trade and labor contained in TPA. During 2005, Congress approved an FTA with Bahrain and USTR concluded negotiations of FTAs with Peru and Oman. The Oman FTA marks further progress on the President's commitment to creating a Middle East Free Trade Area (MEFTA) by 2013.

The FTA process has helped to encourage many of our trading partners to pass new labor law reforms. For example, reform of the labor code languished in the Moroccan Parliament for 20 years before United States-Morocco FTA negotiations helped provide the momentum for Morocco to update its labor code.

Labor reforms made during the negotiation of the U.S.-Bahrain FTA fully supported and complemented the democratic reforms by the Kingdom of Bahrain. Bahrain enacted significant labor law reforms in 1993 and 2002 to allow for independent labor unions for the first time since the early 1970s, and committed to additional statutory reform in 2005 to further support trade union rights.

In 2005, Congress also approved the CAFTA-DR. With the CAFTA-DR countries, the United States committed to a long-term effort to improve the application and enforcement of labor laws and to provide an institutional framework for technical cooperation on labor issues in the future.

Recently concluded agreements with Oman and Peru continue the models begun with the Chile and Singapore FTAs to incorporate TPA-consistent labor provisions and promote respect for international core labor standards by our trading partners.

Another feature of U.S. FTAs is the intention that monetary assessments for labor violations be spent on programs to fix the problems that gave rise to the assessments. The proceeds of an assessment would go into a fund, established under the agreement, and can be expended only upon the direction of a joint commission (consisting of representatives of both parties to the agreement). The intention is for the funds to be used to address underlying labor problems. The assessment must be paid each year until the respondent party comes into compliance with its obligations. If a party fails to pay an assessment within a reasonable period, the other party may take appropriate steps to collect the assessment, including suspending tariff concessions under the FTA sufficient to collect the assessment, bearing in mind the agreement's objective of eliminating barriers to bilateral trade while seeking to avoid unduly affecting parties or interests not party to the dispute.

In each of these FTAs the parties reaffirm their obligations as ILO members and commit to strive to ensure that core labor standards, including the ILO Declaration and ILO Convention 182 concerning elimination of the worst forms of child labor are recognized and protected by domestic labor laws. Each party is also obligated not to fail to effectively enforce its labor laws, recognizing the discretion parties have in matters such as allocation of resources.

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, our FTAs permit a party to ask a dispute settlement panel to determine whether the other party has violated its obligation not to fail to effectively enforce its labor laws in a manner affecting trade. If a panel determines that the respondent party has violated this obligation, and if the parties are unable to agree on an action plan for bringing that party into compliance, then the panel may establish a monetary assessment to be paid by that party, based on criteria such as the trade effect and pervasiveness of the violation.

On December 17, 2004, the Bureau of International Labor Affairs of the U.S. Department of Labor renamed its National Administrative Office as the Office of Trade Agreement Implementation, and designated it as the contact point for labor provisions of free trade agreements.

The labor provisions of the Morocco and Bahrain FTAs and the CAFTA-DR (once it enters into force) will be added to its existing responsibilities to administer the NAALC and the labor provisions of the Chile, Singapore, and Australia FTAs.

We continue to include a labor cooperation mechanism in each agreement to help ensure the longer-term capacity of our trading partners to effectively enforce labor laws, including capacity building programs designed to strengthen the ability of our partners to better protect worker rights.

These initiatives include a regional project in Central America that was expanded to include the Dominican Republic and Panama. The program is funded through an \$8.75 million grant from the Department of Labor to increase workers' and employers' knowledge of their national labor laws, strengthen labor inspections systems, and bolster alternative dispute resolution mechanisms.

The Bush Administration committed an additional \$20 million in FY2005 for labor and environment initiatives in CAFTA-DR countries. For FY2006, the administration requested and successfully obtained \$40 million which was appropriated in the form of \$20 million in Economic Support Funds and \$20 million in Developmental Assistance (DA). An interagency group including the Departments of State and Labor, USTR, USAID and others is working to program the FY2006 funds. The Administration will propose and support similar levels of spending on labor and environment capacity assistance in FY2007 through FY2009.

The United States is in the process of identifying appropriate activities at this time. Several programs are also being carried out in Morocco aiming to train workers on worker rights issues, enhance the Labor Ministry's capacity to increase compliance with labor laws, and to help eradicate the worst forms of child labor.

Pending bilateral FTA negotiations with the United Arab Emirates, the Southern African Customs Union (SACU), Thailand, Panama, and the Andean countries as well as any newly initiated negotiations will follow the same approach to include TPA consistent labor provisions.

ii. Other Bilateral Agreements and Programs

Our bilateral textile agreement with Cambodia, which terminated at the end of 2004, had a unique aspect that allowed import quotas to be increased dependent upon the efforts of the Cambodian government to effectively enforce its labor laws and protect the fundamental rights of Cambodian workers. With funds jointly provided by the U.S. Department of Labor, the Government of Cambodia and the apparel manufacturers association, the ILO monitored working conditions in Cambodian enterprises and reported on the results of that monitoring. Although the quota mechanism under the agreement is no longer in effect, Cambodia has pledged to contribute funds for sustaining the ILO garment sector monitoring project after the U.S. Department of Labor funding expires at the end of 2005. The ILO has already secured commitments for funding beyond that date, including from the Government of Cambodia, the French Government, and USAID. Other donors such as the World Bank have also expressed an interest in helping fund the proposed three year transition from ILO monitoring to monitoring conducted by a Cambodian institution beginning in 2009 to ensure credible and transparent monitoring in the long run.

The U.S. bilateral textile agreement with Vietnam, which terminated at the end of 2004, also included a labor provision. Both parties reaffirmed their commitments as members of the ILO, and also indicated their support for implementation of codes of corporate social responsibility as one way of improving working conditions in the textile sector. The agreement also called for a review of progress on the goal of improving working conditions in the textile sector when the U.S. Department of Labor and the Ministry of Labor, Invalids and Social Affairs of the Socialist Republic of Vietnam meet annually to review the implementation of a Memorandum of Understanding between the two ministries signed in November 2000. The United States and Vietnam continue to hold an annual "labor dialogue" to discuss issues of mutual concern, including issues pertaining to international labor standards, worker rights, and labor market reform.

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 working rights in Ecuador were filed in 2005 and the Trade Policy Staff Committee (TPSC) continued to review worker rights conditions in that country. 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 2005 GSP Annual review process, USTR continued its review of a country practice petition concerning worker rights in Swaziland and accepted a new petition concerning worker rights in Uganda. These petitions request GSP trade benefits be withdrawn from the two countries for not taking steps to afford internationally recognized worker rights. At the end of 2005, reviews of the two worker rights petitions were still in progress.

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. In 2004, these countries accounted for 59 percent of world GDP (in purchasing-power-parity terms), 75 percent of world trade, 95 percent of world official development assistance, and 18 percent of the world's population. The OECD is not just a grouping of these 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. 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 2005, the OECD completed its first comprehensive overview of the Chinese economy, and is pursuing a similar overview for India's economy. Non-members may also 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 Russia program, for instance, supports Russia's efforts to establish a market economy and eventually join the OECD.

In November 2005, the OECD's member countries announced the appointment of Angel Gurría, former Foreign Minister and Finance Minister of Mexico, as the new Secretary-General of the OECD, effective June 1, 2006, replacing Donald J. Johnston of Canada, who announced that he will retire after 10 years in the post. The Secretary-General oversees the work of the OECD's Secretariat, and chairs the OECD's decision-making Council.

1. Trade Committee Work Program

In 2005, the OECD Trade Committee, its subsidiary Working Party, and its joint working groups on environment, competition, 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 continued progressive trade liberalization in a rules-based environment. The Trade Homepage on the OECD website (www.oecd.org/trade) contains up-to-date information on published analytical work and other trade-related activities.

Several major analytical pieces were completed under the Trade Committee during 2005. These included studies on “Trade and Structural Adjustment,” which address ways developed and developing countries can adjust to new sources of competition, technological change, or shifting consumer preferences, while limiting adjustment costs for individuals, communities, and society as a whole, and on “Looking Beyond Tariffs: The Role of Non-Tariff Barriers in World Trade,” which examines various non-tariff impediments to trade, such as import quotas and import licenses, and suggests ways to reduce their negative effects. The Trade Committee also released a number of Working Papers on topics such as the “Impact of Changes in Tariffs on Developing Countries Government Revenue” and “Intertwined: Foreign Direct Investment in Manufacturing and Trade in Services.”

In conjunction with the Committee on Agriculture, the Trade Committee prepared an analysis comparing how agriculture is treated in Regional Trading Arrangements versus the multilateral trading system. In preparation for the December 2005 Hong Kong WTO Ministerial, the OECD completed work analyzing the economic impact of trade facilitation. Studies looked at the costs of introducing and implementing trade facilitation measures, in order to address developing country concerns in this area, as well as at the benefits, to highlight the positive impact of trade facilitation measures on government revenue, trade flows, and investment attractiveness. A Global Forum held in October 2005 in Sri Lanka provided an opportunity to share the results of OECD work on trade facilitation with government officials and businesspeople from many nations. Work was also completed in 2005 on studies addressing some developing countries’ concerns related to trade liberalization: one on the potential impacts of the erosion of trade preferences, a second on the impacts of tariff cuts on developing countries’ government revenues. Additionally, reacting to the December 2004 tsunami in South Asia, the Committee prepared a study on the “Trade Interests of the Tsunami-Affected Countries.”

The Committee also laid the groundwork for a meeting of OECD member country trade ministers in May 2005. U.S. Trade Representative Portman 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, in October 2005, the Trade Committee 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.

Competition Policy and Trade

The Joint Group on Trade and Competition (JG) continued work on issues at the intersection of trade and competition policy, with the aim of providing an improved analytical foundation for the consideration of this topic in the OECD and other fora. The JG has helped to promote mutual understanding and interaction between the trade and antitrust "cultures," as well as better clarity and coherence of approaches toward issues of common interest.

The JG met in February and October 2005, and completed a study on regional trade agreements with competition provisions. The JG continued its discussions of several case studies from developing countries that had faced competition problems that also affected development and export competitiveness. The case addressed issues in studies from Brazil (government concessions for port facilities and a steel cartel), problems with the dominant telecommunications providers in Poland and South Africa, and a cartel of aluminum producers in Jordan. The case studies will be assembled into a booklet for use in a Global Forum on Trade and Competition scheduled for February 2006, to which many non-OECD countries have been invited.

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 were Argentina, Brazil, Chile, Bulgaria, and Slovakia (now an OECD member). In 2001, non-member Slovenia became a party to the Antibribery Convention, and in 2004, Estonia, also a non-member, acceded to the Convention.

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, and implement adequate accounting procedures to make it harder to hide illegal payments. All 36 parties 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 had 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, consequences that can be particularly damaging in developing countries.

By the end of 2005, all parties except Estonia had undergone a review of their respective national legislation implementing the Convention (i.e., Phase 1 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 end of 2005, a review had been completed for 22 countries. Information on these reviews is available on the internet at www.export.gov/tcc and www.oecd.org. The United States has successfully pressed for an accelerated Phase 2 monitoring schedule and ensured that there are sufficient OECD budget funds to support it. The Working Group on Bribery will undertake six more country reviews in 2006 with the goal of completing the first country enforcement review cycle in early 2008.

The United States is working to ensure that an effective peer-review monitoring process remains in place to ensure needed action by other parties to the OECD Antibribery Convention.

4. 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.

Throughout much of 2005, the Trade Committee and its Working Party engaged in intensive discussion on how to enhance outreach to non-members. At its October meeting, the Committee adopted a new, more pro-active strategy for outreach. In light of the framework provided by the strategy, the Trade Committee will decide which non-members could both benefit from and contribute most positively to its work, and will consider inviting those economies to be observers, on a longer-term or an ad hoc basis. The current regular observers in the Trade Committee are Argentina, Brazil, Chile, Hong Kong, and Singapore. These five observers, plus China, Egypt, India, Indonesia, Kenya, Rwanda, Russia, and South Africa, also accepted the OECD's invitation to participate in the trade ministers' meeting at the May 2005 Ministerial Council Meeting, which focused on advancing the WTO Doha Development Agenda.

Israel, Chinese Taipei, and Romania all participated as *ad hoc* observers in the March 2005 meeting of the Trade Committee. Delegates from these non-member economies contributed actively to the Trade Committee's discussions on developments in the Doha Round and on "trade and corporate social responsibility." Representatives from the OECD's Business and Industry Advisory Council also participated in those discussions, allowing Trade Committee members the opportunity to learn more about the specific perspectives and concerns of the business community.

5. Environment and Trade

The OECD Joint Working Party on Trade and Environment (JWPTE) met twice in 2005 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 DDA. The JWPTE published a paper exploring the synergies between liberalization of environmental goods and environmental services.

Also in the area of environmental goods and services, the JWPTE published three additional papers prior to the WTO Hong Kong Ministerial Meeting: one on liberalizing trade in renewable energy technologies; a synthesis of case studies focusing on the benefits from liberalization of environmental goods and services markets; and a paper on liberalizing trade in certain environmentally preferable products (EPPs). The JWPTE continued its work to support the trade and environment-related elements of the September 2002 World Summit for Sustainable Development plan of implementation, focusing on successful transfer of environmentally-sound technologies. The JWPTE also began substantial new work on environmental aspects of regional trade agreements (RTAs), which is expected to highlight innovative environmental provisions in U.S. Free Trade Agreements. In November 2005, the JWPTE organized a Global Forum on Trade Technical Assistance and Capacity Building for Trade and Environment in San Jose, Costa Rica, which was attended by a number of developing country representatives from Latin America, Asia and the Middle East.

6. Export Credits

The OECD Arrangement on Guidelines 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 and quality of the goods and 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 27-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 a year. These exports alone would have cost taxpayers about \$300 million annually since 1993 if the United States had had to create its own tied aid program.

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 only \$3.5 billion in 2004 (compared to \$2.1 billion in 2002 -- its lowest level on record). For the first half of 2005, the Participants provided \$2.5 billion in tied aid, with annual totals expected to exceed the level in 2004; however, the tied aid rules ensure that tied aid-financed projects remain in sectors that do not distort trade and are viewed as bona fide development aid.

The biggest challenge facing Participants is on how to address developing country concerns that the Participants – the wealthiest countries - are not taking developing country concerns into account when setting the rules for the provision of export credits. WTO disputes over export credits for aircraft have highlighted the need for aircraft-manufacturing Participants to consult with Brazil, which is not an OECD member, on aircraft trade. Thus, the Participants have launched a formal review of the OECD agreement on aircraft, with Brazil participating as a full partner in the negotiations. The Administration is coordinating closely with U.S. exporters on these negotiations.

The Participants will continue to work with non-OECD members to improve and refine the Arrangement rules to ensure a level playing field for all governments providing official export credit support.

7. Investment

The Investment Committee is the primary forum for addressing international investment issues in the OECD. 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 and to strengthen understanding of the relationship between investment and development. 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 2005 the Investment Committee completed significant analytical work with respect to international practice on key provisions of investment agreements (e.g., fair and equitable treatment, indirect expropriation) and how that practice is being influenced by the changing environment in which these commitments are negotiated. The Committee worked on emerging issues relating to investor-state arbitration, such as transparency, third-party involvement, consolidation of investor claims, and the possibility of an appellate mechanism for arbitral awards.

It is exploring jointly with the International Center for the Settlement of Investment Disputes (ICSID) and UNCTAD the possibility of a facility for assisting non-OECD member countries in understanding how to prepare for international investment arbitration. The Committee also recently completed work with the OECD

Development Assistance Committee a joint study on synergies between official development assistance and foreign direct investment.

In 2005, the OECD continued its investment policy dialogue with non-members. This includes an initiative aimed at helping countries in the Middle East and North Africa to improve their investment policies. This initiative, which was endorsed by the G-8 during the 2004 summit, will hold its first ministerial meeting in Amman, Jordan in February 2006. The investment policy dialogue also includes ongoing consultations with Russia and China and preliminary contacts with India and South Africa. The Investment Committee expects to complete work this spring on a multi-year effort, in conjunction with key non-member governments and in consultation with other OECD bodies, to develop a comprehensive Policy Framework for Investment that will be the cornerstone of future OECD outreach with non-member governments and cooperative programs with APEC, the World Bank, and other institutions promoting improved policies to encourage foreign and domestic investment. The Framework will assist countries in analyzing ten broad policy areas (ranging from investment and trade to competition and corporate governance) that have an important impact on the ability of countries to encourage foreign and domestic investment.

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. The Committee continued its examination of the role of private firms in countries characterized by weak governance and has nearly completed work on a tool to assist firms in assessing the risks facing operations in such challenging environments. With the involvement of its Business and Industry Advisory Committee, the Committee will complement this work in 2006 with the preparation of a practical resource guide to help firms identify sources of information on experiences in confronting operational challenges in specific contexts. 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 of 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.

8. Labor and Trade

The Trade Union Advisory Committee (TUAC) to the OECD, made up of over 56 national trade union centers from OECD member countries, has played a consultative role in the operation of the OECD and its various committees since 1962.

As part of the OECD Ministerial Council meeting in May 2005, joint consultations were held with TUAC and BIAC (the Business and Industry Advisory Committee). TUAC submitted a statement to the May 2005 OECD Ministerial Council meeting, emphasizing that quality employment must be at the heart of the agenda to cut global poverty and reduce economic insecurity, highlighting a number of key policy areas in which good employment should be promoted. In October 2005, the Trade Committee held its seventh informal consultation with civil society organizations, addressing recent developments in the Doha Development Agenda and expectations for the December 2005 WTO Ministerial Conference. TUAC was one of the organizations participating in the consultations, and submitted a Trade Union Statement addressing the agenda for the WTO Ministerial Conference, stating that the global governance system should be rebalanced so that social and environmental issues are given equal consideration with trade and the economy, and providing a number of recommendations to trade ministers.

As noted, in 2005, the OECD issued a study on “Trade and Structural Adjustment,” which addressed ways developed and developing countries can adjust to new sources of competition, technological change,

or shifting consumer preferences, while limiting adjustment costs for individuals, communities, and society as a whole. This study was reviewed Ministers at the OECD Ministerial Council meeting in May 2005 by Ministers, who welcomed the study and its policy messages, recognizing that policies must be put in place to ensure that globalization benefits all.

9. 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 the G7 countries. In 2005 the Trade Committee carried out a review of regulatory reform in Switzerland from the perspective of market openness. Following the completion in 2005 of the Committee's first review of a non-member, Russia, the OECD issued a report providing recommendations on regulatory reform in Russia entitled "Russia: Building Rules for the Market." Based in large part on the lessons learned in these country reviews, in April 2005 the OECD Council adopted Guiding Principles for Regulatory Quality and Performance, which updated the Recommendations for Regulatory Reform that the OECD had adopted in 1997. These principles in turn fed into the APEC-OECD Integrated Checklist on Regulatory Reform, which was 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.

10. Services

Work in the OECD on trade in services has continued to provide analysis and background relevant to WTO negotiations, with emphasis on issues of importance to developing countries in the negotiations.

In 2005, the OECD published papers on: (1) the relationship between foreign direct investment in manufacturing and trade in services; (2) managing request offer negotiations under the GATS, focusing on the case of environmental services (a study done in cooperation with UNCTAD); and (3) a synthesis of studies of 17 countries with respect to benefits realized from liberalization of trade in environmental goods and services. In February 2005, the OECD held its fifth "services experts" meeting in Paris, organized jointly with the World Bank, addressing trade and universal service goals in the context of liberalized markets. Discussions at the meeting focused on experiences in four sectors – telecommunications, financial services, environmental infrastructure services, and energy.

At the May 2005 OECD Ministerial Council Meeting, Ministers welcomed an OECD study on Growth in Services, which analyzed the contribution made by the services sector to employment growth, innovation and productivity, and identified policies that could enhance growth in the services sector.

11. Steel

As noted in the “Steel Trade Policy” section of this report, the Administration continued its efforts to address market-distorting steel subsidies at the OECD. A number of non-OECD steel-producing countries, including China and Russia, have been active in the OECD steel activities including the January 2005 Global Steel Conference and the reactivation of the permanent OECD Steel Committee in October 2005. Beginning in 2006, the OECD Secretariat plans to enhance outreach to non-members in part by supplementing its regular meetings in Paris with conferences to be held in developing countries.

Developing Countries

The OECD Trade Committee gave special focus in 2005 to issues of particular concern to developing countries, mindful that addressing these issues is essential to making progress the DDA.

In June 2005, the OECD Trade Directorate, with support from the World Bank and the Organization of American States, organized a Global Forum on Trade in Barbados addressing issues with respect to Special and Differential Treatment of developing countries in the context of the Doha Development Agenda. In October 2005, the Trade Directorate organized a Global Forum in Sri Lanka addressing the implications for developing countries of the WTO negotiations on trade facilitation.

At its October 2005 meeting, the Trade Committee received a presentation from the Chair of the OECD Development Assistance Committee (DAC) on “Aid for Trade,” focusing on how to deliver Aid for Trade most effectively and how to maximize the impact of trade on poverty alleviation. Trade Committee delegates welcomed the presentation and the Aid for Trade initiative. The DAC held a special meeting on Aid for Trade later that same week, focusing on the issues of effectiveness and the mechanisms for delivering such aid, in particular with respect to proposals to enhance the Integrated Framework, as well as how to leverage resources to support trade-related technical assistance and capacity building.

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. Chinese Taipei subsequently endorsed the objectives of the Joint Statement and became the Agreements fifth party. The 1999 Joint Statement reflected over a decade of progress under three previous semiconductor agreements toward opening up the Japanese market to foreign semiconductors, improving cooperation between Japanese users and foreign semiconductor suppliers, and eliminating tariffs in the top five semiconductor producers (the United States, Japan, Korea, the European Union, and Chinese Taipei). The 1999 Joint Statement also broadened discussions beyond the Japanese market to cover a broad range of issues aimed at promoting 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.

In 2005, the five parties to the Joint Statement reached a landmark agreement to reduce to zero the duties on multichip integrated circuits (MCPs). MCPs are an evolutionary new semiconductor, which was not yet in existence when duties on most other semiconductors were eliminated in 1996 through the Information Technology Agreement. The global market for MCPs is over \$4 billion, and is expected to

increase to nearly \$8 billion by 2008. The agreement is expected to provide momentum for the Doha negotiations on non-agricultural market access.

In May 2005, industry CEOs representing all five 1999 Joint Statement parties held their sixth World Semiconductor Council (WSC) meeting. The WSC was created under the 1996 Joint Statement to provide a forum for industry representatives to discuss and engage in cooperation concerning 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 India Semiconductor Association has written to the WSC, expressing interest in joining. In addition, reflecting China's increasing importance as a producer and consumer of semiconductors, the WSC has invited China to become a party to the 1999 Joint Statement. China is expected to become the second-largest market for semiconductors, behind the United States, by 2010.

The 1999 Joint Statement also calls for the parties to hold a Government/Authorities Meeting on Semiconductors (GAMS) at least once a year to receive and discuss the recommendations of the WSC regarding policies that may affect the future outlook and competitive conditions within the global semiconductor industry. The sixth GAMS was held in September 2005, hosted by Korea. At that meeting, the WSC recommended that government authorities pursue the following policies: promptly make MCPs duty-free; focus in the Doha Round on measures that promote complete open access for semiconductors and other information technology goods; expand participation and product coverage of the Information Technology Agreement (ITA); fully protect intellectual property rights and support requests for transparency under TRIPS Article 63.3; enforce WTO national treatment rules to prevent discrimination against foreign products; promote fair and effective antidumping rules; discourage the use of copyright levies on digital equipment; and promote sound environmental and safety practices that are based on sound and widely accepted scientific principles and do not impede the effective functioning of the market. The major deliverable of the 2005 GAMS was the agreement to reduce MCP duties to zero, as described above. The GAMS members are working to complete domestic procedures with a view to having the zero duty in place early in 2006.

E. Steel Trade Policy

In 2005, the Administration continued to address concerns related to the rapidly changing trade situation in the global steel sector, continuing its work at the Organization for Economic Cooperation and Development (OECD) and other fora to monitor and address steel subsidies and other market-disrupting practices.

Participants in the OECD High Level Group (HLG) on Steel decided in June 2004 to shift the focus of negotiations on a possible Steel Subsidies Agreement (SSA) to less formal bilateral and plurilateral consultations. The United States and the OECD Secretariat consulted with various participants in an attempt to find mutually acceptable ways to move the SSA negotiations forward. The Secretariat completed its extensive consultation process in March 2005 and released a blueprint containing potential compromises on key sticking points with the hope that it could serve as a starting point for resuming talks.

After receiving comments from participants on the blueprint, including from the United States, in October 2005, the OECD Secretariat concluded that while all participants found the process valuable, as it has shed light on important issues within the steel sector, participants could not agree on the basis to resume

formal talks at that time. Nonetheless, nearly all participants agreed that the permanent OECD Steel Committee can serve as an important forum to discuss common policy approaches on issues such as subsidies.

Recently, the Secretariat proposed a reorientation of the HLG's work to address four key areas: (i) steel-specific trade issues, (ii) structural adjustment in steel, (iii) the situation in steel in developing economies and (iv) the environmental challenges facing the industry. According to the proposal, the HLG would work alongside the Steel Committee to identify and elaborate on areas of possible agreement within the four areas mentioned. The Administration plans to review this latest proposal carefully. Regardless of the outcome of this proposal, the Administration will continue to work with the OECD Secretariat and other participants to build further consensus about disciplining steel subsidies in 2006.

The Administration joined other OECD steelmaking countries in noting growing concern in global markets over continued growth in steel production capacity in many countries. While much of the added capacity is being financed from market sources in response to rising global demand, much of it is also attributable to government support and other types of aid. China, the world's largest steel producer and consumer, continued to rapidly expand its production capacity in 2005, while the growth of demand for steel in China began to slow considerably. As a result China went from being a large net importer in 2003 to an emerging net exporter.

Because of concerns that excess capacity and production will lead to supply imbalances and trade flow disruptions, the Administration has worked within the OECD, and with industry and the governments of Canada and Mexico to gather and analyze information on steel capacity, government support and other market-distorting practices in non-NAFTA countries. The United States also raised specific concerns bilaterally, at the OECD and in WTO accession negotiations about steel policies that contribute to excess capacity and production including subsidies and export duties and other restrictions on steelmaking raw materials.

The Administration works closely with the governments of Canada and Mexico on policy issues of importance to the steel industry in the North American Steel Trade Committee (NASTC), a government /industry collaboration born out of our outreach efforts in the OECD steel subsidies exercise.

While the work of the NASTC is wide-ranging, the primary focus has been on the frequency and magnitude of government intervention in the global steel sector and the resulting distortions of such interventions on international trade. In recent months, the NASTC has concentrated on its mandate under the Security and Prosperity Partnership (SPP) initiative to draft and implement a "North American Steel Strategy." The steel strategy will address several areas of work, including cooperation in multilateral negotiations of importance to steel, particularly the WTO Rules Negotiations.

During 2005, the Department of Commerce also finalized the Steel Import Monitoring Program, a web-based, automatic licensing and data system for U.S. imports of steel to collect timely detailed statistics on steel imports and to provide stakeholders with information about import trends in this sector. The Administration also worked with the governments of Canada and Mexico to enhance compatibility of the similar import monitoring systems maintained by all three NAFTA countries.

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 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 70 complaints at the WTO, thus far successfully concluding 43 of them by settling 23 cases favorably and prevailing on 20 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, of course, is to secure U.S. benefits (and fairer trade for both countries) rather than to engage in prolonged litigation. Therefore, whenever possible we have

sought to reach favorable settlements that eliminate the foreign breach without having to resort to panel proceedings.

We have been able to achieve this preferred result in 23 of the 47 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; China's value added tax; 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, we have pursued our cases to conclusion, prevailing in 20 cases so far, 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 measures that discriminated against 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 beef imports; Mexico's antidumping duties on high-fructose corn syrup; Mexico's telecommunications barriers and Mexico's antidumping duties on rice.

USTR also works 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 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

2005 Activities

Enforcement successes in 2005 include rulings against Japan's restrictions on imports of apples, Mexico's antidumping measure on rice and the EU's discriminatory regime on geographical indications. The United States also favorably resolved several disputes after completing or initiating WTO dispute settlement procedures. For example, China removed its discriminatory tax on semiconductors, Canada removed several restrictions on wheat, Egypt removed discriminatory textile tariffs and Mexico removed anti-competitive rules which drove up the cost of international calls. Recently, the United States obtained a favorable dispute ruling against Mexico on its discriminatory soft drink tax. Ongoing enforcement actions involve the EU's moratorium on biotechnology products, the EU's aircraft subsidies, the EU's customs regime and Turkey's restrictions on rice. The United States also filed a complaint under WTO dispute settlement procedures involving Turkey's import restrictions on rice.

The cases described in Chapter II 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/enforcement/index.shtml>).

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 made available under 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 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 Import Administration's Subsidies Enforcement Office (SEO) is the specific office charged with carrying out these responsibilities.

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 will 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 greatly enhanced by IA officers stationed overseas (in China and Korea), who help gather, clarify and confirm 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, covering more than 50 countries and over 2,000 government practices. 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 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 analyzes information collected by 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 importantly 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 investigations of U.S. goods that were closely monitored in the past year are Canada's AD/CVD investigations of grain corn, Mexico's *ex officio* investigation of pork legs and shoulders/hams and its "reinvestigation" of apples, and China's investigations of kraft linerboard, dimethyl cyclosiloxane and several other products. Import Administration personnel have also participated in technical exchanges with the administering authorities of Egypt, Australia and Indonesia to obtain a better understanding of these countries' administration of trade remedy laws and compliance with their WTO obligations.

Members must notify on an ongoing basis 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 government practices that burden or restrict U.S. commerce. For example, Section 301 may be used to obtain increased market access for U.S. goods and services, to provide more equitable conditions for U.S. investment abroad, and to obtain more effective protection worldwide for U.S. intellectual property.

a. Operation of the Statute

The Section 301 provisions of the Trade Act provide a domestic procedure whereby interested persons may petition the USTR to investigate a foreign government 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 2005, there were ongoing actions in the following Section 301 investigations, and USTR received one petition seeking the initiation of a new investigation.

b. Intellectual Property Laws and Practices of the Government of Ukraine

On March 12, 2001, the Trade Representative identified Ukraine as a priority foreign country (PFC) under section 182 of the Trade Act (known as Special 301 – see below), and simultaneously initiated a Section 301 investigation of the intellectual property laws and practices of the Government of Ukraine. The priority foreign country identification was based on: (1) deficiencies in Ukraine's acts, policies and practices regarding the protection of intellectual property rights, including the lack of effective action enforcing intellectual property rights, as evidenced by high levels of compact disc piracy; and (2) the failure of the Government of Ukraine to enact adequate and effective intellectual property legislation addressing optical media piracy.

The United States consulted repeatedly with the Government of Ukraine regarding the matters under investigation. However, the Government of Ukraine made very little progress in addressing two key issues: its failure to use existing law enforcement tools to stop optical media piracy, and its failure to adopt an optical media licensing regime. On August 2, 2001, the USTR determined that the acts, policies and practices of Ukraine with respect to the protection of intellectual property rights were unreasonable and burdened or restricted U.S. commerce, and were thus actionable under Section 301(b). The USTR determined that appropriate and feasible action in response included the suspension of duty-free treatment accorded to the products of Ukraine under the GSP program, effective with respect to goods entered on or after August 24, 2001. The USTR also announced that further action could include the imposition of prohibitive duties on certain Ukrainian products, and the office of the USTR sought public comment on a preliminary product list. On December 11, 2001, the USTR determined that appropriate additional action included the imposition of 100 percent *ad valorem* duties on a list of 23 Ukrainian products with an annual trade value of approximately \$75 million. The increased duties went into effect on January 23, 2002.

Since 2001, the Government of the United States has been working with the Government of Ukraine to address the IPR protection issues that are the subject of the investigation. In particular, the United States has been encouraging Ukraine to improve its IPR legislation and to enhance enforcement of existing IPR laws.

In July 2005, USTR notified in writing representatives of U.S. copyright industries that, pursuant to Section 307(c) of the Trade Act, the suspension of Ukraine's GSP benefits would terminate unless USTR received a written request for a continuation from one or more representatives of U.S. copyright industries prior to the four-year anniversary of the GSP suspension (i.e., prior to August 24, 2005). U.S. copyright industry representatives responded in writing prior to August 24, 2005 by requesting that the GSP suspension remain in place until USTR determines that Ukraine has adequately improved IPR enforcement. Accordingly, the suspension of GSP benefits continued under Section 307(c) of the Trade Act.

In August 2005, the Government of Ukraine adopted a package of important amendments to its Laser Readable Disc Law that strengthen Ukraine's licensing regime and enforcement capabilities to stem the illegal production and trade of optical media products. In response to the adoption of these amendments, the USTR terminated the 100 percent *ad valorem* duties on the list of Ukrainian products, effective August 30, 2005.

The United States concluded a Special 301 Out-of-Cycle Review (OCR) of Ukraine in January 2006. In recognition of the Government of Ukraine's efforts to improve the enforcement and protection of intellectual property rights, the United States reinstated GSP benefits for Ukraine effective January 23, 2006, and lowered Ukraine's designation under Special 301 from Priority Foreign Country to Priority Watch List. Ukraine agreed to work with the U.S. Government and with the U.S. copyright industry to monitor the progress of future enforcement efforts through an Enforcement Cooperation Group. The United States will continue to monitor developments in the protection of intellectual property rights in Ukraine pursuant to Section 306 of the Trade Act of 1974.

c. 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 Community 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 certain products of certain EC Member States. The increased duties remained in place throughout 2005.

Talks were held during 2005 with the aim of reaching a mutually satisfactory solution to the dispute, but no resolution was reached. 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 section of this report addressed to WTO dispute settlement contains further information on this matter.)

d. Petitions Filed in 2005

During 2005, USTR received one petition seeking the initiation of a new investigation under section 301. The petition alleged that the policies and practices of the Government of China with respect to the valuation of China's currency deny and violate international legal rights of the United States, are unjustifiable, and burden or restrict U.S. commerce. The USTR determined not to initiate an investigation with respect to the petition because the Government of the United States is involved in ongoing efforts to address with the Government of China the currency valuation issues raised in the petition, and because initiation of an investigation would not be effective in addressing the policies and practices covered in the petition.

2. Special 301

During the past year, the United States continued to implement vigorously 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 those 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 the relevant U.S. products are designated as “Priority Foreign Countries” unless they are entering into good faith negotiations or 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 are the focus of increased bilateral attention concerning the problem areas.

Additionally, under Section 306, USTR monitors a country’s compliance with bilateral intellectual property agreements that are the basis for resolving an investigation under Section 301. USTR may apply sanctions if a country fails to satisfactorily implement an agreement.

a. 2005 Special 301 Review Announcements

On April 29, 2005, Acting U.S. Trade Representative Peter Allgeier announced the results of the 2005 Special 301 annual review, which examined in detail the adequacy and effectiveness of intellectual property protection in approximately 90 countries. USTR identified 52 trading partners that deny adequate and effective protection of intellectual property or equitable market access to U.S. artists and industries that rely upon intellectual property protection.

Ukraine was the only country named a Priority Foreign Country in the 2002 to 2005 Special 301 reviews conducted by USTR based on widespread piracy of copyrighted goods such as CDs and DVDs. The United States withdrew Ukraine's benefits under the Generalized System of Preferences (GSP) program in August 2001 and imposed \$75 million worth of sanctions on Ukrainian imports on January 23, 2002.

These sanctions, which affected a number of Ukrainian products, including metal, footwear, and chemicals, were lifted on August 30, 2005 after the Ukrainian Government secured passage of important amendments to the Laser-Readable Disk Law and other laws, which went into effect on August 2, 2005. The United States concluded a Special 301 Out-of-Cycle Review (OCR) of Ukraine in January 2006.

In recognition of the Government of Ukraine's efforts to improve the enforcement and protection of intellectual property rights, the United States reinstated GSP benefits for Ukraine effective January 23, 2006, and lowered Ukraine's designation under Special 301 from Priority Foreign Country to Priority Watch List.

Ukraine agreed to work with the U.S. government and with the U.S. copyright industry to monitor the progress of future enforcement efforts through an Enforcement Cooperation Group. The United States will continue to monitor developments in the protection of intellectual property rights in Ukraine pursuant to Section 306 of the Trade Act of 1974.

IPR protection and enforcement in China remained a top priority of the Administration's trade policy in 2005. USTR carried out an OCR in 2005 to evaluate China's implementation of various IPR commitments, including those made at the 15th annual Joint Commission on Commerce and Trade (JCCT) meeting held April 2004. The OCR revealed that China had not resolved critical deficiencies in IPR protection and enforcement and, as a result, infringements remain at unacceptably high levels. Based on information collected in the OCR, the United States concluded that China had not achieved its key commitment at the April 2004 JCCT meeting to significantly reduce IPR infringements throughout China. As a consequence, the United States intensified efforts to address IPR concerns through a comprehensive strategy encompassing the following actions: 1) work with U.S. industry and other stakeholders with an eye toward utilizing WTO procedures to bring China into compliance with its WTO TRIPS obligations, particularly those requiring transparency and a criminal IPR enforcement system with deterrent effect; 2) invoke the transparency provisions of the WTO TRIPS Agreement to request detailed documentation on certain aspects of IPR enforcement in China that affect U.S. rights under the TRIPS Agreement; 3) elevate China onto the Priority Watch List on the basis of serious concerns about China's compliance with its WTO TRIPS obligations and failure to significantly reduce IPR infringement levels throughout China, as committed at the April 2004 JCCT, 4) maintain Section 306 monitoring of China's implementation of its 1992 and 1995 bilateral agreements with the United States governing the protection of IPR (including additional commitments made in 1996); and 5) use the JCCT, including the IPR Working Group, to secure new, specific commitments concerning additional actions that China will take to significantly improve IPR protection and enforcement.

The 2005 Special 301 Report noted that Russia remained on the Priority Watch List due to serious and continuing concerns with Russia's IPR regime, including weak IPR enforcement, rampant production of pirated optical media products, and an increasing problem with Internet piracy of copyrighted works. USTR announced in April 2005 that it would conduct an OCR to monitor Russia's progress on IPR issues and to evaluate whether actions taken by Russia have resulted in substantial reductions in the levels of piracy and counterfeiting. Although Russia began in late 2005 to make some progress in combating IPR enforcement issues, numerous problems still remain and USTR will continue its evaluation of Russia under the OCR into 2006.

Paraguay continued to be designated for Section 306 monitoring to ensure that it complies with its commitments to the United States under bilateral intellectual property agreements.

Fourteen trading partners were placed on the "Priority Watch List": Argentina, Brazil, China, Egypt, India, Indonesia, Israel, Kuwait, Lebanon, Pakistan, the Philippines, Russia, Turkey, and Venezuela. An additional 36 trading partners were placed on the "Watch List," meriting bilateral attention to address underlying IPR problems: Azerbaijan, Bahamas, Belarus, Belize, Bolivia, Bulgaria, Canada, Chile, Colombia, Costa Rica, Croatia, Dominican Republic, Ecuador, European Union, Guatemala, Hungary,

Italy, Jamaica, Kazakhstan, Korea, Latvia, Lithuania, Malaysia, Mexico, Peru, Poland, Romania, Saudi Arabia, Slovakia, Taiwan, Tajikistan, Thailand, Turkmenistan, Uruguay, Uzbekistan, and Vietnam.

USTR also announced “out-of-cycle” (OCR) reviews for Russia, Ukraine, Canada, Indonesia, the Philippines, and the European Union.

b. New Initiatives

i. Transshipment and In Transit Goods

“Transshipment” and “in transit goods” are expanding problems that USTR highlighted in the 2005 Special 301 Report. Transshipped and in transit goods pose a high risk for counterfeiting and piracy because customs procedures may be used to disguise the true country of origin of the goods or to enter goods into customs territories where border enforcement for transshipped or in transit goods is known to be weak with the intention of passing the goods through those customs territories to their destination. The 2005 Special 301 Report noted that transshipment or in transit goods are growing problems in Ukraine, Belize, Canada, Latvia, Lithuania, Taiwan, and Thailand. In the Report, USTR urged these countries to provide stronger intellectual property border enforcement protections, and stated that the United States would work together with these countries to improve their IPR border enforcement systems.

ii. Free Trade Zones

The 2005 Special 301 Report also addressed concerns with the growing problem of pirated and counterfeit goods moving through “free trade zones,” which are geographic areas considered to be outside of a nation’s customs territory for the purposes of collecting import duties and taxes. Free trade zones present a considerable risk of serving as a conduit for counterfeit and pirated goods, and as sites of manufacturing of IPR infringing goods. The United States has received complaints from U.S. industry regarding the Colon Free Zone in Panama, the Jebel Ali Free Zone in the United Arab Emirates, the Corozal Commercial Free Trade Zone in Belize, and the Manaus Free Trade Zone in Brazil, among others. In the Report, the United States urged all countries having free trade zones located within their territories to bring the operation of the free trade zones under the rule of law and ensure its consistent application.

iii. Sustainable Innovation

The 2005 Special 301 Report noted that the ability of innovative industries to continue to develop new products depends largely upon two factors: (1) a strong and effective intellectual property system; and (2) the capacity to market new products effectively during the period of time when the exclusive intellectual property rights exist.

Although intellectual property protection is a necessary condition for encouraging innovation in all sectors, it is the ability to market products effectively that provides the incentive for continued innovation and generates the returns on investment necessary to fund new research and development and production of new products. This cycle of innovation produces significant economic and social benefits by accelerating economic growth and raising standards of living.

c. Ongoing Initiatives

i. Global Scope of Counterfeiting and Piracy

Global IPR theft and trade in fakes have grown to unprecedented levels, threatening innovative and creative economies around the world. Counterfeiting and digital piracy remained areas of particular concern in the 2005 Special 301 report.

ii. Continuing to advance the STOP! Initiative

The 2005 Special 301 Report emphasized that USTR is actively engaged in implementing the Administration's Strategy Targeting Organized Piracy (STOP!) initiative. Announced in October 2004, STOP! Brings together all the major players – the federal government, private sector and trade partners – to take concerted action in cracking down on piracy and counterfeiting. The initiative has united nine federal agencies, enhanced public-private sector cooperation, brought new forms of federal assistance to American companies across the country, increased law enforcement resources to stop pirates and counterfeiters, and developed an international law enforcement network to increase criminal enforcement abroad.

As part of STOP!, USTR has been advocating international adoption of best practices guidelines incorporating enhanced enforcement disciplines drawn from the IP chapters of recent FTAs. USTR has also been introducing in multilateral fora new initiatives to improve the global intellectual property environment and aid in disrupting the operations of pirates and counterfeiters. Key initiatives to address issues ranging from improved enforcement to public awareness to commercial supply chain integrity have gained endorsement in the G-8, Organization for Economic Cooperation and Development (OECD), and the Asia-Pacific Economic Cooperation (APEC) forum.

iii. Optical Media Piracy

The 2005 Special 301 Report noted that in 2004, some of our trading partners, such as the Philippines, Poland, and Indonesia, have taken important steps toward implementing much-needed controls on optical media production in order to address and prevent future piracy. We saw particular progress in 2004-2005 in the Philippines' enforcement of its optical media law. However, the 2005 Report noted that other countries urgently needed to implement controls or improve existing inadequate measures, including India, Pakistan, Russia, Ukraine, Thailand, and Bulgaria. Some governments, such as those of Hong Kong and Macau, which implemented optical media controls in previous years, have clearly demonstrated their commitment to continue to enforce these measures. The 2005 Report noted that Malaysia was steadily improving its enforcement efforts, and Taiwan continued to make significant progress in providing improved IPR enforcement. We continued to urge our trading partners facing the threat of pirate optical media production within their borders to adopt similar controls or aggressively enforce existing regulations.

iv. Ensuring Compliance with the WTO TRIPS Agreement

One of the most significant achievements of the Uruguay Round was the negotiation of the TRIPS Agreement, which requires all WTO Members to provide certain minimum standards of protection for patents, copyrights, trademarks, undisclosed information, geographical indications, and other forms of intellectual property. The Agreement also requires countries to provide effective IPR enforcement.

The TRIPS Agreement is the first broadly-subscribed multilateral intellectual property agreement that is subject to mandatory dispute settlement provisions. Compliance with the TRIPs agreement is an essential first step in providing the quality of IPR protection essential to promote growth and productivity and we work continually to monitor other WTO member's compliance with TRIPs obligations.

v. Cracking down on Internet Piracy

The 2005 Report noted that the Internet has undergone explosive growth and, coupled with the increased availability of broadband connections, serves as an extremely efficient global distribution network for pirated products. The explosive growth of copyright piracy on the Internet is a serious problem.

We are continuing to work with other governments, and consult with U.S. industry, to develop the best strategy to address Internet piracy. An important first step in the fight against Internet piracy was achieved at WIPO when it concluded two copyright treaties in 1996: the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT) (collectively, the "WIPO Internet Treaties"). Subsequently, we encouraged countries to adopt the WIPO internet treaties. For example, as described below we have included comprehensive provisions within our FTAs to ensure our trade partners comply with the WIPO internet treaties. The WIPO Internet Treaties are now part of the international IPR legal regime and represent the emerging consensus view of the world community that the vital framework of protection under existing agreements, including the TRIPS Agreement, should be supplemented to eliminate any remaining gaps in copyright protection on the Internet that could impede the development of electronic commerce.

We are also seeking to heighten standards of protection for intellectual property by incorporating standards of the WIPO Internet Treaties as substantive obligations in the bilateral and regional trade agreements that we negotiate. Our proposals in the on-going our FTA negotiations will continue to include up-to-date copyright and enforcement obligations to reflect the technological challenges we face today as well as those that may exist at the time negotiations are concluded.

vi. 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. The United States has achieved considerable progress under this initiative, and numerous other countries and territories have issued decrees mandating the use of only authorized software by government ministries.

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 2005 Section 1377 Review focused on the following issues: (1) excessively high fixed-to-mobile termination rates, a factor identified as negatively impacting U.S. companies in a large number of markets, and in particular, Germany, Japan, Mexico, Peru, and Switzerland; (2) restrictions on access to, and use of, leased lines and submarine cable capacity in Germany, India, and Singapore, where the absence of clear rules supported by adequate enforcement powers has allowed incumbent operators to succeed in blocking long-term access solutions; (3) excessive regulatory requirements, including high licensing fees, high capitalization requirements, restrictions on resale, and limitations on the entities with whom a foreign licensee can partner, in India, Colombia, and China; (4) burdensome testing and certification requirements for telecommunications equipment in Korea and Mexico; and (5) governmental mandates of certain technical standards in relation to telecommunications services and equipment that limit companies' choice of technologies and serve as potential market access barriers for U.S. companies, particularly in Korea and China.

USTR has urged national regulators to fulfill their responsibility to address such problems, and initial signs are in some cases promising. On the issue of excessively high fixed-to-mobile termination rates, Peru's regulator – Osiptel – issued a resolution in December 2005 to establish a cap on mobile termination rates. This cap, which would be implemented over a four-year period, would reduce mobile termination rates by 50 percent. This resolution, however, is currently under review by regulators and could be repealed. In Germany, the regulator found in its analysis of the mobile termination market that DTAG's T-Mobile and Vodafone D2 has significant market power. However, the regulator has not yet imposed any remedies, instead arguing that the companies' decision to lower rates on their own is sufficient to address this problem. Both Singaporean and Indian regulators have also taken steps towards addressing the issues USTR raised with respect to access and use of leased lines and submarine cable capacity in their markets. In particular, the Indian regulator – TRAI – took action to lower the cost of international private leased circuits and has made recommendations to the Department of Communications to facilitate access to submarine cable capacity. India has also made progress with respect to its regulatory requirements, most notably, by significantly reducing the licensing fee for long distance services.

USTR remains concerned, however, with the excessive regulatory requirements for telecommunications services and burdensome testing requirements for telecommunications equipment in many countries. In some countries, such as Mexico, the burden may be partially alleviated by implementing Mutual Recognition Agreements, permitting testing to be done in the United States under more transparent procedures. The United States is actively pursuing such initiatives. In addition, USTR continues to have grave reservations about the potential market implications of government mandates of technical standards, which limit companies' choice of technologies in providing services. USTR will continue to monitor developments in these areas.

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. 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 released.

Upon request of an interested party, Commerce conducts annual reviews of dumping margins pursuant to Section 751 of the Tariff Act of 1930. Section 751 also provides for Commerce and USITC review in cases of changed circumstances and periodic review in conformity with the five-year "sunset" provisions of the U.S. antidumping law and the WTO antidumping agreement.

Most antidumping determinations may be appealed to the U.S. Court of International Trade, with further judicial review possible in the U.S. Court of Appeals for the Federal Circuit. For certain investigations involving Canadian or Mexican merchandise, appeals may be made to a binational panel established under the NAFTA.

The 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; and 13 in 2005. 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; and 18 in 2005.

Under its sunset review procedures, Commerce revoked 57 antidumping duty orders and continued 72 orders in 2000; revoked 7 antidumping duty orders and continued 19 orders in 2001; revoked 9 antidumping duty orders and continued 2 orders in 2002; revoked 2 antidumping duty orders and continued 5 orders in 2003; revoked 11 antidumping duty orders and continued 19 orders in 2004; and revoked 21 antidumping duty orders and continued 44 orders in 2005.

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 benefiting 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 representative of the interested party(ies). 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.

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; 3 in 2002; 5 in 2003; 3 in 2004; and 2 in 2005. 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; none in 2002; 2 in 2003; 3 in 2004; and none in 2005. 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 1 countervailing duty order and continued no orders in 2004; and revoked 4 and continued 12 countervailing duty orders in 2005.

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. 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, the President 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 2005, the USITC instituted 29 new Section 337 investigations. It also instituted two enforcement and two advisory opinion proceedings that relate to two previously issued USITC remedial orders. During the year, the USITC issued three general exclusion orders, seven limited exclusion orders, and eleven cease and desist orders covering imports from foreign firms, as follows: *Certain Automotive Measuring Devices and Products Containing Same*, Inv. No. 337-TA-494 (limited exclusion order directed to five entities, one cease and desist order); *Certain Audio Digital-to-Analog Converters and Products Containing Same*, Inv. No. 337-TA-499 (limited exclusion order); *Certain Automated Mechanical Transmission Systems for Medium-Duty and Heavy-Duty Trucks, and Components Thereof*, Inv. No. 337-TA-503 (limited exclusion order and one cease and desist order); *Certain Gun Barrels Used in Firearms Training Systems*, 337-TA-505 (limited exclusion order and one cease and desist order); *Certain Optical Disk Controller Chips and Chipsets and Products Containing Same, Including DVD Players and PC Optical Storage Devices*, Inv. No. 337-TA-506 (limited exclusion order directed to eleven entities, seven cease and desist orders); *Certain Systems for Detecting and Removing Viruses or Worms, Components thereof, and Products Containing Same*, Inv. No. 337-TA-510 (limited exclusion order); *Certain Pet Food Treats*, Inv. No. 337-TA-511 (limited exclusion order); *Certain Plastic Food Containers*, Inv. No. 337-TA-514 (general exclusion order); *Certain Ink Markers*, Inv. No. 337-TA-522 (general exclusion order and one cease and desist order); *Certain Foam Tape*, Inv. No. 337-TA-528 (general exclusion order). A limited exclusion order covers only certain imports from particular named sources, while a general exclusion order covers certain products from all sources.

The President, and, starting in July 2005, the USTR exercising the functions assigned by the President, permitted all the exclusion orders and cease and desist orders submitted by the USITC for review during 2005 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 and 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, 2005, the United States had no safeguard measures in place. The United States did not impose any safeguard measures during 2005, 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 USITC must first make a determination that products of China are being imported into the United States in such increased quantities or under such conditions as to cause or threaten to cause market disruption to the domestic producers of like or directly competitive products. The statute directs that if the USITC makes an affirmative determination, the President shall provide import relief, unless the President determines that provision of relief is not in the national economic interest of the United States or, in extraordinary cases, that the taking of action would cause serious harm to the national security of the United States.

China’s terms of accession also permit a WTO Member to limit imports where a China-specific safeguard measure imposed by another Member causes or threatens to cause significant diversions of trade into its market. The trade diversion provision is implemented in U.S. law by Section 422 of the Trade Act of 1974, as amended.

Through the end of 2005, six petitions have been filed under Section 421. During 2005, there was activity on one Section 421 petition. On December 30, 2005, the President issued his determination with respect to a petition filed in August 2005 concerning certain circular welded non-alloy steel pipe from China. The President determined that providing import relief was not in the national economic interest of the United States.

An appeal in a lawsuit brought by Motion Systems Corporation, the petitioner in the first Section 421 case, was argued before a three judge panel of the U.S. Federal Court of Appeals for the Federal Circuit (“Federal Circuit”) on March 7, 2005. On July 15, 2005, the Federal Circuit ordered the case to be heard *en banc*. The *en banc* hearing was held on October 6. The court’s decision is pending.

China Textile Safeguard

The terms for China’s accession to the WTO also 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, in the fourth quarter of 2004, the interagency Committee for the Implementation of Textile Agreements (“CITA”) accepted for consideration 12 industry requests for safeguard relief under Paragraph 242. These requests concerned: (1) knit fabric (Category 222); (2) cotton and man-made fiber brassieres and other body supporting garments (Category 349/649); (3) cotton and man-made fiber dressing gowns and robes (Category 350/650); (4) cotton trousers (Category 347/348); (5) man-made fiber trousers (Category 647/648); (6) man-made fiber knit shirts and blouses (Category 638/639); (7) men’s and boys’ cotton and man-made fiber shirts, not knit (category 340/640); (8) cotton knit shirts and blouses (Category 338/339); (9) cotton and man-made fiber underwear (Category 352/652); (10) combed cotton yarn (Category 301); (11) other synthetic filament fabric (Category 620); and (12) wool trousers (Category 447). The requests were premised on the argument that an anticipated increase in imports of these products threatened to disrupt the U.S. market for such products. The United States also requested consultations with China with respect to imports of Chinese-origin cotton, wool and man-made fiber socks (Category 332/432 and 632 part) on October 29, 2004.

On December 1, 2004, the U.S. Association of Importers of Textiles and Apparel (“USA-ITA”) filed a complaint and a motion for preliminary injunction in the Court of International Trade (“CIT”), seeking to bar CITA from further accepting, considering, or otherwise proceeding to review requests based solely on a threat of market disruption. On December 30, 2004, the CIT issued a preliminary injunction barring CITA from further accepting, considering, or otherwise proceeding to review safeguard requests based solely on a threat of market disruption. The Administration appealed this ruling to the Federal Circuit.

In April 2005, based on industry requests, CITA decided to consider whether imports of Chinese-origin cotton knit shirts and blouses (Category 338/339), men’s and boys’ cotton and man-made fiber shirts, not knit (Category 340/640), cotton and man-made fiber sweaters (Category 345/645/646), cotton trousers (Category 347/348), brassieres and other body supporting garments (Category 349/649), dressing gowns and robes (Category 350/650), cotton and man-made fiber underwear (Category 352/652), other synthetic filament fabric (Category 620), knit man-made fiber shirts and blouses (Category 638/639), and man-made fiber trousers (Category 647/648), are, due to market disruption, threatening to impede the orderly development of trade in these products. None of these requests was based solely on a “threat” of market disruption.

On May 9, 2005, the Federal Circuit granted the Administration’s motion for a stay of the CIT’s preliminary injunction, pending appeal, and CITA resumed its consideration of the 12 “threat-based” industry requests described above. Later that month, the United States requested consultations with China with respect to imports of Chinese-origin combed cotton yarn (Category 301), cotton knit shirts and blouses (Category 338/339), cotton trousers (Category 347/348), cotton and man-made fiber underwear (Category 352/652), men’s and boys’ cotton and man-made fiber shirts, not knit (Category

340/640), man-made fiber knit shirts and blouses (Category 638/639), and man-made fiber trousers (Category 647/648).

On June 28, 2005, the Federal Circuit reversed the CIT's decision to enjoin CITA from considering safeguard actions under Paragraph 242 based on threats of market disruption.

In July 2005, CITA decided to consider whether imports of Chinese-origin curtains and drapes (Category 369 part/666 part) are, due to market disruption, threatening to impede the orderly development of trade in these products. In August, CITA decided to consider whether imports of Chinese-origin women's and girls' cotton and man-made fiber woven shirts and blouses (Category 341/641), cotton and man-made fiber skirts (Category 342/642), cotton and man-made fiber nightwear (Category 351/651), and cotton and man-made fiber swimwear (Category 359-S/659-S) are, due to market disruption, threatening to impede the orderly development of trade in these products. CITA also decided to consider an industry request for a "reapplication" of the safeguard for Chinese-origin cotton, wool and man-made fiber socks (Category 332/432 and 632 part).

On August 31, 2005, the United States requested consultations under Paragraph 242 with China with respect to imports of Chinese-origin cotton and man-made fiber brassieres and other body supporting garments (Category 349/649) and other synthetic filament fabric (Category 620).

In October 2005, CITA accepted for consideration 13 industry requests for safeguard relief under Paragraph 242. Nine of these requests were for a "reapplication" of the safeguard in 2006, where the United States had requested consultations in 2005, as described above.

The remaining four requests related to imports of Chinese-origin cheesecloth, batistes, and lawns/voiles (Category 226); men's and boys' wool suits (Category 443); polyester filament fabric, light weight (Category 619); and other men's and boys' man-made fiber coats and women's and girls' man-made fiber coats (Category 634/635).

On November 1, 2005, the United States and China reached an agreement limiting imports of cotton, man-made fiber, and wool socks (Category 332/432 and 632 part) from November 1 to December 31, 2005. On that same date, CITA accepted for consideration an industry request for safeguard relief concerning cotton terry and other pile towels (Category 363).

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"). The agreement also addresses the rights of the United States to seek relief under Paragraph 242. On November 18, 2005, USA-ITA, the plaintiff in the CIT litigation described above, withdrew its lawsuit in the CIT. On November 23, 2005, CITA decided to end its consideration of remaining requests for import relief under Paragraph 242.

7. Trade Adjustment Assistance

a. 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. Available assistance includes job retraining, trade readjustment allowances (TRA), job search assistance, relocation

assistance, a health insurance tax credit, and other re-employment services. The program was most recently 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 superceded the North America Free Trade Agreement Transitional Adjustment Assistance (NAFTA-TAA) program. The TAA Reform Act also raised the statutory cap on funds that may be allocated to the States for training from \$110 million to \$220 million per year. Workers covered under certifications issued pursuant to NAFTA-TAA petitions filed on or before November 3, 2002, will continue to be covered under the provisions of the NAFTA-TAA program that were in effect on September 30, 2001. Amendments to the TAA program apply to petitions for adjustment assistance that were filed on or after November 4, 2002.

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 a U.S. trade preference program; 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 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 state One Stop Career Center or office of the State Workforce Agency. In order to be eligible for TAA, workers must be enrolled in approved training within eight weeks of the issuance of the Department of Labor certification or within 16 weeks of the worker's most recent qualifying separation (whichever is later) or must have successfully completed approved training. A state may waive this requirement under six specific conditions.

The TAA Reform Act created a program of health coverage tax credits 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 coverage under qualified health insurance. The tax credit may be claimed at the end of the year, or, beginning in August 2003, a qualified individual may receive the credit in the form of monthly advance payments to the health insurance provider.

In addition, the TAA Reform Act of 2002 created an Alternative Trade Adjustment Assistance (ATAA) program for older workers who are not likely to find suitable reemployment in their local labor market. 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 the new employment to qualify for the program.

The Government Accountability Office (GAO) recently issued two reports on TAA: September 22, 2004 report on progress since the TAA Reform Act of 2002, and a September 30, 2004 report on the Health Care Tax Credit provision of TAA. The reports found that workers are interested in the new wage insurance provision created by ATAA and are enrolling in services more rapidly due to a new 40-day time limit the Department of Labor must meet when processing a request for TAA coverage and a new

deadline requiring workers to be enrolled in training 8 weeks after TAA certification or 16 weeks after a worker's layoff. Of the 2,918 petitions for TAA eligibility received in FY2004, 1,734 certifications were issued, covering an estimated 147,956 workers.

The Labor Department recently began a new five-year study of the implementation and effectiveness of the TAA program, which it expects will provide more useful findings. The Labor Department continued its review in 2005 and expects the first of several interim reports will be issued by mid-2006, with the final report expected to be issued in 2009.

The Trade Act of 2002 also contains 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. 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 are that the price of the basic agricultural commodity produced by the farmer in the most recent year is 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 is certified as eligible for benefits, individual producers can then apply to the Farm Service Agency for technical assistance and/or cash benefits. A producer must receive technical assistance to become eligible for cash benefits. Cash benefits are subject to certain personal and farm income limits, and cannot exceed \$10,000 per year to an individual producer.

The cash benefit per unit is 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 is insufficient to pay 100 percent of all claims during the fiscal year, payments will be prorated.

b. Assistance for Firms and Industries

The Trade Adjustment Assistance for Firms Program (the "TAA Program") is authorized by Title II, Chapter 3 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, resulting in important part from the increase in imports of like or directly competitive articles, to become more competitive in the global marketplace. 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 C.F.R part 315 and may be accessed via EDA's Internet website at: <http://www.eda.gov/InvestmentsGrants/Lawsreg.xml>

In FY 2005, EDA awarded a total of \$12,006,000 in TAA Program funds to its national network of 11 Trade Adjustment Assistance Centers ("TAACs"), each of which is assigned a different geographical region. TAACs are typically sponsored by universities or non-profit organizations and serve as the primary point of contact for firms as they proceed through the certification and adjustment proposal processes under the TAA Program. During FY 2005, EDA certified 171 petitions for eligibility and approved 132 adjustment proposals.

Additional information on the TAA Program (including eligibility criteria and application process) is available at <http://www.taacenters.org>.

8. Generalized System of Preferences Generalized System of Preferences

I. Overview

The U.S. Generalized System of Preferences (GSP), a program designed to promote economic growth in the developing world, provides preferential duty-free treatment for 3,400 products from 136 designated beneficiary countries and territories. The GSP program was instituted on January 1, 1976, and authorized under the Trade Act of 1974 (19 U.S.C. 2461 et seq.) for a ten-year period. In 1996, an additional 1,400 articles were made eligible for duty-free treatment when supplied by least developed beneficiary developing countries (LDBDCs). The GSP Program has been renewed periodically since then, most recently in 2002, when President Bush signed legislation that reauthorized the GSP program through the end of 2006.

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. LDBDCs are designated as such, pursuant to section 502(a) (2) of the Trade Act of 1974, as amended. In practice, they are typically GSP beneficiaries that are on the United Nations list of least developed countries. Some beneficiary developing countries (BDCs) and LDBDCs have been subsequently removed from GSP-beneficiary eligibility resulting from the acceptance of country practice petitions concerning worker rights or intellectual property concerns.

Purpose of the GSP Program

The underlying principle of the GSP program is that the creation of trade opportunities for developing countries is an effective, cost-efficient way of encouraging broad-based economic development and a key means of sustaining the momentum behind economic reform and liberalization. In its current form, the GSP program is designed to integrate developing countries into the international trading system in a manner commensurate with their development. The program achieves this objective by making it easier for exporters from developing economies to compete in the U.S. market with exporters from industrialized nations while, at the same time, excluding from duty-free treatment under GSP those products determined by the President to be Aimport-sensitive@. The value of duty-free imports in 2005 was approximately \$26.7 billion, an 18 percent increase over 2004.

In addition, the GSP program encourages beneficiaries; (1) to eliminate or reduce significant barriers to trade in goods, services, and investment; (2) afford all workers internationally recognized worker rights; and (3) provide adequate and effective means for foreign nationals to secure, exercise, and enforce property rights, including intellectual property rights.

Annual Reviews

An important attribute of the GSP program is its ability to adapt, product by product, to changing market conditions and to the changing needs of producers, workers, exporters, importers and consumers. Modifications can be made in the list of articles eligible for duty-free treatment by means of an annual review. The process begins with publication of a *Federal Register* notice that requests submission of petitions for modifications in the list of eligible articles.

For those petitions that are accepted, public hearings are held, a U.S. International Trade Commission study of the Aprobable economic impact^o of granting the petition is prepared, and all relevant materials are reviewed by the interagency Trade Policy Staff Committee (TPSC). Following completion of this interagency review, the President announces his decision on which petitions are granted.

Conclusion of the 2004 GSP Annual Review

On June 29, 2005, the President issued a proclamation that announced the results of the 2004 Annual Review. The Proclamation modified the duty-free treatment of certain GSP-eligible products and certain beneficiary developing countries under the Generalized System of Preferences; amended the nomenclature of certain subheadings of the Harmonized Tariff Schedules of the United States (HTSUS) to restore GSP eligibility for certain articles that had previously lost eligibility; restored GSP benefits for certain articles from India for which GSP eligibility had been removed by Proclamation 64225 of April 29, 1992; restored GSP benefits for certain articles from Pakistan for which GSP eligibility had been removed by Proclamation 6942 of October 17, 1996; designated Serbia and Montenegro as a beneficiary developing country for the purposes of the GSP; and determined that currently qualifying members of the South Asian Association for Regional Cooperation (SAARC) should be treated as a one country for purposes of the GSP. Several of these actions were taken to assist in the economic rejuvenation of countries impacted by the devastating December 2004 tsunami.

2005 GSP Annual Review

On May 9, 2005, a notice was published in the *Federal Register* announcing that USTR would receive petitions to modify the list of products eligible for duty-free treatment under the GSP program, and to modify the GSP status of certain beneficiary developing countries because of country practices. This notice initiated the 2005 Annual Review.

Federal Register notices were published in subsequent months that announced which product petitions were accepted for further review and the timetable for the hearing, solicitation of public comments, availability of the ITC Aprobable economic impacts^o study, and final decision. Notices were also published in 2005 in the *Federal Register* with the timetable for the hearing and public comments on the 2005 and ongoing Country Practice Reviews. A *Federal Register* notice was also published that informed the public of the availability of import statistics relating to competitive need limitations (CNLs) and inviting public comment regarding possible *de minimis* CNL waivers and redesignations.

Overall Review of the GSP Program

On October 6, 2005, a notice was published in the *Federal Register* requesting comments on whether the Administration=s operations of the GSP program should be changed so that benefits are not focused on trade from a few countries, and so that developing countries that traditionally have not been major traders under the program receive enhanced benefits. The notice also invited comments on the period for which Congress should reauthorize the GSP Program.

Designation of Eligible Beneficiary Countries

On December 29, 2005, a notice was published in the *Federal Register* announcing the review, including solicitation of public comments, to consider designation of Liberia as an LDBDC.

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. It is important to improve the linkage between trade and development by providing developing countries with the tools to maximize trade opportunities. "As partners with developing countries, and particularly the least developed, we share the goal of reducing poverty and building their capacity for trade," said U.S. Trade Representative Rob Portman in his opening speech to the December 2005 WTO Ministerial in Hong Kong.

Countries that participate in international trade grow out of poverty faster than those that do not. The evidence for this proposition is clear. World Bank research shows that per capita real income grew three times faster in the 1990s for developing countries that most increased their participation in globalization through trade than for the rest of the developing countries. Absolute poverty rates for globalizing countries also have fallen sharply over the last 20 years. The World Bank also finds that trade barrier elimination in conjunction with related development policies would lift tens of millions of people from poverty by 2015. Developing countries that generate growth through trade will be less dependent on official aid over time.

But many countries, particularly the least developed ones, are not active in international trade because they lack the capacity to take advantage of trade opportunities. The United States is committed to assisting developing countries in building this capacity by providing more aid for trade than any other country in the world. Many developing countries also lack a framework for appreciating the benefits generated by agreements to reciprocally lower trade barriers that will vitally serve their development interests. Furthermore, they may need assistance to implement their trade commitments in a full and timely manner, and to build the human and institutional capacity needed to take full advantage of the opportunities to spur economic growth and combat poverty that their participation in the global, rules-based trading system create.

Aid to build trade capacity is about giving countries, particularly the least trade active, the opportunity to participate in negotiations, so they can make decisions about the benefits of trade. It is about assisting them in implementing their obligations so they can export and attract foreign investment. And it is about addressing broader transition issues, so rural areas, small businesses and women entrepreneurs benefit from ambitious reforms in trade rules that are being negotiated in the WTO and other trade agreements.

The United States currently is the largest single-country provider of trade related assistance, which includes trade-related physical infrastructure assistance. Total U.S. funding for TCB activities in FY2005 was \$1.34 billion, up 46 percent from \$921 million in FY2004 (more than doubling since FY2001). In 2005, TCB was distributed as follows:

Asia: \$144 million, up 8.6 percent from FY2004 (\$133 million).
Central and Eastern Europe: \$73 million, up 1.4 percent from FY2004 (\$72 million).
Former Soviet Republics: \$80 million, up 27 percent from FY2004 (\$63 million).
Latin America and Caribbean: \$523 million, up 124 percent from FY2004 (\$233 million).
Middle East and North Africa: \$244 million, up 30 percent from FY2004 (\$187 million).
Sub-Saharan Africa: \$199 million, up 10 percent from FY2004 (\$181 million).

In anticipation of a successful WTO Doha Development Round, the United States has been, and will continue to be, an active participant in the Aid for Trade Initiative that aims to help the least trade active countries participate in the global trading system. The United States looks forward to contributing to the Aid for Trade discussion, as it does to the Integrated Framework Task Force in order to operationalize these efforts. In December 2005, the U.S. Trade Representative announced that the United States will more than double its grant contributions to Aid for Trade, from \$1.3 billion in 2005 growing to \$2.7 billion annually by 2010, subject to developing countries prioritizing trade in their development plans and the President's budget request being approved. U.S. cumulative spending in 2001-2005 totaled over \$4.2 billion in grants and it is likely, given recent growth in U.S. trade-related assistance, that cumulative spending will more than double over the next five years.

Coherence. Coherence refers to the work being done to ensure consistency in global economic policy making among donors, including the WTO, World Bank, the International Monetary Fund, and regional development institutions, which provide an increasingly broad range of TCB assistance. An important element of this work involves coordination with regard to technical assistance activities. For this reason, the United States closely coordinates with these and other donors, whether on initiatives like the Development Aspects of Cotton, the Integrated Framework, or TCB working groups in FTA negotiations 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 U.S. government's efforts build on its longstanding commitment to help all countries benefit from the global trading system, including through mechanisms such as: the Integrated Framework and Millennium Challenge Corporation; contributions to the WTO's Annual Trade-related Technical Assistance program, including the Doha Development Agenda's Global Trust Fund; assistance to countries acceding to the WTO; targeted assistance for developing countries participating in U.S. preference programs such as the new five-year, \$200 million African Global Competitiveness Initiative helping Africa benefit from the African Growth and Opportunity Act; and TCB working groups that are integral elements of free trade negotiations, including the completed Central American-Dominican Republic FTA, and the ongoing free trade negotiations with Panama, the Andeans, SACU and Thailand. TCB assistance is helping countries work with the private sector and non-governmental organizations to transition to a more open economy, prepare for FTA and WTO negotiations, and implement their trade obligations.

1. The Integrated Framework (IF)

The Integrated Framework (IF) is a multi-agency (including the WTO, World Bank, IMF, UNCTAD, UNDP, and the International Trade Center), multi-donor program aiming to mainstream trade into national development plans and coordinate trade-related technical assistance to the least developed countries (LDC) to assist them in enhancing their trade opportunities. The IF provides a coordination mechanism for assistance to the LDCs. It involves a diagnostic assessment and action plan prepared by the World Bank and formally approved by the country seeking assistance. Multilateral and bilateral donors then implement the action plan by either giving money to the IF Trust Fund or supporting programs in the field themselves (as the United States does through its development assistance programs).

The IF is prepared exclusively for the benefit of the LDC, with the goal of getting the least trade active countries more involved. Of the 50 LDCs, 28¹ are in the program.

The United States is a strong supporter of the IF and currently serves as one of two bilateral donor coordinators in the Integrated Framework Working Group (IFWG). As bilateral donor coordinator in the IFWG, the United States is spearheading efforts to improve the IF process so that the delivery of assistance flows even more smoothly. The United States is active in the recently established task force²⁹ which will examine three elements to accelerate the IF process: (1) increases in resources for follow-up; (2) building the in-country capacity of countries in order to benefit from the IF; and (3) strengthening IF governance to improve monitoring and dissemination of best practices.

In September 2005, the United States initiated and organized an IF simulation exercise in Addis Ababa, Ethiopia to advance the objectives of facilitating practical problem-solving, promoting the dissemination of best practices, and helping maintain the momentum of the IF in each country. Public and private sector representatives from 17 LDCs, 12 donor countries, and five multinational corporations came together to identify best practices and concrete steps for strengthening the IF process in each participating country. The United States provided financial support for this event, as did the United Kingdom, Norway, and Denmark. In addition, the USAID missions in Mali and Mozambique are currently serving as IF donor facilitators in the field, and several other missions have offered to assume this role in other IF countries. The United States has contributed funds for the past few years to the Integrated Framework Trust Fund to Finance Diagnostic Trade Integration Studies (DTIS) and Window II projects (transitional projects that bridge the time it takes donors to operationalize programs). Further, 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 FY2005 bilateral TCB assistance was \$133 million to the IF countries. Many of these countries also benefit from part of the \$136 million in regional funding provided by the United States.

2. Millennium Challenge Corporation

The Millennium Challenge Corporation (MCC), established by the United States in 2004, provides a significant new source of bilateral assistance for trade capacity building efforts by eligible countries. The purpose of the MCC is to ensure that the President'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. When trade is prioritized by the country, USTR is working to improve integration of trade into the development plans of eligible

¹ Current IF countries are Angola, Benin, Burkino Faso, Burundi, Cambodia, Chad, Djibouti, Ethiopia, the Gambia, Guinea, Lao PDR, Lesotho, Madagascar, Malawi, Maldives, Mali, Mauritania, Mozambique, Nepal, Niger, Rwanda, Sao Tome and Principe, Senegal, Sierra Leone, Tanzania, Uganda, Yemen and Zambia.

²⁹ Members are the United States, United Kingdom, Sweden, Canada, Japan, Norway and the European Community, Nepal, Tanzania, Lesotho, Zambia, Senegal and Benin. The Canadian WTO Ambassador serves as the Chair.

and threshold countries so that each country's MCC agreement taps into the potential for trade to spur economic growth and reduce poverty.

By giving eligible countries the opportunity to identify their own priorities and develop their own proposals for reducing poverty and spurring economic growth, MCC enables countries to address long-term development obstacles, including in the area of trade.

In 2005 and into 2006, this program will continue to increase significantly U.S. contributions to TCB, channeling funds to LDCs that demonstrate a strong commitment to investing in their people, ensuring political justice, and encouraging economic freedom. The MCC is funded at \$4.25 billion for fiscal years 2004-2006. The MCC Board has approved "compacts" with seven countries: Armenia, Cape Verde, Georgia, Honduras, Madagascar, Nicaragua and Vanuatu. These compacts have a significant trade focus. Current compacts range from \$66 million to over \$300 million in grant funding, and recent proposals are for similarly large or even larger amounts. The most recent compacts with Armenia and Vanuatu were approved for about \$236 million and \$66 million, respectively, over five years. The MCC is currently working on compacts with 16 other countries.

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 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 and supports the WTO's trade-related technical assistance.

Global Trust Fund: In May 2005, the U.S. Trade Representative announced that the United States would contribute approximately \$1 million for trade-related assistance to the WTO. The latest contribution brought total U.S. contributions to the WTO Doha Development Agenda's Global Trust Fund to almost \$5 million since the launch of negotiations in November 2001. In addition, the United States has provided developing countries access to three tools provided by the WTO/UNCTAD's International Trade Centre to help them to participate in the negotiations: Market Access Map, Product Map, and Trade Map.

WTO and Trade Facilitation: The United States spent \$367 million in FY2005 on trade facilitation activities, up from \$278 million in FY2004. In doing so, the United States has looked to support the WTO discussions by providing assistance to developing countries that seek help in responding that tracks the regulatory proposals being made by members in the Negotiating Group on Trade Facilitation.

WTO and Services: One area of particular development potential for developing countries is services. According to the World Bank, the services industry represented 54 percent of the GDP in low-and middle-income countries in 2000, up from 46 percent in 1990. To support requests for support in this area, the United States has reached an agreement with the WTO/UNCTAD's International Trade Centre in Geneva extending a grant that would fund services capacity assessments in four countries: Uganda, Zambia, Nigeria, and Tunisia.

The United States previously funded services capacity assessments for Bangladesh, Indonesia, Kenya, and Rwanda. In FY2005, the U.S. government spent \$26 million on activities that support services trade development.

WTO and NAMA: The United States provides all least developed countries that are members of the WTO with free access to Market Access Map, a web-based tariff analysis tool of the WTO/UNCTAD's

International Trade Centre that provides a comprehensive source of tariffs and market access measures applied at the bilateral level by 170 importing countries to the products exported by 239 countries and territories. LDCs can use Market Access Map to simulate tariff reductions or find products and markets that are important in the current WTO Doha Development Agenda trade talks and where they can be especially competitive.

WTO Accession: The United States also supports countries that have acceded or are in the process of acceding to the WTO. For example, USAID has provided WTO accession and implementation services to Nepal (which officially became a WTO member in 2003), Cape Verde, Saudi Arabia (which officially became a member in December 2005), Ethiopia, Ukraine and a number of other countries in Eastern Europe and the former Soviet Union. In 2005, the United States provided accession support to Iraq and Afghanistan.

4. TCB Initiatives Regarding Africa, Including Cotton

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.

New African Global Competitiveness Initiative: In July 2005, the United States announced the African Global Competitiveness Initiative (AGCI) to build sub-Saharan Africa's capacity for trade and competitiveness. The AGCI will provide \$200 million in funding over five years to (1) expand African trade with the United States under the African Growth and Opportunity Act (AGOA) trade preference program, with other international trading partners, and regionally within Africa, and (2) promote export competitiveness of sub-Saharan African countries. AGCI is assisting with trade capacity development by supporting four regional USAID-funded Regional Hubs for Global Competitiveness – in Botswana, Kenya, Ghana and Senegal – to help African countries diversify trade, remove key barriers to expanding growth, and thus maximize the benefits of greater participation in global markets.

African Growth and Opportunity Act (AGOA): AGOA, enacted in 2000, is a progressive 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 Chapter for more information on AGOA.) As part of the AGOA Acceleration Act of 2004, the President in 2005 presented a major report to Congress that identifies sectors with the greatest export potential in each of the 37 AGOA-eligible countries. It also identifies domestic and international barriers and makes recommendations for technical assistance to reduce those barriers.

Trade capacity building is an important element of AGOA implementation. 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 in maximizing their AGOA benefits. AGOA implementation is a major focus of the four regional trade hubs cited above. For example, Animal and Plant Health Inspection Service (APHIS) experts have been posted to each of the hubs to assist African countries in meeting U.S. food safety standards. The hubs also conduct seminars and workshops designed to help African businesses make the most of AGOA's trade opportunities. For example, in October 2005, the Eastern and Central Africa Hub organized a sub-regional AGOA workshop in Ethiopia focused on bolstering AGOA exports

in several specific product sectors.

In FY2005, the United States provided \$150.3 million in trade-related technical assistance to AGOA beneficiary countries, up 53 percent (\$98.0 million) from FY2004 (\$98.0 million).

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 six percent annual agricultural growth rate. The United States committed in September 2005 that USAID, as part of the Presidential Initiative to End Hunger in Africa, will program approximately \$200 million in fiscal year 2006 for the first year of a five-year effort from 2006 to 2010 to support African leaders' implementation of the CAADP. USAID expects similar commitments over each of the next five years. USAID will work 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 benefits, the framework and efforts to support it will directly enhance Africa's ability to benefit and participate in global trade and world trade agreements in agriculture.

Cotton: In 2005, 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 (C-4) and Senegal — in the cotton sector. The Millennium Challenge Corporation (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 U.S. commitment to double aid to Africa by 2010 and the United States providing critical leadership on a multibillion landmark debt relief package for, among other countries, the C-4 and Senegal.

The MCC provides key countries like Benin, Burkina Faso, Mali and Senegal with access to United States' largest, most flexible and most sought-after grant facility – the Millennium Challenge Account. The MCA allows eligible countries to use an unprecedented amount of money in whatever way they determine. They can use it specifically for cotton. The proposals so far have targeted infrastructure, which should help the cotton sector.

West Africa Cotton Improvement Program (WACIP): In November 2005, the United States launched the West Africa Cotton Improvement Program (WACIP) and announced an initial \$7 million in aid to help improve production, transformation, and marketing of cotton in five countries: Benin, Burkina Faso, Chad, Mali, and Senegal. The WACIP is designed to help: (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 C-4 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.

Additional U.S. assistance and activities related to cotton included:

A high-level U.S. delegation comprised of officials from USDA, USAID, the Department of State and the National Cotton Council traveled to Bamako, Mali, January 11-13, 2005, to discuss a preliminary assessment of problems and issues with respect to the cotton sectors for the West African countries. Comments from the ministers will guide assistance that can be offered by USAID within the next three years.

USDA has conducted several education exchanges including a cotton classing program in June 2005 and a soils management training program in July 2005.

USAID, in collaboration with the National Cotton Council (NCC), sponsored four West African entomologists to receive field training at Tuskegee University.

The National Cotton Council is working with USDA and USAID to establish a cotton ginning “school” in West Africa.

USDA and USAID provided support for a 2005 biotechnology conference in which several West African agricultural ministers participated.

5. Free Trade Agreement Negotiations

Although the WTO and the Integrated Framework are priorities, they are only part of the U.S. TCB effort. In order to help our FTA partners participate in negotiations, implement the rules, and benefit over the long-term, USTR has created TCB working groups in free trade negotiations with developing countries. USAID, its field missions, and a number of other U.S. Government assistance providers actively participate in those working groups, 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 and, representatives from the private sector and international institutions such as the Inter-American Development Bank and the World Bank to join in building the trade capacity of the countries in each region.

Trade capacity building is also a fundamental feature of bilateral cooperation in support of the completed Free Trade Agreement with Central America and the Dominican Republic (CAFTA-DR), and the U.S. - Peru Trade Promotion Agreement, and our planned free trade agreements with the SACU countries (for Botswana, Lesotho, Namibia, and Swaziland), with the Andean TPA negotiating countries (Colombia, Ecuador and Peru, as well as FTA observer Bolivia), and with Thailand.

A. Africa - Southern African Customs Union (SACU)

The cooperative group supporting the U.S.-SACU FTA underscores the Administration’s position that providing SACU with demand-driven assistance will ultimately result in an agreement that is beneficial for all involved. TCB in the SACU process has included:

Buying computers for Botswana, Lesotho, Namibia, and Swaziland (collectively, BLNS) Trade Ministries to better facilitate intra-SACU coordination.

Hiring and supporting a Trade Capacity Building Facilitator in each BLNS Trade Ministry to work with the negotiators, other ministries, the private sector, and civil society to identify needs and coordinate assistance.

Using BLNS experts to support workshops and studies in areas such as general trade policy, services, tariff setting, rules of origin, and environmental negotiations.

Supporting each country's completion of an in-depth TCB needs assessment for each individual country.

United States TCB funding for SACU countries in FY2005 was \$10.3 million, up almost 72 percent from FY2004 (\$6.0 million). Additional TCB support for SACU comes in the form of significant regional funding.

B. Andean Countries

The free trade negotiation with the Andean countries includes a working group on Trade Capacity Building, which has met as often as the negotiating groups. The TCB Working Group continues to address a broad range of assistance requested by the Andeans, including programs for small and medium enterprises and rural farmers, programs for food safety inspectors and customs officials, in order for the countries to implement the obligations of the agreement and to more broadly benefit from the opportunities created by the free trade agreement. The United States provided \$94.8 million in TCB assistance to the Andean countries in FY2005, up from \$81.8 million in FY2004.

The Inter-American Development Bank (IDB), the World Bank (WB), the Andean Regional Development Bank, the OAS and ECLAC, have joined the governments in the working group on Trade Capacity Building in order to improve coordination and effectiveness of assistance aimed at alleviating poverty. Facilities from the IDB and WB could total over \$2 billion over the next five years in support of the free trade agreement.

In December 2005, the United States and Peru concluded their work on the free trade agreement. The United States will continue in 2006 to negotiate with Colombia and Ecuador in an effort to broaden the trade agreement. The concluded agreement with Peru includes the creation of a Committee on TCB to build on work done during negotiations. The other Andean partners and the United States also envision the creation of a TCB Committee upon completion of further agreements.

The Committee on TCB would continue to work with the Andean partners on TCB assistance as they work to further refine and implement their national TCB strategies. This committee will continue to foster critical assistance in promoting economic growth, reducing poverty, and adjusting to liberalized trade.

C. Central America

In 2005, the United States signed the Free Trade Agreement with Central American and the Dominican Republic (CAFTA-DR). The United States and other international institutions worked with the Central American countries in 2005 on mutual goals through the CAFTA-DR TCB Working Group. U.S. government assistance to the TCB Working Group for these countries has increased from almost \$72 million in FY2004 to over \$388 million in FY2005.

This increase in funding, particularly given other fiscal demands faced this year is attributable in part to the creation of the TCB Committee and its efforts throughout the year. The existence of the TCB Committee provides Congress with a tangible mechanism to support, which facilitated Congress's decision to set aside \$40 million for labor and environment programs in the Central American countries in FY2006.

The TCB Working Group held a CAFTA Committee meeting in April 2005. The TCB Working Group continued to work on requests for assistance, 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. Plans are underway for the TCB Working Group to hold another CAFTA-DR Committee meeting in the first quarter of 2006.

D. Thailand

In recognition that it is in each country's interests to have a sustainable free trade agreement, the United States and Thailand created a TCB working group to complement the free trade negotiations. Cooperation between the two countries on small business issues as well as on general trade capacity building issues has been of particular importance. SMEs have been the focus of the over 50 projects that have been agreed to so far during the TCB working group efforts during the negotiations. Like the agreement itself, the projects are broad ranging and comprehensive. The TCB projects are demand driven and focused on the priority areas identified by Thailand. Over the next year, the group will look to draw in private sector and other partners in cooperation efforts. The United States provided about \$3 million in TCB assistance to Thailand in FY2005.

Projects agreed to include:

Promoting Business Incubator Programs for Thai SMEs – seminar and study tour to Silicon Valley to showcase U.S. incubation centers and establish potential partnerships;

Customs Training – working on streamlining customs procedures related to advance rulings for the benefit of SMEs;

Transportation and Logistics Programs – working with Thai officials to cut down transaction costs of trade;

Services and Statistics Training – helping Thai government and business collect services statistics to better understand their negotiating interests, policies, and practices;

Providing assistance to strengthen Thai expertise on competition, government procurement, intellectual property and other specific trade areas under negotiation; and Building the capacity of the Thai Office of SME Promotion through cooperative efforts with the U.S. Small Business Administration.

B. Congressional Affairs

In 2005, USTR worked closely with the 108th Congress to move forward the President's bilateral, regional and multilateral trade agenda. Consistent with the Bipartisan Trade Promotion Authority Act of 2002, USTR held meaningful consultations before and after each round of negotiations. These consultations provided the Administration with valuable advice on agreements that were concluded and approved by the Congress in 2005.

The Congress passed the U.S.-Central America- Dominican Republic Free Trade Agreement (CAFTA-DR) in July 2005. This agreement was signed into law in August 2005.

The U.S.-Bahrain Free Trade Agreement passed the Congress in December 2005 with overwhelming bipartisan support. The implementing legislation was signed by the President on January 14, 2006.

USTR also worked closely with Congress on the successful conclusion of negotiations on agreements with Oman and Peru. The President announced his intent to enter into an agreement with Oman on October 17, 2005.

USTR continues its consultations with the Congress with respect to ongoing negotiations with Panama, Colombia, Ecuador, Thailand, the United Arab Emirates (UAE), the Southern African Customs Union (SACU) and the Free Trade Area of the Americas (FTAA).

In addition to free trade agreements, USTR maintained an ongoing dialogue with the Congress on multilateral initiatives in 2005. USTR consulted with the Congress on the WTO Doha Development Round and on legislation intended to bring United States into compliance with WTO rulings.

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, falls 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 27 advisory committees, with a total membership of more than 700 advisors. It is managed by IAPL, 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 also coordinates USTR's outreach to the public and private sector through public briefings, notification of USTR *Federal Register* Notices soliciting written comments from the public and holding of Trade Policy Staff Committees (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.

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 by the U.S. Government Accountability Office (GAO). The system consists of 27 advisory committees. Currently, there are approximately 700 advisors and membership can grow to a total of up to 1,000 advisors. Recommendations for candidates for committee membership are collected from a number of sources, including Members of Congress, associations and organizations, publications, other federal agencies, and 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.

The system is arranged in three tiers: the President's Advisory Committee for Trade Policy and Negotiations (ACTPN); four policy advisory committees dealing with environment, labor, agriculture, 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.

Recently, 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 were 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 and have had difficulty accessing documents.

USTR has introduced additional procedural innovations to improve the operation of the advisory committee system. This includes a single monthly advisory committee Chairs teleconference call for all 27 committees. This keeps Chairs apprised of ongoing developments and important dates on the trade negotiations calendar and facilitates greater transparency.

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.

a. President's Advisory Committee on Trade Policy and Negotiations

The ACTPN consists of up to 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.

b. Policy Advisory Committees

At the second tier, the members of the four policy advisory committees are appointed by the USTR alone or in conjunction with other Cabinet officers. The Intergovernmental Policy Advisory Committee (IGPAC) is 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 Policy Advisory Committee (LAC), and Trade and Environment Policy Advisory Committee (TEPAC). Members serve two-year renewable terms

or until the committee's charter expires. Each committee provides advice based upon the perspective of its specific area.

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 Commerce and Agriculture, 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.

There are six agricultural technical committees (ATACs) co-chaired by USTR and Agriculture. There are sixteen industry trade advisory committees (ITACs), which reflect a streamlined and consolidated structure instituted in 2004.

The restructuring is consistent with recommendations in a recent U.S. Government Accountability Office Report, "International Trade: Advisory Committee System Should be Upgraded to Better Serve U.S. Policy Needs" (GAO 02-876), and reflects the commitment of Commerce, USDA and USTR to improve the trade advisory committee system.

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

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.

b. Intergovernmental Policy Advisory Committee

For advice from states and localities on trade policy matters, USTR has established an Intergovernmental Policy Advisory Committee on Trade (IGPAC). It is one of the four policy advisory committees discussed above. The IGPAC is comprised of representatives from all three branches of government and associations. Appointed on a bipartisan basis, the committee 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 2005, 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.

c. 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, in 2005 the Acting U.S. Trade Representative addressed a joint plenary session of the National Conference of State Legislatures and the National Association of Attorneys General to discuss the overall trade agenda and particular issues of interest to states. USTR officials also address gatherings of state and local officials and local and regional chambers of commerce around the country.

d. 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), WTO services issues, bilateral 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.

USTR also consulted extensively with states on the WTO internet gaming services case brought by Antigua and Barbuda. The United States worked closely with state authorities throughout the dispute to mount a vigorous defense. The dispute ended with no adverse finding against any state law.

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 *Federal Register* notices, consults with and briefs interested constituencies, holds public hearings, and meets with a broad spectrum of private sector and non-governmental groups.

a. 2005 Outreach Efforts

The 2005 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 2005, USTR continued to solicit advice from cleared advisors, other domestic stakeholders, and the general public regarding U.S. objectives for the Doha Development Agenda in areas such as agriculture, non-agriculture market access, services, and trade facilitation. Prior to the WTO Hong Kong Ministerial in December 2005, USTR organized a public briefing for all interested parties on the status of negotiations, and developed extensive facts sheets which were widely disseminated and posted to the USTR website.

At the WTO Hong Kong Ministerial, IAPL planned and implemented briefings for over 100 USTR cleared advisors in attendance, as well as the private sector and U.S. NGO community to ensure that domestic stakeholders were fully informed about the status of negotiations and developments in Hong Kong. Several of the civil society briefings were audio taped and posted to the USTR website to ensure broad dissemination of information to the public.

ii. Bilateral Trade Agreements

In 2005, USTR briefed and facilitated consultations with advisory committees and other stakeholders on free trade agreements including the five Central American countries and the Dominican Republic, the conclusion of the Oman FTA, and ongoing negotiations with Thailand, the Andean countries, United Arab Emirates, Panama, southern African countries, and FTAA countries. This included frequent 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 the President, USTR, and Congress, and made public on USTR's website well in advance of congressional consideration of the FTAs to enable informed public discussion.

iv. 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, EU biotech case, EU geographical indications, Mexico beverage tax, Korea Hynix case, Antigua and Barbuda internet gaming services case, and other items. Other issues of interest to advisors and domestic groups included the Bush Administration's Strategy Targeting Organized Piracy (STOP!), the protection of U.S. intellectual property rights, and agriculture and biotechnology issues.

v. Public Trade Education

USTR continues its efforts to promote and educate the public on trade issues. USTR has participated in education efforts regarding the range of trade activities and benefits through speeches, publications, and briefings. In 2005, 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 2005, IAPL assisted in efforts to continue to improve the USTR website, including improving the organization of the website and adding a search engine, buttons, and links to make the site more user-friendly. The USTR internet address is <http://www.ustr.gov>.

D. Policy Coordination

The U.S. Trade Representative has primary responsibility, with the advice of the inter-agency 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, the 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 2005, the TPSC held public hearings on: the United States-United Arab Emirates Free Trade Agreement (January 12, 2005); the United States-Oman Free Trade Agreement (January 14, 2005); China's Compliance with WTO Commitments (September 14, 2005); and the Proposed Renewal of the Generalized System of Preferences (November 3, 2005). The transcripts of these hearings are available at <http://www.ustr.gov/outreach/transcripts/index.htm>

Through the interagency process, USTR assigns responsibility for issue analysis to 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 USITC 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

Annex I. U.S. Trade in 2005

I. 2005 Overview

U.S. trade (exports and imports of goods and services, and the receipt and payment of earnings on foreign investment)¹ increased by over 15 percent in 2005 to a value of approximately \$4.3 trillion.² This marked the second consecutive year of strong growth (trade was up 17 percent in 2004). The increase in trade in 2005 largely reflected a strong U.S. economy (real GDP up 3.6 percent) as well as improved economic conditions in a number of U.S. trade partners. U.S. trade in goods and services increased by 12 percent, while U.S. trade of goods alone increased 14 percent and U.S. trade of services alone increased by 11 percent. Exports of goods and services, and earnings on investment increased by 14 percent in 2005, while imports of goods and services and payments on investment increased by 16 percent.

In 2004, the latest year in which data are available, the United States was the world's largest trading nation for both exports and imports of goods and services.³ The United States accounts for roughly 17 percent of world goods trade and for roughly 19 percent of world services trade.⁴ Through 2005, the value of U.S. trade has increased 32-fold since 1970, and 130 percent since 1994, the year before the start of the Uruguay Round implementation (figure 1).⁵ U.S. trade expansion was more rapid in the 1970-2005 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 10.4 percent per year since 1970, compared to U.S. gross domestic product (GDP) which grew at an average rate of 7.4% over the same period. In real terms, the average annual growth in trade was double the pace of GDP growth, 6.4 percent versus 3.1 percent.

The value of trade in goods and services, including earnings and payments on investment, was a record 35 percent of the value of U.S. GDP in 2005 (figure 2). This represented an increase from the corresponding figure in 2004 (32 percent).⁶ For goods and services, excluding investment earnings and payments, U.S. trade represented a record 27 percent of the value of GDP in 2005, and was up from 25 percent in 2004.⁷

¹ Earnings on foreign investment are considered trade because they are conceptually the payment made to foreign residents for the service rendered by the use of foreign capital. Beyond the overview section, however, this chapter deals with goods and services trade, excluding foreign investment earnings. All trade values are nominal unless otherwise indicated.

² In this Chapter, full year data for 2005 are estimated based on partial year data (January-November).

³ Germany is the largest goods exporter, having surpassed the United States in 2003.

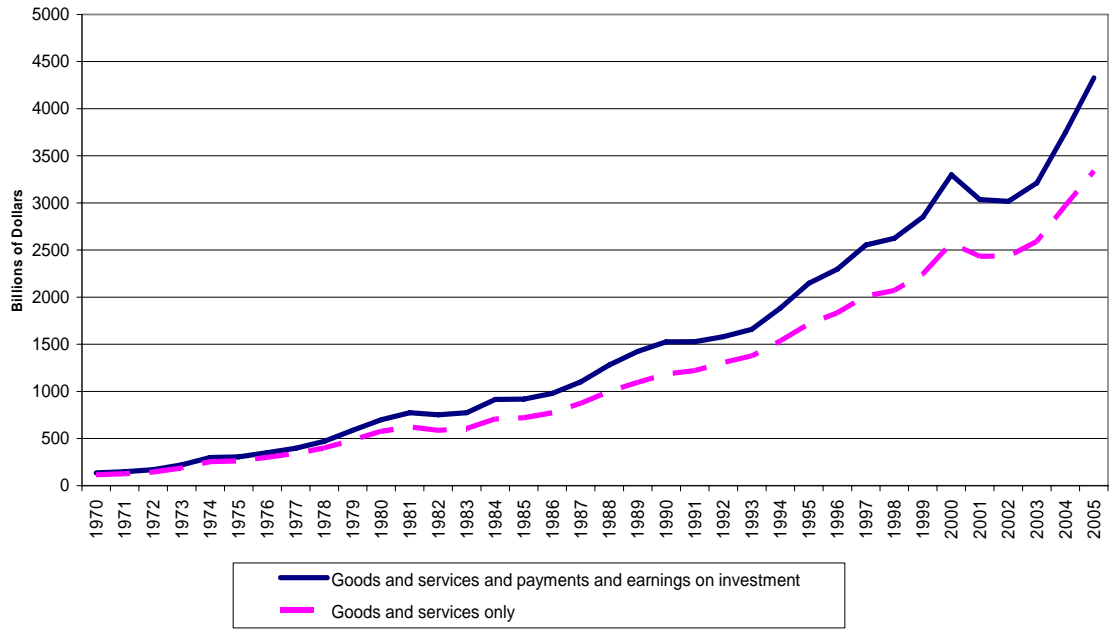
⁴ Trade in goods and services excluding intra-EU trade.

⁵ Trade in goods and services alone has increased nearly 29-fold since 1970 and 117 percent since 1994.

⁶ Thirteen percent of the value of GDP in 1970 and 27 percent in 1994.

⁷ Eleven percent of the value of GDP in 1970 and 22 percent in 1994.

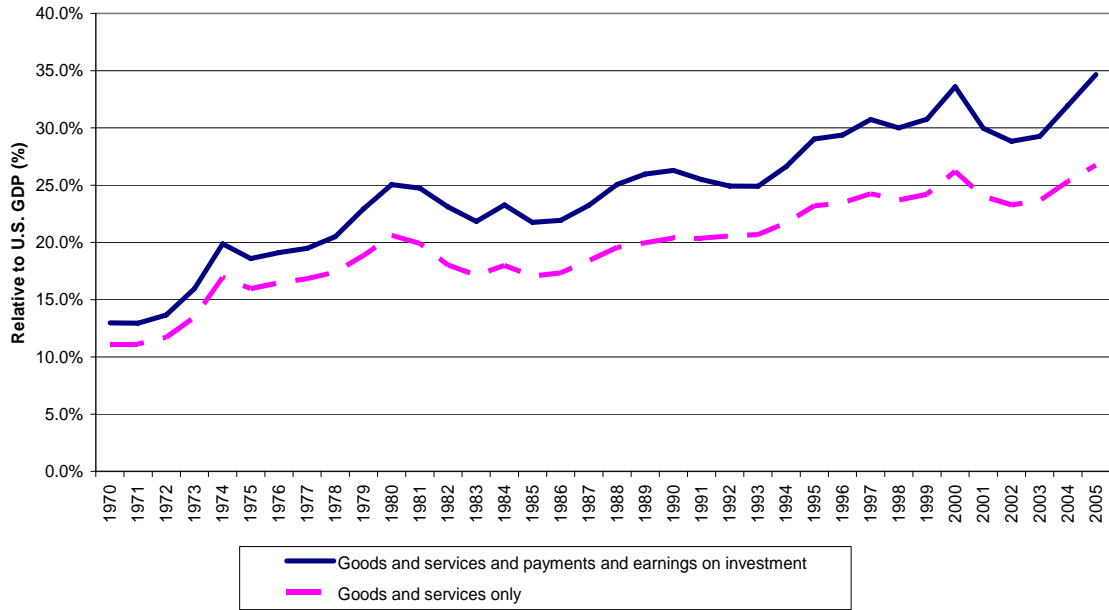
Figure 1:
U.S. Trade Growth



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 2004 are 25-fold greater than 1970 and 100 percent greater than 1994. U.S. imports of goods and services are 40-fold greater than 1970 and 158 percent greater than 1994.

With the value of U.S. exports increasing less than that of imports, the total deficit on goods and services trade (excluding earnings and payments on foreign investment) increased by approximately \$108 billion from \$618 billion in 2004 (5.3 percent of GDP) to \$726 billion in 2005 (5.8 percent of GDP). The U.S. deficit in goods trade alone increased by \$118 billion from \$665 billion in 2004 (5.7 percent of GDP) to \$783 billion in 2005 (6.3 percent of GDP). The services trade surplus increased by \$9 billion from \$48 billion in 2004 (0.4% of GDP) to \$57 billion in 2005 (0.5 percent of GDP).

II. Goods Trade

A. Export Growth

U.S. goods exports increased by 11 percent in 2005, as compared to the 13 percent increase in the preceding year (*table 1 and figure 3*). Manufacturing exports, which accounted for 86 percent of total goods exports, were up 10 percent, while agriculture exports, which accounted for 7 percent of total goods exports, were up by 3 percent. High technology exports, a subset of manufacturing exports, accounted for 24 percent of total goods exports and were up 6 percent in 2005. U.S. goods exports increased for every major end-use category in 2005, with the largest increase in the industrial supplies and materials category, up 14 percent.

Since 1994, U.S. goods exports are up 78 percent. Manufacturing exports increased 81 percent, while high technology exports increased 77 percent, and agriculture exports increased 42 percent. Exports of consumer goods and industrial supplies and materials have increased by more than 90 percent. Of the \$391 billion increase in goods exports since 1994, capital goods accounted for 40 percent of the increase, industrial supplies and materials accounted for 29 percent, and consumer goods accounted for 14 percent.

U.S. goods exports increased to all major markets in 2005 (*table 2*), led by a growth rate of 19 percent to China and 17 percent to Latin America excluding Mexico. U.S. exports increased 9 percent to high income countries and 12 percent to middle and low income countries. Since 1994, U.S. goods exports to low and middle income countries exhibited higher growth rates than that to high income countries, 94 percent compared to 64 percent. However, the United States still exports the majority of its goods to high income countries, roughly 54 percent in 2005.

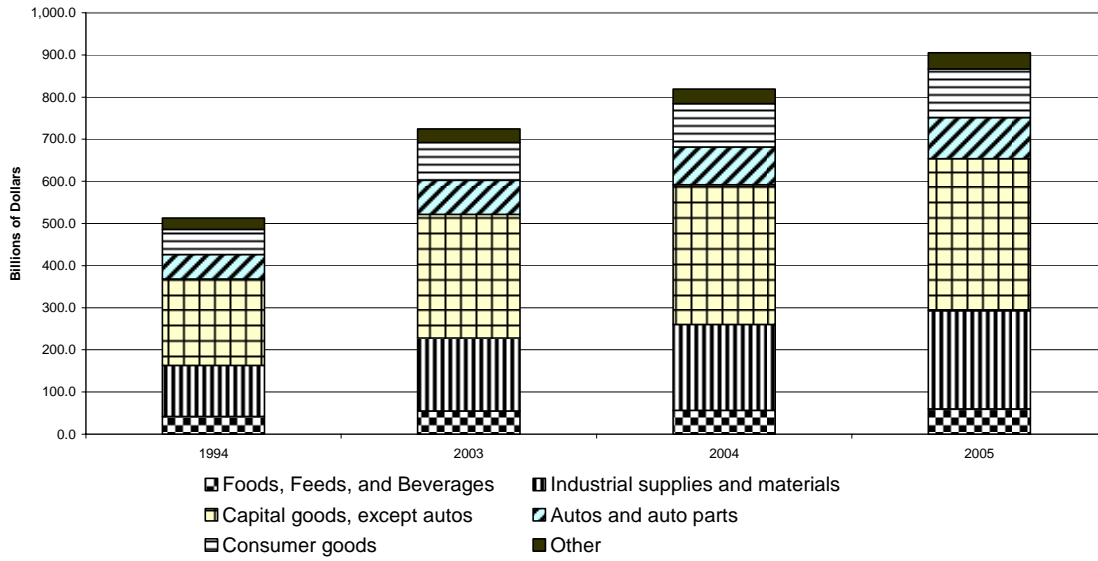
Table 1
U.S. Goods Exports

Exports:	1994	2003	2004	2005*	04-05*	94-05*
	<i>Billions of Dollars</i>				<i>Percent Change</i>	
Total (BOP basis)	502.8	716.4	807.5	893.8	10.7%	77.7%
Food, feeds, and beverages	42.0	55.0	56.6	59.9	5.8%	42.7%
Industrial supplies and materials	121.4	173.0	204.0	233.3	14.4%	92.2%
Capital goods, except autos	205.0	293.6	331.5	360.4	8.7%	75.8%
Autos and auto parts	57.8	80.7	89.3	97.7	9.4%	69.1%
Consumer goods	60.0	89.9	103.1	115.6	12.2%	92.8%
Other	26.5	32.5	34.4	38.3	11.4%	44.7%
Addendum: Agriculture	45.9	61.4	63.4	65.4	3.0%	42.3%
Addendum: Manufacturing	431.1	627.1	710.3	780.9	9.9%	81.2%
Addendum: High Technology	120.7	180.2	201.4	214.3	6.4%	77.5%

* Annualized based on January-November 2005 data

Source: U.S. Department of Commerce, Balance of Payments Basis for Total, Census basis for Sectors.

**Figure 3:
U.S. Goods Exports**



2005 Annualized based on January-November 2005
Source: U.S. Department of Commerce

Table 2
U.S. Goods Exports to Selected Countries/Regions

Exports to:	1994	2003	2004	2005*	04-05*	94-05*
	<i>Billions of Dollars</i>				<i>Percent Change</i>	
Canada	114.4	169.9	189.9	211.8	11.5%	85.1%
European Union (EU25)	107.8	155.2	172.6	186.5	8.0%	73.0%
Japan	53.5	52.0	54.2	55.0	1.4%	2.8%
Mexico	50.8	97.4	110.8	119.8	8.1%	135.6%
China	9.3	28.4	34.7	41.5	19.4%	347.1%
Asian Pacific Rim, except Japan and China	85.0	108.1	120.7	125.8	4.2%	48.0%
Latin America, except Mexico	41.7	51.9	61.5	71.9	17.0%	72.5%
Addendum: High Income Countries	299.6	405.6	448.1	490.0	9.3%	63.6%
Addendum: Low to Middle Income Countries	212.8	318.9	370.7	413.7	11.6%	94.4%

* Annualized based on January-November 2005 data

Source: U.S. Department of Commerce, Census Basis.

Goods exports to China continued to increase in 2005, up 19 percent, the sixth straight year of double-digit growth. Although constituting only 7 percent of U.S. exports to China, U.S. exports of autos and parts and consumer goods exhibited the largest growth in 2005, up 43 percent and 32 percent, respectively. Exports of capital goods and industrial supplies, which together accounted for 83 percent of U.S. exports to China in 2005, also increased by 18 percent and 25 percent, respectively. Agriculture exports declined by 4 percent in 2005, but still accounted for 13 percent of total U.S. exports to China. U.S. exports to China have quadrupled since 1994 (up 347 percent).

U.S. exports to Latin America (excluding Mexico) increased 17 percent in 2005, due mainly to strong export growth in capital goods (up 19 percent) and industrial supplies (up 17 percent). These two categories accounted for 73 percent of total exports to the region. Exports of autos and parts were up a strong 37 percent, but only accounted for 5 percent of total exports. U.S. exports to Latin America (excluding Mexico) have increased by 73 percent since 1994.

Exports to our NAFTA partners increased 10 percent in 2005, and have increased 134 percent since 1993, the year before NAFTA's implementation. Approximately 37 percent of aggregate U.S. goods exports went to NAFTA countries in 2005 (over \$330 billion), up from nearly 33 percent in 1993 (\$142 billion).

U.S. exports to Canada, the largest U.S. export market, accounting for 23 percent of U.S. exports, increased by 12 percent in 2005. Growth areas of U.S. exports to Canada include industrial supplies (up 18 percent) capital goods, except autos (up 15 percent) agricultural products (up 13 percent) and consumer goods (up 12 percent). Overall, U.S. exports to Canada are up by 85 percent since 1994.

U.S. exports to Mexico, the second largest country export market, accounting for 13 percent of U.S. exports, increased by 8 percent in 2005. U.S. exports were up 16 percent for industrial supplies and materials and 10 percent for agricultural goods. Since 1994, U.S. exports to Mexico have increased nearly 136 percent.

U.S. exports to the European Union were up 8 percent in 2005. Exports of industrial supplies (up 15 percent) and consumer goods (up 10 percent) both increased. In 2005, the EU accounted for 21 percent of aggregate U.S. exports. Since 1994, U.S. exports to the EU have increased by 73 percent.

U.S. exports to the Asian Pacific rim (excluding China and Japan) increased 4 percent in 2005, but are up 48 percent since 1994. U.S. exports to Japan increased only 1 percent in 2005, and are only up 3 percent since 1994.

B. Import Growth

U.S. goods imports increased 14 percent in 2005 (*table 3 and figure 4*) down slightly from the 17 percent growth rate in 2004. Manufacturing imports, accounting for 77 percent of total goods imports, increased 10 percent in 2005. High technology imports, accounting for 16 percent of total goods imports, increased by 9 percent, while agriculture imports, accounting for 4 percent of total goods imports, increased by 10

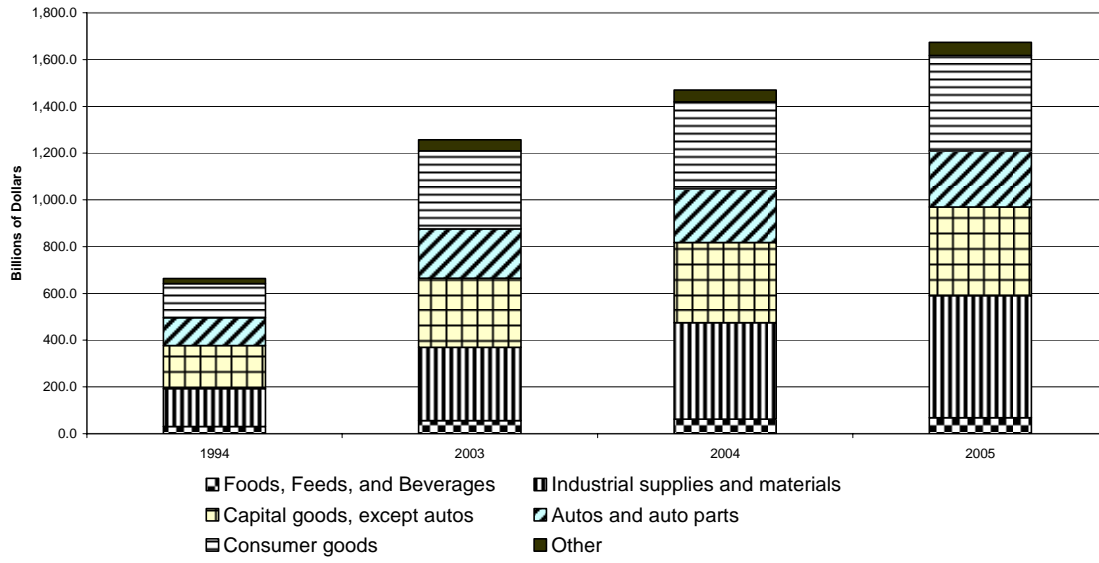
Table 3
U.S. Goods Imports

Imports:	1994	2003	2004	2005*	04-05*	94-05*
	<i>Billions of Dollars</i>				<i>Percent Change</i>	
Total (BOP basis)	668.7	1,260.7	1,472.9	1,677.0	13.9%	150.8%
Food, feeds, and beverages	31.0	55.8	62.1	68.2	9.8%	120.4%
Industrial supplies and materials	162.1	313.8	412.8	521.9	26.4%	221.9%
Capital goods, except autos	184.4	295.8	343.5	380.0	10.6%	106.1%
Autos and auto parts	118.3	210.2	228.2	239.0	4.7%	102.1%
Consumer goods	146.3	333.9	372.9	408.9	9.6%	179.6%
Other	21.3	47.6	50.1	55.8	11.4%	162.5%
Addendum: Agriculture	26.0	47.5	54.2	59.5	9.7%	129.1%
Addendum: Manufacturing	557.3	1,027.4	1,174.9	1,289.4	9.8%	131.4%
Addendum: High Technology	98.1	207.0	238.3	259.3	8.8%	164.3%

* Annualized based on January-November 2005 data

Source: U.S. Department of Commerce, Balance of Payments Basis for Total, Census basis for Sectors.

**Figure 4:
U.S. Goods Imports**



2005 Annualized based on January-November 2005
Source: U.S. Department of Commerce

percent in 2005. U.S. goods imports increased for every major end-use category in 2005, with the largest increase (up 26 percent) in industrial supplies (including petroleum). The three largest end-use categories for U.S. imports together accounted for 78 percent of total U.S. imports (industrial supplies – 31 percent; consumer goods – 25 percent; and capital goods – 23 percent).

By value, U.S. imports of petroleum increased by nearly 40 percent in 2005 (\$71 billion), whereas U.S. imports of non-petroleum products increased by just 10 percent (\$133 billion). The increase in imports of petroleum was due to the 36% increase in price from \$34.30 per barrel to \$46.51 per barrel. By volume, imports of petroleum imports declined in 2005 by 1.4%.

Since 1994, U.S. goods imports are up over 150 percent, nearly doubling the rate of growth in U.S. exports. U.S. imports of manufactured products and agriculture products increased by 131 percent and 129 percent, respectively. U.S. imports of advanced technology products increased by 164 percent. For the major end-use categories, U.S. imports of industrial supplies increased by 222 percent since 1994, while imports of consumer goods increased by 180 percent. Of the \$1.0 trillion increase in goods imports since 1994, industrial supplies and materials accounted for 36 percent of the increase, consumer goods accounted for 26 percent, capital goods for 19 percent, and autos and auto parts for 12 percent.

On a regional basis, U.S. goods imports increased from all the major markets in 2005, led by a growth rate of 25 percent from Latin America excluding Mexico and 24 percent from China (*table 4*). U.S. imports increased by 17 percent from low and middle countries and by 10 percent from high income countries. Since 1994, U.S. goods imports from low and middle income countries exhibited higher growth (more than double) than that from high income countries, 224 percent compared with 99 percent. The share of U.S. imports from low and middle income countries has increased from 42 percent in 1994 to 54 percent in 2005.

U.S. goods imports continued its strong growth from China in 2005 (up 24 percent), marking the fourth consecutive year of growth that exceeded 20 percent plus growth. U.S. imports from China have increased by over 530 percent since 1994. China is the second largest single country supplier of goods to the United States, accounting for 15 percent of total U.S. imports in 2005, up from 6 percent in 1994. When 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 2005. Imports from China accounted for 20 percent of the overall increase in U.S. imports from the world since 1994 (second to NAFTA's 27 percent and just greater than the EU's 19 percent). A significant portion of U.S. imports from China are low value-added consumer goods, such as toys, footwear, apparel and some types of consumer electronics. Consumer goods made up 53 percent of U.S. imports from China in 2005, and grew 21 percent in 2005. U.S. imports of industrial supplies, capital goods, and autos and parts, however, each exhibited stronger growth in 2005, at 28 percent, 25 percent, and 22 percent, respectively.

Table 4
U.S. Goods Imports from Selected Countries/Regions

Imports from:	1994	2003	2004	2005*	04-05*	94-05*
	<i>Billions of Dollars</i>				<i>Percent Change</i>	
Canada	128.4	221.6	256.4	285.5	11.4%	122.4%
European Union (EU25)	119.5	253.0	282.0	310.2	10.0%	159.7%
Japan	119.2	118.0	129.8	138.3	6.5%	16.1%
Mexico	49.5	138.1	155.9	169.3	8.6%	242.1%
China	38.8	152.4	196.7	244.6	24.4%	530.6%
Asian Pacific Rim, except Japan and China	103.2	148.5	166.1	169.2	1.9%	63.9%
Latin America, except Mexico	38.5	78.8	98.6	123.2	24.9%	220.3%
Addendum: High Income Countries	384.9	619.4	700.1	768.1	9.7%	99.5%
Addendum: Low to Middle Income Countries	278.3	637.7	770.5	903.3	17.2%	224.5%

* Annualized based on January-November 2005 data

Source: U.S. Department of Commerce, Census Basis.

Imports from Latin America (excluding Mexico) increased by 25 percent in 2005, and accounted for 7 percent of total U.S. imports in 2005. Roughly 70 percent of the increase in imports from Latin America was in the mineral fuel category. U.S. import prices for crude oil through the first 11 months of 2005 were up 36 percent compared to the same period in 2004. U.S. imports from Latin America have increased by 220 percent since 1994.

U.S. goods imports from the EU, accounting for 19 percent of total U.S. imports, increased by 10 percent in 2005. More than three-quarters of U.S. imports from the EU consisted of capital goods (28 percent), consumer goods (25 percent), and industrial goods (22 percent). Import categories that exhibited the largest growth in 2005 included industrial supplies (up 21 percent) and capital goods (up 11 percent). U.S. imports from the EU have increased by 160 percent since 1994.

Imports from our NAFTA partners increased 10 percent in 2005 and have tripled since NAFTA started implementation. NAFTA imports accounted for 27 percent of aggregate U.S. goods imports in 2005, the same as in 1994.

U.S. imports from Canada, the largest single country supplier of goods to the United States, accounting for 17 percent of U.S. imports, increased by 11 percent in 2005. Nearly one-half of this increase was in the mineral fuel category. U.S. imports of industrial supplies from Canada were up 19 percent in 2005, while capital goods were up 12 percent. U.S. imports from Canada have more than doubled since 1994.

U.S. imports from Mexico, the third largest single country supplier of goods to the United States, increased by 9 percent in 2005. Roughly 40 percent of this increase was in the mineral fuel category. U.S. imports of industrial supplies increased by 24 percent, while imports of agriculture products increased by 15 percent. U.S. imports from Mexico have grown 242 percent since 1994.

Imports from the Pacific Rim (excluding Japan and China) increased 2 percent in 2005, and were up 64 percent since 1994. Imports from Japan increased 7 percent in 2005, and were only up by only 16 percent since 1994. Purchases from Japan in 2005 accounted for 8 percent of total U.S. imports, as compared to 18 percent in 1994.

III. Services Trade

A. Export Growth

U.S. exports of services grew roughly 11 percent in 2005 to \$380 billion. Since 1994, U.S. services exports have increased by approximately 90 percent (*table 5 and figure 5*). U.S. services exports accounted for 30 percent of the value of U.S. goods and services exports in 2005.

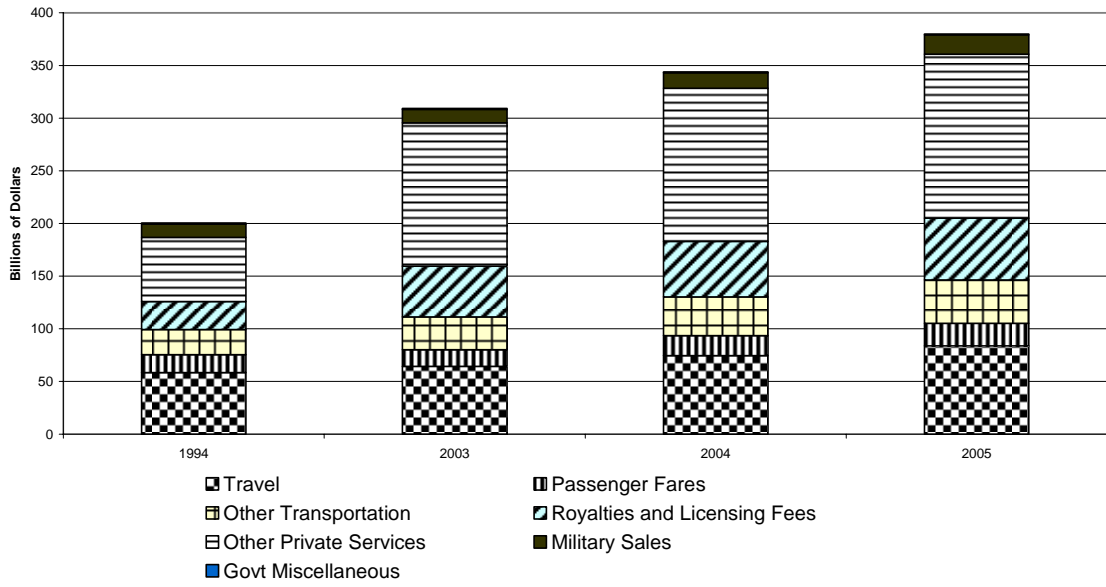
Table 5
U.S. Services Exports

Exports:	1994	2003	2004	2005*	04-05*	94-05*
	<i>Billions of Dollars</i>				<i>Percent Change</i>	
Total (BOP basis)	200.4	309.1	343.9	379.9	10.5%	89.6%
Travel	58.4	64.3	74.5	83.7	12.4%	43.3%
Passenger Fares	17.0	15.7	18.9	21.5	13.9%	26.4%
Other Transportation	23.8	31.3	36.9	41.2	11.7%	73.3%
Royalties and Licensing Fees	26.7	48.1	52.6	58.5	11.1%	118.9%
Other Private Services	60.8	136.1	145.4	155.9	7.2%	156.3%
Transfers under U.S. Military Sales Contracts	12.8	12.8	14.8	18.3	23.6%	43.2%
U.S. Government Services Miscellaneous	0.9	0.8	0.8	0.8	2.3%	-5.3%

* Annualized based on January-November 2005 data

Source: U.S. Department of Commerce, Balance of Payments Basis.

**Figure 5:
U.S. Services Exports**



2005 Annualized based on January-November 2005
Source: U.S. Department of Commerce

The growth in U.S. services exports in 2005 was largely driven by the other private services and travel categories. Of the \$36 billion increase in U.S. services exports in 2005, the other private services category accounted for 29 percent, while the travel category accounted for 26 percent. On a percentage increase basis, categories exhibiting the largest export growth rates in 2005 were the passenger fares, travel, other transportation, and royalties and licensing fees, all up between 11 and 14 percent.

Since 1994, all of the major services exports categories have grown. Export growth has been led by the other private services category, up 156 percent, and the royalties and licensing fees category, up 119 percent. The other transportation and travel categories also were up 73 percent and 43 percent, respectively. Of the \$180 billion increase in U.S. services exports between 1994 and 2005, the other private services category accounted for 53 percent of the increase, the royalties and licensing fees category accounted for 18 percent, and the travel category accounted for 14 percent.

Detailed sectoral breakdowns for exports of the other private services category are available only through 2004. In 2004, 33 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 2004 were: business, professional and technical services, \$71 billion; financial services, \$27 billion; and education, \$14 billion. The business, professional and technical services category were led by research and development and testing services (\$9.8 billion), computer and information services (\$8.5 billion), operational leasing (\$8.2 billion), installation, maintenance, and repair of equipment (\$5.1 billion); and management and consulting services (4.5 billion).⁸

The United Kingdom was the largest purchaser of U.S. private services exports in 2004 (latest data available), accounting for 12 percent of total U.S. private services exports. The top 5 purchasers of U.S. private services exports in 2004 were: the United Kingdom (\$40.1 billion), Japan (\$35 billion), Canada (\$30 billion), Germany (\$19 billion), and Mexico (\$18 billion).

Regionally, in 2004, the United States exported \$115 billion to the EU-25, \$88 billion to the Asia/Pacific Region (\$45 billion excluding Japan and China), \$48 billion to NAFTA countries, and \$22 billion to Latin America (excluding Mexico).

B. Import Growth

Services imports by the United States increased in 2005 by 9 percent to \$323 billion (*table 6, figure 6*). Three services import categories accounted for roughly 85 percent of the \$27 billion growth in U.S. imports of services in 2005: other private services (37 percent), other transportation (31 percent), and travel (16 percent). Categories exhibiting the largest percentage import growth rates in 2005 were other transportation, up 15 percent, and other private services, up 10 percent. U.S. services imports accounted for 16 percent of the level of U.S. goods and services imports in 2005.

⁸ Installation, maintenance, and repair of equipment services value for unaffiliated sales only.

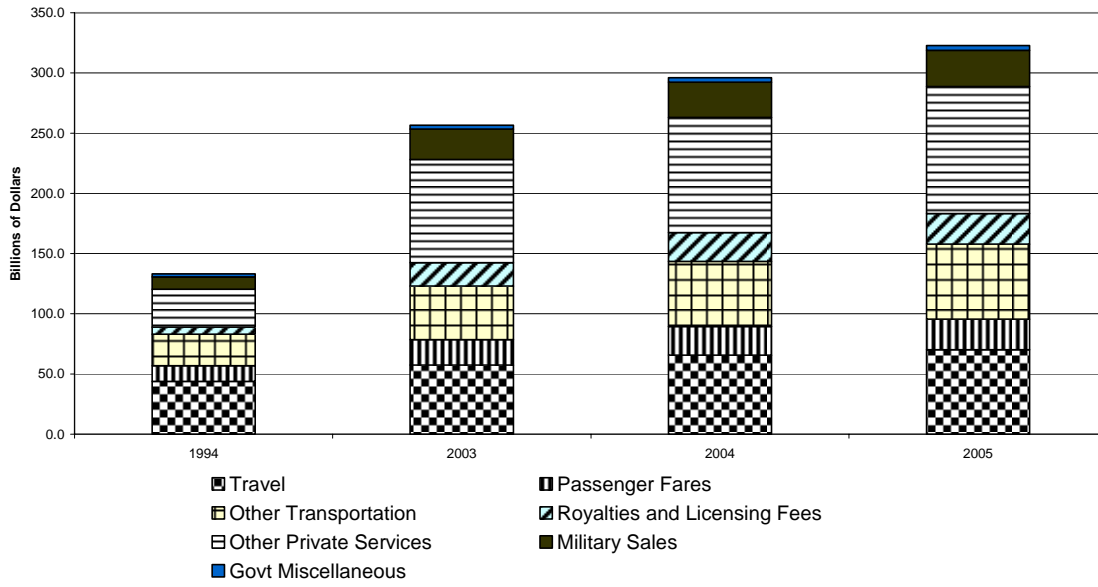
Table 6
U.S. Services Imports

Imports:	1994	2003	2004	2005*	04-05*	94-05*
	<i>Billions of Dollars</i>				<i>Percent Change</i>	
Total (BOP basis)	132.9	256.7	296.1	322.8	9.0%	142.8%
Travel	43.8	57.4	65.6	70.0	6.6%	59.8%
Passenger Fares	13.1	21.0	23.7	25.5	7.4%	95.0%
Other Transportation	26.0	44.7	54.2	62.4	15.3%	140.0%
Royalties and Licensing Fees	5.9	19.4	23.9	25.3	6.0%	333.1%
Other Private Services	31.5	85.7	95.7	105.6	10.4%	235.9%
Direct Defense Expenditures	10.2	25.3	29.3	30.1	2.7%	194.5%
U.S. Government Miscellaneous Services	2.6	3.1	3.7	3.9	3.3%	50.7%

* Annualized based on January-November 2005 data

Source: U.S. Department of Commerce, Balance of Payments Basis.

**Figure 6:
U.S. Services Imports**



2005 Annualized based on January-November 2005
Source: U.S. Department of Commerce

Since 1994, services imports grew by 143 percent or \$190 billion. This growth was driven by the other private services category (accounting for 39 percent of the increase) and the other transportation category (accounting for 19 percent of the increase). Imports in all of the major service categories have grown since 1994. U.S. payments (imports) of royalties and licensing fees have quadrupled, while imports of other private services and direct defense expenditures have increased by 236 percent and 195 percent, respectively.

As with exports, detailed sectoral breakdowns for imports of other private services are available only through 2004. In 2004, 38 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 2004 were: business professional and technical services \$41 billion; insurance services \$30 billion; and financial services \$11 billion. The business, professional and technical services category were led by the computer and information services (\$5.8 billion), management, and consulting services (\$5.0 billion), and research, development, and testing services (\$4.7 billion).

In the import sector, the United Kingdom remained our largest supplier of private services, providing \$33 billion to the United States in 2004 (latest data available). This accounted for 13% of total U.S. imports of private services in 2004. The United States imported \$20 billion from Canada, our second largest supplier, and \$20 billion from Japan, our third largest supplier. Germany and Bermuda were our fourth and fifth largest import suppliers, exporting \$18 and \$16 billion, respectively, worth of services to the U.S. in 2004.

Regionally, the United States imported \$96 billion of services from the EU-25, \$59 billion from the Asia/Pacific region (\$33 billion excluding Japan and China), \$33 billion from NAFTA countries, and \$12 billion from Latin America (excluding Mexico).

IV. The U.S. Trade Deficit

The U.S. goods and services deficit increased by \$108 billion in 2005 to a level of \$726 billion (*table 7*). The U.S. goods trade deficit alone increased by \$118 billion to \$783 billion in 2005. The services trade surplus increased by \$9 billion to \$57 billion in 2005.

As a share of U.S. GDP, the goods and services trade deficit was 5.8 percent of GDP in 2005, up from 5.3 percent in 2004 (*table 8*). The goods trade deficit was 6.3 percent of GDP in 2005, up from 5.7 percent in 2004. The services trade surplus was 0.5 percent of GDP in 2005, up from 0.4 percent in 2004. The regional distribution of the goods trade deficit for 2005 and the past three years is shown in table 9.

Table 7				
U.S. Trade Balances with the World				
Balance:	1994	2003	2004	2005*
	<i>Billions of Dollars</i>			
Goods and Services (BOP Basis)	-98.4	-491.8	-617.6	-726.1

Goods (BOP Basis)	-165.8	-544.3	-665.4	-783.2
Services (BOP Basis)	67.5	52.5	47.8	57.2
* Annualized based on January-November 2005 data				
Source: U.S. Department of Commerce				

Table 8				
U.S. Trade Balances as a Share of GDP				
Share of GDP:	1994	2003	2004	2005*
	<i>Percents</i>			
Goods and Services (BOP Basis)	-1.4	-4.5	-5.3	-5.8
Goods (BOP Basis)	-2.3	-5.0	-5.7	-6.3
Services (BOP Basis)	1.0	0.5	0.4	0.5
* Annualized based on January-November 2005 data				
Source: U.S. Department of Commerce				

Table 9				
U.S. Goods Trade Balances with Selected Countries/Regions				
Balance:	1994	2003	2004	2005*
	<i>Percents</i>			
Canada	-14.0	-51.7	-66.5	-73.7
European Union (EU25)	-11.7	-97.9	-109.3	-123.8
Japan	-65.7	-66.0	-75.6	-83.3
Mexico	1.4	-40.6	-45.1	-49.5
China	-29.5	-124.1	-161.9	-203.1

Asian Pacific Rim, except Japan and China	-18.2	-40.4	-45.3	-43.4
Latin America, except Mexico	3.2	-26.9	-37.2	-51.3
Addendum: High Income Countries	-85.4	-213.8	-252.0	-278.1
Addendum: Low to Middle Income Countries	-65.5	-318.8	-399.8	-489.6
* Annualized based on January-November 2005 data				
Source: U.S. Department of Commerce				

ANNEX II

Background Information on the WTO

Doha Development Agenda

Doha Ministerial Declaration

Doha Declaration on the TRIPS Agreement and Public Health

Doha Declaration on Implementation-Related Issues and Concerns

Doha Work Programme

Amendment of the TRIPS Agreement

Hong Kong Ministerial Declaration

U.S. Submissions to the WTO in Support of the Doha Development Agenda

Institutional Issues

Membership of the WTO

2006 WTO Budget Contributions

2005-6 Budget for the WTO Secretariat

Waivers Currently in Force

WTO Secretariat Personnel Statistics

WTO Accession Application and Status

Indicative List of Governmental and Non-Governmental Panellists

Appellate Body Membership

Where to Find More Information on the WTO

WORLD TRADE ORGANIZATION

WT/MIN(01)/DEC/1
20 November 2001

(01-5859)

MINISTERIAL CONFERENCE
Fourth Session
Doha, 9 - 14 November 2001

MINISTERIAL DECLARATION

Adopted on 14 November 2001

1. The multilateral trading system embodied in the World Trade Organization has contributed significantly to economic growth, development and employment throughout the past fifty years. We are determined, particularly in the light of the global economic slowdown, to maintain the process of reform and liberalization of trade policies, thus ensuring that the system plays its full part in promoting recovery, growth and development. We therefore strongly reaffirm the principles and objectives set out in the Marrakesh Agreement Establishing the World Trade Organization, and pledge to reject the use of protectionism.
2. International trade can play a major role in the promotion of economic development and the alleviation of poverty. We recognize the need for all our peoples to benefit from the increased opportunities and welfare gains that the multilateral trading system generates. The majority of WTO Members are developing countries. We seek to place their needs and interests at the heart of the Work Programme adopted in this Declaration. Recalling the Preamble to the Marrakesh Agreement, we shall continue to make positive efforts designed to ensure that developing countries, and especially the least-developed among them, secure a share in the growth of world trade commensurate with the needs of their economic development. In this context, enhanced market access, balanced rules, and well targeted, sustainably financed technical assistance and capacity-building programmes have important roles to play.
3. We recognize the particular vulnerability of the least-developed countries and the special structural difficulties they face in the global economy. We are committed to addressing the marginalization of least-developed countries in international trade and to improving their effective participation in the multilateral trading system. We recall the commitments made by Ministers at our meetings in Marrakesh, Singapore and Geneva, and by the international community at the Third UN Conference on Least-Developed Countries in Brussels, to help least-developed countries secure beneficial and meaningful integration into the multilateral trading system and the global economy. We are determined that the WTO will play its part in building effectively on these commitments under the Work Programme we are establishing.
4. We stress our commitment to the WTO as the unique forum for global trade rule-making and liberalization, while also recognizing that regional trade agreements can play an important role in promoting the liberalization and expansion of trade and in fostering development.

5. We are aware that the challenges Members face in a rapidly changing international environment cannot be addressed through measures taken in the trade field alone. We shall continue to work with the Bretton Woods institutions for greater coherence in global economic policy-making.

6. We strongly reaffirm our commitment to the objective of sustainable development, as stated in the Preamble to the Marrakesh Agreement. We are convinced that the aims of upholding and safeguarding an open and non-discriminatory multilateral trading system, and acting for the protection of the environment and the promotion of sustainable development can and must be mutually supportive. We take note of the efforts by Members to conduct national environmental assessments of trade policies on a voluntary basis. We recognize that under WTO rules no country should be prevented from taking measures for the protection of human, animal or plant life or health, or of the environment at the levels it considers appropriate, subject to the requirement that they are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, and are otherwise in accordance with the provisions of the WTO Agreements. We welcome the WTO's continued cooperation with UNEP and other inter-governmental environmental organizations. We encourage efforts to promote cooperation between the WTO and relevant international environmental and developmental organizations, especially in the lead-up to the World Summit on Sustainable Development to be held in Johannesburg, South Africa, in September 2002.

7. We reaffirm the right of Members under the General Agreement on Trade in Services to regulate, and to introduce new regulations on, the supply of services.

8. We reaffirm our declaration made at the Singapore Ministerial Conference regarding internationally recognized core labor 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 organizations, 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.

We endorse the Integrated Framework for Trade-Related Technical Assistance to Least-Developed Countries (IF) as a viable model for LDCs' trade development. We urge development partners to significantly increase contributions to the IF Trust Fund and WTO extra-budgetary trust funds in favour of LDCs.

We urge the core agencies, in coordination with development partners, to explore the enhancement of the IF with a view to addressing the supply-side constraints of LDCs and the extension of the model to all LDCs, following the review of the IF and the appraisal of the ongoing Pilot Scheme in selected LDCs. We request the Director-General, following coordination with heads of the other agencies, to provide an interim report to the General Council in December 2002 and a full report to the Fifth Session of the Ministerial Conference on all issues affecting LDCs.

SPECIAL AND DIFFERENTIAL TREATMENT

44. We reaffirm that provisions for special and differential treatment are an integral part of the WTO Agreements. We note the concerns expressed regarding their operation in addressing specific constraints faced by developing countries, particularly least-developed countries. In that connection, we also note that some Members have proposed a Framework Agreement on Special and Differential Treatment (WT/GC/W/442). We therefore agree that all special and differential treatment provisions shall be reviewed with a view to strengthening them and making them more precise, effective and operational. In this connection, we endorse the work programme on special and differential treatment set out in the Decision on Implementation-Related Issues and Concerns.

ORGANIZATION AND MANAGEMENT OF THE WORK PROGRAMME

45. The negotiations to be pursued under the terms of this Declaration shall be concluded not later than 1 January 2005. The Fifth Session of the Ministerial Conference will take stock of progress in the negotiations, provide any necessary political guidance, and take decisions as necessary. When the results of the negotiations in all areas have been established, a Special Session of the Ministerial Conference will be held to take decisions regarding the adoption and implementation of those results.

46. The overall conduct of the negotiations shall be supervised by a Trade Negotiations Committee under the authority of the General Council. The Trade Negotiations Committee shall hold its first meeting not later than 31 January 2002. It shall establish appropriate negotiating mechanisms as required and supervise the progress of the negotiations.

47. With the exception of the improvements and clarifications of the Dispute Settlement Understanding, the conduct, conclusion and entry into force of the outcome of the negotiations shall be treated as parts of a single undertaking. However, agreements reached at an early stage may be implemented on a provisional or a definitive basis. Early agreements shall be taken into account in assessing the overall balance of the negotiations.

48. Negotiations shall be open to:

- (i) all Members of the WTO; and
- (ii) States and separate customs territories currently in the process of accession and those that inform Members, at a regular meeting of the General Council, of their intention to negotiate the terms of their membership and for whom an accession working party is established.

Decisions on the outcomes of the negotiations shall be taken only by WTO Members.

49. The negotiations shall be conducted in a transparent manner among participants, in order to facilitate the effective participation of all. They shall be conducted with a view to ensuring benefits to all participants and to achieving an overall balance in the outcome of the negotiations.

50. The negotiations and the other aspects of the Work Programme shall take fully into account the principle of special and differential treatment for developing and least-developed countries embodied in: Part IV of the GATT 1994; the Decision of 28 November 1979 on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries; the Uruguay Round Decision on Measures in Favour of Least-Developed Countries; and all other relevant WTO provisions.

51. The Committee on Trade and Development and the Committee on Trade and Environment shall, within their respective mandates, each act as a forum to identify and debate developmental and environmental aspects of the negotiations, in order to help achieve the objective of having sustainable development appropriately reflected.

52. Those elements of the Work Programme which do not involve negotiations are also accorded a high priority. They shall be pursued under the overall supervision of the General Council, which shall report on progress to the Fifth Session of the Ministerial Conference.

WORLD TRADE ORGANIZATION

WT/MIN(01)/DEC/2
20 November 2001

(01-5860)

MINISTERIAL CONFERENCE
Fourth Session
Doha, 9 - 14 November 2001

DECLARATION ON THE TRIPS AGREEMENT AND PUBLIC HEALTH

Adopted on 14 November 2001

1. We recognize the gravity of the public health problems afflicting many developing and least-developed countries, especially those resulting from HIV/AIDS, tuberculosis, malaria and other epidemics.
2. We stress the need for the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) to be part of the wider national and international action to address these problems.
3. We recognize that intellectual property protection is important for the development of new medicines. We also recognize the concerns about its effects on prices.
4. We agree that the TRIPS Agreement does not and should not prevent Members from taking measures to protect public health. Accordingly, while reiterating our commitment to the TRIPS Agreement, we affirm that the Agreement can and should be interpreted and implemented in a manner supportive of WTO Members' right to protect public health and, in particular, to promote access to medicines for all.

In this connection, we reaffirm the right of WTO Members to use, to the full, the provisions in the TRIPS Agreement, which provide flexibility for this purpose.

5. Accordingly and in the light of paragraph 4 above, while maintaining our commitments in the TRIPS Agreement, we recognize that these flexibilities include:

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.

Each Member has the right to grant compulsory licences and the freedom to determine the grounds upon which such licences are granted.

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.

The effect of the provisions in the TRIPS Agreement that are relevant to the exhaustion of intellectual property rights is to leave each Member free to establish its own regime for such exhaustion without challenge, subject to the MFN and national treatment provisions of Articles 3 and 4.

6. We recognize that WTO Members with insufficient or no manufacturing capacities in the pharmaceutical sector could face difficulties in making effective use of compulsory licensing under the TRIPS Agreement. We instruct the Council for TRIPS to find an expeditious solution to this problem and to report to the General Council before the end of 2002.

7. We reaffirm the commitment of developed-country Members to provide incentives to their enterprises and institutions to promote and encourage technology transfer to least-developed country Members pursuant to Article 66.2. We also agree that the least-developed country Members will not be obliged, with respect to pharmaceutical products, to implement or apply Sections 5 and 7 of Part II of the TRIPS Agreement or to enforce rights provided for under these Sections until 1 January 2016, without prejudice to the right of least-developed country Members to seek other extensions of the transition periods as provided for in Article 66.1 of the TRIPS Agreement. We instruct the Council for TRIPS to take the necessary action to give effect to this pursuant to Article 66.1 of the TRIPS Agreement.

WORLD TRADE ORGANIZATION

WT/MIN(01)/17
20 November 2001

(01-5858)

MINISTERIAL CONFERENCE
Fourth Session
Doha, 9 - 14 November 2001

IMPLEMENTATION-RELATED ISSUES AND CONCERNS

Decision of 14 November 2001

The Ministerial Conference,

Having regard to Articles IV.1, IV.5 and IX of the Marrakesh Agreement Establishing the World Trade Organization (WTO);

Mindful of the importance that Members attach to the increased participation of developing countries in the multilateral trading system, and of the need to ensure that the system responds fully to the needs and interests of all participants;

Determined to take concrete action to address issues and concerns that have been raised by many developing-country Members regarding the implementation of some WTO Agreements and Decisions, including the difficulties and resource constraints that have been encountered in the implementation of obligations in various areas;

Recalling the 3 May 2000 Decision of the General Council to meet in special sessions to address outstanding implementation issues, and to assess the existing difficulties, identify ways needed to resolve them, and take decisions for appropriate action not later than the Fourth Session of the Ministerial Conference;

Noting the actions taken by the General Council in pursuance of this mandate at its Special Sessions in October and December 2000 (WT/L/384), as well as the review and further discussion undertaken at the Special Sessions held in April, July and October 2001, including the referral of additional issues to relevant WTO bodies or their chairpersons for further work;

Noting also the reports on the issues referred to the General Council from subsidiary bodies and their chairpersons and from the Director-General, and the discussions as well as the clarifications provided and understandings reached on implementation issues in the intensive informal and formal meetings held under this process since May 2000;

Decides as follows:

1. General Agreement on Tariffs and Trade 1994 (GATT 1994)

1.1 Reaffirms that Article XVIII of the GATT 1994 is a special and differential treatment provision for developing countries and that recourse to it should be less onerous than to Article XII of the GATT 1994.

1.2 Noting the issues raised in the report of the Chairperson of the Committee on Market Access (WT/GC/50) concerning the meaning to be given to the phrase "substantial interest" in paragraph 2(d) of Article XIII of the GATT 1994, the Market Access Committee is directed to give further consideration to the issue and make recommendations to the General Council as expeditiously as possible but in any event not later than the end of 2002.

2. Agreement on Agriculture

2.1 Urges Members to exercise restraint in challenging measures notified under the green box by developing countries to promote rural development and adequately address food security concerns.

2.2 Takes note of the report of the Committee on Agriculture (G/AG/11) regarding the implementation of the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries, and approves the recommendations contained therein regarding (i) food aid; (ii) technical and financial assistance in the context of aid programmes to improve agricultural productivity and infrastructure; (iii) financing normal levels of commercial imports of basic foodstuffs; and (iv) review of follow-up.

2.3 Takes note of the report of the Committee on Agriculture (G/AG/11) regarding the implementation of Article 10.2 of the Agreement on Agriculture, and approves the recommendations and reporting requirements contained therein.

2.4 Takes note of the report of the Committee on Agriculture (G/AG/11) regarding the administration of tariff rate quotas and the submission by Members of addenda to their notifications, and endorses the decision by the Committee to keep this matter under review.

3. Agreement on the Application of Sanitary and Phytosanitary Measures

3.1 Where the appropriate level of sanitary and phytosanitary protection allows scope for the phased introduction of new sanitary and phytosanitary measures, the phrase "longer time-frame for compliance" referred to in Article 10.2 of the Agreement on the Application of Sanitary and Phytosanitary Measures, shall be understood to mean normally a period of not less than 6 months. Where the appropriate level of sanitary and phytosanitary protection does not allow scope for the phased introduction of a new measure, but specific problems are identified by a Member, the Member applying the measure shall upon request enter into consultations with the country with a view to finding a mutually satisfactory solution to the problem while continuing to achieve the importing Member's appropriate level of protection.

3.2 Subject to the conditions specified in paragraph 2 of Annex B to the Agreement on the Application of Sanitary and Phytosanitary Measures, the phrase "reasonable interval" shall be understood to mean normally a period of not less than 6 months. It is understood that timeframes for specific measures have to be considered in the context of the particular circumstances of the measure and actions necessary to implement it. The entry into force of measures which contribute to the liberalization of trade should not be unnecessarily delayed.

3.3 Takes note of the Decision of the Committee on Sanitary and Phytosanitary Measures (G/SPS/19) regarding equivalence, and instructs the Committee to develop expeditiously the specific programme to further the implementation of Article 4 of the Agreement on the Application of Sanitary and Phytosanitary Measures.

3.4 Pursuant to the provisions of Article 12.7 of the Agreement on the Application of Sanitary and Phytosanitary Measures, the Committee on Sanitary and Phytosanitary Measures is instructed to review the operation and implementation of the Agreement on Sanitary and Phytosanitary Measures at least once every four years.

3.5 (i) Takes note of the actions taken to date by the Director-General to facilitate the increased participation of Members at different levels of development in the work of the relevant international standard setting organizations as well as his efforts to coordinate with these organizations and financial institutions in identifying SPS-related technical assistance needs and how best to address them; and

(ii) urges the Director-General to continue his cooperative efforts with these organizations and institutions in this regard, including with a view to according priority to the effective participation of least-developed countries and facilitating the provision of technical and financial assistance for this purpose.

3.6 (i) Urges Members to provide, to the extent possible, the financial and technical assistance necessary to enable least-developed countries to respond adequately to the introduction of any new SPS measures which may have significant negative effects on their trade; and

(ii) urges Members to ensure that technical assistance is provided to least-developed countries with a view to responding to the special problems faced by them in implementing the Agreement on the Application of Sanitary and Phytosanitary Measures.

4. Agreement on Textiles and Clothing

Reaffirms the commitment to full and faithful implementation of the Agreement on Textiles and Clothing, and agrees:

4.1 that the provisions of the Agreement relating to the early integration of products and the elimination of quota restrictions should be effectively utilised.

4.2 that Members will exercise particular consideration before initiating investigations in the context of antidumping remedies on textile and clothing exports from developing countries previously subject to quantitative restrictions under the Agreement for a period of two years following full integration of this Agreement into the WTO.

4.3 that without prejudice to their rights and obligations, Members shall notify any changes in their rules of origin concerning products falling under the coverage of the Agreement to the Committee on Rules of Origin which may decide to examine them.

Requests the Council for Trade in Goods to examine the following proposals:

4.4 that when calculating the quota levels for small suppliers for the remaining years of the Agreement, Members will apply the most favourable methodology available in respect of those Members under the growth-on-growth provisions from the beginning of the implementation period; extend the same treatment to least-developed countries; and, where possible, eliminate quota restrictions on imports of such Members;

4.5 that Members will calculate the quota levels for the remaining years of the Agreement with respect to other restrained Members as if implementation of the growth-on-growth provision for stage 3 had been advanced to 1 January 2000;

and make recommendations to the General Council by 31 July 2002 for appropriate action.

5. Agreement on Technical Barriers to Trade

5.1 Confirms the approach to technical assistance being developed by the Committee on Technical Barriers to Trade, reflecting the results of the triennial review work in this area, and mandates this work to continue.

5.2 Subject to the conditions specified in paragraph 12 of Article 2 of the Agreement on Technical Barriers to Trade, the phrase "reasonable interval" shall be understood to mean normally a period of not less than 6 months, except when this would be ineffective in fulfilling the legitimate objectives pursued.

5.3 (i) Takes note of the actions taken to date by the Director-General to facilitate the increased participation of Members at different levels of development in the work of the relevant international standard setting organizations as well as his efforts to coordinate with these organizations and financial institutions in identifying TBT-related technical assistance needs and how best to address them; and

(ii) urges the Director-General to continue his cooperative efforts with these organizations and institutions, including with a view to according priority to the effective participation of least-developed countries and facilitating the provision of technical and financial assistance for this purpose.

5.4 (i) Urges Members to provide, to the extent possible, the financial and technical assistance necessary to enable least-developed countries to respond adequately to the introduction of any new TBT measures which may have significant negative effects on their trade; and

(ii) urges Members to ensure that technical assistance is provided to least-developed countries with a view to responding to the special problems faced by them in implementing the Agreement on Technical Barriers to Trade.

6. Agreement on Trade-Related Investment Measures

6.1 Takes note of the actions taken by the Council for Trade in Goods in regard to requests from some developing-country Members for the extension of the five-year transitional period provided for in Article 5.2 of Agreement on Trade-Related Investment Measures.

6.2 Urges the Council for Trade in Goods to consider positively requests that may be made by least-developed countries under Article 5.3 of the TRIMs Agreement or Article IX.3 of the WTO Agreement, as well as to take into consideration the particular circumstances of least-developed countries when setting the terms and conditions including time-frames.

7. Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994

7.1 Agrees that investigating authorities shall examine with special care any application for the initiation of an anti-dumping investigation where an investigation of the same product from the same Member resulted in a negative finding within the 365 days prior to the filing of the application and that, unless this pre-initiation examination indicates that circumstances have changed, the investigation shall not proceed.

7.2 Recognizes that, while Article 15 of the Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 is a mandatory provision, the modalities for its application would benefit from clarification. Accordingly, the Committee on Anti-Dumping Practices is instructed, through its working group on Implementation, to examine this issue and to draw up appropriate recommendations within twelve months on how to operationalize this provision.

7.3 Takes note that Article 5.8 of the Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 does not specify the time-frame to be used in determining the volume of dumped imports, and that this lack of specificity creates uncertainties in the implementation of the provision. The Committee on Anti-Dumping Practices is instructed, through its working group on Implementation, to study this issue and draw up recommendations within 12 months, with a view to ensuring the maximum possible predictability and objectivity in the application of time frames.

7.4 Takes note that Article 18.6 of the Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 requires the Committee on Anti-Dumping Practices to review annually the implementation and operation of the Agreement taking into account the objectives thereof. The Committee on Anti-dumping Practices is instructed to draw up guidelines for the improvement of annual reviews and to report its views and recommendations to the General Council for subsequent decision within 12 months.

8. Agreement on the Implementation of Article VII of the General Agreement on Tariffs and Trade 1994

8.1 Takes note of the actions taken by the Committee on Customs Valuation in regard to the requests from a number of developing-country Members for the extension of the five-year transitional period provided for in Article 20.1 of Agreement on the Implementation of Article VII of the General Agreement on Tariffs and Trade 1994.

8.2 Urges the Council for Trade in Goods to give positive consideration to requests that may be made by least-developed country Members under paragraphs 1 and 2 of Annex III of the Customs Valuation Agreement or under Article IX.3 of the WTO Agreement, as well as to take into consideration

the particular circumstances of least-developed countries when setting the terms and conditions including time-frames.

8.3 Underlines the importance of strengthening cooperation between the customs administrations of Members in the prevention of customs fraud. In this regard, it is agreed that, further to the 1994 Ministerial Decision Regarding Cases Where Customs Administrations Have Reasons to Doubt the Truth or Accuracy of the Declared Value, when the customs administration of an importing Member has reasonable grounds to doubt the truth or accuracy of the declared value, it may seek assistance from the customs administration of an exporting Member on the value of the good concerned. In such cases, the exporting Member shall offer cooperation and assistance, consistent with its domestic laws and procedures, including furnishing information on the export value of the good concerned. Any information provided in this context shall be treated in accordance with Article 10 of the Customs Valuation Agreement. Furthermore, recognizing the legitimate concerns expressed by the customs administrations of several importing Members on the accuracy of the declared value, the Committee on Customs Valuation is directed to identify and assess practical means to address such concerns, including the exchange of information on export values and to report to the General Council by the end of 2002 at the latest.

9. Agreement on Rules of Origin

9.1 Takes note of the report of the Committee on Rules of Origin (G/RO/48) regarding progress on the harmonization work programme, and urges the Committee to complete its work by the end of 2001.

9.2 Agrees that any interim arrangements on rules of origin implemented by Members in the transitional period before the entry into force of the results of the harmonisation work programme shall be consistent with the Agreement on Rules of Origin, particularly Articles 2 and 5 thereof. Without prejudice to Members' rights and obligations, such arrangements may be examined by the Committee on Rules of Origin.

10. Agreement on Subsidies and Countervailing Measures

10.1 Agrees that Annex VII(b) to the Agreement on Subsidies and Countervailing Measures includes the Members that are listed therein until their GNP per capita reaches US \$1,000 in constant 1990 dollars for three consecutive years. This decision will enter into effect upon the adoption by the Committee on Subsidies and Countervailing Measures of an appropriate methodology for calculating constant 1990 dollars.

If, however, the Committee on Subsidies and Countervailing Measures does not reach a consensus agreement on an appropriate methodology by 1 January 2003, the methodology proposed by the Chairman of the Committee set forth in G/SCM/38, Appendix 2 shall be applied. A Member shall not leave Annex VII(b) so long as its GNP per capita in current dollars has not reached US \$1000 based upon the most recent data from the World Bank.

10.2 Takes note of the proposal to treat measures implemented by developing countries with a view to achieving legitimate development goals, such as regional growth, technology research and development funding, production diversification and development and implementation of environmentally sound methods of production as non-actionable subsidies, and agrees that this issue be addressed in accordance with paragraph 13 below. During the course of the negotiations, Members are urged to exercise due restraint with respect to challenging such measures.

10.3 Agrees that the Committee on Subsidies and Countervailing Measures shall continue its review of the provisions of the Agreement on Subsidies and Countervailing Measures regarding countervailing duty investigations and report to the General Council by 31 July 2002.

10.4 Agrees that if a Member has been excluded from the list in paragraph (b) of Annex VII to the Agreement on Subsidies and Countervailing Measures, it shall be re-included in it when its GNP per capita falls back below US\$ 1,000.

10.5 Subject to the provisions of Articles 27.5 and 27.6, it is reaffirmed that least-developed country Members are exempt from the prohibition on export subsidies set forth in Article 3.1(a) of the Agreement on Subsidies and Countervailing Measures, and thus have flexibility to finance their exporters, consistent with their development needs. It is understood that the eight-year period in Article 27.5 within which a least-developed country Member must phase out its export subsidies in respect of a product in which it is export-competitive begins from the date export competitiveness exists within the meaning of Article 27.6.

10.6 Having regard to the particular situation of certain developing-country Members, directs the Committee on Subsidies and Countervailing Measures to extend the transition period, under the rubric of Article 27.4 of the Agreement on Subsidies and Countervailing Measures, for certain export subsidies provided by such Members, pursuant to the procedures set forth in document G/SCM/39. Furthermore, when considering a request for an extension of the transition period under the rubric of Article 27.4 of the Agreement on Subsidies and Countervailing Measures, and in order to avoid that Members at similar stages of development and having a similar order of magnitude of share in world trade are treated differently in terms of receiving such extensions for the same eligible programmes and the length of such extensions, directs the Committee to extend the transition period for those developing countries, after taking into account the relative competitiveness in relation to other developing-country Members who have requested extension of the transition period following the procedures set forth in document G/SCM/39.

11. Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)

11.1 The TRIPS Council is directed to continue its examination of the scope and modalities for complaints of the types provided for under subparagraphs 1(b) and 1(c) of Article XXIII of GATT 1994 and make recommendations to the Fifth Session of the Ministerial Conference. It is agreed that, in the meantime, Members will not initiate such complaints under the TRIPS Agreement.

11.2 Reaffirming that the provisions of Article 66.2 of the TRIPS Agreement are mandatory, it is agreed that the TRIPS Council shall put in place a mechanism for ensuring the monitoring and full implementation of the obligations in question. To this end, developed-country Members shall submit prior to the end of 2002 detailed reports on the functioning in practice of the incentives provided to their enterprises for the transfer of technology in pursuance of their commitments under Article 66.2. These submissions shall be subject to a review in the TRIPS Council and information shall be updated by Members annually.

12. Cross-cutting Issues

12.1 The Committee on Trade and Development is instructed:

(i) to identify those special and differential treatment provisions that are already mandatory in nature and those that are non-binding in character, to consider the legal and practical implications for developed and developing Members of converting special and differential treatment measures into mandatory provisions, to identify those that Members consider should be made mandatory, and to report to the General Council with clear recommendations for a decision by July 2002;

(ii) to examine additional ways in which special and differential treatment provisions can be made more effective, to consider ways, including improved information flows, in which developing countries, in particular the least-developed countries, may be assisted to make best use of special and differential treatment provisions, and to report to the General Council with clear recommendations for a decision by July 2002; and

(iii) to consider, in the context of the work programme adopted at the Fourth Session of the Ministerial Conference, how special and differential treatment may be incorporated into the architecture of WTO rules.

The work of the Committee on Trade and Development in this regard shall take fully into consideration previous work undertaken as noted in WT/COMTD/W/77/Rev.1. It will also be without prejudice to work in respect of implementation of WTO Agreements in the General Council and in other Councils and Committees.

12.2 Reaffirms that preferences granted to developing countries pursuant to the Decision of the Contracting Parties of 28 November 1979 ("Enabling Clause")⁹ should be generalised, non-reciprocal and non-discriminatory.

13. Outstanding Implementation Issues¹⁰

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.

⁹ BISD 26S/203.

¹⁰A list of these issues is compiled in document Job(01)/152/Rev.1.

WORLD TRADE ORGANIZATION

WT/L/579
2 August 2004

(04-3297)

Doha Work Programme

Decision Adopted by the General Council on 1 August 2004

1. The General Council reaffirms the Ministerial Declarations and Decisions adopted at Doha and the full commitment of all Members to give effect to them. The Council emphasizes Members' resolve to complete the Doha Work Programme fully and to conclude successfully the negotiations launched at Doha. Taking into account the Ministerial Statement adopted at Cancún on 14 September 2003, and the statements by the Council Chairman and the Director-General at the Council meeting of 15-16 December 2003, the Council takes note of the report by the Chairman of the Trade Negotiations Committee (TNC) and agrees to take action as follows:

- a. Agriculture:** the General Council adopts the framework set out in Annex A to this document.
- b. Cotton:** the General Council reaffirms the importance of the Sectoral Initiative on Cotton and takes note of the parameters set out in Annex A within which the trade-related aspects of this issue will be pursued in the agriculture negotiations.

The General Council also attaches importance to the development aspects of the Cotton Initiative and wishes to stress the complementarity between the trade and development aspects. The Council takes note of the recent Workshop on Cotton in Cotonou on 23-24 March 2004 organized by the WTO Secretariat, and other bilateral and multilateral efforts to make progress on the development assistance aspects and instructs the Secretariat to continue to work with the development community and to provide the Council with periodic reports on relevant developments.

Members should work on related issues of development multilaterally with the international financial institutions, continue their bilateral programmes, and all developed countries are urged to participate. In this regard, the General Council instructs the Director General to consult with the relevant international organizations, including the Bretton Woods Institutions, the Food and Agriculture Organization and the International Trade Centre to direct effectively existing programmes and any additional resources towards development of the economies where cotton has vital importance.

- c. Non-agricultural Market Access:** the General Council adopts the framework set out in Annex B to this document.

- d. Development:**

Principles: development concerns form an integral part of the Doha Ministerial Declaration. The General Council rededicates and recommits Members to fulfilling the development dimension of the Doha Development Agenda, which places the needs and interests of developing and least-developed

countries at the heart of the Doha Work Programme. The Council reiterates the important role that enhanced market access, balanced rules, and well targeted, sustainably financed technical assistance and capacity building programmes can play in the economic development of these countries.

Special and Differential Treatment: the General Council reaffirms that provisions for special and differential (S&D) treatment are an integral part of the WTO Agreements. The Council recalls Ministers' decision in Doha to review all S&D treatment provisions with a view to strengthening them and making them more precise, effective and operational. The Council recognizes the progress that has been made so far. The Council instructs the Committee on Trade and Development in Special Session to expeditiously complete the review of all the outstanding Agreement-specific proposals and report to the General Council, with clear recommendations for a decision, by July 2005. The Council further instructs the Committee, within the parameters of the Doha mandate, to address all other outstanding work, including on the cross-cutting issues, the monitoring mechanism and the incorporation of S&D treatment into the architecture of WTO rules, as referred to in TN/CTD/7 and report, as appropriate, to the General Council.

The Council also instructs all WTO bodies to which proposals in Category II have been referred to expeditiously complete the consideration of these proposals and report to the General Council, with clear recommendations for a decision, as soon as possible and no later than July 2005. In doing so these bodies will ensure that, as far as possible, their meetings do not overlap so as to enable full and effective participation of developing countries in these discussions.

Technical Assistance: the General Council recognizes the progress that has been made since the Doha Ministerial Conference in expanding Trade-Related Technical Assistance (TRTA) to developing countries and low-income countries in transition. In furthering this effort the Council affirms that such countries, and in particular least-developed countries, should be provided with enhanced TRTA and capacity building, to increase their effective participation in the negotiations, to facilitate their implementation of WTO rules, and to enable them to adjust and diversify their economies. In this context the Council welcomes and further encourages the improved coordination with other agencies, including under the Integrated Framework for TRTA for the LDCs (IF) and the Joint Integrated Technical Assistance Programme (JITAP).

Implementation: concerning implementation-related issues, the General Council reaffirms the mandates Ministers gave in paragraph 12 of the Doha Ministerial Declaration and the Doha Decision on Implementation-Related Issues and Concerns, and renews Members' determination to find appropriate solutions to outstanding issues. The Council instructs the Trade Negotiations Committee, negotiating bodies and other WTO bodies concerned to redouble their efforts to find appropriate solutions as a priority. Without prejudice to the positions of Members, the Council requests the Director-General to continue with his consultative process on all outstanding implementation issues under paragraph 12(b) of the Doha Ministerial Declaration, including on issues related to the extension of the protection of geographical indications provided for in Article 23 of the TRIPS Agreement to products other than wines and spirits, if need be by appointing Chairpersons of concerned WTO bodies as his Friends and/or by holding dedicated consultations. The Director-General shall report to the TNC and the General Council no later than May 2005. The Council shall review progress and take any appropriate action no later than July 2005.

Other Development Issues: in the ongoing market access negotiations, recognising the fundamental principles of the WTO and relevant provisions of GATT 1994, special attention shall be given to the specific trade and development related needs and concerns of developing countries, including capacity constraints. These particular concerns of developing countries, including relating to food security, rural development, livelihood, preferences, commodities and net food imports, as well as prior unilateral liberalisation, should be taken into consideration, as appropriate, in the course of the Agriculture and NAMA negotiations. The trade-related issues identified for the fuller integration of small, vulnerable economies into the multilateral trading system, should also be addressed, without creating a sub-category of Members, as part of a work programme, as mandated in paragraph 35 of the Doha Ministerial Declaration.

Least-Developed Countries: the General Council reaffirms the commitments made at Doha concerning least-developed countries and renews its determination to fulfil these commitments. Members will continue to take due account of the concerns of least-developed countries in the negotiations. The Council confirms that nothing in this Decision shall detract in any way from the special provisions agreed by Members in respect of these countries.

e. Services: the General Council takes note of the report to the TNC by the Special Session of the Council for Trade in Services¹¹ 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.¹² 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 Body¹³ 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.

¹¹ This report is contained in document TN/S/16.

¹² 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.

¹³ 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.

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.¹⁴ 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.¹⁵
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.
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.

¹⁴ 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.

¹⁵ 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.

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.

WORLD TRADE ORGANIZATION

WT/L/641
8 December 2005

(05-5842)

AMENDMENT OF THE TRIPS AGREEMENT

Decision of 6 December 2005

The General Council;

Having regard to paragraph 1 of Article X of the Marrakesh Agreement Establishing the World Trade Organization ("the WTO Agreement");

Conducting the functions of the Ministerial Conference in the interval between meetings pursuant to paragraph 2 of Article IV of the WTO Agreement;

Noting the Declaration on the TRIPS Agreement and Public Health (WT/MIN(01)/DEC/2) and, in particular, the instruction of the Ministerial Conference to the Council for TRIPS contained in paragraph 6 of the Declaration to find an expeditious solution to the problem of the difficulties that WTO Members with insufficient or no manufacturing capacities in the pharmaceutical sector could face in making effective use of compulsory licensing under the TRIPS Agreement;

Recognizing, where eligible importing Members seek to obtain supplies under the system set out in the proposed amendment of the TRIPS Agreement, the importance of a rapid response to those needs consistent with the provisions of the proposed amendment of the TRIPS Agreement;

Recalling paragraph 11 of the General Council Decision of 30 August 2003 on the Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health;

Having considered the proposal to amend the TRIPS Agreement submitted by the Council for TRIPS (IP/C/41);

Noting the consensus to submit this proposed amendment to the Members for acceptance;

Decides as follows:

The Protocol amending the TRIPS Agreement attached to this Decision is hereby adopted and submitted to the Members for acceptance.

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.

The Protocol shall take effect in accordance with the provisions of paragraph 3 of Article X of the WTO Agreement.

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.

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:

"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 included¹⁶;

"eligible importing Member" means any least-developed country Member, and any other Member that has made a notification¹⁷ 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 Members¹⁸ 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;

"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:

the eligible importing Member(s)¹⁹ has made a notification² to the Council for TRIPS, that:

specifies the names and expected quantities of the product(s) needed²⁰;

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

confirms that, where a pharmaceutical product is patented in its territory, it has granted or intends to grant a compulsory licence in accordance with Articles 31 and 31*bis* of this Agreement and the provisions of this Annex²¹;

¹⁶ This subparagraph is without prejudice to subparagraph 1(b).

¹⁷ It is understood that this notification does not need to be approved by a WTO body in order to use the system.

¹⁸ 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.

¹⁹ 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.

²⁰ The notification will be made available publicly by the WTO Secretariat through a page on the WTO website dedicated to the system.

²¹ This subparagraph is without prejudice to Article 66.1 of this Agreement.

the compulsory licence issued by the exporting Member under the system shall contain the following conditions:

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;

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

before shipment begins, the licensee shall post on a website²² 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;

the exporting Member shall notify²³ the Council for TRIPS of the grant of the licence, including the conditions attached to it.²⁴ 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.

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

²² 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.

²³ It is understood that this notification does not need to be approved by a WTO body in order to use the system.

²⁴ The notification will be made available publicly by the WTO Secretariat through a page on the WTO website dedicated to the system.

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.

WORLD TRADE ORGANIZATION

WT/MIN(05)/DEC
22 December 2005

(05-6248)

MINISTERIAL CONFERENCE
Sixth Session
Hong Kong, 13 - 18 December 2005

DOHA WORK PROGRAMME

Ministerial Declaration

Adopted on 18 December 2005

1. We reaffirm the Declarations and Decisions we adopted at Doha, as well as the Decision adopted by the General Council on 1 August 2004, and our full commitment to give effect to them. We renew our resolve to complete the Doha Work Programme fully and to conclude the negotiations launched at Doha successfully in 2006.

2. We emphasize the central importance of the development dimension in every aspect of the Doha Work Programme and recommit ourselves to making it a meaningful reality, in terms both of the results of the negotiations on market access and rule-making and of the specific development-related issues set out below.

3. In pursuance of these objectives, we agree as follows:

*Agriculture
negotiations*

4. We reaffirm our commitment to the mandate on agriculture as set out in paragraph 13 of the Doha Ministerial Declaration and to the Framework adopted by the General Council on 1 August 2004. We take note of the report by the Chairman of the Special Session on his own responsibility (TN/AG/21, contained in Annex A). We welcome the progress made by the Special Session of the Committee on Agriculture since 2004 and recorded therein.

5. On domestic support, there will be three bands for reductions in Final Bound Total AMS and in the overall cut in trade-distorting domestic support, with higher linear cuts in higher bands. In both cases, the Member with the highest level of permitted support will be in the top band, the two Members with the second and third highest levels of support will be in the middle band and all other Members, including all developing country Members, will be in the bottom band. In addition, developed country Members in the lower bands with high relative levels of Final Bound Total AMS will make an additional effort in AMS reduction. We also note that there has been some convergence concerning the reductions in Final Bound Total AMS, the overall cut in trade-distorting domestic support and in both product-specific and non product-specific *de minimis* limits. Disciplines will be developed to achieve effective cuts in trade-distorting domestic support consistent with the

Framework. The overall reduction in trade-distorting domestic support will still need to be made even if the sum of the reductions in Final Bound Total AMS, *de minimis* and Blue Box payments would otherwise be less than that overall reduction. Developing country Members with no AMS commitments will be exempt from reductions in *de minimis* and the overall cut in trade-distorting domestic support. Green Box criteria will be reviewed in line with paragraph 16 of the Framework, *inter alia*, to ensure that programmes of developing country Members that cause not more than minimal trade-distortion are effectively covered.

6. We agree to ensure the parallel elimination of all forms of export subsidies and disciplines on all export measures with equivalent effect to be completed by the end of 2013. This will be achieved in a progressive and parallel manner, to be specified in the modalities, so that a substantial part is realized by the end of the first half of the implementation period. We note emerging convergence on some elements of disciplines with respect to export credits, export credit guarantees or insurance programmes with repayment periods of 180 days and below. We agree that such programmes should be self-financing, reflecting market consistency, and that the period should be of a sufficiently short duration so as not to effectively circumvent real commercially-oriented discipline. As a means of ensuring that trade-distorting practices of STEs are eliminated, disciplines relating to exporting STEs will extend to the future use of monopoly powers so that such powers cannot be exercised in any way that would circumvent the direct disciplines on STEs on export subsidies, government financing and the underwriting of losses. On food aid, we reconfirm our commitment to maintain an adequate level and to take into account the interests of food aid recipient countries. To this end, a "safe box" for bona fide food aid will be provided to ensure that there is no unintended impediment to dealing with emergency situations. Beyond that, we will ensure elimination of commercial displacement. To this end, we will agree effective disciplines on in-kind food aid, monetization and re-exports so that there can be no loop-hole for continuing export subsidization. The disciplines on export credits, export credit guarantees or insurance programmes, exporting state trading enterprises and food aid will be completed by 30 April 2006 as part of the modalities, including appropriate provision in favour of least-developed and net food-importing developing countries as provided for in paragraph 4 of the Marrakesh Decision. The date above for the elimination of all forms of export subsidies, together with the agreed progressivity and parallelism, will be confirmed only upon the completion of the modalities. Developing country Members will continue to benefit from the provisions of Article 9.4 of the Agreement on Agriculture for five years after the end-date for elimination of all forms of export subsidies.

7. On market access, we note the progress made on *ad valorem* equivalents. We adopt four bands for structuring tariff cuts, recognizing that we need now to agree on the relevant thresholds – including those applicable for developing country Members. We recognize the need to agree on treatment of sensitive products, taking into account all the elements involved. We also note that there have been some recent movements on the designation and treatment of Special Products and elements of the Special Safeguard Mechanism. Developing country Members will have the flexibility to self-designate an appropriate number of tariff lines as Special Products guided by indicators based on the criteria of food security, livelihood security and rural development. Developing country Members will also have the

right to have recourse to a Special Safeguard Mechanism based on import quantity and price triggers, with precise arrangements to be further defined. Special Products and the Special Safeguard Mechanism shall be an integral part of the modalities and the outcome of negotiations in agriculture.

8. On other elements of special and differential treatment, we note in particular the consensus that exists in the Framework on several issues in all three pillars of domestic support, export competition and market access and that some progress has been made on other special and differential treatment issues.

9. We reaffirm that nothing we have agreed here compromises the agreement already reflected in the Framework on other issues including tropical products and products of particular importance to the diversification of production from the growing of illicit narcotic crops, long-standing preferences and preference erosion.

10. However, we recognize that much remains to be done in order to establish modalities and to conclude the negotiations. Therefore, we agree to intensify work on all outstanding issues to fulfil the Doha objectives, in particular, we are resolved to establish modalities no later than 30 April 2006 and to submit comprehensive draft Schedules based on these modalities no later than 31 July 2006.

Cotton

11. We recall the mandate given by the Members in the Decision adopted by the General Council on 1 August 2004 to address cotton ambitiously, expeditiously and specifically, within the agriculture negotiations in relation to all trade-distorting policies affecting the sector in all three pillars of market access, domestic support and export competition, as specified in the Doha text and the July 2004 Framework text. We note the work already undertaken in the Sub-Committee on Cotton and the proposals made with regard to this matter. Without prejudice to Members' current WTO rights and obligations, including those flowing from actions taken by the Dispute Settlement Body, we reaffirm our commitment to ensure having an explicit decision on cotton within the agriculture negotiations and through the Sub-Committee on Cotton ambitiously, expeditiously and specifically as follows:

- All forms of export subsidies for cotton will be eliminated by developed countries in 2006.
- On market access, developed countries will give duty and quota free access for cotton exports from least-developed countries (LDCs) from the commencement of the implementation period.
- Members agree that the objective is that, as an outcome for the negotiations, trade distorting domestic subsidies for cotton production be reduced more ambitiously than under whatever general formula is agreed and that it should be implemented over a shorter period of time than generally applicable. We commit ourselves to give priority in the negotiations to reach such an outcome.

12. With regard to the development assistance aspects of cotton, we welcome the Consultative Framework process initiated by the Director-General to implement the decisions on these aspects pursuant to paragraph 1.b of the Decision adopted by the General Council on 1 August 2004. We take note of his Periodic Reports and the positive evolution of development assistance noted therein. We urge the Director-

General to further intensify his consultative efforts with bilateral donors and with multilateral and regional institutions, with emphasis on improved coherence, coordination and enhanced implementation and to explore the possibility of establishing through such institutions a mechanism to deal with income declines in the cotton sector until the end of subsidies. Noting the importance of achieving enhanced efficiency and competitiveness in the cotton producing process, we urge the development community to further scale up its cotton-specific assistance and to support the efforts of the Director-General. In this context, we urge Members to promote and support South-South cooperation, including transfer of technology. We welcome the domestic reform efforts by African cotton producers aimed at enhancing productivity and efficiency, and encourage them to deepen this process. We reaffirm the complementarity of the trade policy and development assistance aspects of cotton. We invite the Director-General to furnish a third Periodic Report to our next Session with updates, at appropriate intervals in the meantime, to the General Council, while keeping the Sub-Committee on Cotton fully informed of progress. Finally, as regards follow up and monitoring, we request the Director-General to set up an appropriate follow-up and monitoring mechanism.

*NAMA
negotiations*

13. We reaffirm our commitment to the mandate for negotiations on market access for non-agricultural products as set out in paragraph 16 of the Doha Ministerial Declaration. We also reaffirm all the elements of the NAMA Framework adopted by the General Council on 1 August 2004. We take note of the report by the Chairman of the Negotiating Group on Market Access on his own responsibility (TN/MA/16, contained in Annex B). We welcome the progress made by the Negotiating Group on Market Access since 2004 and recorded therein.

14. We adopt a Swiss Formula with coefficients at levels which shall *inter alia*:
Reduce or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs and tariff escalation, in particular on products of export interest to developing countries; and

Take fully into account the special needs and interests of developing countries, including through less than full reciprocity in reduction commitments.

We instruct the Negotiating Group to finalize its structure and details as soon as possible.

15. We reaffirm the importance of special and differential treatment and less than full reciprocity in reduction commitments, including paragraph 8 of the NAMA Framework, as integral parts of the modalities. We instruct the Negotiating Group to finalize its details as soon as possible.

16. In furtherance of paragraph 7 of the NAMA Framework, we recognize that Members are pursuing sectoral initiatives. To this end, we instruct the Negotiating Group to review proposals with a view to identifying those which could garner sufficient participation to be realized. Participation should be on a non-mandatory basis.

17. For the purpose of the second indent of paragraph 5 of the NAMA Framework, we adopt a non-linear mark-up approach to establish base rates for

commencing tariff reductions. We instruct the Negotiating Group to finalize its details as soon as possible.

18. We take note of the progress made to convert non *ad valorem* duties to *ad valorem* equivalents on the basis of an agreed methodology as contained in JOB(05)/166/Rev.1.

19. We take note of the level of common understanding reached on the issue of product coverage and direct the Negotiating Group to resolve differences on the limited issues that remain as quickly as possible.

20. As a supplement to paragraph 16 of the NAMA Framework, we recognize the challenges that may be faced by non-reciprocal preference beneficiary Members as a consequence of the MFN liberalization that will result from these negotiations. We instruct the Negotiating Group to intensify work on the assessment of the scope of the problem with a view to finding possible solutions.

21. We note the concerns raised by small, vulnerable economies, and instruct the Negotiating Group to establish ways to provide flexibilities for these Members without creating a sub-category of WTO Members.

22. We note that the Negotiating Group has made progress in the identification, categorization and examination of notified NTBs. We also take note that Members are developing bilateral, vertical and horizontal approaches to the NTB negotiations, and that some of the NTBs are being addressed in other fora including other Negotiating Groups. We recognize the need for specific negotiating proposals and encourage participants to make such submissions as quickly as possible.

23. However, we recognize that much remains to be done in order to establish modalities and to conclude the negotiations. Therefore, we agree to intensify work on all outstanding issues to fulfil the Doha objectives, in particular, we are resolved to establish modalities no later than 30 April 2006 and to submit comprehensive draft Schedules based on these modalities no later than 31 July 2006.

*Balance
between
Agriculture
and NAMA*

24. We recognize that it is important to advance the development objectives of this Round through enhanced market access for developing countries in both Agriculture and NAMA. To that end, we instruct our negotiators to ensure that there is a comparably high level of ambition in market access for Agriculture and NAMA. This ambition is to be achieved in a balanced and proportionate manner consistent with the principle of special and differential treatment.

*Services
negotiations*

25. The negotiations on trade in services shall proceed to their conclusion with a view to promoting the economic growth of all trading partners and the development of developing and least-developed countries, and with due respect for the right of Members to regulate. In this regard, we recall and reaffirm the objectives and principles stipulated in the GATS, the Doha Ministerial Declaration, the Guidelines and Procedures for the Negotiations on Trade in Services adopted by the Special Session of the Council for Trade in Services on 28 March 2001 and the Modalities for the Special Treatment for Least-Developed Country Members in the Negotiations on Trade in Services adopted on 3 September 2003, as well as Annex C

of the Decision adopted by the General Council on 1 August 2004.

26. We urge all Members to participate actively in these negotiations towards achieving a progressively higher level of liberalization of trade in services, with appropriate flexibility for individual developing countries as provided for in Article XIX of the GATS. Negotiations shall have regard to the size of economies of individual Members, both overall and in individual sectors. We recognize the particular economic situation of LDCs, including the difficulties they face, and acknowledge that they are not expected to undertake new commitments.

27. We are determined to intensify the negotiations in accordance with the above principles and the Objectives, Approaches and Timelines set out in Annex C to this document with a view to expanding the sectoral and modal coverage of commitments and improving their quality. In this regard, particular attention will be given to sectors and modes of supply of export interest to developing countries.

*Rules
negotiations*

28. We recall the mandates in paragraphs 28 and 29 of the Doha Ministerial Declaration and reaffirm our commitment to the negotiations on rules, as we set forth in Annex D to this document.

*TRIPS
negotiations*

29. We take note of the report of the Chairman of the Special Session of the Council for TRIPS setting out the progress in the negotiations on the establishment of a multilateral system of notification and registration of geographical indications for wines and spirits, as mandated in Article 23.4 of the TRIPS Agreement and paragraph 18 of the Doha Ministerial Declaration, contained in document TN/IP/14, and agree to intensify these negotiations in order to complete them within the overall time-frame for the conclusion of the negotiations that were foreseen in the Doha Ministerial Declaration.

*Environment
negotiations*

30. We reaffirm the mandate in paragraph 31 of the Doha Ministerial Declaration aimed at enhancing the mutual supportiveness of trade and environment and welcome the significant work undertaken in the Committee on Trade and Environment (CTE) in Special Session. We instruct Members to intensify the negotiations, without prejudging their outcome, on all parts of paragraph 31 to fulfil the mandate.

31. We recognize the progress in the work under paragraph 31(i) based on Members' submissions on the relationship between existing WTO rules and specific trade obligations set out in multilateral environmental agreements (MEAs). We further recognize the work undertaken under paragraph 31(ii) towards developing effective procedures for regular information exchange between MEA Secretariats and the relevant WTO committees, and criteria for the granting of observer status.

32. We recognize that recently more work has been carried out under paragraph 31(iii) through numerous submissions by Members and discussions in the CTE in Special Session, including technical discussions, which were also held in informal information exchange sessions without prejudice to Members' positions. We instruct Members to complete the work expeditiously under paragraph 31(iii).

Trade

33. We recall and reaffirm the mandate and modalities for negotiations on Trade

Facilitation negotiations

Facilitation contained in Annex D of the Decision adopted by the General Council on 1 August 2004. We note with appreciation the report of the Negotiating Group, attached in Annex E to this document, and the comments made by our delegations on that report as reflected in document TN/TF/M/11. We endorse the recommendations contained in paragraphs 3, 4, 5, 6 and 7 of the report.

DSU negotiations

34. We take note of the progress made in the Dispute Settlement Understanding negotiations as reflected in the report by the Chairman of the Special Session of the Dispute Settlement Body to the Trade Negotiations Committee (TNC) and direct the Special Session to continue to work towards a rapid conclusion of the negotiations.

S&D treatment

35. We reaffirm that provisions for special and differential (S&D) treatment are an integral part of the WTO Agreements. We renew our determination to fulfil the mandate contained in paragraph 44 of the Doha Ministerial Declaration and in the Decision adopted by the General Council on 1 August 2004, that all S&D treatment provisions be reviewed with a view to strengthening them and making them more precise, effective and operational.

36. We take note of the work done on the Agreement-specific proposals, especially the five LDC proposals. We agree to adopt the decisions contained in Annex F to this document. However, we also recognize that substantial work still remains to be done. We commit ourselves to address the development interests and concerns of developing countries, especially the LDCs, in the multilateral trading system, and we recommit ourselves to complete the task we set ourselves at Doha. We accordingly instruct the Committee on Trade and Development in Special Session to expeditiously complete the review of all the outstanding Agreement-specific proposals and report to the General Council, with clear recommendations for a decision, by December 2006.

37. We are concerned at the lack of progress on the Category II proposals that had been referred to other WTO bodies and negotiating groups. We instruct these bodies to expeditiously complete the consideration of these proposals and report periodically to the General Council, with the objective of ensuring that clear recommendations for a decision are made no later than December 2006. We also instruct the Special Session to continue to coordinate its efforts with these bodies, so as to ensure that this work is completed on time.

38. We further instruct the Special Session, within the parameters of the Doha mandate, to resume work on all other outstanding issues, including on the cross-cutting issues, the monitoring mechanism, and the incorporation of S&D treatment into the architecture of WTO rules, and report on a regular basis to the General Council.

Implementation

39. We reiterate the instruction in the Decision adopted by the General Council on 1 August 2004 to the TNC, negotiating bodies and other WTO bodies concerned to redouble their efforts to find appropriate solutions as a priority to outstanding implementation-related issues. We take note of the work undertaken by the Director-General in his consultative process on all outstanding implementation issues under paragraph 12(b) of the Doha Ministerial Declaration, including on issues related to the extension of the protection of geographical indications provided

for in Article 23 of the TRIPS Agreement to products other than wines and spirits and those related to the relationship between the TRIPS Agreement and the Convention on Biological Diversity. We request the Director-General, without prejudice to the positions of Members, to intensify his consultative process on all outstanding implementation issues under paragraph 12(b), if need be by appointing Chairpersons of concerned WTO bodies as his Friends and/or by holding dedicated consultations. The Director-General shall report to each regular meeting of the TNC and the General Council. The Council shall review progress and take any appropriate action no later than 31 July 2006.

*TRIPS &
Public Health*

40. We reaffirm the importance we attach to the General Council Decision of 30 August 2003 on the Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health, and to an amendment to the TRIPS Agreement replacing its provisions. In this regard, we welcome the work that has taken place in the Council for TRIPS and the Decision of the General Council of 6 December 2005 on an Amendment of the TRIPS Agreement.

*Small
Economies*

41. We reaffirm our commitment to the Work Programme on Small Economies and urge Members to adopt specific measures that would facilitate the fuller integration of small, vulnerable economies into the multilateral trading system, without creating a sub-category of WTO Members. We take note of the report of the Committee on Trade and Development in Dedicated Session on the Work Programme on Small Economies to the General Council and agree to the recommendations on future work. We instruct the Committee on Trade and Development, under the overall responsibility of the General Council, to continue the work in the Dedicated Session and to monitor progress of the small economies' proposals in the negotiating and other bodies, with the aim of providing responses to the trade-related issues of small economies as soon as possible but no later than 31 December 2006. We instruct the General Council to report on progress and action taken, together with any further recommendations as appropriate, to our next Session.

*Trade, Debt &
Finance*

42. We take note of the report transmitted by the General Council on the work undertaken and progress made in the examination of the relationship between trade, debt and finance and on the consideration of any possible recommendations on steps that might be taken within the mandate and competence of the WTO as provided in paragraph 36 of the Doha Ministerial Declaration and agree that, building on the work carried out to date, this work shall continue on the basis of the Doha mandate. We instruct the General Council to report further to our next Session.

*Trade &
Transfer of
Technology*

43. We take note of the report transmitted by the General Council on the work undertaken and progress made in the examination of the relationship between trade and transfer of technology and on the consideration of any possible recommendations on steps that might be taken within the mandate of the WTO to increase flows of technology to developing countries. Recognizing the relevance of the relationship between trade and transfer of technology to the development dimension of the Doha Work Programme and building on the work carried out to date, we agree that this work shall continue on the basis of the mandate contained in paragraph 37 of the Doha Ministerial Declaration. We instruct the General Council to report further to our next Session.

- Doha paragraph 19* 44. We take note of the work undertaken by the Council for TRIPS pursuant to paragraph 19 of the Doha Ministerial Declaration and agree that this work shall continue on the basis of paragraph 19 of the Doha Ministerial Declaration and the progress made in the Council for TRIPS to date. The General Council shall report on its work in this regard to our next Session.
- TRIPS non-violation and situation complaints* 45. We take note of the work done by the Council for Trade-Related Aspects of Intellectual Property Rights pursuant to paragraph 11.1 of the Doha Decision on Implementation-Related Issues and Concerns and paragraph 1.h of the Decision adopted by the General Council on 1 August 2004, and direct it to continue its examination of the scope and modalities for complaints of the types provided for under subparagraphs 1(b) and 1(c) of Article XXIII of GATT 1994 and make recommendations to our next Session. It is agreed that, in the meantime, Members will not initiate such complaints under the TRIPS Agreement.
- E-commerce* 46. We take note of the reports from the General Council and subsidiary bodies on the Work Programme on Electronic Commerce, and that the examination of issues under the Work Programme is not yet complete. We agree to reinvigorate that work, including the development-related issues under the Work Programme and discussions on the trade treatment, *inter alia*, of electronically delivered software. We agree to maintain the current institutional arrangements for the Work Programme. We declare that Members will maintain their current practice of not imposing customs duties on electronic transmissions until our next Session.
- LDCs* 47. We reaffirm our commitment to effectively and meaningfully integrate LDCs into the multilateral trading system and shall continue to implement the WTO Work Programme for LDCs adopted in February 2002. We acknowledge the seriousness of the concerns and interests of the LDCs in the negotiations as expressed in the Livingstone Declaration, adopted by their Ministers in June 2005. We take note that issues of interest to LDCs are being addressed in all areas of negotiations and we welcome the progress made since the Doha Ministerial Declaration as reflected in the Decision adopted by the General Council on 1 August 2004. Building upon the commitment in the Doha Ministerial Declaration, developed-country Members, and developing-country Members declaring themselves in a position to do so, agree to implement duty-free and quota-free market access for products originating from LDCs as provided for in Annex F to this document. Furthermore, in accordance with our commitment in the Doha Ministerial Declaration, Members shall take additional measures to provide effective market access, both at the border and otherwise, including simplified and transparent rules of origin so as to facilitate exports from LDCs. In the services negotiations, Members shall implement the LDC modalities and give priority to the sectors and modes of supply of export interest to LDCs, particularly with regard to movement of service providers under Mode 4. We agree to facilitate and accelerate negotiations with acceding LDCs based on the accession guidelines adopted by the General Council in December 2002. We commit to continue giving our attention and priority to concluding the ongoing accession proceedings as rapidly as possible. We welcome the Decision by the TRIPS Council to extend the transition period under Article 66.1 of the TRIPS Agreement. We reaffirm our commitment to enhance effective trade-related technical assistance and capacity building to LDCs on a

priority basis in helping to overcome their limited human and institutional trade-related capacity to enable LDCs to maximize the benefits resulting from the Doha Development Agenda (DDA).

*Integrated
Framework*

48. We continue to attach high priority to the effective implementation of the Integrated Framework (IF) and reiterate our endorsement of the IF as a viable instrument for LDCs' trade development, building on its principles of country ownership and partnership. We highlight the importance of contributing to reducing their supply side constraints. We reaffirm our commitment made at Doha, and recognize the urgent need to make the IF more effective and timely in addressing the trade-related development needs of LDCs.

49. In this regard, we are encouraged by the endorsement by the Development Committee of the World Bank and International Monetary Fund (IMF) at its autumn 2005 meeting of an enhanced IF. We welcome the establishment of a Task Force by the Integrated Framework Working Group as endorsed by the IF Steering Committee (IFSC) as well as an agreement on the three elements which together constitute an enhanced IF. The Task Force composed of donor and LDC members will provide recommendations to the IFSC by April 2006. The enhanced IF shall enter into force no later than 31 December 2006.

50. We agree that the Task Force, in line with its Mandate and based on the three elements agreed to, shall provide recommendations on how the implementation of the IF can be improved, *inter alia*, by considering ways to:

1. provide increased, predictable, and additional funding on a multi-year basis;
2. strengthen the IF in-country, including through mainstreaming trade into national development plans and poverty reduction strategies; more effective follow-up to diagnostic trade integration studies and implementation of action matrices; and achieving greater and more effective coordination amongst donors and IF stakeholders, including beneficiaries;
3. improve the IF decision-making and management structure to ensure an effective and timely delivery of the increased financial resources and programmes.

51. We welcome the increased commitment already expressed by some Members in the run-up to, and during, this Session. We urge other development partners to significantly increase their contribution to the IF Trust Fund. We also urge the six IF core agencies to continue to cooperate closely in the implementation of the IF, to increase their investments in this initiative and to intensify their assistance in trade-related infrastructure, private sector development and institution building to help LDCs expand and diversify their export base.

*Technical
Cooperation*

52. We note with appreciation the substantial increase in trade-related technical assistance since our Fourth Session, which reflects the enhanced commitment of Members to address the increased demand for technical assistance, through both bilateral and multilateral programmes. We note the progress made in the current approach to planning and implementation of WTO's programmes, as embodied in the Technical Assistance and Training Plans adopted by Members, as well as the

improved quality of those programmes. We note that a strategic review of WTO's technical assistance is to be carried out by Members, and expect that in future planning and implementation of training and technical assistance, the conclusions and recommendations of the review will be taken into account, as appropriate.

53. We reaffirm the priorities established in paragraph 38 of the Doha Ministerial Declaration for the delivery of technical assistance and urge the Director-General to ensure that programmes focus accordingly on the needs of beneficiary countries and reflect the priorities and mandates adopted by Members. We endorse the application of appropriate needs assessment mechanisms and support the efforts to enhance ownership by beneficiaries, in order to ensure the sustainability of trade-related capacity building. We invite the Director-General to reinforce the partnerships and coordination with other agencies and regional bodies in the design and implementation of technical assistance programmes, so that all dimensions of trade-related capacity building are addressed, in a manner coherent with the programmes of other providers. In particular, we encourage all Members to cooperate with the International Trade Centre, which complements WTO work by providing a platform for business to interact with trade negotiators, and practical advice for small and medium-sized enterprises (SMEs) to benefit from the multilateral trading system. In this connection, we note the role of the Joint Integrated Technical Assistance Programme (JITAP) in building the capacity of participating countries.

54. In order to continue progress in the effective and timely delivery of trade-related capacity building, in line with the priority Members attach to it, the relevant structures of the Secretariat should be strengthened and its resources enhanced. We reaffirm our commitment to ensure secure and adequate levels of funding for trade-related capacity building, including in the Doha Development Agenda Global Trust Fund, to conclude the Doha Work Programme and implement its results.

*Commodity
Issues*

55. We recognize the dependence of several developing and least-developed countries on the export of commodities and the problems they face because of the adverse impact of the long-term decline and sharp fluctuation in the prices of these commodities. We take note of the work undertaken in the Committee on Trade and Development on commodity issues, and instruct the Committee, within its mandate, to intensify its work in cooperation with other relevant international organizations and report regularly to the General Council with possible recommendations. We agree that the particular trade-related concerns of developing and least-developed countries related to commodities shall also be addressed in the course of the agriculture and NAMA negotiations. We further acknowledge that these countries may need support and technical assistance to overcome the particular problems they face, and urge Members and relevant international organizations to consider favourably requests by these countries for support and assistance.

Coherence

56. We welcome the Director-General's actions to strengthen the WTO's cooperation with the IMF and the World Bank in the context of the WTO's Marrakesh mandate on Coherence, and invite him to continue to work closely with the General Council in this area. We value the General Council meetings that are held with the participation of the heads of the IMF and the World Bank to advance our Coherence mandate. We agree to continue building on that experience and

expand the debate on international trade and development policymaking and inter-agency cooperation with the participation of relevant UN agencies. In that regard, we note the discussions taking place in the Working Group on Trade, Debt and Finance on, *inter alia*, the issue of Coherence, and look forward to any possible recommendations it may make on steps that might be taken within the mandate and competence of the WTO on this issue.

Aid for Trade 57. We welcome the discussions of Finance and Development Ministers in various fora, including the Development Committee of the World Bank and IMF, that have taken place this year on expanding Aid for Trade. Aid for Trade should aim to help developing countries, particularly LDCs, to build the supply-side capacity and trade-related infrastructure that they need to assist them to implement and benefit from WTO Agreements and more broadly to expand their trade. Aid for Trade cannot be a substitute for the development benefits that will result from a successful conclusion to the DDA, particularly on market access. However, it can be a valuable complement to the DDA. We invite the Director-General to create a task force that shall provide recommendations on how to operationalize Aid for Trade. The Task Force will provide recommendations to the General Council by July 2006 on how Aid for Trade might contribute most effectively to the development dimension of the DDA. We also invite the Director-General to consult with Members as well as with the IMF and World Bank, relevant international organisations and the regional development banks with a view to reporting to the General Council on appropriate mechanisms to secure additional financial resources for Aid for Trade, where appropriate through grants and concessional loans.

Recently-acceded Members 58. We recognize the special situation of recently-acceded Members who have undertaken extensive market access commitments at the time of accession. This situation will be taken into account in the negotiations.

Accessions 59. We reaffirm our strong commitment to making the WTO truly global in scope and membership. We welcome those new Members who have completed their accession processes since our last Session, namely Nepal, Cambodia and Saudi Arabia. We note with satisfaction that Tonga has completed its accession negotiations to the WTO. These accessions further strengthen the rules-based multilateral trading system. We continue to attach priority to the 29 ongoing accessions with a view to concluding them as rapidly and smoothly as possible. We stress the importance of facilitating and accelerating the accession negotiations of least-developed countries, taking due account of the guidelines on LDC accession adopted by the General Council in December 2002.

Annex A

Agriculture

Report by the Chairman of the Special Session of the Committee on Agriculture to the TNC

1. The present report has been prepared on my own responsibility. I have done so in response to the direction of Members as expressed at the informal Special Session of the Committee on Agriculture on 11 November 2005. At that meeting, following the informal Heads of Delegation meeting the preceding day, Members made it crystal clear that they sought from me at this point an objective factual summary of where the negotiations have reached at this time. It was clear from that meeting that Members did not expect or desire anything that purported to be more than that. In particular, it was clear that, following the decision at the Heads of Delegation meeting that full modalities will not be achieved at Hong Kong, Members did not want anything that suggested implicit or explicit agreement where it did not exist.

2. This is not, of course, the kind of paper that I would have chosen or preferred to have prepared at this point. Ideally, my task should have been to work with Members to generate a draft text of modalities. But this text reflects the reality of the present situation. There will be – because there must be if we are to conclude these negotiations – such a draft text in the future. I look at this now as a task postponed, but the precise timing of this is in the hands of Members.

3. As for this paper, it is precisely what it is described to be. No more, no less. It is the Chairman's report and, as such, it goes from me to the TNC. It is not anything more than my personal report – in particular, it is not in any sense an agreed text of Members. It does not, therefore, in any way prejudice 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.ⁱ

Based on post-July 2005 proposals, there has been an undeniably significant convergence on the range of cuts. Of course, this has been conditional. But subject to that feature, a great deal of progress has been made since the bare bones of the July 2004 Framework. The following matrix provides a snapshot:

Bands	Thresholds (US\$ billion)	Cuts
1	0-10	31%-70%
2	10-60	53%-75%
3	> 60	70%-80%

De Minimis

On product-specific *de minimis* and non-product-specific *de minimis*, there is a zone of engagement for cuts between 50% and 80% for developed countries.

As regards developing countries, there are still divergences to be bridged. In addition to the exemption specifically provided for in the Framework, there is a view that, for all developing countries, there should be no cut in *de minimis* at all. Alternatively, at least for those with no 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%.ⁱⁱ 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 matrixⁱⁱⁱ provides a snapshot:

Bands	Thresholds (US\$ billion)	Cuts
1	0-12/15	37-60%
2	12/15-25	60-70%
3	>25	70-83%

There is therefore working hypothesis agreement that the European Communities should be in the top tier, and the United States in the second tier. However, while the basis for Japan's placement as between these two tiers has been narrowed, it remains to be finally resolved.

For developed countries in the bottom band, with a relatively high level of AMS relative to total value of agriculture production, there is emerging consensus that their band-related reduction should be complemented with an additional effort.

What is needed now is a further step to bridge the remaining gap in positions – particularly as regards the United States and the European Communities, it being understood that this is not a matter to be resolved in isolation from the other elements in this pillar and beyond.

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^{iv} 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.^v

Exporting State Trading Enterprises

13. There has been material convergence on rules to address trade-distorting practices identified in the July 2004 Framework text, although there are still major differences regarding the scope of practices to be covered by the new disciplines. Fundamentally opposing positions remain, however, on the issue of the future use of monopoly powers. There have been concrete drafting proposals on such matters as definition of entities and practices to be addressed as well as transparency. But there has been no genuine convergence in such areas.

Food Aid

14. There is consensus among Members that the WTO shall not stand in the way of the provision of genuine food aid. There is also consensus that what is to be eliminated is commercial displacement. There 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.^{vi}

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.^{vii} 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.^{viii} We need now to narrow the extent of divergence that remains. This will include whether or not to include any "pivot" in any band.

Members have made strong efforts to promote convergence on the size of actual cuts to be undertaken within those bands. But, even though genuine efforts have been made to move from formal positions (which of course remain), major gaps are yet to be bridged. Somewhat greater convergence has been achieved as regards the thresholds for the bands. Substantial movement is clearly essential to progress.^{ix}

Some Members continue to reject completely the concept of a tariff cap. Others have proposed^x 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.^{xi} 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.^{xii} But significant disagreement on that remains, and divergence is, if anything, somewhat more marked on the connected issue of higher thresholds for developing countries.^{xiii}

Some Members continue to reject completely the concept of a tariff cap for developing countries. Others have proposed^{xiv} 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.^{xv}

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 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^{xvi} 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.^{xvii} 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.

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.^{xviii}

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.^{xix} 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.^{xx}

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.

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.^{xxi}

Notes

Annex B

Market Access for Non-Agricultural Products

Report by the Chairman of the Negotiating Group on Market Access to the TNC

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.

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.

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:

Mode 1

commitments at existing levels of market access on a non-discriminatory basis across sectors of interest to Members

removal of existing requirements of commercial presence

Mode 2

commitments at existing levels of market access on a non-discriminatory basis across sectors of interest to Members

commitments on mode 2 where commitments on mode 1 exist

Mode 3

commitments on enhanced levels of foreign equity participation

removal or substantial reduction of economic needs tests

commitments allowing greater flexibility on the types of legal entity permitted

Mode 4

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

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

MFN Exemptions

removal or substantial reduction of exemptions from most-favoured-nation (MFN) treatment

clarification of remaining MFN exemptions in terms of scope of application and duration

Scheduling of Commitments

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

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.²⁵

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:

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.

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.

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.²⁶

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

²⁵ 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.

²⁶ 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.

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:

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.

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.

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:

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.

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.

Assisting LDCs to enable them to identify sectors and modes of supply that represent development priorities.

Providing targeted and effective technical assistance and capacity building for LDCs in accordance with the LDC Modalities, particularly paragraphs 8 and 12.

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:

Any outstanding initial offers shall be submitted as soon as possible.

Groups of Members presenting plurilateral requests to other Members should submit such requests by 28 February 2006 or as soon as possible thereafter.

A second round of revised offers shall be submitted by 31 July 2006.

Final draft schedules of commitments shall be submitted by 31 October 2006.

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:

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;

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;

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;

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;

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;

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;

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;

note the desirability of applying to both anti-dumping and countervailing measures any clarifications and improvements which are relevant and appropriate to both instruments;

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;

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;

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 submissions²⁷ 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.²⁸ 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.²⁹ Members have also made valuable contributions on the identification of trade facilitation needs and priorities, development aspects, cost implications and inter-agency cooperation.³⁰

²⁷ TN/TF/W/6-W/15, W/17-W/26, W/28, W/30-W/32, 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.

²⁸ TN/TF/W/33, W/41, W/56, W/63, W/73 and W/74.

²⁹ TN/TF/W/57 and W/68.

³⁰ TN/TF/W/29, W/33, W/41, W/62 and W/63.

3. Valuable input has been provided by a number of Members in the form of national experience papers³¹ 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 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

PUBLICATION AND AVAILABILITY OF INFORMATION

Publication of Trade Regulations

³¹ TN/TF/W/48, W/50, W/53, W/55, W/58, W/60, W/61, W/65, W/69 and W/75.

Publication of Penalty Provisions

Internet Publication

of elements set out in Article X of GATT 1994

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

TIME PERIODS BETWEEN PUBLICATION AND IMPLEMENTATION

Interval between Publication and Entry into Force

CONSULTATION AND COMMENTS ON NEW AND AMENDED RULES

Prior Consultation and Commenting on New and Amended Rules

Information on Policy Objectives Sought

ADVANCE RULINGS

Provision of Advance Rulings

APPEAL PROCEDURES

Right of Appeal

Release of Goods in Event of Appeal

OTHER MEASURES TO ENHANCE IMPARTIALITY AND NON-DISCRIMINATION

Uniform Administration of Trade Regulations

Maintenance and Reinforcement of Integrity and Ethical Conduct Among Officials

Establishment of a Code of Conduct

Computerized System to Reduce/Eliminate Discretion

System of Penalties

Technical Assistance to Create/Build up Capacities to Prevent and Control Customs Offences

Appointment of Staff for Education and Training

Coordination and Control Mechanisms

FEEES AND CHARGES CONNECTED WITH IMPORTATION AND EXPORTATION

General Disciplines on Fees and Charges Imposed on or in Connection with Importation and Exportation

Specific Parameters for Fees/Charges

Publication/Notification of Fees/Charges

Prohibition of Collection of Unpublished Fees and Charges

Periodic Review of Fees/Charges

Automated Payment

Reduction/Minimization of the Number and Diversity of Fees/Charges

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

CONSULARIZATION

Prohibition of Consular Transaction Requirement

BORDER AGENCY COOPERATION

Coordination of Activities and Requirement of all Border Agencies

RELEASE AND CLEARANCE OF GOODS

Expedited/Simplified Release and Clearance of Goods

Pre-arrival Clearance

Expedited Procedures for Express Shipments

Risk Management /Analysis, Authorized Traders

Post-Clearance Audit

Separating Release from Clearance Procedures

Other Measures to Simplify Customs Release and Clearance

Establishment and Publication of Average Release and Clearance Times

TARIFF CLASSIFICATION

Objective Criteria for Tariff Classification

MATTERS RELATED TO GOODS TRANSIT

Strengthened Non-discrimination

Disciplines on Fees and Charges

- Publication of Fees and Charges and Prohibition of Unpublished ones
- Periodic Review of Fees and Charges
- More effective Disciplines on Charges for Transit
- 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

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

CROSS-CUTTING SUBMISSIONS

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

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

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.

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)

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)

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)
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)

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)

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)
Proposal for the Use of Factual Presentation Format in Examination Process (TN/RL/W/173)
Second Submission on Regional Trade Agreements by the European Communities (TN/RL/W/179)
Further Submission on Regional Trade Agreements from Australia (TN/RL/W/180)
Submission on Regional Trade Agreements by the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (TN/RL/W/182)
Submission on Regional Trade Agreements by China (TN/RL/W/185)
Submission on Regional Trade Agreements by the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (TN/RL/W/186)
Best Practices for RTAs/FTAs in APEC (TN/RL/W/187)
Submission on Regional Trade Agreements by Japan (TN/RL/W/190)
Fisheries Subsidies (TN/RL/W/196) (co-sponsored with Brazil, Chile, Colombia, Ecuador, Iceland, New Zealand, Pakistan and Peru)
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)

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)

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)

Committee on Trade and Environment, Regular and Special Session

Sub-Paragraph 31 (i) of the Doha Declaration (TN/TE/W/20 and TN/TE/W/40)
Sub-Paragraph 31 (ii) of the Doha Declaration (TN/TE/W/5)
Sub-Paragraph 31 (iii) of the Doha Declaration (TN/TE/W/8, TN/TE/W/34, TN/TE/W/38,
TN/TE/W/52)
Paragraph 33 of the Doha Declaration (WT/CTE/W/227)

Four 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)

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)

MEMBERSHIP OF THE WORLD TRADE ORGANIZATION

as of January 1, 2006 (149 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
Bahrain	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

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

Government	Entry into Force/ Membership	Government	Entry into Force/ Membership
The Gambia	October 23, 1996	United Kingdom	January 1, 1995
Togo	May 31, 1995	United States	January 1, 1995
Trinidad and Tobago	March 1, 1995	Uruguay	January 1, 1995
Tunisia	March 29, 1995	Venezuela	January 1, 1995
Turkey	March 26, 1995	Zambia	January 1, 1995
Uganda	January 1, 1995	Zimbabwe	March 5, 1995
United Arab Emirates	April 10, 1996		

PROPOSED REVISED SCALE OF CONTRIBUTIONS FOR 2006

(Minimum contribution of 0.015 per cent)

Member	2005 Contribution CHF	2006 Contribution		Interest earned ³² CHF	2006 net Contribution CHF
		CHF	%		
Albania	25,110	29,529	0.017%	19	29,510
Angola	128,898	137,223	0.079%	93	137,130
Antigua and Barbuda	25,110	26,055	0.015%	0	26,055
Argentina	684,666	625,320	0.360%	0	625,320
Armenia	25,110	26,055	0.015%	0	26,055
Australia	1,884,924	1,933,281	1.113%	1,604	1,931,677
Austria	2,305,098	2,400,534	1.382%	1,653	2,398,881
Bahrain	125,550	135,486	0.078%	96	135,390
Bangladesh	177,444	182,385	0.105%	37	182,348
Barbados	31,806	31,266	0.018%	0	31,266
Belgium	4,432,752	4,549,203	2.619%	1,838	4,547,365
Belize	25,110	26,055	0.015%	4	26,051
Benin	25,110	26,055	0.015%	11	26,044
Bolivia	40,176	39,951	0.023%	4	39,947
Botswana	58,590	57,321	0.033%	32	57,289
Brazil	1,528,362	1,509,453	0.869%	0	1,509,453
Brunei Darussalam	65,286	62,532	0.036%	28	62,504
Bulgaria	169,074	187,596	0.108%	133	187,463
Burkina Faso	25,110	26,055	0.015%	17	26,038
Burundi	25,110	26,055	0.015%	0	26,055
Cambodia	45,198	50,373	0.029%	0	50,373
Cameroon	56,916	53,847	0.031%	0	53,847
Canada	6,563,754	6,652,710	3.830%	5,658	6,647,052
Central African Republic	25,110	26,055	0.015%	0	26,055
Chad	25,110	26,055	0.015%	0	26,055
Chile	502,200	501,993	0.289%	15	501,978

³² Interest earned in 2004 under the Early Payment Encouragement Scheme (L/6384) and to be deducted from the 2006 contribution.

Member	2005 Contribution CHF	2006 Contribution		Interest earned ³² CHF	2006 net Contribution CHF
		CHF	%		
China, People's Republic of	6,024,726	7,102,593	4.089%	168	7,102,425
Colombia	346,518	338,715	0.195%	0	338,715
Congo	41,850	39,951	0.023%	0	39,951
Costa Rica	170,748	170,226	0.098%	54	170,172
Côte d'Ivoire	103,788	104,220	0.060%	0	104,220
Croatia	232,686	253,602	0.146%	0	253,602
Cuba	108,810	100,746	0.058%	17	100,729
Cyprus	105,462	118,116	0.068%	71	118,045
Czech Republic	897,264	974,457	0.561%	658	973,799
Democratic Republic of the Congo	25,110	26,055	0.015%	0	26,055
Denmark	1,617,084	1,684,890	0.970%	1,158	1,683,732
Djibouti	25,110	26,055	0.015%	0	26,055
Dominica	25,110	26,055	0.015%	0	26,055
Dominican Republic	210,924	206,703	0.119%	0	206,703
Ecuador	135,594	138,960	0.080%	29	138,931
Egypt	418,500	420,354	0.242%	44	420,310
El Salvador	102,114	105,957	0.061%	24	105,933
Estonia	112,158	119,853	0.069%	97	119,756
European Communities	0	-	0.000%	0	0
Fiji	25,110	26,055	0.015%	14	26,041
Finland	1,041,228	1,056,096	0.608%	941	1,055,155
Former Yugoslav Republic of Macedonia	40,176	41,688	0.024%	3	41,685
France	8,624,448	8,723,214	5.022%	7,027	8,716,187
Gabon	56,916	52,110	0.030%	0	52,110
Gambia	25,110	26,055	0.015%	0	26,055
Georgia	25,110	26,055	0.015%	2	26,053
Germany	14,851,728	15,297,759	8.807%	12,228	15,285,531
Ghana	61,938	69,480	0.040%	11	69,469
Greece	733,212	812,916	0.468%	282	812,634
Grenada	25,110	26,055	0.015%	16	26,039
Guatemala	108,810	112,905	0.065%	75	112,830
Guinea	25,110	26,055	0.015%	0	26,055
Guinea-Bissau	25,110	26,055	0.015%	0	26,055
Guyana	25,110	26,055	0.015%	0	26,055
Haiti	25,110	26,055	0.015%	0	26,055
Honduras	65,286	66,006	0.038%	50	65,956
Hong Kong, China	5,226,228	5,301,324	3.052%	4,830	5,296,494
Hungary	838,674	915,399	0.527%	569	914,830
Iceland	73,656	74,691	0.043%	60	74,631
India	1,543,428	1,585,881	0.913%	164	1,585,717
Indonesia	1,294,002	1,314,909	0.757%	610	1,314,299
Ireland	2,085,804	2,148,669	1.237%	1,717	2,146,952
Israel	942,462	951,876	0.548%	713	951,163
Italy	6,841,638	6,939,315	3.995%	4,108	6,935,207
Jamaica	90,396	90,324	0.052%	23	90,301
Japan	10,253,250	10,326,465	5.945%	6,568	10,319,897
Jordan	107,136	109,431	0.063%	60	109,371

Member	2005 Contribution CHF	2006 Contribution		Interest earned ³²	2006 net Contribution
		CHF	%	CHF	CHF
Kenya	73,656	72,954	0.042%	52	72,902
Korea, Republic of	3,995,838	4,264,335	2.455%	1,486	4,262,849
Kuwait	323,082	347,400	0.200%	0	347,400
Kyrgyz Republic	25,110	26,055	0.015%	13	26,042
Latvia	85,374	92,061	0.053%	63	91,998
Lesotho	25,110	26,055	0.015%	19	26,036
Liechtenstein	41,850	43,425	0.025%	36	43,389
Lithuania	140,616	156,330	0.090%	77	156,253
Luxembourg	594,270	625,320	0.360%	490	624,830
Macao, China	108,810	114,642	0.066%	88	114,554
Madagascar	25,110	26,055	0.015%	6	26,049
Malawi	25,110	26,055	0.015%	0	26,055
Malaysia	2,137,698	2,211,201	1.273%	1,821	2,209,380
Maldives	25,110	26,055	0.015%	20	26,035
Mali	25,110	26,055	0.015%	12	26,043
Malta	78,678	79,902	0.046%	69	79,833
Mauritania	25,110	26,055	0.015%	54	26,001
Mauritius	63,612	64,269	0.037%	0	64,269
Mexico	3,878,658	3,975,993	2.289%	2,600	3,973,393
Moldova	25,110	26,055	0.015%	16	26,039
Mongolia	25,110	26,055	0.015%	10	26,045
Morocco	262,818	274,446	0.158%	120	274,326
Mozambique	25,110	27,792	0.016%	3	27,789
Myanmar, Union of	53,568	55,584	0.032%	6	55,578
Namibia	36,828	36,477	0.021%	26	36,451
Nepal	31,806	31,266	0.018%	3	31,263
Netherlands	5,671,512	5,805,054	3.342%	4,157	5,800,897
New Zealand	408,456	429,039	0.247%	358	428,681
Nicaragua	31,806	36,477	0.021%	29	36,448
Niger	25,110	26,055	0.015%	0	26,055
Nigeria	313,038	298,764	0.172%	0	298,764
Norway	1,412,856	1,460,817	0.841%	1,228	1,459,589
Oman	179,118	203,229	0.117%	85	203,144
Pakistan	256,122	265,761	0.153%	178	265,583
Panama	184,140	173,700	0.100%	0	173,700
Papua New Guinea	48,546	46,899	0.027%	0	46,899
Paraguay	73,656	62,532	0.036%	0	62,532
Peru	209,250	210,177	0.121%	0	210,177
Philippines	890,568	863,289	0.497%	0	863,289
Poland	1,213,650	1,297,539	0.747%	1,019	1,296,520
Portugal	934,092	951,876	0.548%	595	951,281
Qatar	152,334	187,596	0.108%	19	187,577
Romania	314,712	357,822	0.206%	85	357,737
Rwanda	25,110	26,055	0.015%	0	26,055
Saint Lucia	25,110	26,055	0.015%	11	26,044
Saudi Arabia, Kingdom of	0	1,304,487	0.751%	0	1,304,487
Senegal	35,154	36,477	0.021%	33	36,444
Sierra Leone	25,110	26,055	0.015%	0	26,055

Member	2005 Contribution CHF	2006 Contribution		Interest earned ³²	2006 net Contribution
		CHF	%	CHF	CHF
Singapore	3,339,630	3,621,645	2.085%	2,889	3,618,756
Slovak Republic	308,016	383,877	0.221%	266	383,611
Slovenia	267,840	279,657	0.161%	219	279,438
Solomon Islands	25,110	26,055	0.015%	0	26,055
South Africa	785,106	809,442	0.466%	1,402	808,040
Spain	4,118,040	4,352,922	2.506%	2,294	4,350,628
Sri Lanka	152,334	152,856	0.088%	56	152,800
St. Kitts and Nevis	25,110	26,055	0.015%	20	26,035
St. Vincent and the Grenadines	25,110	26,055	0.015%	12	26,043
Suriname	25,110	26,055	0.015%	0	26,055
Swaziland	26,784	26,055	0.015%	21	26,034
Sweden	2,281,662	2,336,265	1.345%	2,029	2,334,236
Switzerland	2,430,648	2,471,751	1.423%	2,144	2,469,607
Chinese Taipei	3,259,278	3,289,878	1.894%	2,919	3,286,959
Tanzania	40,176	38,214	0.022%	0	38,214
Thailand	1,627,128	1,719,630	0.990%	1,465	1,718,165
Togo	25,110	26,055	0.015%	0	26,055
Trinidad and Tobago	83,700	86,850	0.050%	31	86,819
Tunisia	215,946	220,599	0.127%	139	220,460
Turkey	1,201,932	1,231,533	0.709%	580	1,230,953
Uganda	26,784	26,055	0.015%	2	26,053
United Arab Emirates	1,007,748	1,099,521	0.633%	0	1,099,521
United Kingdom	9,548,496	9,664,668	5.564%	8,240	9,656,428
United States	26,445,852	26,767,170	15.410%	1,571	26,765,599
Uruguay	83,700	74,691	0.043%	0	74,691
Venezuela	544,050	531,522	0.306%	0	531,522
Zambia	26,784	26,055	0.015%	0	26,055
Zimbabwe	53,568	50,373	0.029%	21	50,352
TOTAL	167,400,000	173,700,000	100.00%	94,840	173,605,160

**2005 PROPOSED CONSOLIDATED REVISED BUDGET FOR THE WTO SECRETARIAT AND
THE APPELLATE BODY AND ITS SECRETARIAT**
(in Swiss francs)

Part	Section	Item	Original 2005 Budget (WT/BFA/70)	Proposed 2005 Revision	Reductions/ Adjustments	Revised proposal 2005
A	Sect 1 Work Years	(a) Salary	77,152,000	77,171,000	(566,000)	76,605,000
		(b) Pension	15,570,700	15,407,800	(143,400)	15,264,400
(c) Common Staff Costs		13,775,800	14,709,200	709,500*	15,418,700	
	Sect 2 Temporary Assistance		15,283,150	14,222,750	0	14,222,750
B	Sect 3 Communications	(a) Telecommunications	754,500	764,500	0	764,500
		(b) Postal Charges	1,455,000	1,355,000	(50,000)	1,305,000
	Sect 4 Building Facilities	(a) Rental	302,400	362,400	0	362,400
		(b) Utilities	1,632,500	1,632,500	0	1,632,500
		(c) Maintenance and Insurance	1,198,000	1,171,000	0	1,171,000
	Sect 5 Permanent Equipment		3,170,850	2,811,100	(120,000)	2,691,100
	Sect 6 Expendable		1,373,000	1,379,000	0	1,379,000
	Sect 7 Contractual Services	(a) Reproduction	1,395,000	1,425,000	(30,000)	1,395,000
		(b) Office Automation	2,184,800	2,227,200	0	2,227,200
		(c) Other	267,000	332,000	0	332,000
(d) Security Outsourcing Contract		0	2,125,100	0	2,125,100	
C	Sect 8 Staff Overheads	(a) Training	515,000	1,020,000	(505,000)	515,000
		(b) Insurance	1,952,700	1,982,700	0	1,982,700
		(c) Joint Services	632,000	177,600	0	177,600
		(d) Miscellaneous	48,500	48,500	0	48,500
Sect 9 Missions	(a) Missions Official	1,191,100	1,191,100	0	1,191,100	
	(b) Missions Technical	1,383,200	1,383,200	0	1,383,200	
Sect 10 TPTC		3,881,000	3,671,000	0	3,671,000	
Sect 11 Various	(a) Representation and Hospitality	284,000	284,000	0	284,000	
	(b) Dispute Settlement Panels	1,217,000	1,217,000	0	1,217,000	
	(d) Appellate Body Members	620,000	620,000	68,100	688,100	
	(e) Library	586,900	586,900	0	586,900	
	(f) Publications	275,000	425,000	0	425,000	
	(g) Public Information Activities	210,000	210,000	0	210,000	
	(h) External Auditors	40,000	40,000	0	40,000	
	(i) Ministerial Operating Fund	600,000	600,000	0	600,000	
	(j) ISO	57,000	57,000	0	57,000	
	(k) Other	90,000	90,000	0	90,000	
	(l) Appellate Body Operating Fund	1,596,800	1,509,500	(368,100)	1,141,400	
(m) Security Enhancement Programme	0	1,805,300	(686,300)	1,119,000		
Sect 12 Unforeseen		Unforeseen	100,000	100,000	0	100,000
D	Sect 13 ITC	ITC	16,009,300	16,977,850	(697,600)	16,280,250
Grand Total			166,804,200	171,092,200	(2,388,800)	168,703,400

* amount is strictly earmarked for separation costs related to the Security Enhancement Programme

2005 PROPOSED REVISED BUDGET FOR THE WTO SECRETARIAT

(in Swiss francs)

Part	Section	Item	2005 Budget (WT/BFA/70)	Proposed 2005 Revision	Reductions/ Adjustments	Revised Proposal 2005
A	Sect 1 Work Years	(a)Salary	75,426,800	75,315,500	(566,000)	74,749,500
		(b)Pension	15,212,800	15,039,600	(143,400)	14,896,200
		(c)Common Staff Costs	13,479,400	14,363,500	709,500*	15,073,000
	Sect 2 Temporary Assistance		15,247,150	14,186,750	0	14,186,750
B	Sect 3 Communications	(a) Telecommunications	748,000	758,000	0	758,000
		(b) Postal Charges	1,455,000	1,355,000	(50,000)	1,305,000
	Sect 4 Building Facilities	(a) Rental	302,400	362,400	0	362,400
		(b) Utilities	1,619,500	1,619,500	0	1,619,500
		(c) Maintenance and Insurance	1,193,000	1,166,000	0	1,166,000
	Sect 5 Permanent Equipment		3,147,850	2,788,100	(120,000)	2,668,100
	Sect 6 Expendable		1,353,000	1,359,000	0	1,359,000
	Sect 7 Contractual Services	(a) Reproduction	1,380,000	1,410,000	(30,000)	1,380,000
		(b) Office Automation	2,184,800	2,227,200	0	2,227,200
		(c)Other	267,000	332,000	0	332,000
		(d) Security Outsourcing Contract	0	2,125,100	0	2,125,100
C	Sect 8 Staff Overheads	(a) Training	490,000	995,000	(505,000)	490,000
		(b) Insurance	1,943,700	1,973,700	0	1,973,700
		(c) Joint Services	632,000	177,600	0	177,600
		(d) Miscellaneous	46,500	46,500	0	46,500
	Sect 9 Missions	(a)Missions Official	1,181,100	1,181,100	0	1,181,100
		(b)Missions Technical	1,383,200	1,383,200	0	1,383,200
	Sect 10 TPTC		3,881,000	3,671,000	0	3,671,000
	Sect 11 Various	(a) Representation and Hospitality	283,000	283,000	0	283,000
		(b) Dispute Settlement Panels	1,217,000	1,217,000	0	1,217,000
		(c) Library	578,900	578,900	0	578,900
		(f) Publications	275,000	425,000	0	425,000
		(g) Public Information Activities	210,000	210,000	0	210,000
		(h) External Auditors	40,000	40,000	0	40,000
		(i) Ministerial Operating Fund	600,000	600,000	0	600,000
		(j) ISO	57,000	57,000	0	57,000
		(k) Other	90,000	90,000	0	90,000
		(m) Security Enhancement Programme	0	1,805,300	(686,300)	1,119,000
	Sect 12 Unforeseen	Unforeseen	100,000	100,000	0	100,000
D	Sect 13 ITC	ITC	16,009,300	16,977,850	(697,600)	16,280,250
Grand Total			162,034,400	166,219,800	(2,088,800)	164,131,000

* amount is strictly earmarked for separation costs related to the Security Enhancement Programme

2005 PROPOSED REVISED BUDGET FOR THE APPELLATE BODY AND ITS SECRETARIAT
(in Swiss francs)

P a r t	Section	Item	Original 2005 Budget (WT/BFA/70)	Proposed 2005 Revision	Reductions/ Adjustments	Revised Proposal 2005
A	Sect 1 Work Years	(a)Salary	1,725,200	1,855,500	0	1,855,500
		(b)Pension	357,900	368,200	0	368,200
		(c)Common Staff Costs	296,400	345,700	0	345,700
	Sect 2 Temporary Assistance		36,000	36,000	0	36,000
B	Sect 3 Communications	(a) Telecommunications	6,500	6,500	0	6,500
	Sect 4 Building Facilities	(b) Utilities	13,000	13,000	0	13,000
		(c) Maintenance and Insurance	5,000	5,000	0	5,000
	Sect 5 Permanent Equipment		23,000	23,000	0	23,000
	Sect 6 Expendable		20,000	20,000	0	20,000
	Sect 7 Contractual Services.	(a) Reproduction	15,000	15,000	0	15,000
C	Sect 8 Staff Overheads	(a) Training	25,000	25,000	0	25,000
		(b) Insurance	9,000	9,000	0	9,000
		(d) Miscellaneous	2,000	2,000	0	2,000
		(a)Missions Official	10,000	10,000	0	10,000
	Sect 9 Missions					
	Sect 11 Various	(a) Representation and Hospitality	1,000	1,000	0	1,000
		(d) Appellate Body Members	620,000	620,000	68,100	688,100
		(e) Library	8,000	8,000	0	8,000
(l) Appellate Body Operating Fund		1,596,800	1,509,500	(368,100)	1,141,400	
Grand Total			4,769,800	4,872,400	(300,000)	4,572,400

**2006 PROPOSED CONSOLIDATED REVISED BUDGET FOR THE WTO SECRETARIAT AND
THE APPELLATE BODY AND ITS SECRETARIAT**

(in Swiss francs)

Part	Section	Line	Original Proposal 2006	Reductions 2006	Revised Proposal 2006
A	Sect 1 Work Years	(a) Salary	80,058,200	(30,700)	80,027,500
		(b) Pension	15,959,000	(6,200)	15,952,800
		(c) Common Staff Costs	15,159,200	-	15,159,200
(d) Restructuring Plan		1,500,000	(1,000,000)	500,000	
	Sect 2 Temporary Assistance		14,550,400	(760,000)	13,790,400
B	Sect 3 Communications	(a) Telecommunications	724,500	(10,000)	714,500
		(b) Postal Charges	1,315,000	-	1,315,000
	Sect 4 Building Facilities	(a) Rental	345,000	-	345,000
		(b) Utilities	1,684,000	(17,000)	1,667,000
		(c) Maintenance and Insurance	1,443,000	-	1,443,000
		(d) Building Maintenance Fund	0	-	-
	Sect 5 Permanent Equipment		3,012,000	(145,000)	2,867,000
	Sect 6 Expendable		1,240,500	(40,000)	1,200,500
	Sect 7 Contractual Serv.	(a) Reproduction	1,415,000	-	1,415,000
		(b) Office Automation	2,665,200	(88,000)	2,577,200
(c) Other		257,000	-	257,000	
(d) Security Outsourcing		2,837,000	-	2,837,000	
C	Sect 8 Staff Overheads	(a) Training	1,000,000	(300,000)	700,000
		(b) Insurance	2,071,500	-	2,071,500
		(c) Joint Services	212,000	-	212,000
		(d) Miscellaneous	32,000	-	32,000
	Sect 9 Missions	(a) Missions Official	1,246,000	-	1,246,000
		(b) Missions Technical	1,443,000	-	1,443,000
	Sect 10 TPTC		3,671,000	(130,000)	3,541,000
	Sect 11 Various	(a) Representation and Hospitality	284,000	-	284,000
		(b) Dispute Settlement Panels	1,467,000	(150,000)	1,317,000
		(c) Experts	50,000	-	50,000
		(d) Appellate Body Members	688,100	-	688,100
		(e) Library	609,000	(5,300)	603,700
		(f) Publications	520,000	(50,000)	470,000
(g) Public Information Activities		340,000	(20,000)	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		77,000	-	77,000	
(l) Appellate Body Operating Fund	1,100,000	-	1,100,000		
(m) Security Enhancement Programme	796,000	-	796,000		
Sect 12 Unforeseen		100,000	-	100,000	
D	Sect 13 ITC		17,341,500	(157,750)	17,183,750
Grand Total			177,910,100	(2,909,950)	175,000,150

2006 PROPOSED REVISED BUDGET FOR THE WTO SECRETARIAT

(in Swiss francs)

Part	Section	Line	Original Proposal 2006	Reductions 2006	Revised Proposal 2006
A	Sect 1 Work Years	(a) Salary	78,100,700	(29,700)	78,071,000
		(b) Pension	15,567,500	(6,000)	15,561,500
		(c) Common Staff Costs	14,790,200	-	14,790,200
(d) Restructuring Plan		1,500,000	(1,000,000)	500,000	
	Sect 2 Temporary Assistance		14,484,800	(760,000)	13,724,800
B	Sect 3 Communications	(a) Telecommunications	718,000	(10,000)	708,000
		(b) Postal Charges	1,315,000	-	1,315,000
	Sect 4 Building Facilities	(a) Rental	345,000	-	345,000
		(b) Utilities	1,671,000	(17,000)	1,654,000
		(c) Maintenance and Insurance	1,438,000	-	1,438,000
		(d) Building Maintenance Fund	0	-	-
	Sect 5 Permanent Equipment		2,976,000	(145,000)	2,831,000
	Sect 6 Expendable		1,220,500	(40,000)	1,180,500
	Sect 7 Contractual Serv.	(a) Reproduction	1,400,000	-	1,400,000
		(b) Office Automation	2,665,200	(88,000)	2,577,200
(c) Other		257,000	-	257,000	
(d) Security Outsourcing		2,837,000	-	2,837,000	
C	Sect 8 Staff Overheads	(a) Training	975,000	(300,000)	675,000
		(b) Insurance	2,059,500	-	2,059,500
		(c) Joint Services	212,000	-	212,000
		(d) Miscellaneous	30,000	-	30,000
Sect 9 Missions	(a) Missions Official	1,236,000	-	1,236,000	
	(b) Missions Technical	1,443,000	-	1,443,000	
Sect 10 TPTC		3,671,000	(130,000)	3,541,000	
Sect 11 Various	(a) Representation and Hospitality	283,000	-	283,000	
	(b) Dispute Settlement Panels	1,467,000	(150,000)	1,317,000	
	(c) Experts	50,000	-	50,000	
	(e) Library	599,000	(5,300)	593,700	
	(f) Publications	520,000	(50,000)	470,000	
	(g) Public Information Activities	340,000	(20,000)	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	77,000	-	77,000	
(m) Security Enhancement Programme	796,000	-	796,000		
Sect 12 Unforeseen		100,000	-	100,000	
D	Sect 13 ITC		17,341,500	(157,750)	17,183,750
Grand Total			173,182,900	(2,908,750)	170,274,150

2006 PROPOSED REVISED BUDGET FOR THE APPELLATE BODY AND ITS SECRETARIAT
(in Swiss francs)

Part	Section	Line	Original Proposal 2006	Reductions 2006	Revised Proposal 2006
A	Sect 1 Work Years	(a) Salary	1,957,500	(1,000)	1,956,500
		(b) Pension	391,500	(200)	391,300
(c) Common Staff Costs		369,000	-	369,000	
	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		36,000	-	36,000
	Sect 6 Expendable		20,000	-	20,000
C	Sect 7 Contractual Serv.	(a) Reproduction	15,000	-	15,000
	Sect 8 Staff Overheads	(a) Training	25,000	-	25,000
(b) Insurance		12,000	-	12,000	
(d) Miscellaneous		2,000	-	2,000	
(a) Missions Official		10,000	-	10,000	
C	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	1,100,000	-	1,100,000
	Grand Total			4,727,200	(1,200)

WAIVERS CURRENTLY IN FORCE
(As of 17 January 2006)

WAIVERS	GRANTED	EXPIRY
United States – Former Trust Territory of the Pacific Islands	14 October 1996	31 December
Canada – CARIBCAN	14 October 1996	31 December
Preferential Tariff Treatment for Least-Developed Countries	15 June 1999	30 June 2000
EC – Autonomous Preferential Treatment to the Countries of the Western Balkans	8 December 2000	31 December
EC – The ACP-EC Partnership Agreement	14 November 2001	31 December
Cuba – Article XV:6 of GATT 1994	20 December 2001	31 December
LDCs – Article 70.9 of the TRIPS Agreement with respect to pharmaceutical products	8 July 2002	1 January 2003
Australia, Brazil, Canada, Israel, Japan, Korea, Philippines, Sierra Leone, Switzerland, Thailand, United Arab Emirates and the United States - Kimberley Process Certification Scheme for rough diamonds	15 May 2003	31 December
(Additional Countries covered by the waiver pursuant to procedures under Paragraph 3 of the Decision: Bulgaria, Croatia, Czech Republic, European Communities,		

WAIVERS	GRANTED	EXPIRY
Hungary, Malaysia, Mauritius, Mexico, Norway, Romania; Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu; Slovenia, Switzerland, Venezuela)		
Albania - Implementation of Specific Concessions – Extension of the staging period of implementation for a number of products	26 May 2005	1 January 2006 1 January 2006 Part A of the 1 January 2006 1 January 2006 Part B of the
Malaysia - Introduction of Harmonized System 1996 Changes into WTO Schedules of Tariff Concessions	27 July 2005	30 April 2006
Panama - Introduction of Harmonized System 1996 Changes into WTO Schedules of Tariff Concessions	27 July 2005	30 April 2006
Argentina - Introduction of Harmonized System 1996 Changes into WTO Schedules of Tariff Concessions	27 July 2005	30 April 2006
Israel - Introduction of Harmonized System 1996 Changes into WTO Schedules of Tariff Concessions	1 December 2005	31 October 2006
Argentina; Australia; Brazil; Bulgaria; Canada; China; Costa Rica; Croatia; El Salvador; European Communities; Hong Kong, China; Iceland; India; Republic of Korea; Macao, China; Mexico; New Zealand; Nicaragua; Norway; Romania; Singapore; Switzerland; Chinese Taipei; Thailand; United States; Uruguay - Introduction of Harmonized System 2002 Changes into WTO Schedules of Tariff Concessions	1 December 2005	31 December 2006

WTO SECRETARIAT PERSONNEL STATISTICS

Number of Staff Members by Job Category on 1 January 2006				
Country	Senior	Professional	Support	Total
Argentina		4	2	6
Australia		7	3	10
Austria		5	1	6
Bangladesh		1		1
Belgium		3	3	6
Benin		1		1
Bolivia		2	1	3
Brazil		4	1	5
Bulgaria		1		1
Canada		24	2	26
Chile	1	2	4	7

China		7	1	8
Colombia		6	1	7
Congo, The Democratic Republic of the		1		1
Costa Rica		2		2
Cuba		1	1	2
Denmark		1	1	2
Ecuador		1		1
Egypt		5		5
Estonia		1		1
Finland		2	2	4
France	1	49	118	168
Germany		14	2	16
Ghana		2		2
Greece		4		4
Honduras			1	1
Hong Kong		1		1
Hungary		1		1
India	1	7	3	11
Ireland		4	7	11
Italy		10	2	12
Ivory Coast			1	1
Japan		4		4
Korea, Republic of		2		2
Lesotho		1		1
Malawi		1		1
Malaysia		2	1	3
Mauritius		1	1	2
Mexico		5		5
Morocco		2		2
Netherland		5	1	6
New Zealand		3	1	4
Nigeria		1		1
Norway		1	1	2
Pakistan		1		1
Paraguay			1	1
Peru		1	6	7
Philippines		7	1	8

Poland		3	2	5
Portugal		1	1	2
Romania		1	1	2
Rwanda	1	1		2
Senegal			1	1
Slovenia		1		1
South Africa		1		1
Spain		24	21	45
Sri Lanka		2	2	4
Sweden		2	2	4
Switzerland		23	14	37
Thailand		2		2
Tunisia		3	2	5
Turkey		3		3
Uganda		1		1
United Kingdom		26	51	77
United States	1	23	4	28
Uruguay		4	3	7
Venezuela		4		4
Zimbabwe		1	1	2
Total	5	336	275	616

Notes: Senior Management includes the Director-General and Deputies Director-General

Annual Average Base Salary

Senior Management **259,386 CHF**

Professional staff **146,642 CHF**

Support staff **94,110 CHF**

Source: WTO Secretariat as of December 31, 2005

WTO ACCESSION APPLICATIONS AND STATUS (as of 12-31-05)¹

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 USAID Mission in Kabul
Algeria (1987)	Last Working Party (WP) meeting held October 21, 2005 to review draft WP report and status of market access negotiations. Next meeting will likely occur in first half of 2006. Through the Commercial Law Development Program (CLDP) of the Department of Commerce, the United States is providing technical assistance.
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)	Third WP meeting held June 30, 2005 to review additional documentation and conduct market access negotiations for goods and services. Next meeting likely in first half of 2006. The United States provides technical assistance (through the Trade Development Administration).
Bahamas (2001)	Application accepted at July 2001 General Council meeting; has not yet submitted initial documentation to activate the accession negotiations.
Belarus (1993)	Seventh WP meeting held May 24, 2005, continued review of outstanding issues and bilateral negotiations on goods and services market access. Factual Summary to be elaborated based on results of last meeting. Next meeting not scheduled, pending receipt of revised market access offers and additional information on certain specific trade and investment measures requested by WP members.
Bosnia Herzegovina (1999)	Second WP meeting held December 6, 2004 to review additional documentation and initiate work on market access commitments. The United States is providing technical assistance through the CLDP. Next meeting likely in first half of 2006.
Bhutan * (1999)	Second WP meeting held October 6, 2005 to continue review of the trade regime and conduct bilateral negotiations on initial market access offers on goods and services. Next meeting likely in first half of 2006.
Cape Verde * (2000)	Informal WP meeting held November 29, 2005 to review draft Working Party report and additional documentation, and negotiate revised goods and services market access offers. Next WP meeting likely to take place in Spring 2006. The United States is providing technical assistance through USAID's Doha Project.
Ethiopia* (2003)	Application accepted at February 2003 General Council meeting; has not yet submitted initial documentation to activate the accession negotiations. The United States is providing technical assistance through USAID's Doha Project.
Iran (2005)	Application for accession to the WTO accepted by the General Council in May 2005; has not yet submitted initial documentation to activate the accession negotiations.
Iraq (2004)	Application for accession to the WTO accepted at December 2004 General Council meeting; Memorandum on the Foreign Trade Regime circulated in September 2005. First meeting of the WP possible in second half of 2006 if a WP Chairman can be identified and Iraq can produce responses to Member questions. The United States is providing technical assistance through USAID.

* Designates "least developed country" applicant.

¹ "Applicant" column includes date the Working Party was formed. Pre-1995 dates indicate that the original WP was formed under the GATT 1947, but was reformed as a WTO Working Party in 1995.

Applicant	Status of Multilateral and Bilateral Work
Kazakhstan (1996)	Last WP meeting held June 7, 2005 to continue review of the draft Working Party report text and legislative implementation and action plans for removal of WTO-inconsistent measures. Revised goods and services market access offers are expected soon. The United States is providing technical assistance through USAID.
Laos * (1998)	First WP meeting held October 28, 2004 to review initial documentation. No market access offers to date. Next WP possible in 2006.
Lebanon (1999)	Third WP meeting held July 8, 2004 to review legislative implementation and plans for removal of WTO-inconsistent measures. Market access negotiations continuing. Next WP meeting likely to be early in 2006. Through USAID, the United States is providing technical assistance.
Libya (2004)	Application accepted at July 2004 General Council meeting. No documentation or market access offers circulated to date.
Montenegro (2005)	February 2005 General Council accepted the withdrawal of the application of the state union of Serbia and Montenegro and established a Working Party for the Accession of the Republic of Montenegro as a separate customs territory. First Working Party meeting held October 4, 2005. The United States is providing technical assistance through USAID.
Russia (1993)	Third revised draft WP report text issued October 15, 2004 and reviewed by Working Parties in five WP meetings through October 2005. Intensive bilateral and multilateral work on protocol, agriculture, and goods and services market access continues. Russia's legislative implementation ongoing. The United States is continuing to provide technical assistance through a variety of means.
Samoa (1998)	*Next informal WP meeting likely in 2006 to review revised draft WP report and continue negotiations on revised market access offers on goods and services tabled in late 2005.
Sao Tome and Principe (2005)*	Application accepted at May 2005 General Council meeting; has not yet submitted initial documentation to activate the accession negotiations.
Saudi Arabia (1993)	General Council approved the terms of accession on November 11, 2005. Saudi Arabia became the 149 th WTO Member on December 11, 2005.
Serbia (2005)	February General Council accepted the withdrawal of the application of the state union of Serbia and Montenegro and established a new Working Party for the Accession of the Republic of Serbia as a separate customs territory. First Working Party meeting held October 7, 2005. The United States is providing technical assistance through USAID.
Seychelles (1995)	Dormant. WP meeting held in March 1998. No recent activity recorded in the WP, legislative implementation, or bilateral goods and services negotiations.
Sudan* (1995)	Second WP meeting held March 10, 2004. Revised market access offers tabled in early 2005. No further meetings are scheduled.
Syria	Application for accession to the WTO first circulated in October 2001. No Council review to date.
Tajikistan (2001)	Second WP meeting held April 26, 2005. Revised market access offers circulated. Through USAID, the United States is providing technical assistance.
Tonga (1995)	Final formal WP meeting held December 1, 2005. Terms of accession were approved at the Sixth Ministerial Meeting in Hong Kong, China. Tonga will become the 150 th Member of the WTO 30 days after it submits its instrument of acceptance of the accession package to the WTO Secretariat, which is expected sometime around mid-2006.
Ukraine (1993)	Last WP meeting held on November 23, 2005, to review the revised draft WP report and legislative progress on implementation since March 2005 meeting. Goods and Services market access discussions are well advanced. The United States is providing technical assistance through CLDP and USAID.
Uzbekistan (1995)	Third WP meeting held October 2005 to review additional documentation and review initial market access offers. Through USAID, the United States is providing technical assistance.

Applicant	Status of Multilateral and Bilateral Work
Vanuatu * (1995)	Dormant. Formal WP meeting October 29, 2001 adopted the protocol package. General Council approval delayed pending reconsideration of status by the Government of Vanuatu.
Vietnam (1995)	Last formal WP meeting held on September 15, 2005 to review draft WP report, status of action plans for legislative implementing of WTO provisions, and additional information on measures in place. Intensive bilaterals with WTO members on goods and services market access throughout 2005. Through USAID, the United States is providing technical assistance for the Bilateral Trade Agreement (BTA). Next WP meeting likely in the first half of 2006.
Yemen * (2000)	Second WP meeting held October 3, 2005 to continue review of trade regime. Yemen is revising its market access offers. The United States is providing technical assistance through UAID.

WORLD TRADE ORGANIZATION

WT/DSB/33
6 March 2003

(03-1283)

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.³³ The list contains the names included in the previous indicative list (WT/DSB/19 and Add.1 through Add.5) and takes into account all the modifications made to that list by Members, in accordance with the requirement that the list should be updated every two years. The new names approved by the DSB in the period between 19 December 2002 and 19 February 2003 are also included in the attached list.

³³Curricula vitae containing more detailed information are available on request from the WTO Secretariat (Council and TNC Division – Room 3105). The curricula vitae which have been submitted on diskette are also available on the Document Dissemination Facility.

COUNTRY	NAME	SECTORAL EXPERIENCE
ARGENTINA	NISCOVOLOS, Mr. L.P.	Trade in Services
	MAKUC, Mr. A.	Trade in Goods and Services
	PÉREZ GABILONDO, Mr. J.L.	Trade in Goods; TRIPS
	RUIZ, Mr. J.A.	Trade in Goods and Services
AUSTRALIA	ARNOTT, Mr. R.J.	Trade in Goods
	CHESTER, Mr. D.O.	TRIPS
	CHURCHE, Mr. M.	Trade in Goods
	GASCOINE, Mr. D.F.	Trade in Goods
	HAWES, Mr. D.C.	Trade in Goods and Services
	HIRD, Miss J.M.	Trade in Goods
	HUSSIN, Mr. P.A.	Trade in Goods
	KENYON, Mr. D.	Trade in Goods and Services
	MAY, Mr. P.H.	Trade in Goods
	O'CONNOR, Mr. P.R.	Trade in Goods
	SMITH, Mr. P.A.	TRIPS
	THOMSON, Mr. G.A.	Trade in Goods and Services
	WAINCYMER, Mr. J.	Trade in Goods
YOUNG, Ms. E.	Trade in Goods	
BRAZIL	ABREU, Mr. M.	Trade in Goods and Services
	ARAUJO, Mr. J.T.	Trade in Goods
	BARRAL, Mr. W.O.	Trade in Goods
	BASSO, Ms. M.	Trade in Goods; TRIPS
	LEMME, Ms. M.C.	Trade in Goods
	MAGALHÃES, Mr. J.C.	Trade in Goods
	MARCONINI, Mr. M.	Trade in Services
	MOTTA VEIGA, Mr. P.L.C.	Trade in Goods and Services
	MOURA ROCHA, Mr. B.	Trade in Services
	NAIDIN, Ms. L.C.	Trade in Goods
OLIVEIRA FILHO, Mr. G.J.	Trade in Goods	

COUNTRY	NAME	SECTORAL EXPERIENCE
	RIOS, Ms. S.M.	Trade in Goods
	SOARES, Mr. G.F.	TRIPS
	THORSTENSEN, Ms. V.H.	Trade in Goods
CANADA	BERNIER, Mr. I.	Trade in Goods and Services
	BRADFORD, Mr. M.V.M.	Trade in Goods and Services
	BROWN, Ms. C.A.	Trade in Goods and Services; TRIPS
	CLARK, Mr. P.J.	Trade in Goods and Services
	CLOSE, Ms. P.	Trade in Goods
	DE MESTRAL, Mr. A.	Trade in Goods
	EYTON, Mr. A.T.	Trade in Goods
	GHERSON, Mr. R.	Trade in Goods
	GOODWIN, Ms. K.M.	Trade in Goods and Services; TRIPS
	HALLIDAY, Mr. A.L.	Trade in Goods and Services
	HERMAN, Mr. L.L.	Trade in Goods
	HINES, Mr. W.R.	Trade in Goods
	MACMILLAN, Ms. K.E.	Trade in Goods
	MCRAE, Mr. D.	Trade in Goods
	OSTRY, Ms. S.	Trade in Goods
	RICHIE, Mr. G.	Trade in Goods
	THOMAS, Mr. J.C.	Trade in Goods and Services
	WINHAM, Mr. M.M.	Trade in Goods
CHILE	BIGGS, Mr. G.	Trade in Goods
	JARA, Mr. A.	Trade in Goods and Services
	MATUS, Mr. M.	Trade in Goods
	PEÑA, Ms. G.	Trade in Goods
	SAEZ, Mr. S.	Trade in Goods and Services
	SATELER, Mr. R.	TRIPS
	TIRONI, Mr. E.	Trade in Goods
COLOMBIA	BARBERI, Mr. F.	Trade in Goods

COUNTRY	NAME	SECTORAL EXPERIENCE
	CÁRDENAS, Mr. M.J.	Trade in Goods and Services; TRIPS
	IBARRA PARDO, Mr. G.	Trade in Goods
	JARAMILLO, Mr. F.	Trade in Goods and Services
COLOMBIA (cont'd)	LEAL ANGARITA, Mr. M.	Trade in Goods and Services
	OROZCO, Ms. A.M.	Trade in Goods
	OROZCO JARAMILLO, Ms. C.Y.	Trade in Goods
CÔTE D'IVOIRE	GOSSET, Mme. M.	Trade in Goods; TRIPS
CROATIA	ŠARČEVIĆ, Mr. P	Trade in Goods and Services
CUBA	CABALLERO RODRÍGUEZ, Mr. E.	Trade in Goods and Services
	HERNÁNDEZ, Mr. A.	Trade in Goods and Services
	MARZIOTA DELGADO, Mr. E.A	Trade in Goods and Services
CZECH REP.	JUNG, Mr. Z.	Trade in Goods and Services
	PALEČKA, Mr. P.	Trade in Goods and Services
	PRAVDA, Mr. M.	Trade in Goods
	ŠRONĚK, Mr. I.	TRIPS
ECUADOR	PINOARGOTE CEVALLOS, Mr. A.	Trade in Goods
EGYPT	ABOUL-ENEIN, Mr. M.I.M.	Trade in Goods and Services
	HATEM, Mr. S.A.	Trade in Goods and Services
	RIAD, Mr. T.F.	Trade in Goods and Services; TRIPS
	SHAHIN, Ms. M.	Trade in Goods and Services; TRIPS
	SHARAFELDIN, Mr. A.	Trade in Goods; TRIPS
	ZAHRAN, Mr. M.M.	Trade in Goods and Services; TRIPS
EUROPEAN COMMUNITIES		
AUSTRIA	BENEDEK, Mr. W.	Trade in Goods

COUNTRY	NAME	SECTORAL EXPERIENCE
	MARTINS, Mr. R.	Trade in Goods
	REITERER, Mr. M.G.K.	Trade in Goods and Services; TRIPS
	WAAS, Mr. G.	Trade in Goods and Services; TRIPS
	WEISS, Mr. J.F.	Trade in Goods and Services; TRIPS
	ZEHETNER, Mr. F.	Trade in Goods
BELGIUM	DASSESE, Mr. M.P.A.	Trade in Goods and Services
	DIDIER, Mr. P.	Trade in Goods
	VAN DER BORGHT, Mr. K.	Trade in Goods
	VANDER SCHUEREN, Ms. P.	Trade in Goods and Services
	ZONNEKEYN, Mr. G.A.	Trade in Goods
DENMARK	BOESGAARD, Mr. H.	Trade in Goods
FINLAND	BERGHOLM, Mr. K.A.	Trade in Goods
	JULIN, Mr. J.K.J.	Trade in Goods and Services
	LUOTONEN, Mr. Y.K.D.	Trade in Goods
	PULLINEN, Mr. M.Y.	Trade in Goods
	RANTANEN, Mr. P.I.	Trade in Goods
FRANCE	ARMAIGNAC, Ms. M.-C.	Trade in Services; TRIPS
	BEAURAIN, Mr. C.	Trade in Services
	COMBALDIEU, Mr. J.C.	TRIPS
	DELLEUR, Mr. P.	Trade in Services
	JENNY, Mr. F.Y.	Trade in Goods and Services; TRIPS
	METZGER, Mr. J-M.	Trade in Goods
	PHAN VAN PHI, Mr. R.	Trade in Goods
	STERN, Mme. B.	Trade in Goods and Services
GERMANY	BARTH, Mr. D.	Trade in Services
	BARTKOWSKI, Mr. D.H.H.	Trade in Services

COUNTRY	NAME	SECTORAL EXPERIENCE
	DELBRÜCK, Mr. K.	Trade in Goods
	HILF, Mr. M.	Trade in Goods and Services
	MENG, Mr. W.	Trade in Goods, TRIPS
	MÖHLER, Mr. R.	Trade in Goods
	von MÜHLENDAHL, Mr. A.	TRIPS
	OPPERMANN, Mr. T.	Trade in Goods; TRIPS
	PETERSMANN, Mr. E-U	Trade in Goods and Services; TRIPS
GERMANY (cont'd)	TANGERMANN, Mr. S.	Trade in Goods
	WITT, Mr. P.J.	Trade in Goods
GREECE	MYROGIANNIS, Mr. G.	Trade in Goods
	STANGOS, Mr. P.N.	Trade in Goods and Services; TRIPS
IRELAND	LONG, Mr. R.	Trade in Goods; TRIPS
	MATTHEWS, Mr. A.H.	Trade in Goods
	MOCKLER, Mr. T.F.	Trade in Goods
ITALY	GERBINO, Mr. M.	Trade in Goods
	GIARDINA, Mr. A.	Trade in Goods and Services
	SCHIRATTI, Mr. G.	Trade in Goods
NETHERLANDS	BLOKKER, Mr. N.M.	Trade in Goods
	BRONCKERS, Mr. M.	Trade in Goods and Services; TRIPS
	ENGERING, Mr. F.A.	Trade in Goods and Services
	HOEKMAN, Mr. B.M.	Trade in Goods and Services; TRIPS
	van de LOCHT, Mr. P.	Trade in Goods and Services
SPAIN	CASTILLO URRUTIA, Mr. J.A.	Trade in Goods
	DÍAZ MIER, Mr. M.Á.	Trade in Services
	LÓPEZ DE SILANES MARTÍNEZ Mr. J.P.	Trade in Goods and Services

COUNTRY	NAME	SECTORAL EXPERIENCE
SWEDEN	ANDERSSON, Mr. T.M.	Trade in Goods
	ANELL, Mr. L.	Trade in Goods; TRIPS
	FALLENIOUS, Mr. C.H.	Trade in Goods
	HÅKANSSON, Mr. G.P.-O.	Trade in Services
	HOLGERSSON, Mr. J.	Trade in Goods and Services
	KLEEN, Mr. P.	Trade in Goods
	LINDSTRÖM, Mr. J.M.	Trade in Goods
SWEDEN (cont'd)	MANHUSEN, Mr. C.	Trade in Goods and Services
	RISINGGÅRD, Mr. A.B.	Trade in Goods
	RODIN, Mr. A.	Trade in Goods; TRIPS
	STÅLBERG, Mr. L.A.	Trade in Goods
UNITED KINGDOM	ARKELL, Mr. J.	Trade in Services
	CROFT, Mr. R.H.F.	Trade in Services
	HINDLEY, Mr. B.V.	Trade in Goods and Services
	JOHNSON, Mr. M.D.C.	Trade in Goods
	MUIR, Mr. T.	Trade in Goods and Services; TRIPS
	PLENDER, Mr. R.	Trade in Goods
	QURESHI, Mr. A.H.	Trade in Goods
	ROBERTS, Mr. C.W.	Trade in Goods and Services
TOULMIN, Mr. J.K.	Trade in Services	
HONG KONG, CHINA	CARTLAND, Mr. M.D.	Trade in Goods and Services
	CHEUNG, Mr. P.K.F.	TRIPS
	LEUNG, Ms. A.K.L.	TRIPS
	LITTLE, Mr. D.	Trade in Goods and Services
	MILLER, Mr. J.A.	Trade in Goods and Services
	SELBY, Mr. S.R.	TRIPS
HUNGARY	FURULYÁS, Mr. F.	Trade in Goods

COUNTRY	NAME	SECTORAL EXPERIENCE
	LAKATOS, Mr. A.	Trade in Goods and Services
ICELAND	BJÖRGVINSSON, Mr. D.T.	Trade in Goods and Services
	JÓHANNSSON, Mr. E.M.	Trade in Goods
	SANDHOLT, Mr. B.	Trade in Goods
INDIA	AGARWAL, Mr. V.K.	Trade in Goods; TRIPS
	AGRAWAL, Mr. R.P.	Trade in Goods and Services; TRIPS
	BHATTACHARYA, Mr. G.C.	Trade in Goods
	CHANDRASEKHAR, Mr. K.M	Trade in Goods and Services; TRIPS
	CHAUDHURI, Mr. S.	Trade in Goods and Services; TRIPS
	DAS, Mr. B.L.	Trade in Goods
	DASGUPTA, Mr. J.	Trade in Goods
	GOYAL, Mr. A.	Trade in Services
	KAUSHIK, Mr. A.	Trade in Goods; TRIPS
	KUMAR, Mr. M.	Trade in Goods and Services
	MOHANTY, Mr. P.K.	Trade in Goods
	MUKERJI, Mr. A.	Trade in Goods and Services; TRIPS
	NARAYANAN, Mr. S.	Trade in Goods; TRIPS
	PRABHU, Mr. P.P.	Trade in Goods; TRIPS
	PRASAD, Ms. A.	Trade in Goods and Services; TRIPS
	RAI, Mr. P.	TRIPS
	RAMAKRISHNAN, Mr. N.	Trade in Goods
	RAO, Mr. P.S.	Trade in Goods
	REGE, Mr. N.V.	Trade in Goods
	SAJJANHAR, Mr. A.	Trade in Goods
	SHARMA, Mr. L.	Trade in Goods and Services; TRIPS
	VENUGOPAL, Mr. K.	Trade in Goods; TRIPS
	WATAL, Mrs. J.	TRIPS
	ZUTSHI, Mr. B.K.	Trade in Goods and Services; TRIPS
ISRAEL	ALTUVIA, Mr. M.	Trade in Goods

COUNTRY	NAME	SECTORAL EXPERIENCE
	GABAY, Mr. M.	TRIPS
	HARAN, Mr. E.F.	Trade in Services
	HOROVITZ, Mr. D.	Trade in Goods and Services
	POLINER, Mr. H.Z.	TRIPS
	SEMADAR, Mr. M.	Trade in Goods
	SHATON, Mr. M.	Trade in Goods and Services
	TALBAR, Mr. M.A.	Trade in Goods
	WEILER, Mr. J.	Trade in Goods
JAPAN	ARAKI, Mr. I	Trade in Goods and Services; TRIPS
	ASAKURA, Mr. H.	Trade in Goods
	ISHIGURO, Mr. K.	Trade in Goods and Services; TRIPS
	IWASAWA, Mr. Y.	Trade in Goods
	KANDA, Mr. H.	Trade in Services
	KEMMOCHI, Mr. N.	Trade in Goods and Services
	KOTERA, Mr. A.	Trade in Goods and Services
	OHARA, Mr. Y.	Trade in Goods; TRIPS
	SHIMIZU, Mr. A.	Trade in Goods
	TAKASE, Mr. T.	Trade in Goods and Services
	TSURUOKA, Mr. K.	Trade in Services
KOREA	CHANG, Mr. S.W.	Trade in Goods
	CHO, Mr. D.Y.	Trade in Goods and Services
	CHO, Mr. T-U	Trade in Goods
	CHOI, Mr. B.I.	Trade in Services
	KIM, Mr. J.B.	Trade in Goods
	LEE, Mr. J.	Trade in Goods
	PARK, Mr. N.	Trade in Goods
	YUN, Mr. Y. G.	Trade in Goods
MADAGASCAR	ANDRIANARIVONY, Mr. M.	Trade in Goods and Services; TRIPS

COUNTRY	NAME	SECTORAL EXPERIENCE
MAURITIUS	BEEKARRY, Mr. N.	Trade in Goods and Services
	BHUGLAH, Mr. A.	Trade in Goods and Services
MEXICO	AGUILAR ÁLVAREZ, Mr. G.	Trade in Goods and Services; TRIPS
	AMIGO CASTAÑEDA, Mr. J.	TRIPS
	DE MATEO VENTURINI, Mr. F.	Trade in Services
	JASSO TORRES, Mr. H.	Trade in Goods
	ORTEGA GÓMEZ, Mr. A.	Trade in Goods and Services; TRIPS
	PEREZCANO DÍAZ, Mr. H.	Trade in Goods and Services; TRIPS
	RAMÍREZ HERNÁNDEZ, Mr. R.	Trade in Goods and Services
	REYES, Ms. L.H.	Trade in Goods
	TRASLOSHEROS HERNÁNDEZ, Mr. J.G.	Trade in Goods and Services; TRIPS
	ZABLUDOVSKY KUPER, Mr. J.	Trade in Goods and Services; TRIPS
NEW ZEALAND	ARMSTRONG, Mr. W.M.V.	Trade in Goods; TRIPS
	CARSON, Mr. C.B.	Trade in Goods
	FALCONER, Mr. C.D.	Trade in Goods
	FALCONER, Mr. W.J.	Trade in Goods and Services; TRIPS
	FARRELL, Mr. R.	Trade in Goods
	GROSER, Mr. T.	Trade in Goods
	HAMILTON, Mr. P.W	Trade in Goods
	HARVEY, Mr. M.W.	Trade in Goods
	HIGGIE, Ms. D.C.	Trade in Goods
	KENNEDY, Mr. P.D.	Trade in Goods
	MACEY, Mr. A.	Trade in Goods; TRIPS
	MCPHAIL, Mr. A.H.	Trade in Goods
	NOTTAGE, Mr. M.J.	Trade in Goods
	SLADE, Ms. M.	Trade in Goods and Services; TRIPS
	TRAINOR, Mr. M.J.	Trade in Goods; TRIPS
	WALKER, Mr. D.J.	Trade in Goods and Services
WOODFIELD, Mr. E.A.	Trade in Goods	

COUNTRY	NAME	SECTORAL EXPERIENCE
NIGER	TANKOANO, Mr. A.	Trade in Goods and Services; TRIPS
NORWAY	LILLERUD, Mr. K.	Trade in Goods
	LUNDBY, Mr. O.	Trade in Goods and Services; TRIPS
	SELAND, Mr. H.A.	Trade in Goods and Services; TRIPS
	TØNSETH, Mr. D.	Trade in Goods and Services; TRIPS
PAKISTAN	NAYYAR, Mr. S.I.M.	Trade in Goods; TRIPS
PANAMA	FRANCIS LANUZA, Ms. Y.	Trade in Goods and Services
	GONZALEZ, Mr. C.E.	Trade in Goods and Services
	HARRIS ROTKIN, Mr. N.	Trade in Goods and Services
	SALAZAR FONG, Ms. D.	Trade in Goods
PERU	DIEZ LIZARDO, Mr. J.	Trade in Goods
POLAND	PIETRAS, Mr. J.	Trade in Services
QATAR	MAKKI, Mr. F.	Trade in Goods and Services
SRI LANKA	JAYASEKERA, Mr. D.	Trade in Goods; TRIPS
SWITZERLAND	ADDOR, Mr. F.	TRIPS
	BREINING, Ms. Ch.	Trade in Services
	CHAMBOVEY, Mr. D.	Trade in Goods
	COTTIER, Mr. Th.	Trade in Goods and Services; TRIPS
	GETAZ, Mr. H.A.	Trade in Services
	HÄBERLI, Mr. C	Trade in Goods
	INEICHEN-FLEISCH, Ms. M.-G.	Trade in Goods and Services
	KRAFFT, Mr. M-C.	Trade in Goods
	TSCHÄNI, Mr. H.	Trade in Goods
	WASESCHA, Mr. L.	Trade in Goods and Services; TRIPS

COUNTRY	NAME	SECTORAL EXPERIENCE
	WEBER, Mr. R.	Trade in Services
TURKEY	KAÇAR, Mr. B.	Trade in Goods
UNITED STATES	BIRENBAUM, Mr. D.E.	Trade in Goods
	BROWN-WEISS, Ms. E.	Trade in Goods and Services
	GANTZ, Mr. D.	Trade in Goods
	GORDON, Mr. M.W.	Trade in Goods
	GREENWALD, Mr. J.A.	Trade in Goods; TRIPS
	HELPER, Ms. R.T.	Trade in Services
	KASSINGER, Mr. T.W.	Trade in Goods and Services
	KIRK, Mr. M.K.	TRIPS
	LAYTON, Mr. D.	Trade in Goods
	LICHTENSTEIN, Ms. C.C.	Trade in Services
	McGINNIS, Mr. J.	Trade in Goods; TRIPS
	PARTAN, Mr. D.G.	Trade in Goods
	REYNA, Mr. J.V.	Trade in Goods and Services
	SHERMAN, Mr. S.	Trade in Goods
	VERRILL, Jr. Mr. C.O.	Trade in Goods
URUGUAY	AMORÍN, Mr. C.	Trade in Goods; TRIPS
	ROSSELLI, Mr. A.O.	Trade in Goods
	VANERIO, Mr. G.	Trade in Goods and Services
	WHITELAW, Mr. J.A.	Trade in Goods
VENEZUELA	ESCOBAR, Mr. J.B.	Trade in Services
	MARQUEZ, Mr. G.	Trade in Services

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)

WORLD TRADE ORGANIZATION

WT/DSB/33/Add.1
27 May 2004

(04-2281)

INDICATIVE LIST OF GOVERNMENTAL AND NON-GOVERNMENTAL PANELISTS

Addendum

At its meetings on 18 March, 15 April, 24 June, 21 July and 29 August 2003 as well as on 17 February, 20 April and 19 May 2004, the Dispute Settlement Body approved the following names for inclusion on the Indicative List of Governmental and Non-Governmental Panelists.³⁴

MEMBER	NAME	SECTORAL EXPERIENCE
BRAZIL	BARTHEL-ROSA, Mr. P.	Trade in Goods
BOLIVIA	ZELADA CASTEDO, Mr. A.	Trade in Goods
CHINA	ZENG, Mr. L.	Trade in Goods
	ZHANG, Mr. Y.	Trade in Goods; TRIPS
	ZHU, Ms. L.	Trade in Services; TRIPS
EUROPEAN COMMUNITIES		
SWEDEN	AHNLID, Mr. A.G.	Trade in Goods and Services; TRIPS
	BÄVERBRANT, Mr. J.C.	Trade in Goods and Services; TRIPS
	BECKER, Ms G.M.	Trade in Goods and Services; TRIPS
	DAHLIN, Ms K.E.	Trade in Goods and Services; TRIPS
	OLOFSGÅRD, Ms E.-K.	Trade in Goods and Services; TRIPS
	RAHLEN, Ms Ch.	Trade in Goods and Services; TRIPS
	TAURIAINEN, Mr. T.M.	Trade in Goods and Services; TRIPS

³⁴ WT/DSB/33.

MEMBER	NAME	SECTORAL EXPERIENCE
UNITED KINGDOM	ROBERTS, Mr. D.F.	Trade in Goods
LIECHTENSTEIN	Ziegler, Mr. A.R.	Trade in Services; TRIPS
PERU	Belaúnde G., Mr. V.A.	TRIPS
SWITZERLAND	PANNATIER, Mr. S.N.	Trade in Goods
THE SEPARATE CUSTOMS TERRITORY OF TAIWAN, PENGHU, KINMEN AND MATSU	LO, Mr. C.F. YANG, Ms G.H.	Trade in Goods and Services Trade in Goods and Services

WORLD TRADE ORGANIZATION

WT/DSB/33/Add.2
12 January 2005
(05-0132)

INDICATIVE LIST OF GOVERNMENTAL AND NON-GOVERNMENTAL PANELISTS

Addendum

At its meetings on 31 August, 27 September, 24 November and 17 December 2004, the Dispute Settlement Body approved the following names for inclusion on the Indicative List of Governmental and Non-Governmental Panelists.³⁵

MEMBER	NAME	SECTORAL EXPERIENCE
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³⁵ WT/DSB/33 and Add.1.

MEMBER	NAME	SECTORAL EXPERIENCE
EUROPEAN COMMUNITIES		
PORTUGAL	CALHEIROS DA GAMA, Mr. J.S.	TRIPS
NEPAL	SUBEDI, Mr. S.P.	Trade in Goods and Services; TRIPS
	PANDEY, Mr. P.R.	Trade in Goods and Services
NIGERIA	NNONA, Mr. G.C.	Trade in Goods and Services; TRIPS
URUGUAY	CAYRÚS MAURÍN, Mr. H.	Trade in Goods and Services
VENEZUELA	ROJAS PENSO, Mr. J.F.	Trade in Goods and Services

WORLD TRADE ORGANIZATION

WT/DSB/33/Add.3
6 December 2005

(05-5802)

INDICATIVE LIST OF GOVERNMENTAL AND NON-GOVERNMENTAL PANELISTS

Addendum

At its meetings on 19 May, 18 October and 28 November 2005, the Dispute Settlement Body approved the following names for inclusion on the Indicative List of Governmental and Non-Governmental Panelists.³⁶

MEMBER	NAME	SECTORAL EXPERIENCE
EUROPEAN COMMUNITIES		
SPAIN	PÉREZ, Mr. J.L.	Trade in Goods and Services; TRIPS
	RIGO, Mr. A.	Trade in Services
UNITED KINGDOM	BETHLEHEM, Mr. D.	Trade in Goods and Services; TRIPS
PAKISTAN	MALIK, Mr. R.A.	Trade in Goods

MEMBERSHIP OF THE WTO APPELLATE BODY

In 2005, the membership of the WTO Appellate Body was as follows:

Mr. G M Abi-Saab (Egypt),
Mr. A V Ganesan (India),
Professor Merit E. Janow (United States),
Mr. Yasuhei Taniguchi (Japan)

Professor Luiz Olavo Baptista (Brazil),
Mr. John S. Lockhart (Australia),
Professor Giorgio Sacerdoti (Italy),

BIOGRAPHICAL NOTES:

³⁶ WT/DSB/33 and Add.1 & 2.

Georges Michel Abi-Saab

Born in Egypt on 9 June 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 advocate and Counsel 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 and as Judge on the Appeals Chamber of the International Criminal Tribunals for the Former Yugoslavia and for Rwanda. He is a Commissioner of the United Nations Compensation Commission and a Member of the Administrative Tribunal of the International Monetary Fund and of various international arbitral tribunals.

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 (UNCTAD), the United Nations Center on Transnational Corporations (UNCTC), and the United Nations Development Programme (UNDP).

He obtained his law degree from the Catholic University of São Paulo, pursued post-graduate studies at Columbia University Law School and The Hague Academy of International Law, and received a Ph.D in International Law from the University of Paris II. He was Visiting Professor at the University of Michigan (Ann Arbor) in 1978-1979, and at the University of Paris I and the University of Paris X between 1996 and 2000. Professor Baptista has published extensively on various issues in Brazil and abroad.

Arumugamangalam Venkatachalam Ganesan

Born in Tirunelveli, Tamil Nadu, India on 7 June 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 (UNCTC), 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 (UNDP), 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.

Merit E. Janow

Born in the United States on 13 May 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 US Trade Representative for

Japan and China (1990-93), and worked as a corporate lawyer specializing in mergers and acquisitions with the law firm Skadden, Arps, Slate, Meagher & Flom in New York (1988-90).

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 panellist from September 2001 to May 2002 in the dispute European Communities — Trade Description of Sardines (WT/DS231).

John S. Lockhart

Born in Australia on 2 October 1935, John S. Lockhart was Executive Director at the Asian Development Bank in the Philippines (ADB) from July 1999 to 2002, working closely with developing member countries on the development of programmes directed to poverty alleviation through the promotion of economic growth. His other duties for the ADB included the development of law reform programmes and assisting in the provision of advice on legal questions, notably the interpretation of the ADB's Charter, international treaties and United Nations instruments.

Prior to joining the ADB, Mr. Lockhart served as Judicial Reform Specialist at the World Bank focusing on strengthening legal and judicial institutions and working closely with developing countries and economies in transition in their projects of judicial and legal reform.

Since graduating in arts and law from the University of Sydney in 1958, Mr. Lockhart's professional experience has included Judge, Federal Court of Australia (1978-1999); President of the Australian Competition Tribunal (1982-1999); Deputy President of the Australian Copyright Tribunal (1981-1997); and Queen's Counsel, Australia and the United Kingdom Privy Council (1973-1978). He was appointed an Officer of the Order of Australia in 1994 for services to the law, education and the arts.

Giorgio Sacerdoti

Born on 2 March 1943, Giorgio Sacerdoti is Professor of International Law and European Law at Bocconi University, Milan, Italy, since 1986.

Professor Sacerdoti has held various posts in the public sector including Vice-Chairman of the Organisation for Economic Cooperation and Development (OECD) Working Group on Bribery in International Business Transactions until 2001 where he was one of the drafters of the “Anticorruption Convention of 1997”. He has acted as consultant to the Council of Europe, the United Nations Conference on Trade and Development (UNCTAD) and the World Bank in matters related to foreign investments, trade, bribery, development and good governance. In the private sector, he has often served as arbitrator in international commercial disputes and at the International Centre for Settlement of Investment Disputes. Professor Sacerdoti has published extensively on international trade law, investments, international contracts and arbitration.

After graduating from the University of Milan with a law degree summa cum laude in 1965, Professor Sacerdoti gained a Master in Comparative Law from Columbia University Law School as a Fulbright Fellow in 1967. He was admitted to the Milan bar in 1969 and to the Supreme Court of Italy in 1979. He is a Member of the Committee on International Trade Law of the International Law Association.

Yasuhei Taniguchi

Born in Japan on 26 December 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.

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.

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Biographic backgrounds

Membership
General Council activities
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Schedules of future WTO meetings
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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

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ANNEX III

U.S. TRADE-RELATED AGREEMENTS

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)

- North American Free Trade Agreement (signed December 17, 1992; implementing legislation signed December 8, 1993)
 - 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)
- 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)

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)
- U.S.-Australia Agreement on the Establishment of a Free Trade Area (signed May 18, 2004; entry 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)

Bangladesh

- Bilateral Investment Treaty (July 25, 1989)

Belarus

- Agreement on Bilateral Trade Relations (February 16, 1993)
- Agreement regarding Imports of Certain Fiberglass Fabric (February 17, 2000; extended and amended January 10, 2003; amended May 13, 2004).

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)
- 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)
- Exchange of notes extending bilateral agreement on Trade in Textiles and Textile Products (December 31, 2001)

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)
- U.S.-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)

Chile

- United States-Chile Free Trade Agreement (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; renewed February 1, 2001)
- 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)

Colombia

- Memorandum of Understanding on Trade in Bananas (January 9, 1996)

Congo, Democratic Republic of the (formerly Zaire)

- Bilateral Investment Treaty (July 28, 1989)

Congo, Republic of the

- Bilateral Investment Treaty (August 13, 1994)

Costa Rica

- Memorandum of Understanding on Trade in Bananas (January 9, 1996)

Croatia

- Memorandum of Understanding on Intellectual Property Rights (May 26, 1998)
- Bilateral Investment Treaty (June 20, 2001)

Czech Republic

- Bilateral Investment Treaty (December 19, 1992)

Ecuador

- Agreement on Intellectual Property Rights Protection (October 15, 1993)
- Bilateral Investment Treaty (May 11, 1997)

Egypt

- Bilateral Investment Treaty (June 27, 1992)

Estonia

- Bilateral Investment Treaty (February 16, 1997)

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 Measure 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)

Georgia

- Agreement on Bilateral Trade Relations (August 13, 1993)
- Bilateral Investment Treaty (August 17, 1997)

Grenada

- Bilateral Investment Treaty (March 3, 1989)

Hong Kong

- Agreement to Implement Phase I and Phase II of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (April 4, 2005)
- Memorandum of Understanding Between the United States of America and the Hong Kong Special Administrative Region Concerning Cooperation in Trade in Textile and Apparel Goods (August 1, 2005)

Honduras

- Memorandum of Understanding on Worker Rights (November 15, 1995)
- Bilateral Investment Treaty (July 11, 2001)

Hungary

- Agreement on Trade Relations (July 7, 1978)
- Agreement on Intellectual Property Rights Protection (September 29, 1993)
- Agreement on Comprehensive Trade Package on Tariff Reduction (April, 2002)

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)

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.-Graded 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)

Jordan

- Agreement Between U.S. and Hashemite Kingdom of Jordan on the Establishment of a Free Trade Area (December 17, 2001)
- Bilateral Investment Treaty (June 12, 2003)

Kazakhstan

- Agreement on Bilateral Trade Relations (February 18, 1993)
- Bilateral Investment Treaty (January 12, 1994)

Korea

- Record of Understanding on Intellectual Property Rights (August 28, 1986)
- Agreement on Access of U.S. Firms to Korea's Insurance Markets (August 28, 1986)
- Record of Understanding Concerning Market Access for Cigarettes (May 27, 1988; amended October 16, 1989)
- Agreement Concerning the Korean Capital Market Promotion Law (September 1, 1988)
- Agreement on the Importation and Distribution of Foreign Motion Pictures
 - (December 30, 1988)
- Agreement on Market Access for Wine and Wine Products (January 18, 1989)
- Investment Agreement (May 19, 1989)
- Agreement on Liberalization of Agricultural Imports (May 25, 1989)
- Record of Understanding on Telecommunications (January 23, 1990)
- Record of Understanding on Telecommunications (February 15, 1990)
- Exchange of Letters Regarding the 1986 Intellectual Property Rights Agreement: Product Pipeline Protection (February 22, 1990)
- Record of Understanding on Beef (March 21, 1990)
- Exchange of Letters on Beef (April 26 and 27, 1990)

- Agreement on Wine Access (December 19, 1990)
- Record of Understanding on Telecommunications (February 7, 1991)
- Agreement on International Value-Added Services (June 20, 1991)
- Understanding on Telecommunications (February 17, 1992)
- Exchange of Letters Relating to Korea Telecom Company's Procurement of AT&T Switches (March 31, 1993)
- Beef Agreements (June 26, 1993; December 29, 1993)
- Record of Understanding on Agricultural Market Access in the Uruguay Round (December 13, 1993)
- Exchange of Letters on Telecommunications Issues Relating to Equipment Authorization and Korea Telecom Company's Procurement (March 29, 1995)
- Agreement on Steel (July 14, 1995)
- Shelf-Life Agreement (July 20, 1995)
- Revised Cigarette Agreement (August 25, 1995)
- Memorandum of Understanding to Increase Market Access for Foreign Passenger Vehicles in Korea (September 28, 1995)
- Exchange of Letters on Implementation of the 1992 Telecommunications Agreement (April 12, 1996)
- Korean Commitments on Trade in Telecommunications Goods and Services (July 23, 1997)
- Agreement on Korean Motor Vehicle Market (October 20, 1998)
- Exchange of Letters Regarding Tobacco Sector Related Issues (June 14, 2001)
- Exchange of Letters on Data Protection (March 12, 2002)
- Record of Understanding between the Governments of the United States and the Republic of Korea Regarding the Extension of Special Treatment for Rice (February 2005)
- Agreement to Implement Phase I of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (May 10, 2005)

Kyrgyzstan

- Agreement on Bilateral Trade Relations (August 21, 1992)
- Bilateral Investment Treaty (January 12, 1994)

Latvia

- Agreement on Trade & Intellectual Property Rights Protection (January 20, 1995)
- Bilateral Investment Treaty (December 26, 1996)

Lithuania

- Bilateral Investment Treaty (November 22, 2001)

Laos

- Bilateral Trade Agreement (entered into force February 4, 2005)

Macedonia

- Exchange of notes extending bilateral agreement on Trade in Textiles and Textile Products (June 2, 2000)
- Memorandum of Understanding Establishing Outward Processing Program (September 17, 1999)

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)
- U.S.-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)

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)

Nepal

- Exchange of notes extending bilateral agreement on Trade in Textiles and Textile Products (July 13, 2000)

Nicaragua

- Bilateral Intellectual Property Rights Agreement with Nicaragua (December 22, 1997)

Norway

- Agreement on Procurement of Toll Equipment (April 26, 1990)

Panama

- Bilateral Investment Treaty (May 30, 1991)
- Agreement on Bilateral Trade Relations (1994)

Paraguay

- Memorandum of Understanding on Intellectual Property Rights (March 30, 2004)

Peru

- Memorandum of Understanding on Intellectual Property Rights (May 23, 1997)

Philippines

- Protection and Enforcement of Intellectual Property Rights (April 6, 1993)

- Agreement regarding Pork and Poultry Meat (February 13, 1998)

Poland

- Business and Economic Treaty (August 6, 1994)
- Bilateral Investment Treaty (August 6, 1994)
- Agreement on Comprehensive Trade Package on Tariff Reduction (September, 2002)

Romania

- Agreement on Bilateral Trade Relations (April 3, 1992)
- Bilateral Investment Treaty (January 15, 1994)
- Memorandum of Understanding Establishing Outward Processing Program (September 10, 1999)

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)
- 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 on Russian Firearms & Ammunition (April 3, 1996)
- Exchange of notes extending bilateral agreement on Trade in Textiles and Textile Products (February 26, 2001)

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

- Agreement on Bilateral Trade Relations (April 12, 1990)
- Bilateral Investment Treaty (December 19, 1992)

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)
- U.S.-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)

Uruguay

- Bilateral Investment Treaty (October 25, 2004)

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)
- Agreement on Trade in Textiles and Textile Products (July 17, 2003; renewed July 22, 2004)

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)

Bilateral Agreements

Bahrain

- United States - Bahrain Agreement on the Establishment of a Free Trade Area (signed September 14, 2004; entry into force pending)

Belarus

- Bilateral Investment Treaty (signed January 15, 1994; pending exchange of instruments)

Dominican Republic/Central America

- The Dominican Republic - Central America - United States Free Trade Agreement (signed August 5, 2004; pending approval)

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)

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); pending exchange of instruments)
- 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); pending exchange of instruments)

EUROPEAN UNION

- Agreement between the United States of America and the European Community on Trade in Wine (signature and entry into force pending).

Lithuania

- Trade and Intellectual Property Rights Agreement (April 26, 1994; requires approval by Lithuanian legislature)

Mozambique

- Bilateral Investment Treaty (exchange of instruments took place February 2, 2005 and enters into force March 2, 2005)

Nicaragua

- Bilateral Investment Treaty (signed July 1, 1995; pending ratification by United States and exchange of instruments of ratification.)

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 May 2005. 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 Telecommunication 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)

Bilateral Agreements 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)

Bahrain

- United States-Bahrain Trade and Investment Framework Agreement (June 18, 2002)

Brunei Darussalam

- United States-Brunei Darussalam Trade and Investment Framework Agreement (December 16, 2002)

Central Asian Economies

- United States-Central Asian Trade and Investment Framework Agreement (June 1, 2004)

Chile

- U.S.-Chile Joint Commission on Trade and Investment (May 19, 1998)

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)

Ghana

- United States-Ghana Trade and Investment Framework Agreement (February 26, 1999)

Indonesia

- United States-Indonesia Understanding on a Trade and Investment Council (1996)

Japan

- United States-Japan Joint Statement on the Bilateral Steel Dialogue (September 24, 1999)

Kuwait

- United States-Kuwait Trade and Investment Framework Agreement (February 6, 2004)

Malaysia

- United States-Malaysia Trade and Investment Framework Agreement (May 10, 2004)

Mongolia

- United States-Mongolia Trade and Investment Framework Agreement (July 15, 2004)

Morocco

- United States-Morocco Trade and Investment Framework Agreement (March 16, 1995)

Mozambique

- United States-Mozambique Trade and Investment Framework Agreement (June 21, 2005)

Nigeria

- United States-Nigeria Trade and Investment Framework Agreement (February 16, 2000)

Oman

- United States-Oman Trade and Investment Framework Agreement (July 7, 2004)

Philippines

- United States-Philippines Trade and Investment Framework Agreement (1989)

Qatar

- United States-Qatar Trade and Investment Framework Agreement (March 19, 2004)

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)

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)

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)