

**WTO Members
(As of 28 February 2005)**

Albania	France	Nepal
Angola	Gabon	Netherlands
Antigua and Barbuda	The Gambia	New Zealand
Argentina	Georgia	Nicaragua
Armenia	Germany	Niger
Australia	Ghana	Nigeria
Austria	Greece	Norway
Bahrain, Kingdom of	Grenada	Oman
Bangladesh	Guatemala	Pakistan
Barbados	Guinea	Panama
Belgium	Guinea Bissau	Papua New Guinea
Belize	Guyana	Paraguay
Benin	Haiti	Peru
Bolivia	Honduras	Philippines
Botswana	Hong Kong, China	Poland
Brazil	Hungary	Portugal
Brunei Darussalam	Iceland	Qatar
Bulgaria	India	Romania
Burkina Faso	Indonesia	Rwanda
Burundi	Ireland	Saint Kitts and Nevis
Cambodia	Israel	Saint Lucia
Cameroon	Italy	Saint Vincent & the Grenadines
Canada	Jamaica	Senegal
Central African Republic	Japan	Sierra Leone
Chad	Jordan	Singapore
Chile	Kenya	Slovak Republic
China	Korea, Republic of	Slovenia
Colombia	Kuwait	Solomon Islands
Congo	Kyrgyz Republic	South Africa
Costa Rica	Latvia	Spain
Côte d'Ivoire	Lesotho	Sri Lanka
Croatia	Liechtenstein	Suriname
Cuba	Lithuania	Swaziland
Cyprus	Luxembourg	Sweden
Czech Republic	Macao, China	Switzerland
Democratic Republic of the Congo	Madagascar	Chinese Taipei
Denmark	Malawi	Tanzania
Djibouti	Malaysia	Thailand
Dominica	Maldives	Togo
Dominican Republic	Mali	Trinidad and Tobago
Ecuador	Malta	Tunisia
Egypt	Mauritania	Turkey
El Salvador	Mauritius	Uganda
Estonia	Mexico	United Arab Emirates
European Communities	Moldova	United Kingdom
Fiji	Mongolia	United States of America
Finland	Morocco	Uruguay
Former Yugoslav Republic of Macedonia (FYROM)	Mozambique	Venezuela
	Myanmar	Zambia
	Namibia	Zimbabwe

This report is also available in French and Spanish
(Price: CHF 50.00)

To order, please contact:
WTO Publications
World Trade Organization
154, rue de Lausanne - CH-1211 Geneva 21
Tel: (41 22) 739 52 08 - Fax: (41 22) 739 57 92
Email: publications@wto.org

ISSN 1020-4997
ISBN 92-870-3307-2
Printed in Switzerland
V-2005-3,000
© World Trade Organization 2005



Foreword by the Director-General

This year marks the 10th Anniversary of the WTO. It is an occasion for us to reflect on the ten years that have passed and consider ways of preserving and improving those things we have done well, while addressing areas where we can do better. As one of the contributions to this exercise we have included a special section in this year's Annual Report to review some of the important developments in the WTO since 1995 and to identify some of the challenges that lie ahead. On balance, I can say with confidence that these past ten years have been a success. We have learned important lessons about transparency and inclusiveness, and that there is no alternative to the global trading system in international commerce.

The increasing public interest in the WTO's work since its creation in 1995 has been matched by a growing demand for more information about the organization and the multilateral trading system. The WTO Secretariat has worked to meet this expectation by expanding its information activities to include a broader range of publications, an extensive Internet site and numerous outreach activities.

This *Annual Report* is a guide and compendium covering the institutional aspects of the WTO, its regular activities, the work of WTO Members, and the Secretariat's budget and staff. The *World Trade Report*, published at mid-year, provides research and analysis of problems and issues which currently confront the global trading system.

In the fall of each year the WTO publishes its detailed compilation of *International Trade Statistics*. These annual publications constitute a comprehensive review of trade issues, developments and initiatives for each year. They are part of the WTO's continuing efforts to work in a manner which is transparent, informative and in tune with the expectations of the public around the world.

A handwritten signature in black ink, reading "S. Panitchpakdi". The signature is written in a cursive, flowing style.

Supachai Panitchpakdi
Director-General

Table of Contents

Chapter One – Overview

Introduction	2
Trade developments	2
The Doha Development Agenda	3
Full implementation of the Agreement on Textiles and Clothing	5
WTO regular activity	5

Chapter Two – WTO activities

PART I	10
I. The Doha Development Agenda (DDA)	10
II. WTO accession negotiations	29
III. Work of the General Council	29
IV. Trade in goods	31
V. Trade in services	42
VI. Trade-related aspects of intellectual property rights (TRIPS)	43
VII. Resolution of trade conflicts under the WTO's Dispute Settlement Understanding	43
VIII. Trade Policy Review Mechanism	57
IX. Committee on Balance-of-Payments Restrictions	58
X. Committee on Regional Trade Agreements	58
XI. Committee on Trade and Development	59
XII. Committee on Trade and Environment	63
XIII. Committee on Budget, Finance and Administration	64
XIV. Plurilateral Agreements	64
PART II	66
I. Cooperation with other international organizations and relations with civil society	66
II. Public information activities	75
Annex I – Trade Policy Review Body – Concluding remarks by the Chair of the Trade Policy Review Body	75
Annex II – WTO Publications	86

Chapter Three – Organization, Secretariat and budget

The organization	100
Secretariat	102
WTO Secretariat: Divisions	105
WTO budget 2005	110

WTO 10th Anniversary

WTO 10 th Anniversary – highlights of the first decade	119
Ministerial conferences	119
Accessions to the WTO: 1995–2005	122
Trade in services	123
Market access	132
Agriculture	137
The TRIPS Agreement	141
WTO dispute settlement	144
The WTO Appellate Body	146
Rules	149
Trade policies review	150
Trade and environment	151
Government procurement	153
Competition policy	154
Coherence	154
Trade and finance	154
Textiles	155
Technical cooperation and training	156
Development	159
Economic Research	161
Trade statistics	162
WTO library	163
External Relations	164
Public and media information	165

List of tables, charts and boxes

Chapter Two – WTO activities

Table II.1	Waivers under Article IX of the WTO Agreement	31
Table II.2	Exporters subject to initiations of countervailing investigations, 1 July 2003 – 30 June 2004	38
Table II.3	Summary of countervailing duty actions, 1 July 2003-30 June 2004	38
Table II.4	Summary of anti-dumping actions, 1 July 2003 – 30 June 2004	40
Table II.5	Exporters subject to two or more initiations of anti-dumping investigations, 1 July 2003 – 30 June 2004	40
Table II.6	Request for consultations.....	56
Box II.1	Background on the Integrated Framework.....	63
Table II.7	NGO attendance at ministerial conferences.....	67
Table II.8	International intergovernmental organizations – Observer Status in the WTO (as at 2 July 2004).....	69
Table II.9	International intergovernmental organizations – Observer status in the WTO.....	70
Table II.10	Observer status in certain other bodies	73
Table II.11	International intergovernmental organizations – Observer status in committees under the plurilateral trade agreements.....	74

Chapter Three – Organization, Secretariat and budget

Table III.1	Table of regular staff by nationality	105
Table III.2	Distribution of staff positions within the WTO's various divisions	105
Table III.3	WTO Secretariat budget for 2005.....	111
Table III.4	Budget for the Appellate Body and its Secretariat, 2005.....	111
Table III.5	Members' contributions to the WTO budget and the budget of the Appellate Body, 2005	112

WTO 10th Anniversary

Chart 1	Sector focus of current commitments, November 2004	125
Table 1	Commitments of different groups of Members, November 2004	125
Chart 2	Sector profile of initial offers, November 2004.....	131
Chart 3	Content of initial offers (new commitments versus improvements), November 2004	131
	Number of TRTA activities	158
	WTO technical assistance – expenditure.....	158
	WTO technical assistance – resources	159

Abbreviations and symbols

APEC	Asia-Pacific Economic Cooperation
ASEAN	Association of South-East Asian Nations
CEFTA	Central European Free Trade Agreement
CIS	Commonwealth of Independent States
ECU	European currency unit
EFTA	European Free Trade Association
EU	European Union
FDI	Foreign direct investment
GDP	Gross Domestic Product
GNP	Gross National Product
IMF	International Monetary Fund
LAIA	Latin American Integration Association
MERCOSUR	Southern Common Market
NAFTA	North American Free Trade Agreement
OECD	Organisation for Economic Cooperation and Development
TOT	terms of trade
UNCTAD	United Nations Conference on Trade and Development
c.i.f.	cost, insurance and freight
f.o.b.	free on board
n.a.	not available

The following symbols are used in this publication:

...	not applicable
0	figure is zero or became zero due to rounding
\$	United States dollars

Billion means one thousand million.

Minor discrepancies between constituent figures and totals are due to rounding.

Unless otherwise indicated, (i) all value figures are expressed in US dollars; (ii) trade figures include the intra-trade of free trade areas, customs unions, regional and other country groupings; (iii) merchandise trade figures are on a customs basis, and (iv) merchandise exports are f.o.b. and merchandise imports are c.i.f. Data for the latest year are provisional.

Chapter One

OVERVIEW

Introduction

2004 has been a very active and productive year for the multilateral trading system, both in terms of progress in the Doha Development Agenda (DDA) as well as in the WTO's regular work. These developments have taken place against the backdrop of a much healthier global economy. The DDA was given an important boost with Members' decision in July on a package of measures to concretely advance the negotiations in some of the areas which had, until then, been among the most difficult and intractable. The July Decision of the General Council put the DDA firmly back on track after the disappointing outcome to the WTO's Fifth Ministerial Conference in Cancún. With progress in all areas, in particular on agriculture, and a determination on the future treatment of the "Singapore issues", the parameters of the negotiations are clearer. The challenge now before Members is to build upon these foundations in order to develop the consensus necessary to conclude the Round. This will require considerable technical work as well as serious political commitment and determination.

Work has also continued in settling disputes, providing surveillance of Members' trade policies, and implementing the Uruguay Round agreements. By the end of 2004, the total number of cases brought to the WTO's dispute settlement system had risen to 324. Between January 2004 and the end of March 2005, 21 Trade Policy Reviews were conducted. The year 2004 also saw the end of the ten-year transitional implementation period of the Agreement on Textiles and Clothing which had been agreed as part of the Uruguay Round. This brought to an end more than 40 years of trade restricting textiles quotas.

In addition, the WTO Secretariat has continued to intensify its efforts to provide more and varied technical assistance activities as well as to reach out to the wider public. Over the course of the year more than 450 technical assistance activities were undertaken. Efforts have also been made to step up policy coherence with the Bretton Woods institutions. Two General Council meetings were devoted to coherence in 2004.

Furthermore the WTO is becoming a more universal organization. Following domestic ratification procedures, Cambodia and Nepal became WTO Members in 2004. This brings the total WTO Membership up to 148. As of 31 December 2004, 28 Governments were actively pursuing accession to the WTO. Coping with an increasingly large and diverse membership is among the major challenges facing the WTO. With this in mind, the Director-General had asked a group of eminent persons to reflect upon the systemic challenges the WTO faces and how this institution could be reinforced and equipped to meet them. In January 2005, this group, chaired by Peter Sutherland, released their Report: "The Future of the WTO: Addressing Institutional Challenges in the New Millennium". The Report and its recommendations are currently under consideration by WTO Members.

Trade developments

In 2004, the world economy recorded its strongest growth in more than a decade, providing the foundations for an expansion of world trade. World GDP grew by 4 per cent and world merchandise trade rose by 9 per cent in real terms. The year 2004 also witnessed a narrowing of the gap between the regional GDP growth rates of the fastest growing and the least dynamic regions between 2003 and 2004. As in recent years, developing Asia and Commonwealth of Independent States (CIS) member countries reported the strongest output growth worldwide, at 7 to 8 per cent. South America's GDP growth accelerated to 6 per cent in 2004, the region's strongest growth since 1986. North America's growth picked up in 2004, reaching 4.3 per cent, which slightly exceeds the global average. Provisional data for Africa and the Middle East point to an economic growth in 2004 close to the global average. This would represent a marked improvement against the record of the 1990s. There were some weaker spots, however, on the global economic map. The euro area recorded growth of 2.3 per cent which is only a marginal improvement in economic activity. In Japan, economic growth ground to a halt after the first quarter of 2004 but still gained an average expansion of 2.6 per cent on a year to year basis.

This output and trade growth was achieved against the background of sharply higher prices for fuels and many other primary commodities. The decline of FDI flows observed from 2002 through 2003 was arrested and reversed in 2004. Major exchange rate adjustments in 2004 included the further appreciation of most European currencies and many Asian currencies vis-à-vis the US dollar. The euro and the yen, in particular, appreciated on an annual average basis by 9 per cent and 6.5 per cent respectively.

The lower value of the US dollar against the currencies of major traders combined with the marked rise in the prices for fuels, metals and many agricultural raw materials led to an increase in the dollar prices of internationally traded goods by 10 per cent. Under the combined impact of stronger real trade growth and the marked increase in prices, the dollar value of world merchandise trade rose by 21 per cent, reaching \$8.88 trillion dollars. Commercial services exports are estimated to have increased by 16 per cent to \$2.1 trillion. The acceleration in the value growth of commercial services trade can be partly attributed to the recovery in travel expenditure. As in 2003, however, commercial services trade measured on a balance of payments basis lagged behind that of world merchandise trade and as in the previous year the sharp rise in commodity prices again played a major role in this outcome.

The Doha Development Agenda

The Doha Development Agenda saw some very positive advances in 2004 building on the elements that had emerged at and since the WTO's Fifth Ministerial Conference held in Cancún in 2003. The Trade Negotiations Committee and its subsidiary bodies were reactivated in early 2004. A principal objective for the first-half of the year was to take the necessary actions that would re-energize the negotiations. Substantive preparations towards framework-level agreements as part of a broader package to be agreed at the July meeting of the General Council began immediately after the appointment of a new slate of officers for regular WTO bodies, including the General Council and the negotiating bodies in February 2004. Intensive consultations were held by the Chairman of the General Council and by the Director-General as Chairman of the TNC. The challenge was to translate the strong political commitment to the success of the DDA negotiations into concrete action.

On 8 June 2004 the General Council Chairman announced at an informal meeting at the level of Heads of Delegation that the July Decision could cover nine main elements including agriculture, cotton, non-agricultural market access, development and Singapore issues. After very intensive consultations both in Geneva and also in capitals, the first draft of the General Council Decision was circulated to Members for their consideration on 16 July 2004. After further consultations and revisions the Decision was further revised and adopted by Members in the evening of 31 July.

Members welcomed the adoption of the July Decision as a breakthrough and said that it would reinvigorate the negotiations and assist Members to achieve the objectives set in Doha in November 2001. It was stressed that while the July Decision provided important signposts, it was imperative for Members to build on it by continuing to engage intensively and work in a spirit of compromise to advance the negotiating agenda.

The Framework on Agriculture which was agreed as part of the July package has been a major step forward in this technically complex and politically sensitive area. It fleshes out the Doha mandate by establishing specific objectives for the negotiations on agriculture and the means to achieve them. While the Framework has left many political issues for resolution at the subsequent stage of the negotiations, it already reflects important movements towards convergence in all three pillars of market access, export competition and domestic support, including the historic commitment to eliminate all forms of export subsidization at a date to be agreed. As part of this agreement, Members achieved a breakthrough in cotton which is so important to cotton farmers in developing countries, particularly least-developed countries in West Africa. For many WTO Members, particularly developing countries, a good market access deal in agriculture, coupled with the elimination of all forms of export subsidization and substantial reductions in trade-distorting support, holds the promise of ample new growth and employment opportunities through trade, including through broadening the avenues for mutually advantageous South-South trade.

Likewise the framework on non-agricultural market access (NAMA) was to be a stepping stone towards full modalities. As discussions on this subject were pursued, it became clear that two approaches were being espoused. There were those Members who sought to keep the NAMA text which originated from the second revision of the draft Cancún Ministerial Text (the so-called Derbez text) unchanged. While there were others who wished to negotiate that text and introduce amendments. The compromise reached was to include a new paragraph 1 to that original text to give an overall level of comfort.

In services, Members agreed to submit their revised offers by the end of May 2005; outstanding initial offers should be tabled as soon as possible. Concerns had been expressed that the negotiations on services were falling behind in relation to the other two market access negotiations. By the end of 2004, almost two years after the target date for the submission of initial offers, there remained not only a very significant number of Members who had not yet done so, but there was also a sense of dissatisfaction with the substance contained in the offers that had been submitted. Moreover, on the rule-making side of the negotiations (domestic regulation, emergency safeguard measures, government procurement, and subsidies) that had been continued after the Uruguay Round, relatively little progress has been achieved, with the possible exception of domestic regulation, over the past 12 months.

Agreement was also finally reached on how the "Singapore Issues" – trade facilitation, trade and investment, trade and competition policy and transparency in government procurement – should be handled. Negotiations are to be launched on trade facilitation, while the other three issues will not be negotiated in this Round.

The July Decision commits Members to fulfilling the development dimension of the DDA and sets out a roadmap for further pursuing the review of special and differential treatment. During the course of 2004, work on special and differential treatment had focussed on trying to build upon the progress that had been achieved up to the WTO's Fifth Ministerial Conference where Members had agreed in principle to 28 agreement-specific proposals, but had not adopted them. Accordingly, work in the Special Session of the Committee on Trade and Development mainly focussed on exploring a broader and more overarching approach to special and differential treatment in the WTO, so as to break the impasse and try and reach an agreement on possible recommendations for the remaining Agreement-specific proposals. It is hoped that this approach or some of the elements contained therein, would help to achieve convergence on the remaining work and enable the Special Session to "report to the General Council, with clear recommendations for a decision" by July 2005 as mandated in the July Decision.

Over the course of 2004, work also continued on all other areas of the Doha Development Agenda.

Although the work of the Negotiating Group on Rules was for a time delayed after the Ministerial Conference in Cancún, work resumed in the spring and intensified during the course of the year. In the area of Anti-Dumping and Subsidies and Countervailing Measures including Fisheries Subsidies, the Group shifted emphasis from a formal process of issue identification to an informal process involving an in-depth examination of detailed elaborated proposals submitted by participants. The focus of the Group's informal work was on trade remedies, an area attracting 21 out of 28 elaborated proposals submitted.

In the area of regional trade agreements (RTA), considerable progress has been achieved in identifying the essential elements for an improvement in transparency of such agreements. More focused discussions are needed at this stage to further the work on RTA systemic issues.

In trade and environment, Members continued to explore the relationship between WTO rules and specific trade obligations in multilateral environmental agreements (MEA). Two approaches have been pursued in parallel under this mandate, and are still underway. The first has consisted of national experience sharing on the negotiation and implementation of trade measures in MEAs; and the second of a discussion of certain potential outcomes. Members have also stepped up work on the mandate relating to trade liberalization in environmental goods. The inputs of various international organizations such as UNCTAD and the World Customs Organization at the October meeting, as well as at a WTO Workshop on Environmental Goods, contributed to this.

Negotiations also continued with respect to improving and clarifying the Dispute Settlement Understanding. These negotiations had been extended in July 2003, with the new target date to conclude the negotiations set for May 2004. In the first half of the year, the Chairman of the Dispute Settlement Body Special Session urged Members to work together towards building the basis for an agreement. By May, some delegations had made some additional written contributions to the negotiations, which were welcomed by participants, and the Chairman was able to report additional progress to the Trade Negotiations Committee. Although a final outcome still had not been reached by the end of May 2004, there was agreement among Members that the Special Session continued to need more time to complete its work. Accordingly, the General Council adopted, in the context of the so-called July Package, a recommendation for the continuation of work in the Special Session, but this time with no specific target date. In the second half of the year, work continued on the basis in particular of the additional written contributions put forward by some Members, allowing good progress on the specific issues covered in these texts, which include remand, "sequencing" and post-retaliation issues. The negotiations on the Dispute Settlement Understanding fall outside the single undertaking of the DDA.

Full implementation of the Agreement on Textiles and Clothing

2004 was the last year of implementation of the WTO Agreement on Textiles and Clothing (ATC). In the last quarter of the year, on the basis of the Comprehensive Report by the Textiles Monitoring Body (TMB) and documents by Members, the Council for Trade in Goods (CTG) conducted the final major review of implementation of the third stage of integration of the Agreement. The review was successfully concluded on 9 December, the same day that the TMB held its 117th and final meeting.

Due to concerns raised by Members regarding expected adjustment challenges, the CTG considered an item on "Post-ATC Adjustment Related Issues". The discussions provided a better understanding of the challenges faced by concerned Members and how they could be better addressed. Members are continuing with consultations with the active and positive support of the Bretton Woods institutions.

ATC expiry and the conclusion of the ten-year transitional implementation period, not only has the potential to contribute to increased global welfare and efficiency gains, but also enhanced the institutional and legal stability and predictability of the multilateral trading system. It was a historic achievement.

WTO regular activity

Dispute settlement

In 2004, the dispute settlement mechanism continued to maintain a high level of activity. Members initiated 19 new cases over the year, bringing the total number of cases over the first ten years of operation of the dispute settlement to a remarkable 324 (with about half of these cases eventually leading to the establishment of a panel). The DSB established seven new panels, 11 panel reports were circulated, and five appeals were notified. Appellate Body and/or panel reports were adopted in eight cases. Eight authorizations to retaliate were also granted, all in respect of a single matter. These figures confirm Members' continued confidence in the dispute settlement system of the WTO, and also indicate the system's continued ability to handle a relatively heavy caseload.

Trade policy review

The WTO also continued to perform its surveillance of Members' trade policies and practices. Between January 2004 and end of March 2005, 21 Trade Policy Reviews were conducted by the Trade Policy Review Body. This exercise continues to be highly appreciated and valued by Members as one of the main elements providing transparency to trade regimes and in bringing greater understanding of, and hence providing improved adherence to, the rules and principles that underpin the multilateral trading system. Increasingly, also, the exercise has become an important element in technical cooperation and capacity building for developing and least-developed countries.

Technical assistance and capacity-building

The WTO again took on a high level of commitment in providing technical assistance and capacity-building to developing countries, supported by a corresponding level of financial commitment from donor Members. This is in recognition of the considerable expertise all countries need in order to exercise their WTO rights and obligations, to reap the benefits of membership in the multilateral trading system, and to participate more fully in the negotiations – defining their interests and understanding the implications of proposals by other players.

In order to enhance the relevance and effectiveness of technical assistance, a new approach to the design of the 2004 Technical Assistance and Training Plan was adopted. The Plan was articulated around a set of products, with clearly defined objectives for each, which together with a greater degree of flexibility in implementation, was designed to increase responsiveness to the needs of Members. Over 450 activities were undertaken in the course of the year. These included eight three-month trade policy courses, held both in Geneva and in specific regions. In addition to the usual aims of such courses to provide broad but intensive training in all aspects of the WTO, the ones held regionally aimed at developing local capacity for training and analysis through partnerships with local academic institutions and with academics from within the region.

Many of the technical assistance activities were undertaken jointly between the WTO and other international agencies. The WTO continued to be active in two large-scale joint programmes: the Integrated Framework for Least-Developed Countries (IF), and the Joint Integrated Technical Assistance Programme to Selected Least-developed and other African Countries (JITAP). The Integrated Framework entered a new phase with the completion of its second evaluation in February 2004. The IF Work Programme, adopted by the IF Steering Committee, outlines broad areas of action and governs the operations of the IF until the Sixth WTO Ministerial Conference. At the end of 2004, 37 LDCs were at different stages of the IF process.

Ways were sought to strengthen inter-agency cooperation in technical assistance and capacity building. The need to help developing countries address supply side constraints so they are able to better benefit from opportunities arising from participation in the multilateral trading system is recognised, and involves action that goes beyond the mandate and competence of the WTO.

The WTO Secretariat also organized two one-week briefing sessions on WTO issues and the status of the negotiations, in May and November 2004, for those WTO Members and Observers that do not have a representation in Geneva. Representatives from 29 regional economic organizations were also invited to these two "Geneva weeks". This activity which was started in November 1999 has proven to be very popular and offers representatives of WTO Members without missions in Geneva an opportunity to keep abreast of the status of work in different WTO bodies, including the negotiating bodies. In addition, the Geneva Weeks also provide participants with the opportunity to meet some of their trading partners and for them to visit other Geneva-based international organizations.

Strengthening the WTO as an institution

WTO continues to become a more universal and global organization. Following domestic ratification, Nepal and Cambodia were received as Members in 2004. These were the first two LDCs to accede under the special procedures for LDCs established in 1995. The total membership of the WTO now stands at 148. Working Parties were established for Afghanistan, Iraq and Libya in 2004. As of 31 December 2004, 28 Governments were actively pursuing accession to the WTO.

The year 2004 was also notable year in terms of WTO relations with civil society, parliamentarians and parliamentary groupings and international intergovernmental organizations. The WTO hosted its public symposium in May 2004 which focused on the Doha Development Agenda. Attracting a record number of 800 participants from governments, parliaments, civil society, the business sector, academia and the media, the symposium has become an important fixture on the yearly calendar of trade-related international events. It is part of a broader ongoing effort by the WTO to engage with civil society. The WTO further extended its programme of outreach activities for civil society and parliamentarians. A first-ever regional workshop for civil society representatives in French-speaking Africa was held in Senegal in November. There were also regional workshops conducted in New Zealand (for parliamentarians from the Pacific), Morocco (for parliamentarians from Francophone Africa), and Singapore (for parliamentarians from various Asian countries). The workshops are designed to help civil society representatives and legislators better understand the WTO. Over the course of the year, the WTO continued its active and constructive engagement with the United Nations system and other international intergovernmental organizations, including through attendance at key international conferences and participation in regular meetings of the relevant institutions.

Efforts were also made to step up policy coherence with the Bretton Woods institutions. During 2004 there were two General Council meetings devoted to Coherence issues. At the first meeting, the Acting Managing Director of the IMF, Ms. Anne Krueger, presented the IMF's new lending policy – the Trade Integration Mechanism. Under the Trade Integration Mechanism IMF financing is being made available to help Members cope with balance-of-payments adjustment that is brought about by the effects of multilateral trade liberalization on their economies – for example the erosion of trade preferences resulting from the reduction of MFN tariffs, and the effects of the ending of import quotas on textiles and clothing exports. The Managing Director of the IMF, Mr. de Rato, and the President of the World Bank, Mr. Wolfensohn, participated in the second meeting, at which they underlined their strong support for the Doha Development Agenda.

The WTO Secretariat has also been active in its research output, including through the release of the 2004 World Trade Report in September. This includes a focus on the role of international cooperation in securing policy coherence as well as essays on: non-reciprocal preferences and the multilateral trading system; the liberalization of services trade through the temporary movement of labour and geographical indications. This is the second of such reports and is designed to deepen public understanding of trade and trade-related

policy issues and to contribute to a more informed consideration of the options facing governments.

As a contribution to debates about how to strengthen the WTO for the future, the Director-General had asked eight eminent persons to form a Consultative Board to reflect upon the systemic challenges the WTO faces and how this institution could be reinforced and equipped to meet them. In January 2005, this group, chaired by Peter Sutherland, released their Report: "The Future of the WTO: Addressing Institutional Challenges in the New Millennium". The Report and its recommendations are currently under consideration by WTO Members.

Chapter Two

WTO ACTIVITIES

WTO documents referred to in this report are identified by individual codes (ex. WT/L/476) which can be used to find and download them from the WTO website at www.wto.org. Look under Documents for the Documents Online database. To retrieve a specific document select the Search function and insert the document code in the "document symbol" window.

PART I

This chapter provides an outline of the main activities of the WTO during 2004.

I. The Doha Development Agenda (DDA)

The Fourth WTO Ministerial Conference was held in Doha, Qatar, from 9 to 14 November 2001. Ministers adopted a Ministerial Declaration setting out a broad work programme for the WTO for the coming years. This work programme, called the Doha Development Agenda, incorporates both expanded negotiations – going beyond the mandated negotiations in agriculture and services which started in 2000 – as well as other activities and decisions designed to address the challenges facing the trading system and interest of the diverse membership of the WTO.

Ministers also adopted a Decision on Implementation-Related Issues and Concerns which represented a significant and credible effort to address the concerns of developing countries regarding their experience with the implementation and operation of existing WTO Agreements, and to facilitate their active participation in the WTO and fuller integration into the multilateral trading system. Under the Decision, Ministers took immediate action to address a number of the concerns raised by developing-country Members and agreed that remaining implementation issues would be addressed in the course of the future work programme of the WTO as set out in the Ministerial Declaration. Ministers further directed that WTO technical assistance should focus, as a matter of priority, on assisting developing countries in this area of activity.

A Declaration on the TRIPS Agreement and Public Health was also adopted by Ministers, in response to the concerns expressed about the possible implications of the TRIPS Agreement for access to drugs. The Declaration emphasizes that the TRIPS Agreement does not and should not prevent Members from taking measures to protect public health and reaffirms the right of Members to use to the full the provisions of the TRIPS Agreement which provide flexibility for this purpose. It makes clear that the TRIPS Agreement should be interpreted and implemented in a manner supportive of WTO Members' right to protect public health. The Declaration includes a number of important clarifications of some of the forms of flexibility available in the Agreement, in particular compulsory licensing and parallel importation. In addition, it provides for an extension until 2016 of the transition period for least-developed countries in regard to the protection and enforcement of patents and undisclosed information with respect to pharmaceutical products.

The negotiations to be pursued under the Doha Declaration were to be concluded no later than 1 January 2005. Negotiations on the Dispute Settlement Understanding were to be concluded no later than May 2003, and those on a multilateral register of geographical indications for wines and spirits, by the Fifth Ministerial Conference in 2003. Progress was to be reviewed at the Fifth Ministerial Conference in Cancún, Mexico, from 10-14 September 2003.

The negotiations take place in a Trade Negotiations Committee which was set up by the Doha Declaration, which in turn assigned it to create subsidiary negotiating bodies to handle individual negotiating subjects. The Trade Negotiations Committee (TNC) operates under the authority of the General Council. Other work under the work programme takes place in other WTO councils and committees.

In a Decision on the Doha Work Programme adopted in July 2004, the General Council agreed 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 to be held in Hong Kong, China from 13-18 December 2005 (see under the following section). The General Council also agreed that negotiations on the Dispute Settlement Understanding would continue on the basis set out by the Chairman of those negotiations in his report to the Trade Negotiations Committee in June 2004. It was further agreed that the General Council and other relevant bodies would report in line with their Doha mandates to the Hong Kong Ministerial Conference, and also that the moratoria in the Doha Decision on Implementation-related Issues and Concerns, and in the Doha Declaration, would be extended until that Conference.

Follow-up to the Fifth Session of the Ministerial Conference

At the Cancún Ministerial Conference in September 2003, WTO Ministers instructed that their officials continue working on outstanding issues, and that this work be coordinated by the General Council Chairman, in close cooperation with the Director-General, with the aim of taking the action necessary by December 2003 to enable Members to move towards a successful and timely conclusion of the negotiations. Ministers also undertook to maintain the high level of convergence on texts in those areas where this had been reached.

As part of specific action to follow up on Ministers' directives, Members agreed in discussions organized soon after Cancún by the Chairman of the General Council and Director-General that initial work would focus on four key outstanding issues which emerged as important concerns and key elements in further progress – Agriculture, Cotton, Non-Agricultural Market Access and the "Singapore" issues – with the understanding that this focus would not in any way lessen the importance of the other issues within the Doha Development Agenda. On this basis, the Chairman of the General Council, in close cooperation with the Director-General, conducted a series of intensive consultations with Member Governments, both in Geneva as well as in capitals, with a view to moving the process forward, focussing on these key outstanding issues. In their report to the General Council in December 2003, the Chairman and the Director-General identified key issues for further work in each of the four areas, stressing once again that the initial focus on these four areas in no way lessened the importance of the other issues within the Doha Development Agenda, in particular of the specific development-related issues within the DDA, which would need full attention in 2004 in line with the Doha mandates. Regarding further work on these and other issues under the DDA, their report recommended that all of the DDA bodies should resume their work early in 2004 to build on the elements that had emerged at and since Cancún, and that the TNC should be reactivated to carry out its Doha mandate to supervise the progress and overall conduct of the negotiations. The next Council Chairman, together with the Director-General, would continue to maintain oversight of those aspects of the DDA which fell outside the TNC's mandate.

Accordingly, in 2004, Members restarted work across the whole breadth of the DDA in line with the Doha mandates and the Council Chair's statement in December 2003, including on a number of specific development-related issues. There also emerged a widely-shared understanding in early 2004 that work under the DDA in the first half of the year should result in an outcome by the end of July that would unlock key issues and provide momentum and direction to guide Members' work across all fronts after July. The basic premise that emerged through numerous consultations was that the task was to take the action necessary, at the level of the General Council, to ensure continued progress of the negotiations and the work programme as a whole. Substantive elements for the so-called July package began to emerge from work on substantive issues undertaken in the TNC and relevant negotiating groups, as well consultations conducted by the Chairman of the General Council on the handling of the "Singapore" issues – trade facilitation, transparency in government procurement, interaction between trade and competition policy, and relationship between trade and investment – in the work programme.

On the basis of the work undertaken in the relevant negotiating groups and by their Chairs acting as Facilitators, as well as intensive consultations undertaken by the General Council Chairman and Director-General on issues that could be progressed through such consultations, a first overall draft text of the July package was put to Members for consideration on 16 July as a platform for further, more intensive work through to the end of July. Following the circulation of this first text, the Chairman and Director-General arranged a further process of consultations in order to facilitate Members' efforts to resolve outstanding issues and move towards agreement on a final text, leading up to a General Council meeting at the end of July. In the lead-up to this General Council meeting, WTO Ministers also met intensively in various formats and groupings around the world, including at the concluding stages of the discussions in Geneva.

At the end of July, following two weeks of intense negotiations, Members finally fulfilled the goal of taking the necessary decisions on key issues to ensure continued progress of the negotiations, and to put the DDA back on track. In the Decision of the General Council, framework agreements were put in place for the negotiations on agriculture – including cotton – and non-agricultural market access. Members also agreed to a package on development issues, and took a decision to begin negotiations on trade facilitation and that the other three "Singapore" issues would not be negotiated during this Round. Members further agreed to continue the negotiations beyond the timeframe of 1 January 2005 set in the Doha Ministerial Declaration and that the next Ministerial Conference would be held in Hong Kong, China in December 2005. The Decision demonstrated Members' commitment

to fulfilling the Doha mandates and a sense of the path towards that shared goal, leaving the way open to moving ahead with renewed momentum and a sense of purpose towards a successful conclusion of the Round.¹

In addition to its work culminating in the July Decision on the Doha Work Programme, the General Council, as part of its overall review and oversight function, continued to keep under regular review the work of the TNC under a standing item on its agenda. Also, in keeping with the framework and procedures agreed in March 2002 for the conduct of the work programme on small economies provided for in the DDA, the General Council reviewed the progress of work in this area under a standing item on its agenda. The substantive work relating to this work programme is undertaken in dedicated sessions of the Committee on Trade and Development. With regard to the harmonization work programme in the rules of origin area, in view of the technically complex and politically important issues that remain to be considered, the General Council extended to July 2005 the deadline for completion of negotiations on core policy issues. Work on these issues was continued over the period under review in consultations conducted by the Chairman of the Committee on Rules of Origin, at the request and on behalf of the General Council Chair. Following resolution of the core policy issues, the WTO Committee on Rules of Origin is to complete the remaining technical work by 31 December 2005. Furthermore, in follow-up to the provisions of the July Decision on the Doha Work Programme regarding the sectoral initiative on cotton, the General Council in December received a report by the Director-General on the development assistance aspects of Cotton.

Work Programme

The paragraphs below follow the order of the Work Programme as set out in the Doha Declaration and the Decision on Implementation-related issues and concerns. The relevant mandate is included after each heading.

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."

The Committee Chairman held informal consultations with interested members on the text of the Report (WT/BOP/R/66, 19 November 2002) on work undertaken in accordance with paragraph 12 (b) of the Doha Ministerial Declaration, and reported to the Director-general.

Agriculture The Committee on Agriculture has a mandate given by the General Council to pursue three implementation matters. The first issue concerns the examination of means for a more effective implementation of the Marrakesh Ministerial Decision on Measures concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries (NFIDC Decision). In this context, the Committee further considered a proposal by the WTO African Group calling for new mechanisms to address import financing difficulties of the least-developed and net food-importing developing countries. The Committee is to submit recommendations to the General Council concerning this matter by July 2005. The second implementation issue concerns the management of tariff quota regimes. Under a General Council decision, Members with tariff quota commitments are required to provide updated notifications to the Committee on Agriculture which include details on guidelines and procedures for the allotment of tariff quotas, in order to ensure that tariff quotas are administered in a transparent, equitable and non-discriminatory manner. The notifications received in this way are systematically reviewed by the Committee. The third implementation issue concerns implementation of Article 10.2 of the Agreement on Agriculture (development of internationally agreed disciplines to govern the provision of export credits, export credit guarantees or insurance programmes). There were no further developments in this area of work of the Committee as Members are pursuing their interests on this matter in the Doha negotiations on agriculture.

¹ The full text of the Decision can be found in WTO document WT/L/579.

Customs valuation The Committee on Customs Valuation received a mandate from Ministers at Doha to address five outstanding implementation-related issues and to carry out the work in paragraph 8.3 of the Decision on Implementation-Related Issues and Concerns, in accordance with paragraph 12 of the Ministerial Declaration. The five outstanding issues concern specific provisions of the Agreement on Customs Valuation, and paragraph 8.3 deals with information exchange among customs administrations aimed at relieving concerns related to the accuracy of the declared value. Following its 2002 report to the General Council in G/VAL/50 (see WTO Annual Report, 2002), the Committee received the requested advice and technical input from the Technical Committee on Customs Valuation. The Chairman of the Committee held a series of informal consultations on the matter, taking into account the information received and the Committee's previous work. However, the Committee was unable to reach a consensus to conclude its work under the Ministerial mandate (in paragraph 8.3 of WT/MIN(01)/17). The Committee will continue to address this matter in 2005.

Sanitary and phytosanitary measures The SPS Committee's work regarding the implementation of the Agreement progressed in several areas in 2004. The Committee completed its work programme on Equivalence which included clarifications on the Decision on Equivalence.² In October 2004, the Committee adopted an elaboration of a procedure in which an importing country should consider any requests for S&D or technical assistance made in response to their notification of a new measure and notify the SPS Committee of actions taken in response to this request.³ In addition the Committee continued discussion of problems linked with the implementation of the provisions for recognition of pest- and disease-free areas.

Trade-related investment measures Pursuant to Paragraph 12(b) of the Doha Ministerial Declaration and the Council for Trade in Goods' (CTG) decision of 7 May 2002, the Committee on Trade-Related Investment Measures was assigned the responsibility for conducting work on the outstanding implementation issues related to the TRIMs Agreement, as contained in tirets 37 to 40 of document JOB(01)/152/Rev.1. Following the Decision adopted by the General Council on 1 August 2004 and the request of the Chair of the Trade Negotiations Committee (TNC) to assist him in his consultations under paragraph 12(b) of the Doha Ministerial Declaration, in November 2004 the Chairman of the TRIMs Committee conducted informal consultations on the outstanding implementation issues related to the TRIMs Agreement, focussing on a joint proposal by Brazil and India under tiret 40 (G/TRIMS/W/25).

Technical barriers to trade The TBT Committee has continued to develop its approach to technical assistance. During 2004 it focused on transparency related aspects of technical assistance. Regarding Supplier's Declaration of Conformity (SDoC), Members engaged in an exchange of experiences.

Trade-related aspects of intellectual property rights (TRIPS) Pursuant to paragraph 2 of the Decision on Implementation of Article 66.2 of the TRIPS Agreement (IP/C/28), the Council took up, at its meeting in December, the second annual review of developed country Members' reports on their implementation of Article 66.2. The Council had adopted this decision in February 2003, giving effect to the instruction of the Doha Ministerial Conference in paragraph 11.2 of the Decision on Implementation-Related Issues and Concerns to put in place a mechanism for ensuring the monitoring and full implementation of the obligations in question.

Paragraph 11.1 of the Doha Decision on Implementation-Related Issues and Concerns directed the TRIPS Council 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. Ministers had agreed that, in the meantime, Members would not initiate such complaints under the TRIPS Agreement. In the light of the decision on the Doha Work Programme adopted by the General Council on 1 August 2004, the Council discussed this issue at its meeting in December and took note of an updated Secretariat note summarizing the points raised in the Council's earlier substantive discussions of this matter (IP/C/W/349/Rev.1).

Pursuant to paragraph 1.d of the General Council's Decision of 1 August as it relates to outstanding implementation issues and concerns, Mr. Thompson-Flôres, Deputy Director-General, initiated, at the request of the Director-General, a technical level consultation aimed at clarifying the issues related to extension of the protection of geographical indications provided for in Article 23 of the TRIPS Agreement to products other than wines and spirits.

² G/SPS/19/Rev.2.

³ G/SPS/33.

Agriculture (Paragraphs 13 and 14)

"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."

The negotiations on agriculture, which had started in 2000 under Article 20 of the Agreement on Agriculture, continued into 2002 and 2003 under paragraphs 13 and 14 of the Doha Ministerial Declaration. The objective for most of that time had been to establish modalities no later than 31 March 2003. The wide differences in positions between Members meant it was not possible to achieve this objective and in the third quarter of 2003 Members' attention switched to negotiating a detailed framework on which modalities would be based. However, despite intensive efforts in the run up to and at the 5th Ministerial Conference, it was not possible to reach agreement, nor was it possible to find a compromise later in 2003.

In 2004, under a new Chairman, Ambassador Tim Groser of New Zealand, the Special Session of the Committee on Agriculture restarted its work on negotiating a framework which all Members could agree to. In this new phase, Members were strongly encouraged to conduct negotiations with each other rather than trying to negotiate with the Chair, as had happened in the past. This initiative by the Chairman was greatly helped by the fact that in the latter part of 2003 major negotiating coalitions had emerged which increasingly spoke with one voice, including the G-20, the African Group, the group of least-developed countries, the G-10 and the G-33. The letters, in early 2004, from Ambassador Zoellick ("2004 should not be a lost year") and from Commissioners Lamy and Fischler, indicating the EC's readiness to eliminate export subsidies subject to equivalent and parallel commitments with respect to all other forms of export subsidization, provided an essential political impetus. Indeed, the negotiations gradually shifted from a "declaratory" phase over a "listening" phase to a "compromise" phase at and between the Geneva "Agriculture Weeks" that took place in March, April and June of 2004 (see documents TN/AG/R/11, TN/AG/R/12 and TN/AG/R/13).

Although the Geneva-based process was critical to this phase of the negotiations, the parallel external process was also vitally important. A number of Members took the opportunity to further the negotiations through meetings within and between different negotiating groups that took place at different venues around the world. These meetings gave further political guidance to enable the Geneva-based negotiators to move forward. The differences in negotiating positions among Members were gradually narrowed but serious difficulties remained. Eventually, following intensive and continuous negotiations in June and July, consensus was reached on a framework on agriculture as part of the General Council Decision of 1 August 2004 ("the Framework", see Annex A of WT/L/579).

The Framework greatly augmented the mandate of the Doha Ministerial Conference by giving it both greater clarity and greater precision. For example:

- On export competition the Framework commits Members to eliminate all forms of export subsidies by a date certain and establishes clear guidelines for the development of detailed rules and commitments on export credits, exporting state trading enterprises and food aid.

- In the area of domestic support it reinforces the commitment to achieve substantial reductions of all trade-distorting support by requiring, *inter alia*, that:
 - those with higher levels of trade-distorting domestic support should reduce them by greater amounts;
 - product-specific caps of Amber Box support be introduced;
 - the *de minimis* limits be reduced, with special and differential treatment for developing countries;
 - Blue Box spending be capped; and
 - as a down-payment of the overall reduction of trade-distorting domestic support, the sum of Amber Box, permitted *de minimis* and Blue Box supports will be reduced by 20 per cent in the first year of implementation of the new reduction commitments.
- In market access, a key achievement of the Framework is the agreement that the standard of "substantial improvement" laid down in the Doha mandate will apply for *each* agricultural product. While the Framework envisages flexibility for sensitive products, they will also be subject to this standard. Tariff reductions will be achieved by a tiered formula applying greater reductions for higher bound tariffs. Tariff escalation will be addressed, thus improving the opportunities for developing countries to climb up the value added ladder. Under special and differential treatment, the Framework provides for lower reductions and longer implementation periods for developing countries along with the flexibility to declare some products as "Special Products" and to have access to a special safeguard mechanism. The fullest liberalization of trade in tropical agricultural products and the issue of preference erosion are among the other matters to be addressed.
- On cotton the Framework stipulates, *inter alia*, that in view of its vital importance for developing and especially least-developed countries, this sector will be addressed ambitiously, expeditiously, and specifically, within the agriculture negotiations. In accordance with the Framework, in late 2004 a Sub-Committee on Cotton was established under the Special Session of the Committee on Agriculture.

Although the Framework reflects important movements in positions towards convergence, most notably in export competition, it has also been clear that much more work would be needed before modalities could be established. The negotiations in Geneva resumed soon after the General Council Decision of 1 August and in October, November and December another three "Agriculture Weeks" were held that addressed specific issues raised in the Framework (see documents TN/AG/R/14, TN/AG/R/15 and TN/AG/R/16).

Negotiations during these Agriculture Weeks took place at a number of different levels. For a first reading of specific issues raised in the Framework, informal meetings of the Special Session gave delegations the opportunity to make statements outlining their initial positions. At a subsequent Agriculture Week, these issues were then considered in greater detail at informal open-ended consultations to which all delegations were invited. Some of the more technical and complex issues were also discussed by smaller groups of delegations. In this way the Chairman was able to develop draft outline texts on a variety of specific Framework provisions which were circulated to all delegations for the purposes of consultations and in order to ensure transparency. This process continued in the first months of 2005 and has resulted in further progress in the negotiations.

Services (Paragraph 15)

"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."

In accordance with the mandate set out in paragraph 15 of the Doha Development Agenda, the Special Session of the Council for Trade in Services held four meetings in 2004. The reports of these meetings are contained in documents TN/S/M/10 to TN/S/M/13. The Special Session addressed the matters referred to under items (i) to (iv).

(i) Proposals relating to the negotiations under Article XIX of the GATS

Members continued to discuss various negotiating proposals submitted to the Special Session on a number of services sectors, modes of supply and other horizontal issues. As has been the case since June 2002, the discussion was structured according to new proposals received.

Members had substantive exchanges on a broad range of issues on the basis of six formal communications relating to Mode 4, logistics services, improved scheduling of specific commitments, supply of service through commercial presence, and electronic visa or work permit systems (contained in WTO documents TN/S/W/14, 20 to 23, and 25). In September, the Council held discussions about two expert meetings relating to trade, migration, movement of natural persons and development, based on presentations by representatives of the International Organization for Migration, the Organisation for Economic Cooperation and Development (OECD), the United Nations Conference on Trade and Development (UNCTAD), and the World Bank. In December, two Members made presentations relating to movement of natural persons.

(ii) Assessment for trade in services

Article XIX:3 of the GATS mandates that the Council carry out an assessment of trade in services in overall terms and on a sectoral basis, with reference to the objectives of the Agreement, including those set out in Article IV:1. The assessment of trade in services figures as a standing item on the agenda of the Special Session, in keeping with the Guidelines and Procedures for the Negotiations on Trade in Services (S/L/93).

The Council's discussions under this item were based on one formal communication from The Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (TN/S/W/18) related to telecommunication services, as well as three presentations by representatives of the International Trade Centre, the OECD and UNCTAD. The latter two presentations related, respectively, to a study entitled "Services Barriers and Their Economic Impact: Examples of Banking and Telecommunication Services in Selected Transition Economies" and the "World Investment Report (2004): The Shift Towards Services".

(iii) Review of progress in the negotiations

As agreed in July 2002, the Council continued to include this standing item on its agenda as a means to promote transparency and allow the Special Session to fulfill its function as the body overseeing the negotiations. It also provides Members with an opportunity to raise issues of concern that might emerge in consultations and to communicate their impressions on progress in the negotiations.

Substantive discussions under this item were held at all meetings held in 2004. Among other matters, Members presented and responded to initial offers, reported on bilateral consultations, updated the Council on work being conducted in some friends' groups, and reiterated their negotiating interests in terms of sectors, modes of supply, and removal of MFN exemptions.

At the meeting in March, it was agreed that an existing sub-item relating to paragraph 15 of the Guidelines for Negotiations (S/L/93) would be incorporated into the general discussion under this item and reflected in its title. Substantive discussions in this regard were held on the basis of two communications from a group of Members relating to the Council's work under paragraph 15 and to tourism services (TN/S/W/19 and TN/S/W/23).

(iv) Consideration of proposals on special and differential treatment provisions

Subsequent to the General Council's Decision on the "July Package", the Chairman of the Special Session, at the November meeting of the Council, proposed to engage in further work under this item.

(v) Reports by the chairman to the trade negotiations committee

The Chairman of the Special Session of the Council for Trade in Services, subsequent to each meeting, reported to the Trade Negotiations Committee. These reports are contained in WTO documents TN/S/15 to TN/S/18. The report contained in TN/S/16, dated 7 July, contains the recommendations agreed to by the Special Session on which to pursue further progress in the services negotiations. A slightly amended version of these recommendations was adopted by the General Council in the "July Package".

(vi) Committee on trade in financial services

The Committee held four formal meetings in 2004; the reports are contained in WTO documents S/FIN/M/44 to 47. The annual report of the Committee to the Council for Trade in Services is contained in WTO document S/FIN/12. The Committee continued monitoring the acceptance of the Fifth Protocol to the GATS, which is still to be ratified by Brazil, Jamaica, and the Philippines. Members continued their consideration of a communication

from Malaysia entitled "Challenges in the Financial Services Sector" (S/FIN/W/28), and addressed a proposal from Norway on the liberalization of marine and energy insurance. Mexico and Chinese Taipei made presentations on different aspects of their regulatory framework for financial services. The Committee also continued its discussions of a proposal submitted by Antigua and Barbuda on behalf of a group of countries (S/FIN/W/29/Rev.1). At the invitation of the Committee, the OECD presented a document entitled "Managing Request-Offer Negotiations under the GATS: the Case of Insurance Services", which is part of a joint project between OECD and UNCTAD. Finally, at the last meeting of the year, the Committee carried out the third Transitional Review of the implementation by China of its WTO commitments, pursuant to section 18 of the Protocol on the Accession of the People's Republic of China. The relevant report by the Committee to the Council for Trade in Services is contained in document S/FIN/13.

(vii) Committee on specific commitments

The Committee on Specific Commitments (CSC) is mandated to oversee the implementation of services commitments and the application of the procedures for the modification of schedules; it also seeks to improve the technical accuracy and coherence of schedules of commitments and lists of MFN exemptions. The Committee has concentrated its work on services classification and the scheduling of commitments, with a view to facilitating the current round of negotiations on trade in services.

During the period under consideration, the Committee held four formal meetings. The reports of those meetings are contained in documents S/CSC/M/32 to 35. The Committee addressed a new classification proposal regarding energy services, and continued deliberations on the classification of legal services. In the area of scheduling of specific commitments, several technical questions were examined. As mandated by the Council for Trade in Services (Regular Session), the Committee also addressed issues relating to paragraph 2 of Article XX of the GATS.

The Annual Report of the Committee on Specific Commitments to the Council for Trade in Services is contained in document S/CSC/10.

(viii) Working party on GATS rules

The Working Party on GATS Rules is mandated to carry out negotiations on emergency safeguard measures (GATS Article X), government procurement (Article XIII) and subsidies (Article XV). In 2004, it held five formal meetings; the reports are contained in documents S/WPGR/M/46 to 50. The annual report of the Working Party to the Council for Trade in Services is contained in document S/WPGR/14. Delegations continued their examination of issues related to the question of emergency safeguard measures. Different views continued to be expressed regarding the desirability and feasibility of an emergency safeguard mechanism. Members also decided to extend the negotiating mandate for these negotiations (see document S/L/159), which otherwise would have lapsed in March 2004. On government procurement, discussions focused on the proposal from the European Communities for a framework of rules that would govern the scheduling of commitments. Delegations continued to hold divergent views, however, on whether the negotiating mandate in Article XIII actually encompasses market access issues. Concerning subsidies, the Working Party pursued its consideration of issues related to the potential need for disciplines on trade-distorting subsidies.

(ix) Working party on domestic regulations

The Working Party on Domestic Regulation (WPDR) is mandated to develop disciplines to ensure that measures relating to licensing requirements, technical standards and qualification requirements do not constitute unnecessary barriers to trade in services. It also assumed the mandate of the former Working Party on Professional Services, including developing general disciplines for professional services. The WPDR held four formal meetings and one informal meeting in 2004. The reports of the formal meetings are found in documents S/WPDR/M/25 to 28.

The WPDR continued to examine Japan's informal paper, *Draft Annex on Domestic Regulation*, as well as a paper from the European Communities, *Proposal for Disciplines on Licensing Procedures*. It also discussed an informal paper by Hong Kong, China, on the *Relationship of Regulatory Disciplines with National Treatment*, and a formal paper by Colombia entitled *Examples of Measures Relating to Administrative Procedures for Obtaining Visas or Entry Permits*. A formal paper on *Mexico's Experience of Disciplines on Technical Standards and Regulations in Services* as well as the United States informal submission, *Proposal for Transparency Disciplines in Domestic Regulation*, received comments. The WPDR further discussed a Secretariat note, "*Necessity Tests*" in the WTO, and continued to review the measures, including additional examples provided by

delegations, listed in the informal Secretariat paper *Examples of Measures to be Addressed by Disciplines under GATS Article VI:4*.

Regarding professional services, Members made further comments on an informal paper from India on *Recognition Issues*, and on New Zealand's informal paper *Implementation of Article VI:6 Obligations in Engineering Services*. The WPDR also discussed a formal submission by Australia, *Professional Recognition in Australia*. The Secretariat updated Members on the results of the consultations with international professional services organizations concerning the potential suitability of the *Disciplines on Domestic Regulation in the Accountancy Sector* for other professions.

A *Workshop on Domestic Regulation* was held at the request of the WPDR in Geneva from 29 to 30 March. The objective was to bring together and inform regulators, trade negotiators, and other relevant officials of the background and progress to date of the work taking place in the WPDR. There were between 300 and 350 participants; all presentations are posted on the WTO website.

(x) Targeted technical assistance to enable effective participation in the services negotiations

Regarding technical assistance, the General Council adopted in the context of the "July Package" a recommendation that targeted assistance be provided to developing countries with a view to enabling them to participate effectively in the negotiations. To develop a better understanding of individual Member's needs, the Secretariat has since developed, in consultation with developing country delegates, a general template for national services seminars. Scope and content of individual missions are adjusted to the interests expressed by the authorities on the basis of this template.

Market access for non-agricultural products (Paragraph 16)

"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."

In the aftermath of the Cancún Ministerial Meeting, the immediate objective of the new Chairman of the Non-Agricultural Market Access Group (NAMA Group), H.E. Stefán H. Jóhannesson (Iceland) was to provide a much needed opportunity for delegations to engage on a one-to-one basis and have a frank exchange of views. The time for regurgitating national positions was long gone and, in his view, it was the moment for delegations to negotiate and enhance their understanding of each other's position. As a result, the plenary sessions were formalities which opened and closed the three-day meetings. The intervening time was given to delegations to enter into bilateral and plurilateral consultations. Such types of meeting, often called book-end type meetings, brought some dividends insofar as delegations began to demonstrate serious engagement in the NAMA negotiations. The rather lacklustre atmosphere following the Cancún Ministerial Meeting dissipated and was replaced by a more constructive and productive work environment. In this connection, an implicit understanding was reached quite early on among NAMA negotiators that an immediate objective would be to work towards a framework on NAMA modalities before end-July 2004. The framework was to be a stepping stone towards full modalities. As discussions on this subject were pursued in the Group, it became clear that two approaches were being espoused. There were those Members who sought to keep the NAMA text which originated from the second revision of the draft Cancún Ministerial Text (the so-called Derbez text) unchanged. While there were others who wished to negotiate that text and introduce amendments. The compromise reached was to include a new paragraph 1 to that original text. This new paragraph 1, commonly referred to as the "vehicle", served the purpose of giving Members adequate comfort to sign off on the NAMA framework and eventually the "July package". Following agreement on the "July package" (more formally known as the 1 August 2004 General Council Decision), the NAMA Group has been undertaking much needed technical work on a number of elements selected by the Chairman from Annex B of that decision which contains the NAMA framework. The technical issues discussed towards the end of the year were: tariff peaks, high tariffs and tariff escalation, products of interest to developing countries, less than full reciprocity in reduction commitments, credit for bound

autonomous liberalization measures by developing countries since the Uruguay Round, product coverage and participation in sectorals, appropriate studies and capacity-building measures, and tariff revenue dependency. This work has kept the Group busy for the remainder of 2004.

Special Session of the Council for TRIPS (paragraph 18 Doha)

"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."

The Special Session of the Council for TRIPS, which deals with the negotiations mandated under Article 23.4 and paragraph 18, first sentence of the Doha Declaration (establishment of a multilateral system of notification and registration of geographical indications for wines and spirits) resumed its work in April 2004 under the chairmanship of Ambassador Manzoor Ahmad, from Pakistan. It held four formal meetings: on 7 April; 18 June; 23 September; and 30 November 2004. In paragraph 1.f of the Decision of 1 August 2004, the General Council took note of the report to the TNC by the Special Session of the TRIPS Council, and reaffirmed Members' commitment to progress in this area of the negotiations in line with the Doha mandate. Apart from the 7 April meeting which dealt with organizational matters, all the meetings addressed various substantive issues, namely: legal effects and participation; administrative and other burdens; and a number of issues of technical or procedural nature relating to the operation of a notification and registration system. At the November meeting, delegations also addressed issues related to the notification phase, which had been discussed in some detail in 2003 before the Cancún Ministerial Conference. Although these discussions proved useful, positions remained divided, especially on the two key issues of legal effects and participation.

Relationship between trade and investment (Paragraphs 20-22)

"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 organizations, 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."

Since the Cancún Ministerial Conference, no meetings of the Working Group on the Relationship between Trade and Investment were held pending a decision by the General Council on the future direction of work in this area. On 1 August 2004, the General Council decided that this issue, referred to in paragraphs 20-22 of the Doha Ministerial Declaration, would no longer form part of the work programme set out in that Declaration and therefore

that no work toward negotiations on this issue would take place within the WTO during the Doha Round (WT/L/579, paragraph 1(g)). Since this decision was taken, no meetings of the Working Group have been held.

Interaction between trade and competition policy (Paragraphs 23-25)

"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."

Since the Cancún Ministerial Conference, no meetings of the Working Group on the Interaction between Trade and Competition Policy were held pending a decision by the General Council on the future direction of work in this area. On 1 August 2004, the General Council decided that this issue, referred to in paragraphs 23-25 of the Doha Ministerial Declaration, would no longer form part of the work programme set out in that Declaration and therefore that no work toward negotiations on this issue would take place within the WTO during the Doha Round (WT/L/579, paragraph 1(g)). Since this decision was taken, no meetings of the Working Group have been held.

Transparency in government procurement (Paragraph 26)

"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."

Since the Cancún Ministerial Conference, no meetings of the Working Group on Transparency in Government Procurement were held pending a decision by the General Council on the future direction of work in this area. On 1 August 2004, the General Council of the WTO decided that this issue, referred to in paragraph 26 of the Doha Ministerial Declaration, would no longer form part of the work programme set out in that Declaration and therefore that no work toward negotiations on this issue would take place within the WTO during the Doha Round (WT/L/579, paragraph 1(g)). Since this decision was taken, no meetings of the Working Group have been held.

Trade facilitation (Paragraph 27)

"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."

Following a series of consultations under the auspices of the General Council, Members agreed to launch negotiations on Trade Facilitation in a decision adopted on 1 August 2004.⁴ In line with the modalities for the negotiations set out in Annex D of that decision, the Trade Negotiations Committee, at a session of 12 October, established a Negotiating Group on Trade Facilitation and appointed its Chair.

A first meeting of the Negotiating Group was held soon thereafter (15 November), leading to the adoption of a Work Plan and schedule of meetings (TN/TF/1). Members also agreed to invite relevant international organizations to attend formal sessions of the Group on an ad hoc basis. A second meeting took place on 22 and 23 November. It saw Members engage in an educational and stocktaking process, with contributions also being made on the agreed agenda of the Group.

WTO rules (Paragraphs 28 and 29)

"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."

The Negotiating Group on Rules met with increasing intensity in 2004, holding six meeting clusters on anti-dumping and subsidies & countervailing measures including fisheries subsidies ("AD/SCM"), and seven formal and informal meetings on RTAs, during the course of the year. Most meetings on AD/SCM also included intensive work in informal open-ended sessions. Formal proposals and other submissions made to the Group were circulated either as unrestricted documents in the TN/RL/W... series, while, as of the later half of the year, informal proposals were circulated both as JOB and as unrestricted TN/RL/GEN/... documents for the purposes of transparency.

With respect to anti-dumping and subsidies and countervailing measures, including fisheries subsidies, the work of the Group evolved substantially in 2004. While the Group continued to meet in formal session to consider additional issues identified by Participants, the focus of the Group's activities shifted towards a much more detailed examination and interactive exchange in open-ended informal sessions on issues previously identified, on the basis of twenty-eight informal elaborated proposals submitted by Participants during the latter half of the year. Meeting clusters also include extensive opportunities for bilateral and plurilateral contacts among delegations.

With respect to RTAs, the Group has further refined most of the elements to improve RTAs transparency, including those related to the notification and review of RTAs. It also held a first round of discussions on a range of systemic issues, in particular the definition of "substantially all the trade" in GATT Article XXIV; RTAs and development; preferential rules of origin; and the scope of "other (restrictive) regulations of commerce". For further discussion of these issues, the Group invited specific submissions from participants.

Dispute Settlement Understanding (Paragraph 30)

"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."

The negotiations on "improvements and clarifications" to the DSU were initially intended to be concluded by May 2003, but the timeframe for concluding the work had been extended in July 2003 for an additional year, until May 2004.⁵

In March 2004, Ambassador David Spencer, of Australia, was appointed as Chairman of the DSB Special Session. Some additional progress was made in the Special Session

⁴ WT/L/579, Decision adopted by the General Council on 1 August 2004.

⁵ See Annual Report 2003, p. 26

in the first few months of 2004, building on the work done thus far. Some delegations made additional written contributions to the negotiations during this period, which were welcomed by participants. However, work had been slow to resume in the period immediately following the Cancún Ministerial Conference, and by May 2004, there was agreement among Members that more time was required to complete the dispute settlement negotiations and that work should continue towards clarifications and improvements to the DSU.⁶ On 1 August, as part of the July Package, the General Council adopted a recommendation by the TNC that work in the Special Session should continue on the basis set out in the Chairman's report to the TNC.⁷

Two further meetings of the Special Session were held in 2004, on 22 October and 25-26 November. Both of these meetings were essentially devoted to the discussion of an informal joint contribution by Argentina, Brazil, Canada, India, New Zealand and Norway. This contribution, which had been presented at the end of May, focused on three issues which had been in discussion in the Special Session: remand, sequencing, and "post-retaliation" issues.⁸

Trade and environment (Paragraphs 31-33)

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.*

The Committee on Trade and Environment's work programme spans over a broad range of issues, including goods, services, and intellectual property rights.⁹ Its origins and the terms of reference can be found in Marrakesh Ministerial Decision on Trade and Environment of April 1994.

The mandate of the CTE is twofold:

- "to identify the relationship between trade measures and environmental measures in order to promote sustainable development"; and
- "to make appropriate recommendations on whether any modifications of the provisions of the multilateral trading system are required, compatible with the open, equitable and non-discriminatory nature of the system".

⁶ See Report by the Chairman to the TNC, TN/DS/10.

⁷ See WT/L/579, 2 August 2004.

⁸ See Report by the Chairman to the TNC, TN/DS/11.

⁹ The ten items of the CTE work programme are listed on the WTO website.

Since the Doha Ministerial Session, in November 2001, work has split into two separate tracks: (i) the negotiating track (Paragraph 31¹⁰) conducted in the CTE Special Session (CTESS), and, (ii) the regular work of the CTE (Paragraphs 32 and 33), conducted under the CTE Regular.

The full list of documents that have been circulated in both the CTE Regular and the CTESS since January 1995 (including 2003) is contained in document WT/CTE/INF/5/Rev.2, available on the WTO website.

Negotiations (CTESS)

In the 2004, the CTESS continued to pursue the three different components of its mandate; Paragraphs 31(i), 31(ii) and 31(iii) that are presented above. Under Paragraph 31(i), two approaches were pursued in parallel. One approach was to discuss potential outcomes for the negotiation, which was led by the European Communities (EC) through document TN/TE/W/39. In this document, the EC suggested that certain "governance principles" be explored to govern the WTO-MEA relationship. Another approach was to share national experiences in relation to the negotiation and implementation of trade measures in MEAs. In 2004, this approach was led by the United States and Australia who shared their national experiences with respect to certain MEAs in documents TN/TE/W/40 and 45. A number of other Members also shared their national experiences orally with the Committee.

Under Paragraph 31(ii), while there were no new submissions by Members in 2004, Members continued to explore different avenues for enhancing cooperation and information exchange between the WTO and environmental organizations, and examined various criteria for the granting of observer status. Under Paragraph 31(iii), discussion on the identification of "environmental goods" continued. China shared its views on how these negotiations could be taken forward in document TN/TE/W/42, Canada commented on the categories of environmental goods that could usefully be considered in the negotiations in document JOB(04)/98, and Chinese Taipei submitted its preliminary list of environmental goods in document TN/TE/W/44. Furthermore, the Secretariat organized a Workshop on Environmental Goods to assist in the clarification of the concept of an environmental good. The Report of this Workshop is contained in document JOB(05)/21, and the presentations made in its context are all available online.¹¹

Regular work (CTE Regular)

In pursuance of the mandates from Ministers in Doha, the CTE restructured its work so as to better reflect the mandate therein. Paragraph 32 of the Doha Ministerial Declaration instructs the CTE, in pursuing work on all items on its agenda within its current terms of reference, to give particular attention to the following issues:

- the effects of environmental measures on market access, especially in relation to developing countries, in particular the LDCs, and those situations where the elimination or reduction of trade restrictions and distortions would benefit trade, the environment and development;
- the relevant provisions of the agreement on TRIPS; and
- labelling requirements for environmental purposes.

During the three meetings held in 2004, each of these items were discussed. The CTE also continued its analysis of the other items of its work programme. On Item 4 of the programme with respect to the transparency of trade measures used for environmental purposes, the Secretariat provided a demonstration and explanation on the new CRN facility which would enable the search and retrieval of environment-related notifications.

Moreover, Members discussed technical assistance and capacity building pursuant to Paragraph 33. In 2004, as part of continued technical assistance in the trade and environment area, the Secretariat organized, in cooperation with the UNEP, UNCTAD, as well as a number of MEAs, three regional seminars on trade and environment for government officials from developing and least-developed countries. These were held in Jordan, Vietnam and Geneva for Arab and Middle East, Asian and Pacific, as well as Sub-Saharan African country Members respectively. The objective of these seminars is to raise awareness on the linkages between trade, environment and sustainable development and to further enhance the dialogue between trade and environment policy-makers in WTO Members and acceding governments. Issues of relevance to trade and environment and the rules of the WTO, as well as specific concerns in each region, are addressed. Paragraph 33 also encourages the sharing of expertise and experience on national environmental reviews. A number of Members informed the CTE of their experience in this respect. Relevant information was also provided by some observers.

Regarding sustainable development (Paragraph 51), in 2004, having heard in 2003 a series of briefings covering areas of negotiation where environmental aspects were most relevant (Agriculture, Rules, Services and Market Access for Non-Agricultural Products), the CTE sought ways to carry forward its work. In this respect, the Chairperson of the CTE met

¹⁰ Paragraph numbers refer to the Doha Ministerial Declaration unless otherwise stated.

¹¹ <http://www.wto.org/english/tratop_e/envir_e/wksp_goods_oct04_e/wksp_goods_oct04_e.htm>.

with her counterpart of the CTD to exchange information on how the mandates had been taken up in the two respective Committees. Moreover, Members discussed a proposal for holding a learning event on sustainable development within the framework of the mandate under Paragraph 51. On substantive discussion, New Zealand identified the developmental and environmental aspects of the fishery subsidies negotiations. A number of Members clarified their positions in this respect.

Small Economies – Committee on Trade and Development (Dedicated Session)

"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."

Members continued their Work Programme on Small Economies in 2004 during two formal meetings. Detailed reports of these meetings can be found in documents WT/COMTD/SE/M/7 and 8. At the 7th Dedicated Session, two new submissions were discussed. The first was a proposal by three landlocked developing countries who raised several specific trade concerns and proposed increased technical assistance for land-locked economies in the area of export diversification and for complying with WTO rules in the area of sanitary and phytosanitary measures.¹² The second proposal was a submission by six island states which focussed on preferences and subsidies and which sought to further refine some of the proposals contained in document WT/COMTD/SE/W/3.¹³ At the 8th Dedicated Session, Members discussed how the mandate contained in the July Decision¹⁴ would affect the work being carried out in the Dedicated Session. Many expressed renewed interest in the work in this area and several called for informal consultations to begin soon. Barbados drew attention to paragraph 1(h) of the Decision which it said reaffirmed the importance Members attributed to paragraph 35 concerning small economies. Barbados interpreted paragraph 1(h) as marking a deadline for the General Council to make recommendations to Ministers and that the Sixth Ministerial Conference was now a new "timeline for achieving a substantive, concrete and conclusive outcome to the Work Programme on Small Economies".

Trade, debt and finance (Paragraph 36)

"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."

The Working Group met in May to take up the issue of trade finance. Previously, in January, as a follow-up to a meeting sponsored by the IMF in 2003, the Director-General had invited a group of experts to exchange ideas on how the WTO might best be able to contribute to improving the access of developing countries to more plentiful and secure sources of trade financing. Members based their discussion on the report of the meeting of the Expert Group, noting that the interest of members had provided a boost to regional development banks and other institutions to expand their programmes in this area. Members commented on the discussion in the Expert Group which had revolved around two areas of WTO work: the Doha negotiations on services, particularly financial services and work under the coherence mandate, particularly vigilance in keeping markets open in periods of financial crises and avoiding the use of trade measures that might undermine coordinated efforts by the international financial community in exceptional circumstances to maintain lines of credit. Representatives of the IMF and the World Bank gave presentations regarding their work in this area. In July the Chairman reported to the General Council, suggesting that the Committee on Trade in Financial Services might wish to follow-up the issue of trade financing.

Continuing to address themes identified for further examination in the Report to the Fifth Ministerial, the Working Group took up "Trade and Financial Markets" at its October meeting. The Group heard presentations from the IMF on exchange rate volatility and trade, an update to a 1984 study, and from the Secretary-General of the Financial Stability Forum

¹² WT/COMTD/SE/W/10

¹³ WT/COMTD/SE/W/11

¹⁴ WT/L/579

(FSF). The IMF study, more comprehensive than the previous one, found no robust negative relationship between volatility and trade flows. The representative of the FSF made clear that the adoption of international standards and codes had been, and would continue to be, important to ensure financial stability. At its third meeting in December, the Working Group met to discuss the topic of "Better coherence in the design and implementation of trade-related reforms and monitoring" with presentations by UNCTAD on policy coherence between trade and finance, and the World Bank on its work to address supply-side constraints, including trade facilitation.

Trade and transfer of technology

During 2004, the Working Group on Trade and Transfer of Technology (Working Group) held three formal meetings.¹⁵ The work undertaken by the Working Group in 2004 included the continuation of the analysis of the relationship between trade and transfer of technology and 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.

In continuing the analysis of the relationship between Trade and Transfer of Technology, Members acknowledged the useful analytical work done by the Working Group in identifying broad themes related to transfer of technology. However, they felt that further work was needed to elaborate and develop a common and shared understanding of the issues involved. A number of issues came under discussion and Members highlighted among others, the importance of considering the definitional issues of technology transfer; the various channels of technology transfer and the conditions under which these could be operationalized; the role of home country and host country measures; the enabling environment, for example, IPRs, investment regimes, regulatory structure, good governance, infrastructure; and human resource/capacity building. Members felt that while it was important to consider what could be done by developed countries and by the private sector in developed countries, which in most cases were the actual owners of the technology, to facilitate technology transfer, it was considered equally important to examine what could be done to improve the enabling environment in the recipient developing countries to facilitate the transfer and absorption of technology.

UNCTAD made available to the Working Group a study on "Facilitating Transfer of Technology to Developing Countries: A Survey of Home Country Measures". The study surveyed 41 agencies and programmes in 23 developed countries offering home country measures to facilitate technology transfer. The study, comprising four parts, identified existing home country measures which encouraged transfer of technology in various modes to developing countries, in particular to the least-developed countries (LDCs). The first part of the study contained seven major types of home country measures; the second part attempted to analyse the measures, highlighting where these measures had been most predominant and where there might be gaps with respect to the typology; the third part identified further efforts that could be considered in the future to facilitate technology transfer through additional home country measures; while the fourth part of the study highlighted the importance of South-South cooperation in the transfer of technology. Members agreed that home country measures could complement and reinforce the host country efforts to transfer and benefit from transfer of technology. However, they felt that host country measures were also equally significant if technology transfer was to be a win-win situation for both home and host countries. The importance of South-South cooperation was also underlined in this context.

During the course of the discussions on the provisions relating to technology transfer in the WTO Agreements, a number of Members expressed the view that examining the effect of these provisions, including whether or not they had fulfilled the objective of promoting transfer of technology, would provide a better understanding of the linkage between trade and technology transfer. However, other Members felt that the Working Group needed to be cautious in its presumption that WTO Agreements were not fulfilling their objectives. Members also began consideration of the first two recommendations contained in document WT/WGTTT/W/6, namely (i) an examination of the different provisions contained in various WTO Agreements relating to technology transfer; and (ii) the provisions contained in various WTO Agreements which may have the effect of hindering transfer of technology to developing countries. At the 10th Session, Members adopted the Working Group's report to the General Council.¹⁶

Technical cooperation and capacity building (Paragraphs 38-41)

"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

¹⁵ The reports of these meetings are contained in documents WT/WGTTT/M/8-10.

¹⁶ WT/WGTTT/W/8

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."

Following the Fourth Ministerial Conference held in Doha, Qatar, the Secretariat has taken on an unprecedented level of commitment to provide technical assistance and capacity building to developing and least-developed countries in accordance with the mandate contained in the above-mentioned paragraphs. Several steps were taken by the WTO Secretariat to ensure the full implementation of the mandate adopted by Ministers. These steps included the formulation and approval by Members of an annual WTO Technical Assistance Plan; the establishment of a separate fund "the Doha Development Agenda Global Trust Fund" (DDAGTF) to secure the necessary extra budgetary financing of the Plan; and, the reorganization of the WTO Secretariat for optimal use of available resources.

With the creation of the Institute for Training and technical cooperation (March 2003), a new dimension was added to TRTA and trade capacity building. A new format and approach for the design and the planning of TRTA was introduced in the Technical Assistance and Training Plans for 2003 and 2004, which were adopted by Members in the Committee on Trade and Development. This new approach found strong overall support from the donors and beneficiaries alike. The last TA Plan, covering the year 2005, was adopted in December of 2004 and is contained in document WT/COMTD/W/133/Rev.2. The 2005 Plan builds on experience gained and lessons learned with the implementation of TA Plan for 2004. It incorporates concerns and interests raised by donors and beneficiaries in the informal and formal consultations. It also consolidates the new approach adopted for the delivery of Technical Assistance and Training and refines some of the products and concepts.

Traditionally, WTO has provided two main types of trade related technical assistance: the Geneva based courses that have been carried out for nearly 50 years (the so-called three-month trade policy course is the best known of these), and regionally based, as well as national activities, usually of a shorter duration, and focusing on more specific issues. More recently, the Secretariat embarked on a significant programme based on partnerships with academic institutions in the regions, to provide similar courses as the Geneva-based Trade policy courses, in the field. The academic institutions that have been identified in various regions provide both for the venues for the so-called regional trade policy courses, and as potential dispensers themselves of trade related technical assistance (training-of-trainers). Other innovations include guidance on needs assessment, increased focus on LDCs, outreach to non-governmental sectors, especially parliamentarians, e-training, and higher-level programme aimed at officials already having been through the basic training.

As an integral part of the 2005 Plan the Secretariat is continuing to play an active role in three large-scale joint programmes: the Integrated Framework for Least-Developed Countries (IF), the Joint Integrated Technical Assistance Programme (JITAP) offered to selected LDCs

and other African Countries, and the Standards Trade Development Facility (STDF). These programmes are a multi-country, multi-agency capacity building programmes, implemented by the WTO and other partner institutions, such as UNCTAD, World Bank, World Customs Organization and others.

The Secretariat has also continued to work closely with a number of bilateral, regional and International partners, including other organizations, regional development banks and other bodies, who can provide relevant expertise in the field. The main objective of this collaboration is to focus efforts, avoid unnecessary duplication and increase coordination of activities. As a result, the Secretariat continued to conclude MOUs, which are now in effect and are fully operational. Several of these MOUs involve actions that go beyond the mandate and competence of the WTO. One such MOU that could be mentioned, relates to the joint cooperation between the WTO and UNIDO, addressing supply-side constraints in conjunction with market access related issues.

At present the Institute seems to have reached its maximum capacity, with over 500 activities carried out in 2004, with a total budget allocation of over CHF 30 Million, combining regular budget and extra-budgetary funding obtained through the DDAGTF. This is much more than what was done only a few years ago, i.e. prior to the establishment of the DDAGTF. While the number of activities has consistently increased in all regions in the past several years, the African continent has been the region where the largest number of activities have been executed, reflecting priorities set by Members. Moreover, particular attention is given to the needs of the least developed countries, as well as to small and vulnerable economies.

Least-developed countries (Paragraphs 42 and 43)

"42. We acknowledge the seriousness of the concerns expressed by the least-developed countries (LDCs) in the Zanzibar Declaration adopted by their Ministers in July 2001. We recognize that the integration of the LDCs into the multilateral trading system requires meaningful market access, support for the diversification of their production and export base, and trade-related technical assistance and capacity building. We agree that the meaningful integration of LDCs into the trading system and the global economy will involve efforts by all WTO Members. We commit ourselves to the objective of duty-free, quota-free market access for products originating from LDCs. In this regard, we welcome the significant market access improvements by WTO Members in advance of the Third UN Conference on LDCs (LDC-III), in Brussels, May 2001. We further commit ourselves to consider additional measures for progressive improvements in market access for LDCs. Accession of LDCs remains a priority for the Membership. We agree to work to facilitate and accelerate negotiations with acceding LDCs. We instruct the Secretariat to reflect the priority we attach to LDCs' accessions in the annual plans for technical assistance. We reaffirm the commitments we undertook at LDC-III, and agree that the WTO should take into account, in designing its work programme for LDCs, the trade-related elements of the Brussels Declaration and Programme of Action, consistent with the WTO's mandate, adopted at LDC-III. We instruct the Sub-Committee for Least-Developed Countries to design such a work programme and to report on the agreed work programme to the General Council at its first meeting in 2002.

43. We endorse the Integrated Framework for Trade-Related Technical Assistance to Least-Developed Countries (IF) as a viable model for LDCs' trade development. We urge development partners to significantly increase contributions to the IF Trust Fund and WTO extra-budgetary trust funds in favour of LDCs. We urge the core agencies, in coordination with development partners, to explore the enhancement of the IF with a view to addressing the supply-side constraints of LDCs and the extension of the model to all LDCs, following the review of the IF and the appraisal of the ongoing Pilot Scheme in selected LDCs. We request the Director-General, following coordination with heads of the other agencies, to provide an interim report to the General Council in December 2002 and a full report to the Fifth Session of the Ministerial Conference on all issues affecting LDCs."

Accessions

In the Doha Ministerial Declaration, Members committed themselves to accelerating the accession of LDCs. Significant progress has since been made in accelerating the accession of LDCs to the WTO. Work initiated by the Sub-Committee on LDCs resulted in the adoption of the Guidelines on LDCs' Accession by the General Council in 2002¹⁷. Nine LDCs¹⁸ are currently in different stages of the accession process. In 2004, Nepal and Cambodia became the first LDCs to accede to the WTO since 1995 whilst several acceding LDCs (Cape Verde, Bhutan, Lao People's Democratic Republic and Yemen) held their first Working Party Meetings.

The WTO Work Programme for the LDCs¹⁹ adopted after the Doha Ministerial attaches high importance to the accession of LDCs. As part of that Work Programme, in 2004, the Sub-Committee considered the item on accession of LDCs at its 36th and 37th Sessions.

¹⁷ WT/L/508

¹⁸ Afghanistan, Bhutan, Cape Verde, Ethiopia, Lao PDR, Samoa, Sudan, Vanuatu and Yemen.

¹⁹ WT/COMTD/LDC/11

At the 36th Session, a Secretariat paper on the state of play of LDC accessions²⁰ was considered. The need to continue implementing the Guidelines on LDCs' Accession and the importance of technical assistance and capacity building at all stages of the accession process were emphasised. At that meeting, the Secretariat was requested to prepare a note on the type of technical assistance provided to acceding LDCs. At the 37th Session of the Sub-Committee, Members considered the note by the Secretariat on Technical Assistance for Acceding LDCs²¹, which provided an overview of the type of technical assistance required to assist LDCs in their accession process. It also included a non-exhaustive summary of the assistance provided by the WTO Secretariat, by WTO Members as well as that offered by other international organizations. The importance of continuing to provide assistance to those LDCs that had completed the accession process but still faced difficulties fulfilling their commitments was underscored. At its 38th Session, Members welcomed Cambodia as a full WTO Member and as the second LDC, after Nepal, to have acceded to the WTO in 2004, bringing the total number of LDC Members to 32.

Special and Differential Treatment – Committee on Trade and Development (Special Session)

Paragraph 44 of the Doha Ministerial Declaration mandates all special and differential treatment (S&D) provisions to be reviewed with a view to strengthening them and making them "more precise, effective and operational". In that context, paragraph 44 also endorses the work programme on S&D set out in the Decision on Implementation-Related Issues and Concerns.

Up to the Cancún Ministerial Conference, work in the Special Session of the Committee on Trade and Development had resulted in recommendations by Members for specific action on 25 Agreement-specific proposals. A further three recommendations were added at Cancún, bringing the number of Agreement-specific proposals on which Members had agreed to in principle to 28. After Cancún, work in the Special Session got underway with the election of new Chairpersons and during 2004 three formal meetings and a large number of informal meetings were held at which Members considered different possible alternatives of taking the work on S&D forward. During the first of these meetings, the Chairman of the Special Session put a number of questions to Members on how to structure the future work; what Members wished to do with the 28 proposals that they had agreed to in principle; how the current discussions on S&D could be made more productive; and what suggestions Members had on the way forward to fulfil the Doha Mandate of making S&D more precise, effective and operational.

While the discussions on these issues were ongoing, the General Council, as part of the July Decision, instructed 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 also instructed the Committee "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". Furthermore, the Council asked all WTO bodies to which Category II proposals had 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".

The Chairman of the Special Session, in pursuance of this mandate, continued to carry out consultations on the way forward. Members felt that attempting to address the remaining Agreement-specific proposals as had been done in the past was unlikely to result in any progress. Consequently, it was suggested that it would be more productive if the underlying issues that the proposals were seeking to address be identified and these proposals then discussed on the basis of their categorisation into thematic clusters. Members also suggested that while the Category II proposals could continue to be dealt with in the different WTO bodies to which they had been referred, it was important for the Special Session to maintain a supervisory role of the work being carried out in those bodies.

Based on the consultations, the Chairman subsequently put forward an informal conceptual approach on future work built on the basic premise that flexibility in WTO rules should facilitate development, and that these flexibilities should be made available on a situational basis, whilst ensuring that there is no a priori exclusion of any developing country from such a situational flexibility. Though Members, during the consultations held in 2004, have been cautiously positive about the Chairman's approach, they have continued to stress that further work must be consistent with paragraph 44 of the Doha Ministerial Declaration and paragraph 12.1 of the Decision on Implementation-Related

²⁰ Job (04)/03

²¹ WT/COMTD/LDC/W/32

Issues and Concerns. Most Members have also stated that given the July 2005 deadline it is important for the Special Session to quickly begin to address the remaining Agreement-specific proposals.

Trade Negotiations Committee

The Trade Negotiations Committee (TNC) was established by Ministers at Doha, with the specific tasks of establishing appropriate negotiating mechanisms as required and supervising the progress of the negotiations. Operating under the authority of the General Council, the TNC met twice in the first half of 2004, discussing reports by the Chairpersons of the bodies undertaking negotiations in specific subject areas. In this period, the TNC, the Chairpersons and the Chairman played a key role in the work leading to the adoption of the July Decision, which allowed Members to take necessary decisions on key issues to ensure continued progress in the negotiations.

In October, the TNC met again to establish the Negotiating Group on Trade Facilitation and to appoint its Chairperson, as instructed by the General Council in the July Decision. At its last meeting of the year in December, all of the Chairpersons reported on the state of play in their respective areas of the negotiations, several of them underlining the need to step up the pace of work early in the new year. The Chairman suggested that it would be timely and appropriate to invite the TNC early in 2005 to renew its collective consideration of the way forward for the Round as a whole. He announced his intention to launch a process of collective reflection which he hoped would lead to an early common understanding on the objectives for 2005, looking to the Hong Kong Ministerial and beyond.

II. WTO accession negotiations

WTO Membership is open to any State or customs territory having full autonomy in the conduct of its trade policies. As of 31 December 2004, 28 Governments were actively pursuing accession to the WTO: Afghanistan, Algeria, Andorra, Azerbaijan, Bahamas, Belarus, Bhutan, Bosnia and Herzegovina, Cape Verde, Ethiopia, Iraq, Kazakhstan, Lao PDR, Lebanon, Libya, Russian Federation, Samoa, Saudi Arabia, Serbia and Montenegro, Seychelles, Sudan, Tajikistan, Tonga, Ukraine, Uzbekistan, Vanuatu, Viet Nam, Yemen.

In 2004, the WTO received two new Members: Nepal and Cambodia. With their entry, the total membership of the WTO now stands at 148 with Members accounting for more than 90 per cent of world trade. This represents a significant advance in the important task of making the WTO and the multilateral trading system it embodies truly global in scope and application. Nepal and Cambodia membership also marks the first two LDCs to accede under the procedures established in 1995.

III. Work of the General Council

The General Council (GC) is entrusted with carrying out the functions of the WTO, and taking actions necessary to this effect, in the intervals between meetings of the Ministerial Conference, in addition to carrying out the specific tasks assigned to it by the WTO Agreement. Work of the General Council in relation to the Doha Development Agenda is covered in Section II above. During the period under review, other work of the General Council included the following:

Accessions

During the period covered by this report, the General Council considered applications from four Governments – Afghanistan, Iran, Iraq and Libya – for accession to the WTO Agreement. The General Council agreed to establish working parties to examine the applications from Afghanistan, Iraq and Libya, as the first step in their respective accession processes. With regard to the request from Iran, discussions through the period under review made clear that although a large part of the membership continued to be supportive of an early and positive action on this request on the basis of the provisions in Article XII of the WTO Agreement, there was no consensus at this time to accept Iran's request and to set up a working party for this purpose.

Following China's accession to the WTO in December 2001, and in accordance with the transitional review provisions in China's Protocol of Accession, the General Council in December conducted its third review of China's implementation of its WTO commitments. The following issues were addressed by the General Council in the course of the review:

reports of subsidiary WTO bodies on their respective reviews of China's implementation of the WTO Agreement and of the related provisions of the Protocol; development of China's trade with WTO Members and other trading partners; and recent developments and cross-sectoral issues regarding China's trade regime. Under the provisions of the Protocol, this review is to take place in each of the eight years following the first review in 2002, with a final review in the tenth year, or at an earlier date decided by the General Council.

Waivers under Article IX of the WTO Agreement

The General Council considered and granted a number of requests for waivers from obligations under the WTO Agreement as set out in Table 2.2 below.

Also, in July and December, under provisions of Article IX:4 of the WTO Agreement which require that any waiver granted for a period of more than one year be reviewed not later than one year after it is granted, the General Council conducted a review of the following multi-year waivers:

- Canada – CARIBCAN, granted on 14 October 1996 until 31 December 2006 (WT/L/185).
- Cuba – Article XV:6 of GATT 1994, granted on 20 December 2001 until 31 December 2006 (WT/L/440).
- EC – Autonomous Preferential Treatment to the Countries of the Western Balkans, granted on 8 December 2000 until 31 December 2006 (WT/L/380).
- EC – The ACP-EC Partnership Agreement, granted on 14 November 2001 until 31 December 2007 (WT/L/436).
- EC – Transitional Regime for the EC Autonomous Tariff Rate Quotas on Imports of Bananas, granted on 14 November 2001 until 31 December 2005 (WT/L/437).
- El Salvador – Agreement on Implementation of Article VII of GATT 1994, granted on 8 July 2002 until 7 March 2005 (WT/L/476).
- Kimberley Process Certification Scheme for Rough Diamonds, granted on 15 May 2003 until 31 December 2006 (WT/L/518).
- LDCs – Article 70.9 of the TRIPS Agreement with respect to pharmaceutical products, granted on 8 July 2002 until 1 January 2016 (WT/L/478).
- Preferential Tariff Treatment for Least-Developed Countries, granted on 15 June 1999 until 30 June 2009 (WT/L/304).
- United States – Former Trust Territory of the Pacific Islands, granted on 14 October 1996 until 31 December 2006 (WT/L/183).
- United States – Caribbean Basin Economic Recovery Act, granted on 15 November 1995 until 31 December 2005 (WT/L/104).

Other issues

In May, the General Council heard a presentation by the Acting Managing-Director of the IMF on the Fund's Trade Integration Mechanism initiative, which aimed to mitigate the concerns of some Members that implementation of WTO Agreements by others might give rise to temporary balance-of-payments shortfalls. Subsequently, the General Council also considered, on the basis of a report by the Chair of the Working Group on Trade, Debt and Finance, the question of trade financing for developing countries during periods of financial crisis.

With regard to the date of the Sixth Session of the Ministerial Conference to be held in Hong Kong, China, the General Council agreed in October that the Conference would be held on 13-18 December 2005.

Also in October, the General Council held a discussion on coherence in global economic policy-making and cooperation between the WTO, IMF and World Bank focussing on strengthening cooperation among the three organizations, particularly in respect of technical and financial support for the Doha Work Programme and its implementation. The President of the World Bank and the Managing Director of the International Monetary Fund participated at the meeting.

The General Council also noted in October that under Procedures for the Appointment of Directors-General adopted in December 2002, the process for the appointment of the next Director-General would begin on 1 December 2004, with a formal notification from the Chairman to all Members at that time, and also noted the time-lines for the appointment process as set out in the Procedures of December 2002.

In keeping with the provisions of the General Council Decision of August 2003 on the Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health, the TRIPS Council reviewed the functioning of the system set out in that Decision with a view to ensuring its effective operation, and reported on its operation to the General Council in December.

As part of its overall oversight function, and in pursuance of a 1995 Decision concerning procedures for the overview of WTO activities and for reporting under the WTO, the General Council also conducted a year-end review of WTO activities on the basis of annual reports from all subsidiary bodies, and reviewed matters relating to the operation of the WTO budget, as well as of the WTO pension plan.

Among other issues brought to the General Council for consideration during the period under review were: issues relating to Members' rights under the provisions of the WTO Agreements with regard to the accession to the European Union of ten new member States in May 2004; a report from the Joint Advisory Group of the International Trade Centre, a joint subsidiary organ of the UNCTAD and WTO; as well as other issues of concern to individual Members.

Table II.1

Waivers under Article IX of the WTO Agreement

During the period under review, the General Council granted the following waivers from obligations under the WTO Agreement

Waivers	Granted on	Expiry date	Decision
Argentina – Introduction of Harmonized System 1996 changes into WTO Schedules of Tariff Concessions	20 October 2004	30 April 2005	WT/L/590
Israel – Introduction of Harmonized System 1996 changes into WTO Schedules of Tariff Concessions	17 May 2004	31 October 2004	WT/L/568
	20 October 2004	31 October 2005	WT/L/589
Malaysia – Introduction of Harmonized System 1996 changes into WTO Schedules of Tariff Concessions	17 May 2004	30 April 2005	WT/L/569
Panama – Introduction of Harmonized System 1996 changes into WTO Schedules of Tariff Concessions	17 May 2004	30 April 2005	WT/L/570
	11 February 2004	31 December 2004	WT/L/562
Introduction of Harmonized System 2002 changes into WTO Schedules of Tariff Concessions ^a	13 December 2004	31 December 2004	WT/L/598
	17 May 2004	30 June 2005	WT/L/571
Senegal – Minimum values in regard to the Agreement on the Implementation of Article VII of GATT 1994	17 May 2004	30 June 2005	WT/L/571
Albania – Implementation of specific commitments in telecommunications services	17 May 2004	31 December 2004	WT/L/567

^a For Members listed in the Annex to the Decision and for other Members according to paragraph (b) of the Decision

IV. Trade in goods

During the year 2004 the Council for Trade in Goods (CTG) met seven times in formal session. The Council carried out China's Transitional Review in connection with paragraph 18 of the Protocol of Accession of China with respect to the information requirements stipulated in Annex I(A) of the Protocol; the Council report, together with the reports of its subsidiary bodies were sent to the General Council. On TRIMs, the Council discussed the review of the operation of the TRIMs Agreement under Article 9 and considered a request for extension of the transition period under the TRIMs Agreement. The Council took note of the periodic reports of the Committee on Market Access and discussed and/or approved a number of waiver requests under Article IX of the WTO Agreement, including waiver requests relating to the introduction of the Harmonized System 1996 and 2002 changes into the WTO Schedules of tariff concessions. The CTG adopted the terms of reference under which the CRTA would examine twenty trade agreements. Details of all waivers and trade agreements can be found in document G/L/721.

Concerning Post-ATC Adjustment Related Issues, Members presented two different submissions: "Initial Submission on Post-ATC Adjustment-related Issues" (G/C/W/496/Rev.1) and "Contribution on the Debate on Post-ATC Related-Issues" (G/C/W/497). On the EC enlargement, the CTG agreed on the extension of the deadline as set out in the communication from the EC (G/L/695) and referred the matter to the General Council.

The CTG also conducted the Third (and final) Major Review of the Implementation of the Agreement on Textiles and Clothing (ATC), pursuant to Article 8.11 of that agreement. For the Major Review, the Council had before it the Comprehensive Report of the Textiles Monitoring Body (G/L/683) and Background Statistical Information with Respect to the Trade in Textiles and Clothing (G/L/692). In addition, members of the International Textiles and Clothing Bureau (ITCB) circulated a communication contained in document G/C/W/495. The Major Review was concluded at a meeting of the CTG on 9 December 2004 with the adoption of the Report, circulated in document G/L/725.

Rules of origin

The main objective of the Agreement on Rules of Origin is to harmonize non-preferential rules of origin and to ensure that such rules do not themselves create unnecessary

obstacles to trade. The Agreement sets out a Harmonization Work Programme (HWP) for the harmonization of non-preferential rules of origin to be accomplished by the Committee on Rules of Origin (CRO) in conjunction with the World Customs Organization's Technical Committee on Rules of Origin (TCRO). Much work was done in the CRO and the TCRO and substantial progress was achieved in the three years foreseen in the Agreement for completion of the work. However, due to the complexity of the issues, the HWP could not be finalized within the foreseen deadline (July 1998).

The CRO continued its work under the mandate from the General Council (GC). The pace of the HWP began to accelerate, and the CRO resolved more than 300 outstanding issues in 2001 and 19 in 2002, as a result of which the number of unresolved issues is now reduced to 137. At the GC meeting in July 2002, the CRO had forwarded 94 core policy issues to the GC for discussion and decision (G/RO/52). A major stumbling block to the progress of the HWP was the so-called implications issue, i.e., the implications of the implementation of the harmonized rules of origin upon other WTO Agreements. Members have differing views on how to interpret Article 3(a) of Agreement on Rules of Origin. In July 2004, the GC set July 2005 as the new deadline for completion of the 94 core policy issues. The GC also mandated the CRO, following resolution of the core policy issues, to complete its remaining technical work by 31 December 2005. The negotiating texts are contained in documents G/RO/45 and its addenda.

Market access

The Committee met three times in 2004. It continues to make progress in its work relating to the transposition of schedules of concessions into the Harmonized System (HS) and the introduction of HS96 and HS2002 changes to schedules of concessions. In connection with these exercises, some waiver decisions were approved by the Committee and forwarded to the Council for Trade in Goods and General Council for action. The General Council also approved new procedures drawn up by the Committee relating to the introduction of HS2002 changes to schedules of concessions (WT/L/605).

The Committee took note of the work done by the Secretariat on the Integrated Data Base (IDB) and the Consolidated Tariff Schedules (CTS) database including the numerous technical assistance activities. The Committee approved the technical and procedural recommendations made by the Secretariat regarding the linking of the two databases (G/MA/156). Several requests for access to these two databases were received and approved by the Committee, namely from the United Nations Economic and Social Commission for Asia and the Pacific, the Caribbean Regional Negotiating machinery, the CARICOM Secretariat, the United Nations Economic Commission for Europe, the Pacific Islands Forum Secretariat, the ANDEAN Community Secretariat and the Commonwealth Secretariat. The Committee conducted the third review foreseen under paragraph 18 of the Protocol of Accession of the People's Republic of China. The Committee also agreed that the Secretariat should prepare a revised document on the basis of which the review foreseen in the decision entitled "Decision on Notification Procedures for Quantitative Restrictions" (G/L/59) would be undertaken. However, such a document was to be prepared once a comparable and representative set of quantitative restriction notifications was received. The Committee took note of the latest tariff information available in the Secretariat.

Import licensing

The Agreement on Import Licensing Procedures establishes disciplines on the users of import licensing systems with the principal objective of ensuring that the procedures applied for granting import licences do not in themselves restrict trade. It contains provisions to ensure that automatic import licensing procedures are not used in such a manner as to restrict trade, and that non-automatic import licensing procedures (licensing for the purposes of implementation of quantitative or other restrictions) do not act as additional restrictions on imports over and above those which the licensing system administers, and are not administratively more burdensome than absolutely necessary to administer the relevant measures. By becoming Members of the WTO, governments commit themselves to simplifying and bringing transparency to their import licensing procedures and to administering them in a neutral and non-discriminatory manner.

The obligations contained in the Agreement include publication of import licensing procedures, notification to the Committee on Import Licensing, fair and equitable application and administration, simplification of procedures and provision of foreign exchange to pay for licensed imports on the same basis as for imports of goods not requiring import licences. The Agreement establishes time limits for processing of licence applications, publication of information concerning licensing procedures and notification to the Committee.

The Committee on Import Licensing held two meetings during this period, noted that the lack of compliance of Members with the transparency obligations of the Agreement had been the main preoccupation of the Committee for some time, reviewed 30 notifications submitted by 21 Members under various provisions of the Agreement, and carried out its third Transitional Review pursuant to Section 18 of the Protocol of Accession of China and the 5th biennial review of the implementation and operation of the Agreement.

Trade in information technology products (ITA)

The Ministerial Declaration on Trade in Information Technology Products (ITA) was agreed to in Singapore in 1996 and has been accepted by 63 WTO Members and states or separate customs territories. Ultimately, the tariffs on computers, telecommunications equipment, semiconductors, semiconductor manufacturing equipment, software, and scientific instruments will be reduced to zero; most of this occurred on 1 January 2000 and January 2005 for most participating countries, while the remaining items for certain participants will gradually reach zero with a slightly longer implementation period. The details are contained in each participant's schedule of commitments. The Committee has continued its work on the non-tariff measures' (NTMs) work programme to identify NTMs that impact IT trade and to examine the economic and developmental impacts. In this respect "Guidelines" for EMC/EMI conformity assessment procedures were recently approved. Additionally, the committee proceeded with its work on classification divergences, reviewed the implementation of the Declaration, welcomed the participation of Hungary and Malta, and noted that consultations continued with respect to ITA II.

Customs valuation

During 2004 the Committee on Customs Valuation has held two formal meetings, on 8 March (G/VAL/M/37), and 25 October 2004 (G/VAL/M/38).

During the period under review, no developing country Members maintained delayed application of the provisions of the Agreement in accordance with the provisions of Article 20.1 of the Agreement. At year end, four Members maintained reservations granted under paragraph 2, Annex III for minimum values, or under the Article IX waiver provisions (El Salvador, Guatemala, Senegal, and Sri Lanka).

In the area of notifications, Members are to ensure that their laws, regulations and administrative procedures conform with the provisions of the Agreement, and are required to inform the Committee on Customs Valuation of any changes in this regard. Such notifications are subject to examination in the Committee. At year end, 68 Members have notified their national legislation on customs valuation (this figure includes the 14 Members which have submitted communications indicating that their legislation notified under the Tokyo Round Customs Valuation Agreement remained valid under the WTO Customs Valuation Agreement and does not include individual EEC Members). Fifty-five Members have not yet made any notification.

At its meeting of 25 October, the Committee adopted its 2004 report to the Council for Trade in Goods. Adoption of the fourth, fifth, sixth, seventh, eighth and ninth annual reviews remains blocked by an unresolved issue concerning one Member's interpretation of paragraph 2, Annex III of the Agreement. At this meeting, the Committee also completed China's Transitional Review in accordance with Section 18 of the Protocol of Accession of China. It submitted its report on this Review to the Council for Trade in Goods in G/VAL/57 and Corr-1. Article 18 of the Agreement established a WTO Technical Committee under the auspices of the World Customs Organization (WCO) to promote, at the technical level, uniformity of interpretation and application of the Agreement. The Technical Committee presented reports on its 18th and 19th Sessions during the year.

Textiles and clothing

The Agreement on Textiles and Clothing (ATC) entered into force on 1 January 1995. It was a ten-year transitional agreement with a programme to gradually integrate the textile and clothing sector fully into GATT 1994 rules and disciplines by the end of 2004. Under the ATC, when products were integrated, they were removed from the Agreement and normal GATT rules henceforth applied to their trade. Furthermore, if the integrated products were subject to bilateral quotas carried over from the former Multifibre Arrangement, these quotas had to be removed. The integration was to be achieved through three stages: in the first stage (1995-1997), products accounting for at least 16% of the total volume of each country's imports in 1990; a further 17% in the second stage (1998-2002); in the third stage, on 1 January 2002, a minimum of 18% of products were integrated. Total product

integration was in 2004, at least, 51 % of the Member's total imports in 1990. It was estimated that about 20% of imports under specific quota restrictions had been liberalized by the main importing Members at the beginning of the third stage. The process was completed on 31 December 2004 with the integration of all remaining products and the full removal of the quota regime.

The major review of the implementation of the ATC during the third and final stage of the integration process was undertaken by the Council for Trade in Goods in the fall of 2004, on the basis of a comprehensive report circulated in July by the Textiles Monitoring Body. The review was completed by the CTG in December 2004 (document G/L/725).

The prospects related to the termination of the ATC on 31 December 2004, and the possible impact of a quota-free environment on trade and production patterns of textiles and clothing around the world in 2005, were two factors that influenced considerably the work of the WTO in this area in 2004. In this context, the challenges and opportunities of adjustment facing both developing exporting Members, as well as developed importing Members, were the focus of WTO technical cooperation activities related to the ATC.

Some Members expressed, in mid-2004, concern about the adjustment challenges which were presented by the incoming elimination, on 1 January 2005, of all the quantitative restrictions hitherto maintained pursuant to the ATC. At their request, an item on "Post-ATC adjustment-related issues" was introduced on the agenda of the CTG in October. Proposals were made (documents G/C/W/496/Rev.1 and G/C/W/497) which, despite understanding for the issues, did not enjoy consensus. The consideration of these issues had not yet been completed at the end of 2004. Also, several Least-Developed Members raised, in October 2004, a similar issue in the context of the Sub-Committee on LDCs. A submission on Market Access for LDCs in the Textiles and Clothing Sector after the Expiry of ATC was made (document WT/COMTD/LDC/W/36) and discussed. In view of the divergences of opinion on the matter, consideration of the issue was not completed in 2004.

The Textiles Monitoring Body (TMB)

The TMB had the task of supervising the implementation of the ATC and examining all measures taken under this Agreement and their conformity with it. It consisted of a Chairman and ten members who acted in their personal capacity. It was a standing body and met as necessary to carry out its functions, relying mainly on notifications and information supplied by Members under the relevant provisions of the ATC.

The composition of the TMB's membership for the third stage of the integration process under the ATC (2002-2004) was decided by the General Council in December 2001. The decision included the allocation of the ten seats to WTO Members or to groupings of Members (i.e. constituencies) which, in turn, appointed an individual to be the TMB member, acting on an ad personam basis. The TMB members could appoint their alternates. Alternates were selected from within the constituency of the member. Most of the constituencies operated on the basis of rotation.

At the beginning of 2004 the following WTO Members appointed individuals to serve as member (or alternate) in the TMB: Brazil (Guatemala, Peru); Canada (Norway); China (Pakistan; Macao, China); Egypt (India); the European Communities; Hong Kong, China (Korea, Bangladesh); Indonesia (Thailand); Japan; Switzerland (Bulgaria, Turkey); and the United States.

The TMB took all of its decisions by consensus. However, consensus within the TMB did not require the assent or the concurrence of those members appointed by WTO Members which were involved in an unresolved issue under review by the TMB. The TMB also had its own detailed working procedures.

In 2004, the TMB held twelve formal sessions. The detailed reports of these meetings are contained in documents G/TMB/R/105 to 116. The TMB prepared, considered and adopted a comprehensive report to the CTG on the implementation of the ATC during the third stage of the integration process (document G/L/683). In addition, the TMB adopted an annual report to the CTG covering the period 23 October 2003 to 12 October 2004, also providing an overview of the issues handled by the TMB during that time (G/L/700).

The TMB examined a number of notifications and communications received from WTO Members in respect of actions taken under the provisions of the ATC, including integration programmes and a number of issues in respect of other obligations under the ATC.

More specifically, the TMB, *inter alia*, examined the programmes of the fourth stage of the integration process of Brazil, Canada, China, Chinese Taipei, Colombia, Costa Rica, El Salvador, the European Communities, India, Japan, Korea, Norway, Romania, Sri Lanka, Switzerland, Turkey and the United States. In essence, with slightly different formulations each of these notifications indicated that on 1 January 2005, the notifying Members will integrate into GATT 1994 all textile and clothing products to which the ATC applies that were not included in the respective Members' first, second and third stage integration programmes. The TMB, *inter alia*, noted that each of the Members concerned confirmed

that on the first day of the 121st month that the WTO Agreement would be in effect, their respective textiles and clothing sector would be integrated into GATT 1994. It also noted, furthermore, that in their respective notifications, Canada, the European Communities, Turkey and the United States had stated specifically that on 1 January 2005, all remaining restrictions under the ATC would be eliminated. The TMB, noted that only three notifications contained a detailed list of the products to be integrated in the final stage and observed that in order to inject the necessary transparency into the implementation of the ATC, it would be useful if the Members concerned could provide a detailed list of the products to be integrated on 1 January 2005.

The TMB continued its examination, started in 2003, of the implementation of the growth-on-growth provisions foreseen in Article 2.14 of the ATC as regards the Former Yugoslav Republic of Macedonia (FYROM), also with reference to the legal instruments of accession of FYROM to the WTO. In 2003, the TMB had invited the United States to reconsider its position and to implement the full 27 per cent increase in the respective growth rates applicable to Stage 3 also for the year 2003. Having considered the response provided by the United States, the TMB, *inter alia*, expressed its concern that the United States had not implemented for the year 2003 the full 27 per cent increase in the respective growth rates applicable to Stage 3.

The TMB considered a communication received from a number of its members requesting that it review, pursuant to Article 2.21, the "[i]ntroduction by the European Union of quota restrictions in the markets of ten newly acceding states, Members of the WTO." Having examined, *inter alia*, a response by the European Communities to the Body's request to provide any related notification and, as appropriate, information in respect of the restrictions introduced by the European Communities on 1 May 2004, the TMB found that the action by the European Communities could not find justification under the provisions of the ATC.

The TMB reviewed a notification by the United States, following the accession of Cambodia to the WTO, of the quantitative restrictions it maintained on imports from Cambodia of the products covered by the ATC on the day prior to the date of accession of Cambodia to the WTO. In taking note of the notification, the TMB expressed its concern that the United States had not implemented the full 27 per cent increase for the year 2004 in the respective growth rates applicable to imports of products subject to quantitative restrictions from Cambodia. The TMB reiterated also that its review and taking note of the US notification was without prejudice to the rights of Cambodia under the ATC, including the provisions of Article 2.2.

Agriculture

The Committee on Agriculture (regular meetings) continued its systematic review of the implementation of WTO commitments resulting from the Uruguay Round or accession to the WTO. This review is undertaken on the basis of notifications submitted by Members in the areas of tariff quota administration and utilisation, special safeguards, domestic support and export subsidies, as well as export prohibitions and restrictions.

In the course of the four meetings held in 2004, a number of matters relating to the implementation of commitments were raised by Members under the provisions of Article 18.6 of the Agreement on Agriculture (see report of the meetings G/AG/R/38 to 41). One of these implementation issues concerned certain food aid operations of the United States. Several Members expressed concern that skim milk powder provided as food aid for sale on the market of the recipient country ("monetization") had the effect of displacing commercial imports. In addition, a number of Members raised market access problems for a variety of products entering Colombia, the European Communities, Moldova, Panama, Turkey and Venezuela. They requested that the difficulties that exporters were facing in the areas of tariff quota administration, import licensing procedures or tariffs applied by the importing Members be addressed. During the Committee's third review of China's accession commitments under the Transitional Review Mechanism, several Members raised issues regarding China's implementation of tariff quota commitments.

In order to assist Members in implementing their existing commitments and in fully participating in the ongoing negotiations on agriculture, the Agriculture and Commodities Division carried out numerous technical cooperation activities during 2004 both at and from headquarters and through missions to a number of developing countries.

Sanitary and phytosanitary measures

The Agreement on the Application of Sanitary and Phytosanitary Measures (the "SPS Agreement") establishes the rights and obligations of Members regarding measures taken to ensure food safety, to protect human health from plant- or animal-spread diseases, or to protect plant and animal health from pests and diseases. Governments must ensure that

their SPS measures are based upon scientific principles. Measures which are based upon international standards are presumed to be consistent with the obligation to be scientifically justified. When governments implement measures that are more strict than international standards, these measures must be based upon a risk assessment. Governments are obliged to provide advance notice when proposed new, or modified, regulations differ from relevant international standards.

The SPS Committee meets at least three times a year. In 2004, the Committee considered specific trade concerns raised by Members on a wide range of issues including measures taken in response to foot-and-mouth disease and BSE, measures relating to poultry diseases including avian influenza, measures defining maximum residue testing requirements, and measures affecting trade in meat, fish, and fresh fruit.²² The Committee also considered the European Communities' rules on traceability and labelling of genetically modified organisms and on food and feed, as well as implementation of the international phytosanitary standard on wood packaging material.

The SPS Committee initiated its Second Review of the Agreement at its June 2004 meeting. The report of the next review will be prepared for the Sixth Session of the Ministerial Conference in December 2005. The Secretariat has produced a background document which provides details of Committee activities since the first review in 1998, as well as additional information which Members have requested be included during the course of the Second Review.²³

As of 31 December 2004, 4163 notifications have been circulated, not including corrigenda, addenda and revisions. The number of notifications in 2004 (617) was 42 per cent higher than the number of notifications in 1999 (432). One-hundred thirty-six Members (93 per cent) had notified an enquiry point and 127 (86 per cent) had identified their national notification authority.²⁴ In March 2004, the Secretariat established a mechanism to circulate information on the availability of unofficial translations of draft regulations notified by Members.²⁵

WTO's technical assistance activities in the SPS area contribute towards the strengthening of the capacities of developing countries in meeting standards for market access of food and other agricultural commodities. In 2004, the WTO Secretariat organized six national seminars and seven regional workshops. The programmes of these activities include presentations on the transparency obligations, dispute settlement, implementation problems, specific trade concerns and technical/scientific issues such as risk analysis and equivalence, as well as the work undertaken by the three standard-setting organizations referenced in the SPS Agreement (Codex, OIE and IPPC).

To date, Panel and Appellate Body reports have been issued for four SPS-related issues: *EC-Hormones*, *Australia-Salmon*, *Japan-Varietals*, and *Japan-Fire Blight*.²⁶ Two Panels initiated deliberations during 2004. The first Panel is considering the United States, Canada and Argentina's complaint against the European Communities regarding measures affecting the approval and marketing of biotech products. The second Panel was established to review the existence or consistency with the covered Agreements of Japan's measures taken to comply with recommendations and rulings of the Dispute Settlement Body in *Japan – Apples*. In addition, a Panel to consider complaints by the European Communities and the Philippines regarding Australia's quarantine procedures was established in 2004 but never formally composed.

Safeguards

WTO Members may take "safeguard" actions with respect to a product if increased imports of that product are causing, or threaten to cause, serious injury to the domestic industry that produces like or directly competitive products. Prior to the Uruguay Round, safeguard measures could be applied on the basis of Article XIX of GATT 1947. The WTO Agreement on Safeguards establishes additional substantive and procedural requirements for applying new safeguard measures. It also stipulates that Members shall not seek, take or maintain any voluntary export restraints, orderly marketing arrangements or any other similar measures which afford protection.

During the period under review, the Committee on Safeguards held two regular meetings, in April and October 2004.

Notification and examination of safeguards laws and/or regulations of Members
The Committee continued its review of notifications under Article 12.6 of the Agreement concerning national legislation and/or regulations in the area of safeguards. For Members with such legislation and/or regulations, these notifications consist of the full and integrated text thereof. For Members without such legislation and/or regulations, these notifications inform the Committee of this fact.

As of 31 December 2004, 91 Members²⁷ had notified the Committee of their domestic safeguards legislation and/or regulations or made communications in this regard to the Committee (G/SG/N/1 document series). Thirty-two Members had not as of that date made

²² G/SPS/R/33, G/SPS/R/34 and corrigendum, G/SPS/R/35 and corrigenda, and G/SPS/GEN/204/Rev.5.

²³ G/SPS/GEN/510/Rev.1.

²⁴ G/SPS/GEN/27/Rev.13.

²⁵ G/SPS/GEN/487.

²⁶ WT/DS26 and WT/DS48, WT/DS21, WT/DS76 and WT/DS245.

²⁷ Counting EC and all the 25 member States as one. There are currently 123 WTO Members on this basis.

such a notification. The extent of the non-compliance with this notification obligation, and the implications of this situation, were discussed at the regular meetings of the Committee held during the review period.

Notifications of actions related to safeguard measures During 2004, the Committee received and reviewed a variety of notifications of actions related to safeguard measures. The Committee reviewed 15 notifications regarding initiation of new investigation, three notifications of application of provisional measures, six notifications concerning finding of serious injury or threat thereof caused by increased imports, four notifications of termination of safeguard investigation with no safeguard measure imposed, nine notifications²⁸ concerning decision to apply safeguard measure, and four notifications concerning the non-application of safeguard measure to developing country Members.

Subsidies and countervailing measures

The Agreement on Subsidies and Countervailing Measures (the "SCM Agreement") regulates the provision of subsidies and the imposition of countervailing measures by Members. The Agreement applies to subsidies that are specific to an enterprise or industry or group of enterprises or industries within the territory of a Member. Specific subsidies are divided into two categories: prohibited subsidies under Part II of the Agreement and actionable subsidies under Part III of the Agreement.²⁹ Part V of the Agreement governs the conduct of countervailing duty investigations and the application of countervailing measures by Members. Parts VIII and IX of the Agreement provide special and differential treatment, respectively, for developing-country Members and for Members in transformation to a market economy.

Article 27.4 extensions Developing-country Members subject to the eight-year transition period in Article 27.2(b) of the SCM Agreement for the elimination of export subsidies had the possibility, not later than 31 December 2001, to seek extension of this transition period. In 2002, the Committee approved requests for extension, for calendar year 2003, of 21 developing-country Members in respect of specific programmes pursuant to Article 27.4 of the Agreement.³⁰ Most of these (i.e. 43 programmes of 19 Members) were requests based on the procedures contained in G/SCM/39, which had been approved by Ministers at Doha in the Decision on Implementation-Related Issues and Concerns; one Member's request in respect of two programmes was based on the language in paragraph 10.6 of that same Decision; and eight programmes were on the basis of Article 27.4 alone. In 2004, the Committee conducted the mandated standstill and transparency review of these export subsidy programmes and agreed to continue, for calendar year 2005, certain of the extensions previously granted by the Committee for calendar years 2003 and 2004. These continuations of extensions for calendar year 2005 were granted pursuant to the procedures in G/SCM/39 and can be found in documents G/SCM/50/Add.2-G/SCM/92/Add. 2.

Annex VII(b) In paragraph 10.1 of the Doha Implementation Decision, Ministers agreed that Annex VII(b) to the Agreement included the Members that were listed therein until their GNP per capita reached US\$1,000 in constant 1990 dollars for three consecutive years. From 1 January 2003, the methodology for calculating constant 1990 dollars set forth in G/SCM/38, Appendix 2, applies. The Secretariat circulated, in document G/SCM/110/Add. 1, a note reflecting: (i) GNI per capita in constant 1990 dollars covering the three most recent years for which data are available (2000-2002); and (ii) GNI per capita in current dollars for the year 2002. Accordingly, Annex VII(b) to the SCM Agreement includes the following Members that are listed therein until their GNP per capita reaches US\$1,000 in constant 1990 dollars for three consecutive years: Bolivia, Cameroon, Congo, Côte d'Ivoire, Egypt, Ghana, Guyana, Honduras, India, Indonesia, Kenya, Nicaragua, Nigeria, Pakistan, Philippines, Senegal, Sri Lanka and Zimbabwe.

Notification and review of subsidies Transparency is essential for the effective operation of the Agreement. To this end, Article 25 of the SCM Agreement requires that Members make a notification of specific subsidies by 30 June of each year. At its May 2003 meeting, the Committee continued the understanding reached in 2001 that Members would give priority to submitting new and full notifications every two years and would de-emphasize the review of updating notifications. The Committee will once again review this arrangement in 2005. The 2003 new and full notifications may be found in document series G/SCM/N/95/... A table indicating the status of 2003 subsidy notifications to 4 November 2004 is reproduced in Annex A of the Committee's 2004 report to the CTG (G/L/711). The Committee continued its review of these new and full subsidy notifications, as well as updating notifications from previous years, at its regular and special meetings in April and November 2004.

Permanent Group of Experts The Agreement provides for a Permanent Group of Experts ("PGE"), composed of five independent persons highly qualified in the fields of subsidies and trade relations. The role of the PGE involves the provision of assistance to

²⁸ In addition, there was one notification concerning the extension of a safeguard measure.

²⁹ The provisions of Part IV of the Agreement, on non-actionable subsidies, lapsed on 1 January 2000, as there was no consensus in the Committee on Subsidies and Countervailing Measures, pursuant to Article 31 of the SCM Agreement, to extend these provisions.

³⁰ Antigua and Barbuda; Barbados; Belize; Colombia; Costa Rica; Dominica; Dominican Republic; El Salvador; Fiji; Grenada; Guatemala; Jamaica; Jordan; Mauritius; Panama; Papua New Guinea; St. Kitts and Nevis; St. Lucia; St. Vincent and the Grenadines; Thailand; Uruguay.

panels with respect to whether a subsidy is prohibited, as well as the provision of advisory opinions at the request of the Committee or a Member.³¹ Although the PGE has drafted Rules of Procedure and submitted them to the Committee for its approval, the draft Rules have not yet been approved by the Committee.

Notification and review of countervailing duty legislation Pursuant to Article 32.6 of the Agreement and a decision of the Committee, Members are required to notify their countervailing duty legislation and/or regulations (or the lack thereof) to the Committee. A table indicating the status of legislative notifications to 4 November 2004 is reproduced in Annex C of the Committee's 2004 report to the CTG (G/L/711). At its spring and autumn 2004 meetings, the Committee continued its review of legislative notifications.

Countervailing actions Countervailing actions taken during the period 1 July 2003–30 June 2004 are summarized in Tables I and II below. While notifications are incomplete, the data available indicate that 15 new countervailing duty investigations were initiated in the review period. As of 30 June 2004, Members reported 102 countervailing measures (including undertakings) in force.

Table II.2

**Exporters subject to initiations of countervailing investigations,
1 July 2003 – 30 June 2004^a**

Affected Country	Initiations	Affected Country	Initiations
Canada	1	Chinese Taipei	1
China	2	Thailand	1
European Communities	5 ^b		
India	5	Total	15

^a The table is based on information from Members that have submitted semi-annual reports and is incomplete due to a significant number of missing notifications or notifications not providing information required by the notification format adopted by the Committee.

^b Includes initiations in respect of individual EC Member States: Greece, Italy, Spain

Table II.3

Summary of countervailing duty actions, 1 July 2003–30 June 2004

Reporting party	Initiations	Provisional	Definitive	Undertakings	Measures in force (definitive duties or undertakings) on 30.06.2004
Argentina	0	0	0	0	3
Australia	3	0	0	0	3
Canada	4	1	0	0	10
Costa Rica	0	0	0	1	1
European Communities	1	1	2	0	18
Mexico	2	1	0	0	1
New Zealand	0	0	1	0	1
Peru	0	0	0	0	1
South Africa	0	0	0	0	4
United States	5	1	3	0	57
Venezuela	0	0	1	0	3
Total	15	4	7	1	102

Anti-dumping practices

Article VI of GATT 1994 allows Members to apply anti-dumping measures on imports of a product with an export price below its "normal value" (usually, the comparable price of the product in the domestic market of the exporting country) if such imports cause or threaten to cause material injury to a domestic industry. The Agreement on Implementation of Article VI of GATT 1994 ("the Agreement") sets forth detailed rules concerning the determinations of dumping, injury, and causal link, and the procedures to be followed in initiating and conducting anti-dumping investigations. It also clarifies the role of dispute settlement panels in disputes concerning anti-dumping actions taken by WTO Members.

Notification and review of anti-dumping legislation. WTO Members are under a continuing obligation to notify their anti-dumping legislation and/or regulations (or lack

³¹ The current membership of the PGE is as follows: Messrs Okan Aktan, Yuji Iwasawa, Hyung-Jin Kim, Asger Petersen and Terence P. Stewart.

thereof). Members who enact new legislation or amend existing legislation are required to notify the new text or amendment. As of 31 December 2004, 95 Members (counting the EC as a single Member³²) had submitted notifications regarding anti-dumping legislation and/or regulations. Twenty-eight Members had not yet submitted a notification. Review of Members' notifications of legislation continues at the regular meetings of the Committee on Anti-Dumping Practices, on the basis of written questions and answers.

Subsidiary bodies. The Committee has two subsidiary bodies, the Working Group on Implementation (formerly known as the Ad Hoc Group on Implementation), and the Informal Group on Anti-Circumvention. These bodies meet twice a year in regular session, in conjunction with the regular meetings of the Committee.

The Working Group on Implementation considers, principally, technical issues concerning the Agreement. At its meetings in April and October 2004, the Working Group continued discussions on a series of topics referred to it by the Committee in April 1999 and April 2003. Discussion proceeded on the basis of papers submitted by Members, draft recommendations prepared by the Secretariat, and information submitted by Members concerning their own practices.

In the Informal Group on Anti-Circumvention, Members discuss the matters referred to the Committee by Ministers in the 1994 Ministerial Decision on Anti-Circumvention. The Informal Group met in April and October 2004, and continued discussions on the three topics under the agreed framework for discussions, "what constitutes circumvention", "what is being done by Members confronted with what they consider to be circumvention" and "to what extent can circumvention be dealt with under the relevant WTO rules? to what extent can it not? and what other options may be deemed necessary?".

Anti-dumping actions. Anti-dumping actions taken during the period 1 July 2003 – 30 June 2004 are summarized in Tables V.3 and V.4. The tables are incomplete because certain Members have not submitted the required semi-annual reports for this period or have not provided all of the information required by the format adopted by the Committee. The data available indicate that 239 investigations were initiated during the period. The most active Members, in terms of initiations, were the United States (42), India (37), China (22), Turkey (19), the European Communities (18), Korea (17), Canada (13), Mexico (11), and South Africa (10). As of 30 June 2004, 27 Members reported anti-dumping measures (including undertakings) in force. Of the 1349 measures in force reported, 22 percent were maintained by the United States, 16 percent by India, 12 percent by the European Communities, and 6 percent each by Argentina, Canada and South Africa. Other Members reporting measures in force each accounted for 5 percent or less of the total. Products exported from China were the subject of the most anti-dumping investigations initiated during the period (59), followed by products exported from the United States (23), Chinese Taipei (22), the European Communities and Korea (19 each), Japan (15), and India (14). The remaining Members exporting products subject to investigation each were subject to fewer than 10 investigations.

³² To account for the fact that Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, the Slovak Republic, and Slovenia acceded to the European Communities as of 1 May 2004, the anti-dumping legislations that they had notified prior to that date are no longer separately counted in this tally.

Table II.4

Summary of anti-dumping actions, 1 July 2003 – 30 June 2004³³

	Initiations	Provisional measures	Definitive Duties	Price Undertakings	Measures in force on 30 June 2004 ³⁴
Argentina	7	0	2	0	76
Australia	9	4	12	2	51
Brazil	8	0	3	0	54
Canada	13	14	9	0	85
China	22	13	26	1	56
Costa Rica	0	0	1	0	1
Egypt	0	0	2	0	17
European Communities (including new Member States acceded 01.05.2004)	18	12	8	2	165
India	37	12	38	2	216
Indonesia	6	0	3	0	2
Israel	0	0	1	1	5
Jamaica	1	1	1	0	4
Japan	0	0	0	0	2
Korea	17	9	5	1	23
Malaysia	3	0	5	0	11
Mexico	11	11	8	0	58
New Zealand	4	1	2	0	10
Pakistan	4	3	3	0	4
Peru	6	2	7	0	29
Philippines	0	0	0	0	3
South Africa	10	6	2	0	84
Chinese Taipei	0	0	0	0	4
Thailand	2	3	1	0	23
Trinidad and Tobago	0	1	0	0	4
Turkey	19	10	11	0	53
United States	42	22	15	0	293
Venezuela	0	0	1	0	16
Total	239	124	166	9	1349

Table II.5

Exporters subject to two³⁵ or more initiations of anti-dumping investigations, 1 July 2003 – 30 June 2004³⁶

Affected country	Total	Affected country	Total
China	59	Canada	4
United States	23	Viet Nam	4
Chinese Taipei	22	Brazil	3
European Communities and/or Member States	19	Mexico	3
Korea	19	Argentina	2
Japan	15	Belarus	2
India	14	Saudi Arabia	2
Thailand	9	Singapore	2
Russia	8	South Africa	2
Indonesia	7	Turkey	2
Malaysia	6	United Arab Emirates	2
		Total	229³⁷

³³ The reporting period covers 1 July 2003 – 30 June 2004. The table is based on information from Members having submitted semi-annual reports for that period and is incomplete due to missing reports and/or missing information in reports.

³⁴ Includes definitive price undertakings.

³⁵ Countries the subject of only one initiation of an anti-dumping investigation were: Australia, Ecuador, Iran, Nigeria, Romania, Sri Lanka, Switzerland, Ukraine, Uruguay, and Uzbekistan.

³⁶ The reporting period covers 1 July 2003 – 30 June 2004. The table is based on information from Members having submitted semi-annual reports for that period and is incomplete due to missing reports and/or missing information in reports.

³⁷ Does not include exporters subject to only one initiation (see note 4 above). The total number of initiations was 239

Technical barriers to trade

During 2004, the Committee held three meetings (the reports are contained in G/TBT/M/32-34 and Corrigena). At each meeting the Committee considered specific trade concerns brought to its attention by Members. Much of the Committee's work in 2004 focused on the follow-up to the recommendations contained in the Third Triennial Review (G/TBT/13). In particular, the Committee held, on 29 June 2004, a Special Meeting which focused on Conformity Assessment Procedures (G/TBT/M/33/Add.1). At this meeting Members considered, *inter alia*, issues relevant to accreditation and supplier's declaration of conformity (SDoC). This is part of an on-going effort to promote a better understanding of Members' conformity assessment systems, and, in so doing, improving Members' implementation of Articles 5-9 of the TBT Agreement. In respect of transparency, the TBT Committee held, on 2-3 November 2004, its Fourth Special Meeting on Procedures for Information Exchange. This meeting provided a forum for Members to exchange experiences regarding the implementation of transparency provisions of the TBT Agreement at a technical level – in particular with respect to the functioning of notification procedures and enquiry points (G/TBT/M/34, Annex 2). At its last meeting of the year, the Committee adopted a work programme for the preparation of the Fourth Triennial Review (G/TBT/M/34, Annex 1 and Corr.1).

State trading enterprises

The Working Party on State Trading Enterprises was established in accordance with paragraph 5 of the Understanding on the Interpretation of Article XVII of the GATT 1994, and held its first meeting in April 1995. The Working Party held a formal meeting in November 2004.

The Working Party's main task is to review the notifications and counter-notifications submitted by Members on their state trading activities. Notifications shall be made in accordance with the questionnaire on state trading adopted in April 1998 (G/STR/3) and revised in November 2003 (G/STR/3/Rev.1). Reviews of the notifications submitted are conducted in formal meetings of the Working Party. In November 2003, the Working Party decided on a change in the frequency of the notifications requiring Members to submit new and full notifications every two years and eliminating the requirement for updating notifications (G/STR/5). This change has been implemented as of the year 2004. Notifications must be made by all Members, regardless of whether the Member maintains any state trading enterprises, and regardless of whether an existing state trading enterprise has conducted any trade during the period under review.

With regard to the main task of the Working Party – the review of notifications – at its November 2004 meeting, the Working Party reviewed 41 notifications: 2004 new and full notifications³⁸ of Armenia; Bulgaria; Croatia; Ghana; Hong Kong, China; Indonesia; Japan; Latvia; Liechtenstein; Macao, China; Panama; Singapore; Suriname; Switzerland; Chinese Taipei and Thailand, 2003 updating notifications of Australia; Colombia; Croatia; Czech Republic; Estonia; Oman; Panama; Romania; Singapore; Slovak Republic; Chinese Taipei; Thailand; the United States and Zambia, 2002 updating notifications of Australia; Colombia; Croatia; and the United States, 2001 new and full notifications of Australia; Colombia; and the United States, 2000 updating notifications of Australia; and the United States, 1999 updating notifications of the United States and 1998 New and full Notifications of the United States. At that meeting, the Working Party also adopted its Annual Report to the Council for Trade in Goods for the year 2004 (G/L/716).

Trade-related investment measures (TRIMs)

The Agreement on Trade-Related Investment Measures requires WTO Members to eliminate trade-related investment measures (TRIMs) that are inconsistent with Article III or Article XI of GATT 1994. Members were given a transition period to eliminate TRIMs notified within 90 days of the entry into force of the WTO Agreement – two years in the case of developed-country Members, five years in the case of developing-country Members, and seven-years in the case of least-developed country Members. Twenty-six such notifications were made.

Under Article 5.3 of the TRIMs Agreement, the Council for Trade in Goods (CTG) may extend the transition period at the request of an individual developing or least-developed country Member that demonstrates particular difficulties in implementing the provisions of the Agreement. In July 2001, eight developing countries – Argentina, Colombia, Malaysia, Mexico, Pakistan, the Philippines, Romania and Thailand were given extensions of the transition period until the end of 2001, and in November 2001 the CTG granted additional extensions to these Members for periods up to end-2003. In late December 2003, Pakistan

³⁸New Zealand submitted a 2004 new and full notification the day before the meeting. This notification will be reviewed at the subsequent meeting of the Working Party.

requested a further extension of three years for the maintenance of certain TRIMs in its automobile industry. Consultations on this request by the Chairman of the CTG are on-going.

In 2004, the TRIMs Committee held one formal meeting (26 October). The Committee reviewed the status of Members' notifications under Article 6.2 of the TRIMs Agreement concerning publications in which information on TRIMs can be found. Pursuant to the General Council's Decision of 1 August 2004, at its meeting the TRIMs Committee also considered the proposals on special and differential treatment that were submitted by the African Group in document TN/CTD/W/3/Rev.2 with respect to Article 4 and Article 5.3 of the TRIMs Agreement. In addition, the Committee completed its third annual review under the Transitional Review Mechanism of China's Protocol of Accession and submitted its report to the CTG (G/L/708 and Corr.1). Following the request by the Chair of the Trade Negotiations Committee (TNC) to assist him in his consultative process under paragraph 12(b) of the Doha Ministerial Declaration, in November 2004 the Chairman of the TRIMs Committee held informal consultations on the outstanding implementation issues related to the TRIMs Agreement. During 2004, the CTG continued the Article 9 review of the operation of the TRIMs Agreement.

V. Trade in services

Council for Trade In Services

The Council for Trade in Services held seven formal meetings during 2004. Reports of the meetings are contained in documents S/C/M/ 70 to 76. These reports, as well as the annual report by the Council, contained in document S/C/22, should be read in conjunction with this summary. During the reporting period, the Council addressed the following matters:

Proposals for a technical review of GATS provisions – Article XX:2 At its meeting on 25 March 2004, the Council considered the report (S/C/W/237) by the Chairman of the Committee on Specific Commitments (CSC), which summarized the technical discussions on issues arising from the scheduling of commitments in accordance with Article XX:2. At its meeting on 24 June 2004, the Council agreed to revert to this item upon specific request.

Request for a waiver from specific commitments under the GATS pursuant to paragraphs 3 and 4 of Articles IX of the Marrakesh Agreement Establishing the World Trade Organization At its meeting on 1 March 2004, the Council approved Albania's request and adopted the report (S/C/21) to the General Council. The draft decision, attached to the report, was forwarded to the General Council. The General Council adopted the decision on 17 May 2004, which was issued in document WT/L/567.

Negotiations on emergency safeguard measures under Article X of the GATS – deadline for the negotiations At its meeting on 15 March 2004, the Council considered the communication (S/C/W/236) from the Chairman of the Working Party on GATS Rules (WPGR), which proposed to extend the deadline of the negotiations on emergency safeguard measures under Article X. The Council adopted the Fifth Decision on Negotiations on Emergency Safeguard Measures (S/L/159), which stipulates that, subject to the outcome of the mandate in paragraph 1 of Article X, the results of such negotiations shall enter into effect on a date not later than the date of entry into force of the results of the current round of services negotiations.

Transitional review under Section 18 of the Protocol on the Accession of the People's Republic of China At its meeting on 26 November 2004, the Council for Trade in Services conducted and concluded the third Transitional Review under Section 18 of the Protocol on the Accession of the People's Republic of China. The Council took note of the report from the Committee on Trade in Financial Services on its review, contained in document S/FIN/13, which formed part of the Council's report on this matter to the General Council, contained in document S/C/23.

Review of MFN exemptions At its meeting on 24 June 2004, the Council addressed the second review of MFN exemptions in accordance with the decision adopted at the conclusion of the previous review. At its meeting on 23 September 2004, the Council agreed that the second review would be conducted in dedicated sessions. At the first such session, which was held on 30 November 2004, the Council examined MFN exemptions listed for All Sectors, business services, communication services, construction and related engineering services, and distribution services.

Derestriction of documents At its meeting on 23 September 2004, the Council held discussions in informal mode regarding the European Communities' request for the continued restriction of parts of the report (S/C/M/73) of the Council's meeting of 24 June

2004. At its meeting on 26 November 2004, the Council reached an agreement on this matter.

Implementation Article VII of GATS At its four formal meetings in 2004, the Council continued to discuss issues relating to the implementation of Article VII of the GATS based on a submission from India.

VI. Trade-related aspects of intellectual property rights (TRIPS)

The Council for TRIPS followed up the reviews of the national implementing legislation of certain developing country Members that were initiated in 2001 and 2002 following the expiry of their transition period at the beginning of 2000, and initiated the reviews of two newly acceded Members. At the end of the year, the completion of 14 reviews was pending. At its meeting in December, the Council undertook the third annual transitional review of the implementation by China of its WTO commitments in the TRIPS area pursuant to Section 18 of its Protocol of Accession.

The Council continued its work pursuant to paragraph 11 of the "Decision on the Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health" (WT/L/540). This paragraph instructed the TRIPS Council to initiate by the end of 2003 work on the preparation of an amendment to the TRIPS Agreement to replace the provisions of the Decision with a view to its adoption within six months, i.e. by June 2004. At its meeting in June 2004, the Council agreed to continue its work, initiated at its meeting in November 2003, on the preparation of the amendment with a view to the TRIPS Council making a recommendation by the end of March 2005 so that the General Council could conclude its work on the amendment at its first meeting thereafter. At its meeting in December, the Council carried out the first annual review, pursuant to paragraph 8 of the Decision, of the functioning of the system set out in the Decision.

Pursuant to paragraph 19 of the Doha Ministerial Declaration, the Council continued its discussions related to the review of the provisions of Article 27.3(b), the relationship between the TRIPS Agreement and the Convention on Biological Diversity, and the protection of traditional knowledge and folklore. The Council received a number of new papers from Members related to these topics.

The Council agreed that developed country Members would update the information on their technical and financial cooperation activities pursuant to Article 67 of the Agreement in time for the Council's meeting in September. Updated information was also received from a number of intergovernmental organizations observers to the Council, as well as from the WTO Secretariat. Furthermore, at each Council meeting, the WTO and WIPO Secretariats reported on the implementation of their Joint Initiative on Technical Cooperation for Least-Developed Countries launched in June 2001.

In the light of the Decision on the Doha Work Programme adopted by the General Council on 1 August 2004, the Council discussed, at its meeting in December, the special and differential treatment proposals referred to it and took note of an informal Secretariat note summarizing the Council's work so far on these proposals.

The Council's work on the implementation of Article 66.2 as well as on non-violation and situation complaints is described in Section II on the Doha Development Agenda above.. Other issues discussed in the TRIPS Council included the review of implementation of the TRIPS Agreement under Article 71.1, the review of the application of the provisions of the Section on geographical indications under Article 24.2, and a request from Maldives for an extension of the transition period under Article 66.1 of the TRIPS Agreement. Further information can be found in the Annual Report (2004) of the Council for TRIPS (IP/C/32).

VII. Resolution of trade conflicts under the WTO's Dispute Settlement Understanding

Overview

The General Council convenes as the Dispute Settlement Body (DSB) to deal with disputes arising from any agreement contained in the Final Act of the Uruguay Round that is covered by the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU). The DSB, which met 19 times during 2004, has the sole authority to establish dispute settlement panels, adopt panel and Appellate Body reports, maintain surveillance of

implementation of recommendations and rulings, and authorize suspension of concessions in the event of non-implementation of recommendations.

Dispute settlement activity in 2004

In the year 2004, the DSB received 12 notifications from Members of formal requests for consultations under the DSU. During this period, the DSB also established panels to deal with seven new cases and adopted panel and/or Appellate Body Reports in 14 cases. In addition, mutually agreed solutions were notified in three cases. The following section briefly describes the procedural history and, where available, the substantive outcome of these cases. It also describes the implementation status of adopted reports where new developments occurred in the covered period. In order to provide the most up-to-date information available at the time of writing concerning cases that were active in 2004, developments from 1 January 2004 until 17 February 2005 are reflected. New cases initiated in 2005 are not reflected here. The cases are listed in order of their DS number. Additional information on each of these cases can be found on the WTO's website at www.wto.org.

United States – Tax treatment for "Foreign Sales Corporations", complaint by the European Communities (WT/DS108)

(For a description of the Panel report see Annual Report 2000, p.73; for a description of the Appellate Body report, see Annual Report 2001, p. 80; for a description of the compliance Panel and Appellate Body reports, see WTO Annual Report 2002, p. 95; for information on the authorization to suspend concessions, see WTO Annual Report 2004, p. 51.)

On 5 November 2004, the EC requested the United States to enter into consultations under Articles 4 and 21.5 of the DSU, Article 4 of the SCM Agreement, Article 19 of the Agreement on Agriculture and Article XXII:1 of the GATT 1994 with respect to *the American JOBS Creation Act of 2004* (the "JOBS Act") enacted by the United States on 22 October 2004. According to the EC, the JOBS Act was intended to implement the DSB's recommendations and rulings in this case (compliance phase) but failed to do so properly and was inconsistent with the same provisions of the WTO Agreement as the predecessor legislation. In particular, the European Communities considered that Section 101 of the JOBS Act contains transitional provisions which will allow US exporters to continue to benefit from the WTO-incompatible FSC Replacement and Extraterritorial Income Exclusion Act: (a) in the years 2005 and 2006 with respect to all export transactions; and (b) for an indefinite period with respect to certain binding contracts, thus failing to withdraw the subsidy and implement the DSB's recommendations and rulings. On 17 November 2004, Australia requested to join the consultations. On 13 January 2005, the EC notified the DSB that consultations had failed to settle the dispute and that it was requesting the establishment of a panel pursuant to Article 21.5 of the DSU. At its meeting of 25 January 2005, the DSB deferred the establishment of a panel. At its meeting of 17 February 2005, the DSB agreed to refer the matter to the original panel.

United States – Anti-dumping Act of 1916, complaint by the European Communities (WT/DS136)

(For a description of the Panel and Appellate Body reports, see Annual Report 2001, p. 82, for detailed information relating to the implementation please see WTO Annual Report 2002, p. 97 and WTO Annual Report 2003, p. 97 and WTO Annual Report 2004, p.51.)

On 19 September 2003, the European Communities requested the Arbitrators to reactivate the arbitration proceeding in this dispute since no legislation had been adopted to repeal the 1916 Act and to terminate the cases pending before the United States courts. In accordance with this request, the Arbitrators resumed the arbitration proceeding on the same day. On 24 February 2004 the decision by the Arbitrators was circulated to Members. Given that the nullification or impairment results from the 1916 Act "as such", and not from particular instances of application of that law, the Arbitrators decided to set a number of parameters: ((i) damages paid by EC companies as a result of judgements under the 1916 Act and (ii) amount of any settlement reached between an EC company and a US complainant pursuant to a 1916 Act complaint) with which the European Communities will have to comply when calculating the amount of countermeasures it plans to impose, rather than setting a fixed value of trade which the European Communities should not exceed when suspending its WTO obligations against the United States.

European Communities – Protection of trademarks and geographical indications for agricultural products and foodstuffs, complaints by the United States and Australia (WT/DS174, WT/DS290)

(For information relating to the establishment of this Panel, see WTO Annual Report 2004, p. 53.)

On 17 August 2004, the Chairman of the Panel informed the DSB that it would not be able to complete its work in six months due to the complexity of the case and that the Panel expected to issue its final report to the parties before the end of year 2004. The report is expected to be circulated to WTO Members in mid-March 2005.

United States – Anti-dumping measures on certain hot-rolled steel products from Japan, complaint by Japan (WT/DS184)

(For a description of the Panel and Appellate Body reports see Annual Report 2002, p. 84; for details of implementation up until 31 December 2002, see WTO Annual Report 2003, p. 99; for details of implementation up until 31 December 2004, see WTO Annual Report 2004, p. 53.)

On 30 July 2004, the United States notified the Chairman of the DSB that it proposed that the reasonable period of time for implementation of the recommendations and rulings of the DSB be modified so as to expire on 31 July 2005, and that it had consulted with Japan regarding this proposal. At its meeting on 31 August 2004, the DSB agreed to the request by the United States for an extension of the reasonable period of time for the implementation of the recommendations and rulings of the DSB.

Mexico – Measures affecting telecommunications services, complaint by the United States (WT/DS204)

(For details concerning the request for establishment of the panel, see WTO Annual Report 2003, p. 103.)

The Panel was composed on 26 August 2002. On 2 April 2004, the Panel report was circulated to Members. The Panel ruled that Mexico violated its GATS commitments because: (a) Mexico failed to ensure interconnection at cost-oriented rates for the cross-border supply of facilities-based basic telecom services, contrary to Article 2.2(b) of its Reference Paper; (b) Mexico failed to maintain appropriate measures to prevent *anti-competitive practices* by firms that are a major telecom supplier, contrary to Article 1.1 of its Reference Paper; and (c) Mexico failed to ensure reasonable and non-discriminatory *access to and use of* telecommunications networks, contrary to Article 5(a) and (b) of the GATS Annex on Telecommunications. In respect of cross-border telecom services supplied on a *non-facilities* basis in Mexico, however, the Panel ruled that Mexico did not violate its obligations because it had not taken commitments for these services.

On 1 June 2004, the DSB adopted the Panel Report. At the same time, Mexico and the United States reached an agreement on Mexico's compliance with the recommendations of the Panel Report. The agreement states that a reasonable period of time to comply with the recommendations of the Report is 13 months.

Chile – Price band system and safeguard measures relating to certain agricultural products, complaint by Argentina (WT/DS207)

(For a description of the Panel and Appellate Body Reports, see WTO Annual Report 2003, p. 89-90; for details relating to the implementation of this report up until 31 December 2004, see WTO Annual Report, p. 53.)

At the DSB meeting on 23 January 2004, Chile and Argentina noted that they had concluded a bilateral agreement regarding the procedures under Articles 21.5 and 22 of the DSU. In this regard, Chile noted that the issue of sequencing between Articles 21.5 and 22 required a multilateral solution since ad hoc agreements only applied to specific disputes. Argentina noted that the parties would shortly enter into consultations regarding the implementation issues. On 19 May 2004, Argentina requested consultations with Chile under Article 21.5 of the DSU

United States – Countervailing measures concerning certain products from the European Communities, complaint by the European Communities (WT/DS212)

(For details of the Panel and Appellate Body Reports, see WTO Annual Report 2003, p. 102-103 and WTO Annual Report 2004, p. 54.)

On 17 March 2004, the European Communities, considering that the measures taken by the United States to comply with its WTO obligations were unsatisfactory, requested that they enter into consultations under Articles 4 and 21.5 of the DSU and Article 30 of the SCM Agreement. On 16 September 2004, pursuant to Articles 6 and 21.5 of the DSU, Article 30 of the SCM Agreement and Article XXIII of GATT 1994, the European Communities requested that a panel be established, as it disagreed with the United States as to the existence or consistency with a covered agreement of measures taken to comply with the recommendations and rulings of the DSB. At its meeting of 27 September 2004, the DSB established the panel. Brazil, Korea and China reserved their rights as third parties. On 8 October 2004, the Panel was composed. On 4 January 2005, the Chairman of the Panel informed the DSB that the Panel expected to complete its work in May 2005.

United States – Countervailing duties on certain corrosion-resistant carbon steel flat products from Germany (WT/DS213)

At the DSB meeting of 20 April 2004, the United States informed that it had fully implemented the DSB's recommendations and rulings on 1 April 2004 by revoking the countervailing duty order on corrosion-resistant carbon steel flat products from Germany.

United States – Continued Dumping and Subsidy Offset Act of 2000, joint complaint by Australia, Brazil, Chile, European Communities, India, Indonesia, Japan, Korea and Thailand (WT/DS217), and Canada and Mexico (WT/DS234)

(For information regarding the establishment of the Panel, see Annual Report 2002, pp. 105 and 106; for a description of the Panel Report, see WTO Annual Report 2003, p. 102; for a description of the Appellate Body Report and the arbitration under Article 21.3(c) of the DSU, see WTO Annual Report 2004, p. 55.)

On 14 January 2004, the DSB was informed that the United States had mutually agreed to modify the reasonable period of time with Thailand, Australia and Indonesia, respectively, so as to expire on 27 December 2004. On 15 January 2004, on the grounds that the United States had failed to implement the DSB recommendations and rulings within the reasonable period of time, Brazil, Chile, the European Communities, India, Japan, Korea, Canada and Mexico requested the DSB's authorization to suspend concessions pursuant to Article 22.2 of the DSU. On 23 January 2004, the United States requested, in accordance with Article 22.6 of the DSU, that the matter be referred to arbitration, since the United States objected to the level of suspension of concessions proposed by the foregoing parties. At its meeting on 26 January 2004, the DSB decided to refer the matter to arbitration.

On 31 August 2004, the arbitrator circulated its decisions. The Arbitrator: (a) rejected the position of Brazil, Canada, Chile, the European Communities, India, Japan, Korea and Mexico that the level of suspension of concessions or other obligations should be equivalent to the disbursements made by the United States under the measure at issue, i.e., CDSOA. The Arbitrator considered that this interpretation was not supported by the terms of Article XXIII of GATT 1994 or the DSU. The Arbitrator found it appropriate to rely on the economic effect of the measure, as in previous Article 22.6 arbitrations. (b) The Arbitrator applied an economic model aimed at assessing the effect of disbursements under the CDSOA on exports of the above-mentioned Members to the United States, and came up with a coefficient which, multiplied by the amounts disbursed by the United States under the CDSOA in relation to anti-dumping or countervailing duties collected on imports from each of those Members, gave an assessment of the economic effect of the CDSOA on exports from each of those Members for a given period. (c) The Arbitrators' decisions do not provide for an actual, single value of trade not to be exceeded by the above-mentioned Members when suspending concessions or other obligations *vis-à-vis* the United States. The awards allow those Members to suspend concessions or other obligations up to a maximum value of trade to be calculated by multiplying the published amount of disbursements under the CDSOA for a given year by the coefficient calculated by the Arbitrator.

On 10 November 2004, Brazil, the European Communities, India, Japan, Korea, Canada and Mexico requested authorization to suspend concessions or other obligations under Article 22.7 of the DSU. At its meeting of 26 November 2004, the DSB authorized the suspension of concessions. On 6 December 2004, Chile requested authorization to suspend concessions or other obligations under Article 22.7 of the DSU. At its meeting of 17 December 2004, the DSB authorized the suspension of concessions.

On 23 December 2004, 7 and 11 January 2005, Australia, Thailand and Indonesia, respectively, reached an Understanding with the United States with respect to this dispute. At its meeting of 25 January 2005, the DSB agreed to take note of these Understandings.

European Communities – Anti-dumping duties on malleable cast iron tube or pipe fittings from Brazil, complaint by Brazil (WT/DS219)

(For details regarding the establishment of the Panel and suspension and resumption of the Panel's work, see Annual Report 2003, p. 107; for details concerning the Panel and Appellate Body reports, see WTO Annual Report 2004, p. 55.)

On 17 March 2004, the European Communities informed the DSB that it had reassessed its findings related to the contested measure by taking fully into account the findings and conclusions set out in the Panel and Appellate Body Reports, as explained in the Council Regulation (EC) No. 436/2004 of 8 March 2004, and thus had fully complied with the DSB rulings and recommendations in this dispute and within the deadline agreed upon between the disputing parties. At the DSB meeting on 20 April 2004, Brazil contested this assertion. Brazil stated that whereas it was true that the EC had recalculated the dumping margin without using the "zeroing" methodology, it had not fully implemented the findings of the Appellate Body relating to the due process requirements contained in the Anti-Dumping Agreement. The European Communities disputed Brazil's claim.

Mexico – Measures affecting the import of matches, complaint by Chile (WT/DS232)

On 2 February 2004, Chile informed the DSB that it wished formally to withdraw the request for consultations and bring this matter to a close as its complaints had been adequately met as a result of negotiations with Mexico.

Argentina – Definitive safeguard measure on imports of preserved peaches, complaint by Chile (WT/DS238)

(For details relating to the establishment of this Panel and the Panel report, see WTO Annual Report 2004, p. 56.)

At the DSB meeting of 23 January 2004, Argentina announced that the safeguard measure at issue had been withdrawn on 31 December 2003 in line with the agreement reached between Argentina and Chile and thus in its view it had implemented the DSB's recommendations. Chile welcomed the withdrawal of the measure by Argentina.

United States – Sunset review of anti-dumping duties on corrosion-resistant carbon steel flat products from Japan, complaint by Japan (WT/DS244)

(For further details relating to the request for establishment of the panel, see WTO Annual Report 2003, p. 104; for details relating to the panel and Appellate Body reports, see WTO Annual Report 2004, pp. 57-58.)

On 9 January 2004, the DSB adopted the Appellate Body Report and the Panel Report, as modified by the Appellate Body Report.

Japan – Measures affecting the importation of apples, complaint by the United States (WT/DS245)

(For further details relating to the request for establishment of a panel, see WTO Annual Report 2003, p. 105; for information on the panel and Appellate Body reports, see WTO Annual Report 2004, p. 58.)

On 10 February 2004, Japan and the United States informed the DSB that they had agreed that the reasonable period of time for the implementation of the DSB's recommendations and rulings would be from 10 December 2003 to 30 June 2004. On 30 June 2004, the parties informed the DSB of an Understanding regarding procedures under Articles 21 and 22 of the DSU. On 19 July 2004 the United States requested the DSB to establish a panel under Article 21.5 of the DSU and authorization to suspend concessions or other obligations with respect to Japan under Article 22.2 of the DSU. In accordance with Japan's request this latter matter was referred to arbitration at the DSB meeting of 30 July 2004. On 4 August 2004, both parties requested the Arbitrator to suspend the arbitration proceeding until adoption by the DSB of its recommendations and rulings of the former proceeding, i.e., the panel proceeding under Article 21.5 of the DSU. In respect of the panel proceeding under Article 21.5 of the DSU, at its meeting on 30 July 2004 the DSB decided to refer the matter raised by the United States to the original panel. Australia, Brazil, China, the European Communities, New Zealand and Chinese Taipei reserved their third party rights. On 29 October 2004, the Panel informed the DSB that due in particular to the need to consult scientific experts, the Panel was not able to issue its report within 90 days, and that the Panel expected to circulate its final report to Members during the second half of the month of May 2005.

European Communities – Conditions for the granting of tariff preferences to developing countries, complaint by India (WT/DS246)

(For a description of the Panel Report, see WTO Annual Report 2004 p. 58.)

On 8 January 2004, the European Communities notified the DSB of its decision to appeal certain issues of law covered in the Panel Report and certain legal interpretations developed by the panel, and it filed a Notice of Appeal with the Appellate Body. On 7 April 2004, the Appellate Body Report was circulated to Members. The Appellate Body upheld the Panel's finding that the Enabling Clause operates as an "exception" to Article I:1 of the GATT 1994 and therefore that the European Communities, as the responding party, was required to prove that its "special arrangements to combat drug production and trafficking" satisfy the conditions set out in the Enabling Clause. However, in contrast to the Panel, the Appellate Body found that the complaining party is obliged to raise the relevant provisions of the Enabling Clause in making its claim. The Appellate Body found that India had sufficiently raised paragraph 2(a) of the Enabling Clause before the Panel. The Appellate Body reversed the Panel's finding that the term "non-discriminatory" in footnote 3 to paragraph 2(a) of the Enabling Clause requires the provision of identical tariff preferences to all developing countries without differentiation, except as regards *a priori* limitations on imports from certain developing countries. Nevertheless, the Appellate Body upheld, for different reasons, the Panel's conclusion that the European Communities failed to demonstrate that its challenged measure is justified under paragraph 2(a) of the Enabling Clause.

At its meeting on 20 April 2004, the DSB adopted the Appellate Body report and the Panel report, as modified by the Appellate Body report.

At the DSB meeting on 19 May 2004, the European Communities reaffirmed its intention to fully comply with the recommendations and rulings of the DSB in a manner that respected its WTO obligations, and that it would need a reasonable period of time to implement the recommendations and rulings of the DSB and was willing to discuss this matter with India in accordance with Article 21.3(b) of the DSU. On 16 July 2004, India requested that the reasonable period of time be determined through binding arbitration pursuant to Article 21.3(c) of the DSU due to the failure to reach an agreement with the European Communities on this matter. On 4 August 2004, pursuant to India's request of 26 July 2004, the Director-General appointed an arbitrator under Article 21.3(c) of the DSU. On 20 September 2004, the Arbitrator decided that the reasonable period of time for implementation would expire on 1 July 2005.

United States – Equalizing Excise Tax imposed by Florida on processed orange and grapefruit products, complaint by Brazil (WT/DS250)

(For details relating to the establishment of this Panel, see WTO Annual Report 2003, p. 105.)

On 28 May 2004, the United States and Brazil informed the DSB that they had reached a mutually agreed solution under Article 3.6 of the DSU.

United States – Final countervailing duty determination with respect to certain softwood lumber from Canada, complaint by Canada (WT/DS257)

(For further details relating to the request for establishment of a Panel, see WTO Annual Report 2003, pp. 105-106, for information on the panel report and the notification to the DSB of the United States' decision to appeal the panel report, see WTO Annual Report 2004, p. 59.)

The Appellate Body circulated its Report to Members on 19 January 2004. The Appellate Body upheld the Panel's finding that the United States had correctly determined that harvesting rights granted by Canadian provincial governments in respect of standing timber constitute the provision of goods under Article 1.1 of the SCM Agreement. The Appellate Body reversed the Panel's interpretation of Article 14(d) of the SCM Agreement and thus also reversed the Panel's finding that the United States had improperly determined the existence and amount of the "benefit" resulting from the financial contribution provided. The Appellate Body examined this issue in the light of its own interpretation of Article 14(d) but found that it was unable to complete the legal analysis of whether the United States had correctly determined benefit in this investigation, due to insufficient factual findings by the Panel and insufficient undisputed facts in the Panel record. The Appellate Body upheld the Panel's finding that the United States acted inconsistently with provisions of the SCM Agreement and the GATT 1994 by failing to analyze whether subsidies were passed through in sales of *logs* by timber harvesters who own sawmills to unrelated producers of softwood lumber. The Appellate Body, however, reversed the Panel's finding that the United States acted inconsistently with its WTO obligations by failing to consider whether subsidies were passed through in sales of *lumber* by sawmills to unrelated lumber remanufacturers.

On 17 February 2004, the DSB adopted the Appellate Body Report and the Panel Report, as modified by the Appellate Body Report.

On 28 April 2004, Canada and the United States informed the DSB that they had agreed that the reasonable period of time should be ten months, that is from 17 February 2004 to 17 December 2004. On 30 December 2004, considering that the measures allegedly taken by the United States to comply with the DSB's recommendations and rulings were inconsistent with US obligations under the relevant WTO Agreements, Canada requested the establishment of a panel under Article 21.5 of the DSU and authorization to suspend concessions or other obligations with respect to the United States under Article 22.2 of the DSU. On 13 January 2005, in respect of the Article 22 proceeding, the United States requested that the matter be referred to arbitration in accordance with Article 22.6 of the DSU. At its meeting of 14 January 2005, the DSB so agreed. In respect of the Article 21.5 proceeding, at the same meeting, the DSB decided to refer the matter raised by Canada to the original panel. China and the European Communities reserved their third party rights. Pursuant to a bilateral agreement established between Canada and the United States, the Article 22.6 arbitration proceeding was suspended until the completion of the Article 21.5 proceeding.

Uruguay – Tax treatment on certain products, complaint by Chile (WT/DS261)

(For information relating to the establishment of this Panel, see WTO Annual Report 2004, p. 60.)

On 8 January 2004, Chile and Uruguay informed the DSB that they had reached a mutually agreed solution under Article 3, paragraphs 5 and 6 of the DSU.

United States – Final dumping determination on softwood lumber from Canada, complaint by Canada (WT/DS264)

(For details relating to the establishment of the Panel, see WTO Annual Report 2004, p. 60.)

On 13 April 2004, the Panel report was circulated to Members. The Panel found that, in its final dumping determination, the US Department of Commerce (DOC) failed to comply with the requirements of Articles 2.4.2 of the AD Agreement because it did not take into account all export transactions by applying the "zeroing" methodology when calculating the margin of dumping. (One member of the Panel issued a dissenting opinion regarding the finding on "zeroing".) The Panel found that all other claims submitted by Canada failed.

On 13 May 2004, the United States notified its decision to appeal certain issues of law covered in the Panel Report and certain legal interpretations developed by the Panel. On 11 August 2004, the Appellate Body Report was circulated to Members. The Appellate Body upheld the Panel's finding that the United States acted inconsistently with Article 2.4.2 of the Anti-Dumping Agreement in determining the existence of margins of dumping on the basis of a methodology incorporating the practice of "zeroing". The Appellate Body furthermore reversed the Panel's finding that the United States did not act inconsistently with Articles 2.2, 2.2.1, 2.2.1.1, and 2.4 of the Anti-Dumping Agreement in its calculation of the amount for financial expense for softwood lumber for Abitibi Company – one of the Canadian companies under investigation – but did not make findings on whether the United States acted consistently or inconsistently with these provisions. The Appellate Body also upheld the Panel's findings that the United States did not act inconsistently with Articles 2.2, 2.2.1, 2.2.1.1, and 2.4 of the Anti-Dumping Agreement in its calculation of the amount for by-product revenue from the sale of wood chips as offsets in the case of Tembec Company, another of the Canadian companies under investigation.

At its meeting on 31 August 2004, the DSB adopted the Appellate Body report and the Panel report, as modified by the Appellate Body report.

On 18 October 2004, Canada requested that the reasonable period of time be determined through binding arbitration pursuant to Article 21.3(c) of the DSU. On 6 December 2004, Canada and the United States informed the DSB that pursuant to Article 21.3(b) of the DSU they had mutually agreed that the reasonable period of time to implement the recommendations and rulings of the DSB would be seven and one-half months, that is from 31 August 2004 to 15 April 2005. In addition, they informed that, in light of the agreement, the proceeding under Article 21.3(c) of the DSU should be terminated. On 13 December 2004, the Report of Arbitrator was circulated, noting that in light of the above agreement between the parties, it would not be necessary for him to issue an award.

United States – Subsidies on upland cotton, complaint by Brazil (WT/DS267)

(For a description of the establishment of the Panel, see WTO Annual Report 2004, p. 61.)

On 8 September 2004, the report of the Panel was circulated to Members. The Panel found that: (a) agricultural export credit guarantees are subject to WTO export subsidy disciplines and three United States export credit guarantee programmes are prohibited export subsidies which have no Peace Clause protection and are in violation of those disciplines; (b) the United States also grants other prohibited subsidies in respect of cotton; and (c) United States' domestic support programmes in respect of cotton are not protected by the Peace Clause, and certain of these programmes result in serious prejudice to Brazil's interests in the form of price suppression in the world market.

On 18 October 2004, the United States notified the DSB of its decision to appeal certain issues of law covered in the Panel Report and certain legal interpretations developed by the Panel. On 16 December 2004, the Chairman of the Appellate Body notified the Chair of the DSB that, due to the numerous and complex issues arising in the dispute, the intervening WTO holiday period, and the other appeals expected during the same period, the Appellate Body would be unable to issue its report within the 60-day period referred to in Article 17.5 of the DSU. Brazil and the United States confirmed that they would deem the Appellate Body Report in this proceeding, issued no later than 3 March 2005, to be an Appellate Body Report circulated pursuant to Article 17.5 of the DSU.

United States – Sunset reviews of anti-dumping measures on oil country tubular goods from Argentina, complaint by Argentina (WT/DS268)

(For a description relating to the establishment of the Panel, see WTO Annual Report 2004, p. 61.)

On 16 July 2004, the report of the Panel was circulated to Members. The Panel found that: (a) Certain provisions of United States' law regarding waivers in sunset reviews and certain provisions of the US Department of Commerce (DOC) Sunset Policy Bulletin (SPB) concerning the DOC's obligation to determine likelihood of continuation or recurrence of dumping in sunset reviews were inconsistent with United States' obligations under

certain provisions of the Anti-Dumping Agreement. With respect to the DOC's likelihood determinations in the OCTG (oil country tubular goods) sunset review, the Panel found that the DOC acted inconsistently with certain provisions of the Anti-Dumping Agreement, but that it did not act inconsistently with other provisions of that Agreement; and (b) the United States law's standard for the likelihood of continuation or recurrence of injury determinations in sunset reviews and the ITC's determinations in the OCTG sunset review were not inconsistent with the relevant articles of the Anti-Dumping Agreement.

United States – Sunset reviews of anti-dumping measures on oil country tubular goods from Argentina, complaint by Argentina (WT/DS268)

(For a description relating to the establishment of the Panel, see WTO Annual Report 2004, p. 61.)

On 16 July 2004, the report of the Panel was circulated to Members. The Panel found that: (a) Certain provisions of United States' law regarding waivers in sunset reviews and certain provisions of the Sunset Policy Bulletin (SPB) concerning the DOC's (Department of Commerce) obligation to determine likelihood of continuation or recurrence of dumping in sunset reviews were inconsistent with United States' obligations under certain provisions of the Anti-Dumping Agreement. With respect to the DOC's likelihood determinations in the OCTG (oil country tubular goods) sunset review, the Panel found that the DOC acted inconsistently with certain provisions of the Anti-Dumping Agreement, but that it did not act inconsistently with other provisions of that Agreement; and (b) the United States law's standard for the likelihood of continuation or recurrence of injury determinations in sunset reviews and the ITC's determinations in the OCTG sunset review were not inconsistent with the relevant articles of the Anti-Dumping Agreement.

On 31 August 2004, the United States notified its intention to appeal certain issues of law covered in the panel report and certain legal interpretations developed by the Panel. The Appellate Body report was circulated on 29 November 2004. The Appellate Body reversed the Panel's finding that one provision of the "Sunset Policy Bulletin" was inconsistent, as such, with Article 11.3 of the *Anti-Dumping Agreement*. The Appellate Body also found that the Panel had not met its obligation under Article 11 of the DSU to "make an objective assessment of the matter before it", in the analysis leading to this finding. Therefore, the Appellate Body was not able to reach its own conclusion, on the basis of the facts before it, as to the WTO-consistency of the Sunset Policy Bulletin. The Appellate Body upheld all the other findings of the Panel that were appealed, including the Panel's findings that a United States statutory provision and administrative regulation are inconsistent, as such, with Article 11.3 of the *Anti-Dumping Agreement*, and that the same administrative regulation is also inconsistent with Articles 6.1 and 6.2 of the *Anti-Dumping Agreement*. The Appellate Body upheld all of the Panel's findings on appeal with respect to the injury-related aspect of the sunset review determination at issue.

On 17 December 2004, the DSB adopted the Appellate Body Report and the Panel Report, as modified by the Appellate Body Report.

European Communities – Customs classification of frozen boneless chicken cuts, complaints by Brazil (WT/DS269) and Thailand (WT/DS286)

(For information relating to the establishment of this Panel, see WTO Annual Report 2004, p.62.)

On 17 June 2004, Brazil and Thailand requested the Director-General to compose the panel. On 28 June 2004, the Director-General composed the panel. On 14 July 2004, Chile informed the Panel that it did not wish to participate as third-party in the panel proceedings. On 14 September 2004, Colombia informed the Panel that it did not wish to participate as third-party in the panel proceedings. On 19 November 2004, the Chairman of the Panel informed the DSB that it would not be able to complete its work in six months due to the complexity of the case and the sensitivity of the legal and factual questions that had been raised, and that the Panel hoped to complete its work by the end of March 2005.

Korea – Measures affecting trade in commercial vessels, complaint by the European Communities (WT/DS273)

(For a description of the establishment of this Panel, see WTO Annual Report 2004, p.62.)

On 11 May 2004, following the passing away on 11 April 2004 of the Chairman of the Panel, and pursuant to a joint request of the parties on 6 May 2004, the Director-General appointed a new Chairman to the Panel.

Canada – Measures relating to exports of wheat and treatment of imported grain, complaint by the United States (WT/DS276)

(For details concerning the establishment of the Panel, see WTO Annual Report 2004, p. 63.)

On 6 April 2004, the Panel report was circulated to Members. The Panel found that: (a) the United States had failed to establish its claim that Canada had breached its obligations under Article XVII:1 of the GATT 1994 with respect to the Canadian Wheat Board (CWB); (b) Section 57(c) of the Canada Grain Act, and Section 56(1) of the Canada Grain Regulations were inconsistent with Article III:4 of the GATT 1994 and were not justified under Article XX(d) of the GATT 1994; (c) Sections 150(1) and (2) of the Canada Transportation Act were inconsistent with Article III:4 of GATT 1994 and; (d) the United States had failed to establish its claim that section 87 of the Canada Grain Act was inconsistent with Article III:4 of the GATT 1994 and Article 2 of the TRIMs Agreement.

On 1 June 2004, the United States notified its decision to appeal certain issues of law covered in the Panel Report and certain legal interpretations developed by the Panel. On 30 August 2004, the Appellate Body Report was circulated to Members. The Appellate Body found that subparagraphs (a) and (b) of Article XVII:1 of the GATT 1994 ("State Trading Enterprises") are necessarily related to each other; subparagraph (a) is the general and principal provision, and subparagraph (b) explains it by identifying the types of differential treatment in commercial transactions that are most likely to occur in practice. Therefore, in most if not all cases, panels would not be in a position to make any finding of violation of Article XVII:1 until they have properly interpreted and applied subparagraphs (a) and (b) of that Article. In the present dispute, although the Panel assumed that inconsistency with subparagraph (b) is sufficient to establish a breach of Article XVII:1, its analytical approach was nevertheless consistent with the Appellate Body's interpretation of the relationship between subparagraphs (a) and (b). The Appellate Body found that the United States' claim relating to the phrase "solely based on commercial consideration" in the first clause of subparagraph (b) of Article XVII:1 was based on a mischaracterization of a statement made by the Panel and, therefore, dismissed this ground of appeal. In examining an additional argument submitted by the United States, the Appellate Body agreed with the Panel that, although state trading enterprises ("STEs") must act in accordance with "commercial" considerations, this is not equivalent to an outright prohibition on STEs using their privileges whenever such use might "disadvantage" private enterprises. The Appellate Body upheld the Panel's interpretation of the term "enterprises" in the second clause of subparagraph (b) of Article XVII:1. In addition, the Appellate Body rejected the United States' claims that the Panel had failed to examine the measure challenged by the United States in its entirety and had not discharged its obligations under Article 11 of the DSU. Finally, the Appellate Body upheld the Panel's finding that, in the particular circumstances of this case, Canada's preliminary objection to the adequacy of the United States' request for establishment of a panel under Article 6.2 of the DSU was not untimely solely because it was not raised at the DSB meetings at which the panel request was considered.

At its meeting on 27 September 2004, the DSB adopted the Appellate Body report and the Panel report, as upheld by the Appellate Body report.

On 15 November 2004, Canada and the United States informed the DSB that they had agreed that the reasonable period of time should be 10 months and 5 days, that is, 27 September 2004 to 1 August 2005.

United States – Investigation of the International Trade Commission in softwood lumber from Canada, complaint by Canada (WT/DS277)

(For a description of the establishment of the Panel, see WTO Annual Report 2004, p. 63.)

On 22 March 2004, the Panel report was circulated to Members. The Panel found that, in its final threat of injury determination, the US International Trade Commission (USITC) failed to comply with the requirements of Articles 3.5 and 3.7 of the AD Agreement and Article 15.5 and 15.7 of the SCM Agreement in finding a likely imminent substantial increase in imports and a causal link between imports and threat of injury to the domestic industry in the United States producing softwood lumber. The Panel found that the USITC's finding of likelihood of substantially increased imports was not consistent with the requirements of the Agreements, and that the causation conclusion rested on this inconsistent finding. The Panel therefore found that the anti-dumping and countervailing measures imposed by the United States on imports of softwood lumber from Canada were inconsistent with the United States' obligations under those provisions, and recommended that those measures be brought into conformity with United States obligations.

At its meeting on 26 April 2004, the DSB adopted the Panel report. On 1 October 2004, both parties jointly informed the DSB that they had mutually agreed that the reasonable period of time to implement the recommendations and rulings of the DSB would be nine months, that is from 26 April 2004 to 26 January 2005. At the DSB meeting on 25 January 2005, the United States stated that it had implemented the DSB's recommendations and rulings by amending the US anti-dumping and countervailing duty order concerned, and Canada stated it was reviewing the results of US implementation.

United States – Anti-dumping measures on imports of cement from Mexico, complaint by Mexico (WT/DS281)

(For a description of the establishment of the Panel, see WTO Annual Report 2004, p. 64.)

On 24 August 2004, Mexico requested the Director-General to compose the panel. On 3 September 2004, the Director-General composed the panel.

United States – Anti-dumping measures on oil country tubular goods (OCTG) from Mexico complaint by Mexico (WT/DS282)

(For information relating to the establishment of this Panel, see WTO Annual Report 2004, p.64.)

On 16 August 2004, the Chairman of the Panel informed the DSB that it would not be able to complete its work in six months and that the Panel expected to complete its work in March 2005.

Mexico – Certain measures preventing the importation of black beans from Nicaragua, complaint by Nicaragua (WT/DS284)

On 8 March 2004, Nicaragua informed the DSB that it wished formally to withdraw the request for consultations as its complaints had been adequately addressed as a result of negotiations with Mexico.

United States – Measures affecting cross-border supply of gambling and betting services, complaint by Antigua and Barbuda (WT/DS285)

(For a description of the establishment of the Panel, see WTO Annual Report 2004, p. 64.)

On 29 January 2004, the Chairman of the Panel informed the DSB that it would not be possible to complete its work in six months and notified that it hoped to complete its work by the end of April 2004. In the context of the negotiations for a mutually agreed solution to the dispute, the parties requested the Panel to suspend the panel proceedings, in accordance with Article 12.12 of the DSU, until 23 August 2004. On 25 June 2004, the Panel agreed to this request. The parties subsequently requested a continuation of the suspension until 4 October 2004, and the Panel agreed to the request on 18 August 2004.

Ultimately, the parties were unable to achieve a mutually agreed solution and on 10 November 2004, the Panel Report was circulated to WTO Members. The Panel found that: (a) the GATS Schedule of the United States had been interpreted to include specific commitments for gambling and betting services under the sub-sector entitled "Other Recreational Services (except sporting)"; (b) three US federal laws and the provisions of four US state laws on their face, prohibited one, several or all means of delivery included in mode 1 of GATS (i.e. cross-border supply), contrary to the United States' specific market access commitments for gambling and betting services for mode 1. Therefore, the United States had failed to accord services and service suppliers of Antigua treatment no less favourable than that provided for under the terms, limitations and conditions agreed and specified in the US Schedule, contrary to Article XVI:1 and Article XVI:2 of the GATS (i.e. concerning market access); (c) Antigua had failed to demonstrate that the measures at issue were inconsistent with Articles VI:1 and VI:3 of the GATS (i.e. concerning domestic regulation); (d) the United States was not able to invoke successfully the GATS exceptions provisions. In this regard, the United States was not able to demonstrate that the relevant laws were "necessary" under Article XIV(a) and XIV(c) of the GATS (i.e. "exceptions" provisions, including for public morals) and that they were consistent with the requirements of the chapeau of Article XIV of the GATS.

On 7 January 2005, the United States notified its decision to appeal certain issues of law covered in the panel report and certain legal interpretations developed by the Panel. On 19 January 2005, Antigua and Barbuda notified the DSB of its decision to appeal certain issues of law covered in the panel report and certain legal interpretations developed by the Panel. The Appellate Body Report will be circulated no later than 7 April 2005.

European Communities – Export subsidies on sugar, complaints by Australia (WT/DS265), Brazil (WT/DS266) and Thailand (WT/DS283)

(For a description of the establishment of the Panel, see WTO Annual Report 2004, p. 61.)

On 15 October 2004, the Panel report was circulated to Members. The Panel found, inter alia, that: (a) the European Communities' annual budgetary outlay and quantity commitment levels for exports of subsidized sugar were determined with reference to the entries specified in Section II, Part IV of its Schedule and that the content of Footnote 1 in relation to these entries was of no legal effect and did not enlarge or otherwise modify the European Communities' specified commitment levels; (b) producers/exporters of "ACP/India equivalent sugar" that exceeded the European Communities' reduction commitment levels received subsidies within the meaning of Article 9.1(a) of the Agreement on Agriculture; (c) producers/exporters of C sugar that exceeded the European Communities' reduction commitment levels received payments on export by virtue of governmental action, within the meaning of Article

9.1(c) of the Agreement on Agriculture: (i) through sales of C beet to C sugar producers below their total costs of production; and (ii) in the form of transfers of financial resources, through cross-subsidization resulting from the operation of the EC sugar regime.

On 2 December 2004, Australia, Brazil, Thailand and the European Communities notified the DSB of a procedural agreement regarding the time-period under Article 16.4 of the DSU requesting the postponement of the consideration of the panel reports in the case and seeking the extension of the corresponding time-period in Article 16.4 of the DSU until 31 January 2005.

On 13 January 2005, the European Communities notified its decision to certain issues of law covered in the panel report and certain legal interpretations developed by the panel. On 25 January 2005 Australia, Brazil and Thailand notified their decision to appeal certain issues of law covered in the panel report and certain legal interpretations developed by the panel. On 24 January 2005, the Chairman of the Appellate Body notified the Chair of the DSB that, in the light of the constraints expressed by certain participants regarding the date of the oral hearing and the concurrent caseload of the Appellate Body, as well as translation requirements, the Appellate Body would be unable to circulate its Report within the 60-day period referred to in Article 17.5 of the DSU. The European Communities, Australia, Brazil, and Thailand confirmed that the Appellate Body Report in this proceeding, issued no later than 28 April 2005, shall be an Appellate Body Report circulated pursuant to Article 17.5 of the DSU.

Measures affecting the approval and marketing of biotech products, complaints by the United States (WT/DS291), Canada (WT/DS292) and Argentina (WT/DS293)

(For information relating to the establishment of this Panel, see WTO Annual Report 2004, p. 65.)

On 23 February 2004, the United States, Canada and Argentina requested the Director-General to compose the panel. On 4 March 2004, the Director-General composed the panel. Argentina (in respect of the United States' and Canada's complaints), Australia, Brazil, Canada (in respect of the United States' and Argentina's complaints), Chile, China, Colombia, El Salvador, Honduras, Mexico, New Zealand, Norway, Paraguay, Peru, Chinese Taipei, Thailand, Uruguay and the United States (in respect of Canada's and Argentina's complaints) reserved their third-party rights.

On 12 July 2004, the Chairman of the Panel informed the DSB that it would not be able to complete its work in six months, due, inter alia, to the parties' common request for additional time to prepare their rebuttals. On 18 August 2004, the Chairman of the Panel informed the DSB that that the Panel estimated that it would issue its final report to the parties by the end of March 2005, and that the delay was due to the parties' common request for additional time to prepare their rebuttals as well as the Panel's decision to seek scientific and technical expert advice pursuant to Article 11 of the Agreement on Sanitary and Phytosanitary Measures and Article 13 of the DSU.

United States – Laws, regulations and methodology for calculating dumping margins ("zeroing"), complaint by the European Communities (WT/DS294)

On 12 June 2003, the European Communities requested consultations with the United States concerning a methodology used by the United States, among others, in the calculation of dumping margins, known as "zeroing". The "zeroing" methodology, generally speaking, involves treating specific price comparisons which do not show dumping as zero values in the calculation of a weighted average dumping margin. The request concerned specific provisions of the US Tariff Act of 1930 and the Department of Commerce implementing regulation as well as US Department of Commerce methodology and its determinations in specific cases involving products imported from the European Communities. The European Communities considered that the Act, regulation, methodology and a number of specific determinations appeared to be inconsistent with the United States' obligations under various provisions of the Anti-Dumping Agreement, the GATT 1994 and the WTO Agreement. On 5 February 2004, the EC requested the establishment of a panel. At its meeting on 19 March 2004, the DSB established a panel. Argentina, Brazil, China, India, Japan, Korea, Mexico, Norway, and Chinese Taipei reserved their third-party rights. On 23 March 2004 Hong Kong, China reserved its third-party right. On 30 March 2004, Turkey reserved its third-party right. On 27 October 2004, the Panel was composed.

Mexico – Definitive anti-dumping measures on beef and rice, complaint by the United States (WT/DS295)

On 4 February 2004, the United States requested the Director-General to compose the Panel. On 13 February 2004, the Director-General composed the panel. On 11 August 2004, the Chairman of the Panel informed the DSB that it would not be able to complete its work in six months due to the complexity of the matter, and that the Panel expected to issue its

final report to the parties in November 2004. On 26 November 2004, the Chairman of the Panel informed the DSB that it expected to complete its work in March 2005.

United States – Countervailing duty investigation on dynamic random access memory semiconductors (DRAMs) from Korea, complaint by Korea (WT/DS296)

(For details relating to the establishment of this Panel, see WTO Annual Report 2004, p.65.)

Further to a second request to establish a panel by Korea, the DSB established a panel at its meeting on 23 January 2004. China, the EC, Japan and Chinese Taipei reserved their third-party rights. On 23 February 2004, Korea requested the Director-General to compose the panel. On 5 March 2004, the Director-General composed the panel. On 16 August 2004, the Chairman of the Panel informed the DSB that it would not be able to complete its work in six months and that the Panel expected to complete its work in December 2004.

European Communities – Countervailing measures on dynamic random access memory chips from Korea, complaint by Korea (WT/DS299)

(For information relating to the establishment of this Panel, see WTO Annual Report 2004, p.66.)

Further to a second request to establish a panel by Korea, the DSB established a panel at its meeting on 23 January 2004. China, Japan, Chinese Taipei and the United States reserved their third-party rights.

On 24 March 2004, the Panel was composed. Following the resignation of the Chairperson on 22 June 2004, a new Chairman of the Panel was appointed on 27 July 2004.

European Communities – Measures affecting commercial vessels, complaint by Korea (WT/DS301)

On 3 September 2003, Korea requested consultations with the European Communities concerning certain measures by the European Communities and its member States in favour of their shipbuilding industry which, according to Korea, were inconsistent with their WTO obligations. On 12 September 2003, China requested to join the consultations. Further to a second request to establish a panel by Korea, the DSB established a panel at its meeting on 19 March 2004. China, Japan and the United States reserved their third-party rights. On 13 May 2004, the Panel was composed. On 5 November 2004, the Chairman of the Panel informed the DSB that it would not be able to complete its work in six months and that the Panel hoped to complete its work by the end of February 2005.

Dominican Republic – Measures affecting the importation and internal sale of cigarettes, complaint by Honduras (WT/DS302)

(For a description of the establishment of the Panel, see WTO Annual Report 2004, p. 66.)

Following establishment of the Panel at the DSB meeting of 9 January 2004, on 17 February 2004 the Panel was composed.

On 26 November 2004, the Panel report was circulated to Members. The main findings of the Panel were: (i) The transitional surcharge and the foreign exchange fee imposed by the Dominican Republic were inconsistent with Article II:1(b) of GATT 1994 and the foreign exchange fee was not justified under Article XV:9(a) of GATT 1994; (ii) the stamp requirement imposed on cigarettes by the Dominican Republic was inconsistent with Article III:4 of GATT 1994; (c) Honduras did not demonstrate that the bond requirement imposed on cigarette importers by the Dominican Republic violated either Article X:1 or Article III:4 of GATT 1994; and (d) before the legislation was amended in January 2004, the Dominican Republic imposed its Selective Consumption Tax on imported cigarettes in a manner inconsistent with Articles III:2 and X of GATT 1994. On 24 January 2005, the Dominican Republic notified its decision to appeal certain issues of law covered in the panel report and certain legal interpretations developed by the panel. On 7 February 2005, Honduras notified the DSB of its decision to appeal certain issues of law covered in the panel report and certain legal interpretations developed by the panel. The Appellate Body Report will be circulated no later than 25 April 2005.

Mexico – Tax measures on soft drinks and other beverages, complaint by the United States (WT/DS308)

On 16 March 2004, the United States requested consultations with Mexico concerning certain tax measures imposed by Mexico on soft drinks and other beverages that use any sweetener other than cane sugar. The tax measures concerned include: (i) a 20 per cent tax on soft drinks and other beverages that use any sweetener other than cane sugar ("beverage tax"), which is not applied to beverages that use cane sugar; and (ii) a 20 per cent 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 ("distribution tax"). The United States considered that these taxes were inconsistent

with Article III of GATT 1994, in particular, Article III:2, first and second sentences, and Article III:4 thereof. Canada, China, the European Communities, Guatemala, Japan and Pakistan reserved their third-party rights. On 20 August 2004, Pakistan informed the DSB that it did not want to participate as a third-party in the panel proceedings. On 18 August 2004, the Panel was composed.

China – Value-Added Tax on integrated circuits, complaint by the United States (WT/DS309)

On 18 March 2004, the United States requested consultations with China concerning China's preferential value-added tax ("VAT") for domestically-produced or designed integrated circuits ("IC").

The United States claimed that, although China provides for a 17 per cent rate of VAT on ICs, enterprises in China are entitled to a partial refund of the VAT on ICs that they have produced, resulting in a lower VAT rate on their products. In the United States' view, China thus appears to be subjecting imported ICs to higher taxes than applied to domestically produced ICs and to be according less favourable treatment to imported ICs. In addition, the United States claimed that China allows for a partial refund of VAT for domestically-designed ICs that, because of technological limitations, are manufactured outside of China. In the United States' view, China thus appeared to be providing for more favourable treatment of imports from one Member than from others, and also is discriminating against services and service suppliers of other Members. The United States considered that these measures are inconsistent with the China's obligations under Articles I and III of the GATT 1994, the Protocol on the Accession of the People's Republic of China (WT/L/432), and Article XVII of the GATS.

On 26 March 2004, the European Communities requested to join the consultations. On 31 March 2004, Japan requested to join the consultations. On 1 April 2004, Mexico and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu requested to join the consultations. On 28 April 2004, China informed the DSB that it had accepted the requests of the European Communities, Japan and Mexico to join the consultations.

On 14 July 2004, China and the United States notified the DSB that they had reached an agreement with respect to the matter raised by the United States in its request for consultations.

Korea – Anti-dumping duties on imports of certain paper from Indonesia, complaint by Indonesia (WT/DS312)

On 4 June 2004, Indonesia requested consultations with Korea concerning the imposition of definitive anti-dumping duties by Korea on imports of business information paper and uncoated wood-free printing paper from Indonesia and certain aspects of the investigation leading to the imposition of such duties.

According to the request for consultations from Indonesia, Korea is violating a number of its WTO obligations under the GATT 1994 and the Anti-Dumping Agreement. On 16 August 2004, Indonesia requested the establishment of a panel. At its meeting on 31 August 2004, the DSB deferred the establishment of a panel. Further to a second request to establish a panel by Indonesia, the DSB established a panel at its meeting on 27 September 2004. Canada, China, the European Communities, Japan and the United States reserved their third-party rights. On 18 October 2004, Indonesia requested the Director-General to compose the panel. On 25 October 2004, the Director-General composed the panel.

European Communities – Anti-Dumping Duties on certain flat rolled iron or non-alloy steel products from India, complaint by India (WT/DS313)

On 5 July 2004, India requested consultations with the European Communities concerning the imposition of definitive anti-dumping measures on imports of certain flat rolled products of iron or non-alloy steel from India. According to the Indian request, the European Communities were violating Article 9.2 of the Anti-Dumping Agreement, which requires that an anti-dumping duty shall be collected on a non-discriminatory basis on imports of the product from all sources found to be dumped and causing injury. India claimed that, while anti-dumping measures were in force against Indian imports into the Community, no measures were in force against imports of the same product concerned from Egypt, Slovakia and Turkey, in spite of the fact that the products imported from the latter three countries were also found by the Commission to be dumped and causing injury to the Community industry.

On 22 October 2004, India and the European Communities notified the DSB that they had reached an agreement with respect to the matter raised by India in its request for consultations.

Table II.6

Request for consultations³⁹

Dispute	Complainant	Date of request
India – Batteries (WT/DS306)	Bangladesh	28/01/2004
EC – Commercial Vessels (WT/DS307)	Korea	13/03/2004
US – Hard Red Spring Wheat (WT/DS310)	Canada	08/04/2004
US – Softwood Lumber VII(WT/DS311)	Canada	14/04/2004
Mexico – Provisional Countervailing Measures on Olive Oil from the EC (WT/DS314)	European Communities	18/08/2004
European Communities – Selected Customs Matters (WT/DS315)	United States	21/09/2004
European Communities and Certain Member States – Measures Affecting Trade in Large Civil Aircraft (WT/DS316)	United States	06/10/2004
United States – Measures Affecting Trade in Large Civil Aircraft (WT/DS317)	European Communities	06/10/2004
India – Anti-Dumping Measures on Certain Products from the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (WT/DS318)	Chinese Taipei	28/10/2004
United States – Section 776 of the Tariff Act of 1930 (WT/DS319)	European Communities	05/11/2004
United States Continued Suspension of Obligations in the EC – Hormones Disputes (WT/DS320)	European Communities	08/11/2004
Canada – Continued Suspension of Obligations in the EC – Hormones Dispute (WT/DS321)	European Communities	08/11/2004
United States – Zeroing and Sunset Reviews (WT/DS322)	Japan	24/11/2004
Japan – Import quotas on dried laver and seasoned laver (WT/DS323)	Korea	01/12/2004
United States – Provisional Anti-Dumping Measures on Shrimp from Thailand (WT/DS324)	Thailand	09/12/2004

Appellate Body appointment and reappointments

On 1 June 2004, Mr. Georges Abi-Saab and Mr. A.V. Ganesan each commenced a new term of office, having been appointed by the DSB, on 7 November 2003, to a second four-year term that will expire on 31 May 2008. Mr. Yasuhei Taniguchi was also appointed to a second four-year term on 7 November 2003. His second four-year term began on 11 December 2003 and will expire on 10 December 2007. On 17 December 2004, Mr. Taniguchi was elected by his colleagues to serve as Chairman of the Appellate Body for 2005. Rule 5 of the Working Procedures for Appellate Review provides that the Chairman of the Appellate Body, who is elected by the Appellate Body Members, shall be responsible for the overall direction of Appellate Body business.

These appointments were made according to Article 17.3 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), which stipulates that the Appellate Body shall "comprise persons of recognized authority, with demonstrated expertise in law, international trade and the subject matter of the covered agreements generally." This Article also requires that the Appellate Body membership be "broadly representative" of the WTO membership. These appointments were made following consultations with WTO Members and on the basis of a proposal by a Selection Committee comprising the Director-General and the Chairpersons of the General Council, the DSB, the Council for Trade in Goods, the Council for Trade in Services, and the TRIPS Council.

DSU negotiations

The negotiations on "improvements and clarifications" to the DSU were initially intended to be concluded by May 2003, but the timeframe for concluding the work had been extended in July 2003 for an additional year, until May 2004.⁴⁰

In March 2004, Ambassador David Spencer, of Australia, was appointed as Chairman of the DSB Special Session. Some additional progress was made in the Special Session in the first few months of 2004, building on the work done thus far. Some delegations

³⁹ These cases appear in order of date requested. More information on these requests can be found on the WTO website. The list does not include those disputes where a panel was either requested or established.

⁴⁰ See Annual Report 2003, p. 26

made additional written contributions to the negotiations during this period, which were welcomed by participants. However, work had been slow to resume in the period immediately following the Cancún Ministerial Conference, and by May 2004, there was agreement among Members that more time was required to complete the dispute settlement negotiations and that work should continue towards clarifications and improvements to the DSU.⁴¹ On 1 August, as part of the July Package, the General Council adopted a recommendation by the TNC that work in the Special Session should continue on the basis set out in the Chairman's report to the TNC.⁴²

Two further meetings of the Special Session were held in 2004, on 22 October and 25-26 November. Both of these meetings were essentially devoted to the discussion of an informal joint contribution by Argentina, Brazil, Canada, India, New Zealand and Norway. This contribution, which had been presented at the end of May, focused on three issues which had been in discussion in the Special Session: remand, sequencing, and "post-retaliation" issues.⁴³

VIII. Trade Policy Review Mechanism

The objectives of the Trade Policy Review Mechanism (TPRM), as established in Annex 3 of the Marrakesh Agreement, are to contribute to improved adherence by all Members of the WTO to its rules, disciplines and commitments, and thus to the smoother functioning of the multilateral trading system. The TPR reviews aim to achieve greater transparency in, and understanding of, the trade policies and practices of Members. The Mechanism enables the regular collective appreciation and evaluation of the full range of individual Members' trade policies and practices in all areas covered by the WTO Agreements, and of their impact on the functioning of the multilateral trading system. Reviews take place against the background of the wider economic and developmental needs, policies and objectives of the Member concerned, as well as the external trading environment. They are not intended to serve as a basis for the enforcement of obligations, for dispute settlement procedures, or to impose new policy commitments.

Reviews are conducted in the Trade Policy Review Body (TPRB), a full-membership body of equal ranking to the General Council and the Dispute Settlement Body. During 2003, the TPRB was chaired by Ambassador Mary Whelan (Ireland).

Under the TPRM, the four largest trading entities (at present, the European Union (EU), the United States, Japan and China) are reviewed every two years; the next 16 largest trading partners every four years; and the remaining WTO Members every six years, with a longer interval envisaged for least developed countries. It has been agreed that these intervals may, if necessary, be applied with a flexibility of six months' extension.

By the end of 2004, a total of 197 reviews had been conducted, covering 114 WTO Members, with Canada, the European Union and the United States having been reviewed seven times and Japan six times; nine Members (Australia; Brazil; Hong Kong, China; Indonesia; Republic of Korea; Norway; Singapore; Switzerland and Thailand), four times; four Members (Chile, India, Malaysia, Mexico), three times and 39 Members, twice. During 2004, the TPRB carried out 16 reviews of: in chronological order, United States, Gambia, Sri Lanka, Singapore, Benin, Burkina Faso, Mali, Belize, Suriname, Republic of Korea, Rwanda, Norway, European Union, Brazil, Liechtenstein and Switzerland. The Chairperson's concluding remarks for these reviews are included in Annex I. The programme for the year 2005 includes 18 reviews, including Japan for the seventh time.

Over the past few years, greater focus has been placed on reviews of least-developed countries, as encouraged by the November 1997 High-Level Meeting on Integrated Initiatives for Least-Developed Countries' Trade Development. By the end of 2004, TPR reviews had covered 22 of the 32 LDCs that are WTO Members.

As required in Annex 3 of the Marrakesh Agreement establishing the Mechanism, the TPRB undertook in 1999 an appraisal of the operation of the Trade Policy Review Mechanism. Overall, Members found that the TPRM was functioning effectively and that its mission and objectives remained important. The results of the Appraisal were presented to the Third Ministerial Conference in Seattle.

The TPRB is also responsible for carrying out the Annual Overview of developments in the international trading environment that have an impact on the multilateral trading system, on the basis of an Annual Report by the Director-General.

Substantial progress has continued to be made in enhancing awareness of the TPRM. Documents distributed for reviews are available to all delegations of WTO Members in electronic format through the Secretariat's Document Management System. Press briefings are held regularly by the Chair or the Director of the Trade Policies Review Division and in some cases by the Member under review. The summary observations of the Secretariat

⁴¹ See Report by the Chairman to the TNC, TN/DS/10.

⁴² See WT/L/579, 2 August 2004.

⁴³ See Report by the Chairman to the TNC, TN/DS/11.

Report, the WTO press release, the concluding remarks by the Chair and TPR Reports are available immediately on the WTO website. TPR reports are published on behalf of the WTO by Bernan Associates. This commercial arrangement aims to ensure a wide and efficient distribution of the reports.

IX. Committee on Balance-of-Payments Restrictions

Under the Chairmanship of Mr. Giulio Tonini (Italy), in 2004, the Committee on Balance-of-Payments Restrictions met to consult with Bangladesh and approved the continued maintenance of its import restrictions in accordance with Article XVIII:B. The next consultation, when Bangladesh is expected to submit a time-table for the phase-out of its restrictions, is scheduled for spring 2007. Bangladesh is the only Member that maintains restrictions for balance of payments purposes.

The Committee also completed its third annual review under the Transitional Review Mechanism of China's Protocol of Accession.

X. Committee on Regional Trade Agreements

Regional Trade Agreements (RTAs) are a prominent feature of the multilateral trading system (MTS) and they have become for many WTO Members a central objective in the conduct of their commercial policy. The number of RTAs as well as the world share of trade under them has been steadily increasing over the last ten years; 2004 was no exception to this trend. On the contrary, in parallel with sluggish progress in multilateral trade negotiations under the Doha Development Agenda (DDA) the rush to forge RTAs has further accelerated. With the notification of 33 RTAs during the course of the year, this has indeed been the most prolific RTA period in the history of the GATT/WTO.⁴⁴ The many proposals for new RTAs in addition to those already under negotiation suggest no slowing down of RTA activities in the immediate future.

Developments in 2004 in the global landscape of RTAs point to some major trends: countries across the world, including those traditionally reliant on multilateral trade liberalization, are increasingly making RTAs a centrepiece of their commercial policy. Second, RTAs are becoming increasingly complex, in many cases establishing regulatory trade regimes that go beyond multilaterally agreed trade regulations. Third, reciprocal preferential agreements between developed-developing countries are on the increase, pointing to a decreasing reliance by some developing countries on non-reciprocal systems of preferences. Fourth, RTA dynamics show, in spite of regional idiosyncrasies, a general pattern of expansion and consolidation; on the one hand we are witnessing a proliferation of cross regional RTAs, which account for a large proportion of the total increase in RTAs; on the other, regional trading blocks on continent-wide scale are in the making.

Europe has the greatest concentration of RTAs, with the European Union (EU) and the European Free Trade Association (EFTA) representing the main continental hubs. The accession to the European Union (EU) of ten new members on 1 May 2004 expanded the European internal market to 28 countries⁴⁵ encompassing 450 million citizens and accounting for roughly 18 per cent of world trade. The EU enlargement also consolidated the extensive network on intra-European RTAs built over the years by considerably reducing the number of existing agreements.⁴⁶ This process of expansion and consolidation is likely to continue in the coming years as more countries are added to the list of candidates for EU accession.⁴⁷ The process of Stabilization and Association in South Eastern Europe adds further to the number of RTAs in Europe with the establishment of a network of bilateral FTAs among the eight countries parties to the Stability Pact,⁴⁸ and through bilateral agreements between the EU and these countries.⁴⁹ A similar process is underway between the EU and countries in North Africa and the Middle East, with the aim to establish a Euro-Mediterranean Free Trade Area by 2010.⁵⁰ Further afield, the EU is engaged in FTA negotiations with the members of the Gulf Cooperation Council (GCC) and of MERCOSUR and of Economic Partnership Agreements (EPAs)⁵¹ with the African, Caribbean and Pacific (ACP) group of countries.⁵² The EFTA States have ongoing negotiations with Canada and with the South African Customs Union (SACU); have been exploring the possibility of FTA negotiations with Thailand and have recently launched negotiations with Korea.

In the Western Hemisphere, the United States has signed in 2004 FTAs with Australia, Morocco and, as part of the Dominican Republic – Central American Free Trade Agreement (DR-CAFTA), with Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and the Dominican Republic; it has concluded negotiations with Bahrain and it is exploring the

⁴⁴ This number totals notifications made under GATT Article XXIV, GATS Article V, and the Enabling Clause as well as accessions to existing RTAs; for a complete list of RTAs notified to the GATT/WTO see http://www.wto.org/english/tratop_e/region_e/region_e.htm

⁴⁵ The EU 25 plus three EFTA member states.

⁴⁶ The accession of Cyprus, the Czech Republics, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, the Slovak Republic, and Slovenia terminated the bilateral agreements between the new members and the EU and it repealed the trade-related aspects of all existing agreements among the new members as well as those between the latter and third parties with which the EU already had in place preferential agreements. As a result of this enlargement, 65 notified RTAs were abrogated on 1 May 2004.

⁴⁷ Croatia received candidate status in June 2004, thus joining Bulgaria, Romania and Turkey.

⁴⁸ The Stability Pact process involves Albania, Bosnia and Herzegovina, Bulgaria, Croatia, FYROM, Romania, and Serbia and Montenegro. The FTA network is currently being extended to Moldova and UNMIK (Kosovo).

⁴⁹ Agreements concluded to date include Romania, Bulgaria, the Former Yugoslav Republic of Macedonia (FYROM), Croatia and Albania. The EFTA States and Turkey are pursuing similar negotiations.

⁵⁰ The Mediterranean partners are Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, Palestinian Authority, Syria, Tunisia and Turkey. Cyprus and Malta were partners to the process before acceding to the EU on 1 May 2004. The Association Agreement between the EU and Egypt entered into force on 1 June 2004, while negotiations with Syria have recently been concluded, thus completing the grid of bilateral RTAs. As with the other networks of intra-European RTA negotiations, the EFTA States and Turkey are pursuing RTA negotiations with these same countries.

⁵¹ EPAs are reciprocal FTAs supposed to replace the existing non-reciprocal systems of preferences under the Cotonou Agreement between the EU and the 77 ACP countries.

⁵² EPA negotiations with Central Africa (CEMAC) and West Africa (ECOWAS) were opened in October 2003. Negotiations with Eastern and Southern Africa (ESA), the Caribbean Forum of ACP States (CARIFORUM), the Southern African Development Community (SADC) and with the Pacific ACP States were opened in 2004.

possibility of similar agreements with Oman and the United Arab Emirates (UAE);⁵³ it has advanced negotiations with the SACU; opened negotiations with three members of the Andean Community (Colombia, Ecuador and Peru) and with Panama; and announced its intention to open FTA negotiations with Thailand. In Latin America efforts towards consolidation and deepening of the network of RTAs among Latin and Central American countries are underway. MERCOSUR members have been working towards the objective of a full fledged customs union,⁵⁴ have concluded a framework agreement with three members of the Andean Community which aims to the gradual establishment of a FTA⁵⁵, while Mexico has signalled its intention to apply for associate member in MERCOSUR. Further afield, Mexico has concluded negotiations with Japan; Chile with Korea; Panama is negotiating with Singapore; MERCOSUR with India, and a MERCOSUR-China FTA is being considered. As for the Free Trade Area of the Americas (FTAA), there has been no major breakthrough in the troubled negotiations in 2004.

The interest in RTAs in Asia-Pacific has further intensified in 2004. Singapore has signed an FTA with Jordan, has launched negotiations with Korea, Kuwait, Qatar, Panama, Peru, and is considering negotiations with Bahrain, Egypt and Sri Lanka.⁵⁶ Japan, having sealed an FTA with Mexico, is now exploring the possibility of one with Chile; it has launched negotiations with Korea, Malaysia, the Philippines and Thailand in order to strengthen its ties with ASEAN countries. Negotiations with the latter as a group are scheduled to open in 2005. As for Korea, besides its negotiations with Japan and Singapore and the agreement concluded with Chile, it has been holding joint-study talks with ASEAN on plans for an FTA. Thailand has opened negotiations with New Zealand, signed an FTA with Australia, and is considering FTAs with the EFTA States and with the United States. China, negotiations on the FTA with ASEAN are in progress,⁵⁷ while feasibility studies are being undertaken on FTAs with Australia, New Zealand and Chile. A framework agreement envisaging possible FTA negotiations with the countries of the GCC was signed in July. At the broader regional level, ASEAN, China, Japan and Korea are discussing plans for an East Asian Community as a new framework for regional cooperation. As for Australia and New Zealand, negotiations on an FTA between them and ASEAN countries are scheduled to be launched in early 2005.

This brief overview of RTA dynamics sketches an increasingly complex trading landscape characterized by the coexistence of MFN trade conditions with the multiplication of layers of trade preferences. Such situation raises concerns on the integrity of the MTS. In particular, the development of non-MFN trading networks, each subject to its own regulatory regime poses systemic challenges to the MTS by undermining transparency and predictability in trade relations. This may ultimately alter global trade patterns through, among others, trade and investment diversion.

Notwithstanding these risks, the number of RTAs is increasing. Notified RTAs in force totalled 160 by December 2004. WTO Members are allowed to participate in regional initiatives, albeit subject to certain criteria and procedures.⁵⁸ The Committee on Regional Trade Agreements (CRTA), the body entrusted with verifying the compliance of RTAs with the relevant WTO provisions, met three times in 2004 to carry out the examination of an increasingly long backlog of RTAs.⁵⁹ However, the CRTA made no further progress on its mandate of consistency assessment, due to long-standing institutional, political and legal difficulties. Since the establishment of the WTO, Members have been unable to reach consensus on the format, and the substance, of the reports on any of the examinations entrusted to the CRTA. The lack of an effective monitoring mechanism exacerbates the systemic challenges that RTAs may pose to the MTS.

DDA negotiations on RTAs, which are taking place under the auspices of the Negotiating Group on Rules, aim at addressing these challenges, by clarifying and improving the relevant disciplines and procedures under existing WTO provisions. These negotiations had progressed meaningfully on transparency issues by the time of the Cancún Ministerial. Since early 2004, work has progressed on those issues, with a view to resolving the impasse of the CRTA, and exercise better surveillance of RTA dynamics. By end-2004, the scope of the negotiations had also been enlarged to include systemic issues, which may suggest increasing concerns by many Members over the possible negative effects of RTAs on third parties trade and on the multilateral trading system as a whole.⁶⁰

⁵³ The FTA with Bahrain and Morocco fall under the Middle East Free Trade Initiative proposed by President G. W. Bush in May 2003, which foresees a plan of graduated steps to expand and deepen economic ties between the United States and Middle Eastern nations through Trade and Investment Framework Agreements (TIFAs), Bilateral Investment Treaties (BITs), and comprehensive Free Trade Agreements (FTAs). The FTA with Bahrain and those ones proposed with Oman and the UAE raise also questions concerning their impact on the functioning of the GCC Customs Union to which these three countries are party.

⁵⁴ MERCOSUR have been focusing, among others, on the elimination of the exceptions to the common external tariff, the entry into force of the Protocol of Montevideo on Trade in Services, and the entry into force of the Protocol of Olivos for the Settlement of Disputes.

⁵⁵ These are Colombia, Ecuador and Venezuela. Free-trade with Bolivia and Peru is regulated under the agreements concluded between MERCOSUR and Bolivia and Peru, respectively.

⁵⁶ Singapore has ongoing negotiations with Canada, India, Mexico, and P3 (Trilateral FTA comprising Chile and New Zealand)

⁵⁷ The Framework Agreement on Comprehensive Economic Cooperation between ASEAN and the People's Republic of China, including its Early Harvest programme, was notified to the WTO in December 2004.

⁵⁸ Contained in GATT Article XXIV, for agreements covering trade in goods, and in GATS Article V, for agreements in the area of trade in services. The 1979 Decision of the GATT Council on Differential and More Favourable Treatment (Enabling Clause) governs the conclusion of preferential arrangements among developing countries (trade in goods only).

⁵⁹ As of December 2004, the CRTA had a total of 114 agreements under examination.

⁶⁰ See Section I of this report on the Doha Development Agenda.

XI. Committee on Trade and Development

The Committee on Trade and Development in Regular Session (CTD) held four formal meetings in 2004 (48th to 51st Session). Detailed reports of these meetings can be found in documents WT/COMTD/M/48-51. One informal meeting was also held in 2004. The Committee's 2004 Annual Report, contained in document WT/COMTD/50, provides a detailed account of all the activities of the CTD in 2004. Apart from receiving notifications

regarding market access for developing and least-developed countries, it considered: the declining terms of trade for primary commodities, and its implication to trade and development of primary commodity exporting countries; paragraph 51 of the Doha Declaration on identifying and debating developmental and environmental aspects of the negotiations, in order to help achieve the objective of having sustainable development appropriately reflected; the development dimension of electronic commerce; and the graduation of the Maldives from least-developed country status.

The WTO's technical assistance and training activities were discussed throughout the year. At its 48th Session, the Committee adopted the plan of Regional Trade Policy Courses and, at its 49th Session, its Annual Report on Training and Technical Cooperation, the Fourth Quarterly Report on Implementation of the 2003 Plan and the 2003 Technical Cooperation Audit Report. At the 50th Session, Members discussed the draft 2005 Technical Assistance Plan and, at the 51st Session requested two revisions before agreeing to adopt the 2005 Plan in document WT/COMTD/W/133/Rev.2. Also at its 51st Session, the Committee heard a presentation by the International Development Law Organization (IDLO) on its various training activities in developing countries.

As the WTO body which considers notifications under the Enabling Clause relating to non-reciprocal preferential treatment of developing countries and LDCs, the Committee received in 2004 notifications of increased market access for LDCs from the Governments of Australia,⁶¹ Canada,⁶² Iceland,⁶³ Japan⁶⁴ and Switzerland.⁶⁵ These notifications were, as far as they relate to LDCs, referred to the Sub-Committee on Least-Developed Countries for consideration and reporting back. The Government of Japan also notified the Committee of certain changes to its Generalized System of Preferences scheme.⁶⁶ The Committee also reviewed a notification from China related to its accession to the Bangkok Agreement in 2001 and its implementation of concessions under that Agreement since 1 January 2002.⁶⁷ The CTD also reviewed the reports of the Joint Advisory Group on the International Trade Centre UNCTAD/WTO (JAG). The report of the 37th Session of the JAG,⁶⁸ held on 26-30 April 2004, was presented by the Chairman of the JAG at the 49th Session of the CTD.

Discussions on the issue of "Declining terms of trade for primary commodities, and its implication to trade and development of primary commodity exporting countries" continued at the 48th Session with an examination of proposals made by the delegations of Kenya, Tanzania and Uganda contained in document WT/COMTD/W/113 and an inventory of documents relating to the commodity issue compiled by the Secretariat and contained in document WT/COMTD/W/121. At its 49th Session, the Committee had before it two new submissions: one, from the delegation of Switzerland (WT/COMTD/W/129); the other, from the delegations of Kenya, Tanzania and Uganda (WT/COMTD/W/130). Both submissions contained suggestions on possible ways to move forward on the issue of commodities. At its 50th Session, the Common Fund for Commodities made a presentation to the Committee. At its 51st Session, UNCTAD made a presentation concerning its recent work on commodities.

Under the standing agenda item relating to paragraph 51 of the Doha Ministerial Declaration on identifying and debating the developmental aspects of the various negotiations in order to help achieve the objective of having sustainable development appropriately reflected, presentations were made on the developmental aspects of the dispute settlement and the rules negotiations. On the issue of electronic commerce, another standing item on the Committee's agenda, the Committee discussed some of the inter-linkages between e-commerce and development issues and addressed the possibility of inviting other international organizations with experience in this area to contribute to discussions in the Committee. At the 50th Session, it was agreed that the International Telecommunications Union (ITU) would be invited to a future meeting to present the ITU's preparations for the second phase of the World Summit on the Information Society in Tunis in 2005 and the trade-related aspects of e-commerce for developing countries.

At the 49th Session, the Maldives presented a submission (WT/COMTD/W/128) relating to its possible graduation from LDC status. The document focuses on the Maldives' call for Members to secure an appropriate mechanism to ensure that graduating LDCs can make a smooth transition to developing country status. Several Members stressed the need for coherence between the United Nations and the WTO in regard to graduation to developing country status from LDC status and the Chairman said he would hold consultations. Two Secretariat papers were circulated to Members. The first, contained a list of WTO special and differential treatment provisions for LDCs (WT/COMTD/W/135) and the second, an informal background note on the UN's graduation process.

Sub-Committee on Least-Developed Countries

In 2004, the Sub-Committee held three formal meetings all of which were chaired by Ambassador Ian de Jong (Netherlands). The work of the Sub-Committee focuses on the implementation of the WTO Work Programme for LDCs (WT/COMTD/LDC/11). The Work

⁶¹ WT/COMTD/N/18

⁶² WT/COMTD/N/15/Add.2

⁶³ WT/COMTD/N/17 and Corr.1

⁶⁴ WT/COMTD/N/2/Add.12

⁶⁵ WT/COMTD/N/7/Add.2

⁶⁶ WT/COMTD/N/2/Add.13

⁶⁷ WT/COMTD/N/19

⁶⁸ ITC document ITC/AG/(XXXVII)/200

Programme, agreed by Members on 12 February 2002, focuses on the following issues: market access for LDCs; trade-related technical assistance and capacity building initiatives for LDCs; providing, as appropriate, support to agencies assisting with the diversification of LDCs' production and export base; mainstreaming, as appropriate, into the WTO's work, the trade-related elements of the LDC-III Programme of Action; participation of LDCs in the Multilateral Trading System; accession of LDCs to the WTO; and follow-up to WTO Ministerial Declarations and Decisions.

In 2004, the Sub-Committee considered the item on accession of LDCs at its 36th and 37th Sessions. At the 36th Session, a Secretariat paper on the state of play of LDCs' accessions was circulated to facilitate discussion.⁶⁹ The need to continue implementing the Guidelines on LDCs' Accession and the importance of technical assistance and capacity building at all stages of the accession process were emphasised. At that meeting, the Secretariat was requested to prepare a note on the type of technical assistance provided to acceding LDCs. At the 37th Session of the Sub-Committee, the note by the Secretariat on Technical Assistance for Acceding LDCs was discussed.⁷⁰ Members welcomed the paper which provided an overview of the type of technical assistance required to assist LDCs in their accession process. It also included a non-exhaustive summary of the assistance provided by the WTO Secretariat, by WTO Members as well as that offered by other international organizations. The importance of continuing to provide assistance to those LDCs that had completed the accession process but still faced difficulties fulfilling their commitments was underscored. At its 38th Session, Members welcomed Cambodia as a full WTO Member and as the second LDC, after Nepal, to have acceded to the WTO in 2004, bringing the total number of LDC Members to 32.

Market access for LDCs was considered in all the meetings of the Sub-Committee in 2004. At the 38th Session of the Sub-Committee, the Secretariat presented a note on the annual review of market access for products originating from LDCs (WT/COMTD/LDC/W/35, also issued as TN/MA/S/12). The note contained information regarding LDCs' export profile, tariff measures, initiatives and improvements made in providing market access for LDCs, as well as the utilization of preferences as a special topic. In line with the LDC market access reporting procedures, the Sub-Committee discussed three notifications forwarded to it by the CTD. These notifications were by Australia, Canada and Switzerland.⁷¹ Members welcomed the initiatives taken to improve market access for LDCs. At the 38th Session, the Sub-Committee considered a submission by the LDCs in WT/COMTD/LDC/W/36 concerning market access for textiles and clothing after the expiry of the Agreement on Textiles and Clothing (ATC). The LDCs requested the WTO to undertake a study on issues relating to the termination of the ATC. The Sub-Committee agreed that its Chairman would undertake consultations on the way forward to deal with the request from LDCs.⁷²

At the 36th, 37th and 38th Sessions of the Sub-Committee, Members considered trade-related technical assistance and capacity-building initiatives for LDCs. At its 36th Session, the Chairman of the IF Steering Committee (IFSC) reported on developments in the implementation of the Integrated Framework (IF), including the adoption of an IF Work Programme (WT/IFSC/7). Assistance to address supply-side constraints was considered at the 37th and 38th Sessions of the Sub-Committee. At both meetings, discussions were based on a note prepared by the Secretariat (WT/COMTD/LDC/W/33). Members emphasized the need to further strengthen the cooperation of WTO with other organizations in order to better address supply-side constraints of LDCs. At the 37th Session, representatives of UNIDO, the World Bank and ITC briefed the Sub-Committee on how they were assisting the LDCs in addressing the supply-side constraints. At its 38th Session, the Sub-Committee requested the Secretariat to provide a summary of the state of implementation of the actions identified in the Action Matrices of the Diagnostic Trade Integration Studies (DTIS) of the Integrated Framework process in so far as these actions relate to strengthening of supply-side capacity and identify factors impeding progress in their implementation.⁷³

The item on providing support to agencies assisting with the diversification of LDCs' production and export base was considered at the 36th Session of the Sub-Committee. A representative of UNCTAD briefed the Sub-Committee on work undertaken by UNCTAD in support of LDCs' production and export base. Members welcomed the work undertaken by UNCTAD and expressed an interest in inviting other organizations to brief the Sub-Committee at future meetings.

The Integrated Framework for Least-Developed Countries⁷⁴

In the Doha Development Agenda, Ministers endorsed the Integrated Framework for Least-Developed Countries (IF) as a viable model for LDCs' trade development. In 2004, the IF entered a crucial stage of implementation and expanded dramatically in the number of beneficiaries. Since its inception in 1997 and its restructuring in 2001, the IF has raised its visibility considerably in the least-developed countries as well as in the international

⁶⁹ JOB(04)/03

⁷⁰ WT/COMTD/LDC/W/32

⁷¹ WT/COMTD/N/18, WT/COMTD/N/15/Add.2, WT/COMTD/N/7/Add.2

⁷² At its 39th Session on 19–20 January 2005, the Sub-Committee on LDCs mandated the Secretariat to prepare a paper that will look into options for improving LDCs' competitiveness in the textile and clothing business.

⁷³ Subsequently issued as WT/COMTD/LDC/W/33/Add.1.

⁷⁴ See the IF website (www.integratedframework.org) for more detailed information on the IF.

development community. In 2004, two Ministerial Declarations, one by the Trade Ministers of the LDCs at their meeting in Dakar and one by the Trade Ministers of the African Union at their meeting in Kigali, included positive references to the IF. The texts of the two Declarations are contained in, respectively, documents WT/L/566 (Dakar Declaration) and WT/L/572 (Kigali Declaration). Moreover, the IF figured prominently in several high-level international trade and development events.

Based on the outcome of the second major evaluation of the IF in 2003, the Integrated Framework Steering Committee (IFSC) – the body which oversees the work in the IF – approved a Work Programme on follow-up actions to implement recommendations of the evaluation. The Work Programme, contained in document WT/IFSC/7, proposes a number of actions to be achieved by 31 December 2005. At the end of 2004, 35 least-developed countries were at different stages of the IF process. In the course of the year, National Validation Workshops – the step in the IF process whereby trade-related priority policies and assistance needs are being validated by the country – were held in 14 LDCs, namely in Burundi, Cambodia, Djibouti, Ethiopia, Guinea, Lesotho, Madagascar, Malawi, Mali, Mauritania, Mozambique, Nepal, Senegal and Yemen. In 2004, the following seven countries started the Diagnostic Trade Integration Study (DTIS) – a step in the IF process – namely: Benin, Chad, Lao P.D.R., Rwanda, Sao Tome and Principe, Tanzania and Zambia. Also, the Integrated Framework Working Group (IFWG) – the body responsible for overall management of the IF process – agreed to start the DTIS process in the following seven LDCs: Angola, Burkina Faso, Uganda, Niger, Maldives, the Gambia and Sierra Leone. Requests to join the IF by the Central African Republic, Comoros, the Democratic Republic of Congo, Equatorial Guinea, Liberia, Sudan and Haiti are being considered.

The restructured IF has its own IF Trust Fund, consisting of two Windows: Window I for the preparation of the DTIS and Window II for the funding of small concrete priority capacity-building projects derived from the DTIS. During 2004, pledges to both Windows of the IF Trust Fund had been moving in line with the transfers. Efforts to encourage additional pledges were initiated in 2004 to ensure the viability of the IF Trust Fund. In parallel, LDCs made progress in integrating their DTISs into their PRSPs and Consultative Group and Round Table processes.

During 2004, the IFWG stepped up its efforts to create awareness about the IF. In October 2004, IF stakeholders participated in a workshop on pre-DTIS support in Kigali, Rwanda aimed at building up awareness on the IF. The Workshop provided a forum for sharing of knowledge and experiences between representatives of those LDCs that had completed the DTIS and those embarking on the IF process. The Workshop also welcomed the initiative of UNCTAD to prepare an IF manual which will be ready in 2005. During 2004, the IF also increased cooperation with other programmes such as the JITAP and the standards and trade development facility (STDF). The three agencies which collaborate both in JITAP and the IF (ITC, UNCTAD and WTO) engaged in a regular exchange of information regarding important documents and missions planned under either initiative for the ten LDCs which are both part of the IF and JITAP. For each of these countries, the IF Secretariat and the JITAP coordination unit equally ensured that existing relevant documents, such as the DTIS in the case of the IF were usefully taken into account in drawing up JITAP's country documents and vice-versa. Similarly, coordination between the IF and the STDF is ongoing by allocating funding from the STDF to needs for assistance in the area of SPS standards expressed in the DTIS under the IF.

Box II.1: Background on the Integrated Framework

In the DDA, WTO Ministers endorse the Integrated Framework for Trade-Related Technical Assistance for Least Developed Countries (IF) as a viable model for LDCs' trade development.

The Integrated Framework is a process that was established to support LDC governments in trade capacity building and integrating trade issues into overall national development strategies. It is an international initiative through which the IMF, ITC, UNCTAD, UNDP, World Bank and the WTO combine their efforts with those of least-developed countries and donors to respond to the trade development needs of LDCs. This integrated approach was launched in October 1997 at the High Level Meeting on Integrated Initiatives for Least-Developed Countries' Trade Development organized by WTO in recognition of the supply-side constraints facing LDCs. The IF was restructured after its first mandated evaluation in 2000. The restructured IF is a process, using existing channels, to ensure that the trade related assistance needs of each country are included in the dialogue between governments and their development partners on the overall development policy to be implemented in each country. It aims to (i) incorporate trade policy into the heart of the LDCs national development

plans, including components aimed at reducing poverty in the country; and (ii) assist in the coordination and delivery of trade-related assistance as provided by each of the core agencies in their respective fields of competence and by other development partners. Principally through such

instruments as the Poverty Reduction Strategy Papers (PRSPs) or other national development plans, the IF seeks to ensure country ownership, partnership, and coordination in the process to integrate trade into national development plans.

In the IF, implementation includes three broad steps. First, the preparation of a Diagnostic Trade Integration Study (DTIS). The DTIS assesses the competitiveness of the economy and identifies impediments to effective integration into the multilateral trading system and the global economy. Second, based on the findings of the study, an Action Matrix is developed, in consultation with all national interested partners such as government Ministers and officials, the private sector and the civil society and academia, at a national validation workshop. The Action Matrix spells out a set of policy recommendations and priority technical assistance needs to overcome the constraints identified in the study. Lastly, the trade policy priorities are incorporated into the country's National Development Plan, such as the PRSP, and the priority technical assistance needs are fed into donors' financing fora, such as the World Bank Consultative Group meetings (CG) or UNDP Round Tables. Often an Implementation Workshop is held with the country's donor community at the national level, prior to this last step, in which development partners can express an interest in supporting parts of the Action Matrix.

Based on the outcome of the second major evaluation of the IF in 2003, the Integrated Framework Steering Committee (IFSC) approved a Work Programme on follow-up actions to implement recommendations of the evaluation. The Work Programme, contained in document WT/IFSC/7, proposes a number of actions to be achieved by 31 December 2005.

The management structure of the IF consists of the Integrated Framework Steering Committee (IFSC) and the Integrated Framework Working Group (IFWG). The IF Steering Committee oversees the work of the IFWG and provides policy direction, assesses progress and ensures total transparency in the IF process. It is a tripartite arrangement with representation from agencies, donors and LDCs. All WTO Members and Observers can participate in the IFSC. Its meetings are held at the WTO. The Integrated Framework Working Group (IFWG) is responsible for the day-to-day, overall management of the IF, including monitoring and evaluation of field resources and oversight of the IF Trust Fund. The IFWG is chaired by the WTO and consists of representatives of the agencies and two representatives each from least-developed and donor countries, selected on a rotating basis: in 2004, Switzerland and the European Commission (first six months) and the United States (latter part of 2004) represented donors, and Bangladesh and Tanzania the LDCs. The OECD has observer status. The WTO, which houses the IF Secretariat in its LDC Unit, in the Development Division services both the IFSC and IFWG meetings. Finally, the UNDP, on behalf of the six agencies, manages the IF Trust Fund.

As part of the IF restructuring, the IF trust fund (ITF) was established by voluntary contributions from bilateral and multilateral donors. The fund has two Windows: Window I funds the preparation of the DTIS and a project designed to strengthen the IF Focal points in the Ministries of Trade, while Window II provides funding for small concrete priority capacity-building projects derived from the DTIS' Action Matrix, in the time between the completion of the DTIS and accessing of funding through the consultative group/round tables PRSP processes (WT/IFSC/4/Rev.1). At the end of 2004, 35 least-developed countries were at different stages of the IF process. This includes requests to join the IF from seven LDCs which are being considered.

At the end of 2004, and counting from IF's restructuring, National Validation Workshops had been completed in 14 LDCs, namely in Burundi, Cambodia, Djibouti, Ethiopia, Guinea, Lesotho, Madagascar, Malawi, Mali, Mauritania, Mozambique, Nepal, Senegal and Yemen. In 2004, the following 7 countries started the Diagnostic Trade Integration Study (DTIS) namely: Benin, Chad, Lao P.D.R, Rwanda, Sao Tome and Principe, Tanzania and Zambia. Also, the IFWG agreed to start the DTIS process in the following 7 LDCs: Angola, Burkina Faso, Uganda, Niger, Maldives, the Gambia and Sierra Leone. Requests to join the IF by Central African Republic, Comoros, the Democratic Republic of Congo, Equatorial Guinea, Liberia, Sudan and Haiti are being considered.

After the IF's first years, an increase in number of development projects with trade components in an increasing number of countries can be noted.

XII. Committee on Trade and Environment

See the Doha Development Agenda in Part I above for CTE activities in 2004 (page 22).

XIII. Committee on Budget, Finance and Administration

In 2004, as part of its on-going responsibilities, the Committee on Budget, Finance and Administration (BFA), continued to monitor the financial and budgetary situation of the Organization. It formulated recommendations to the General Council on assessment to the budget and advance to the Working Capital Fund. It considered elements related to personnel management and heard progress reports on the WTO Pension Plan as well as other issues.

Major areas of activity

During the course of 2004, the Committee examined the re-calculation of the dependency allowances using the salary methodology adopted by the General Council on 15 May 2003 (WT/GC/M/80). To this effect, it made a recommendation to the General Council which adopted it on 17 May 2004 (WT/GC/M/86).

The Committee reviewed the guidelines on voluntary contributions from Non-Governmental donors as stipulated and made a recommendation to this effect (WT/BFA/73) to the General Council, which adopted it on 27 August 2004 (WT/GC/M/87).

The Committee recalled the need expressed by the Members in 2003 to monitor and control the use of temporary assistance in the WTO. The Committee examined the issue in the course of 2004 and formulated guidelines which were endorsed by the committee.

A Working Group on security matters was established within the framework of the Committee and convened on a number of occasions to discuss security matters.

The Committee examined the expenditures of the Appellate Body Operating Fund (ABOF) and agreed on the funding of its deficit in 2003.

After in-depth discussions on a wide range of questions, including a programme to enhance the safety and security in the WTO, the Committee formulated a recommendation to the General Council with regard to a revised budget for 2005 and the ways and means to finance the budget.

The Committee also discussed and/or was informed about the following points in the various meetings: (i) the 2005 revised budget estimates of the International Trade Centre UNCTAD/WTO, (ii) the situation of contributions for the Doha Development Agenda Global Trust Fund (DDAGTF), and (iii) a letter from the Chairman of the Appellate Body.

Reports of the meetings are contained in documents WT/BFA/72, WT/BFA/73 and WT/BFA/75.

XIV. Plurilateral agreements

Agreement on Government Procurement

The following WTO Members are Parties to the plurilateral Agreement on Government Procurement of 1994: Canada; the European Communities with regard its 15 previous member States in addition to, since 1 May 2004, its 10 new member States; Hong Kong, China; Iceland; Israel; Japan; Korea; Liechtenstein; the Kingdom of the Netherlands with respect to Aruba; Norway; Singapore; Switzerland; and the United States. Albania, Bulgaria, Georgia, Jordan, the Kyrgyz Republic, Moldova, Oman, Panama and Chinese Taipei are in various stages of negotiating their accession to the Agreement.

During 2004, the Committee pursued its negotiations under Article XXIV:7 of the Agreement. These cover the following elements: simplification and improvement of the Agreement, including, where appropriate, adaptation to advances in the area of information technology; expansion of the coverage of the Agreement; and elimination of remaining discriminatory measures and practices which distort open and competitive procurement. A particular objective of the negotiations is to make the Agreement more accessible to non-parties, thereby facilitating the expansion of the membership of the Agreement.

To facilitate the negotiation process the Committee adopted, in July 2004, a set of modalities for the negotiations on the extension of coverage and elimination of discriminatory measures (GPA/79). The modalities call for negotiations to be concluded by the beginning of 2006. Pursuant to these modalities, in the Autumn of 2004, the Parties to the Agreement initiated negotiations with respect to horizontal aspects of the coverage of the Agreement. In addition, bilateral coverage negotiations were launched with the submission of initial official requests by Parties.

In December 2004, the Committee adopted a decision allowing Israel to modify its Appendix I so as to extend by one year (i.e. until the end of 2005) the period to reduce its offsets under the Agreement from 30 to 20 per cent of the value of the covered procurement involved. Other matters considered by the Committee during the period have been modifications to the Appendices to the Agreement, statistical reports, and notifications of threshold figures in national currencies.

Agreement on Trade in Civil Aircraft

This Agreement entered into force on 1 January 1980. There are 30 Signatories to the Agreement: Austria; Bulgaria; Belgium; Canada; Denmark; Egypt; Estonia; the European Communities; France; Georgia; Germany; Greece; Ireland; Italy; Japan; Latvia; Lithuania; Luxembourg; Macao, China; Malta; Netherlands; Norway; Portugal; Romania; Spain; Sweden; Switzerland; Chinese Taipei; the United Kingdom and the United States. Those WTO Members with observer status in the Committee are: Argentina; Australia; Bangladesh; Brazil; Cameroon; China; Colombia; the Czech Republic; Finland; Gabon; Ghana; Hungary; India; Indonesia; Israel; the Republic of Korea; Mauritius; Nigeria; Oman; Poland; Singapore; the Slovak Republic; Sri Lanka; Trinidad and Tobago; Tunisia and Turkey. The Russian Federation and Saudi Arabia are also observers, as are the IMF and UNCTAD.

The Agreement eliminates all customs duties and other charges on imports of civil aircraft products and repairs, binds them at zero level, and requires the adoption or adaptation of end-use customs administration. The Agreement prohibits signatories from requiring, or exerting pressure on, purchasers to procure civil aircraft from a particular source, and provides that purchasers of civil aircraft products should be free to select suppliers on the basis of commercial and technical factors only. The Agreement regulates signatories' participation in, or support for, civil aircraft programmes, and prohibits signatories from requiring or encouraging sub-national entities or non-governmental bodies to take actions inconsistent with its provisions.

In 2004, the Committee again reverted to the status of the Agreement in the WTO framework. Signatories however remained unable to adopt the Draft Protocol (1999) Rectifying the Agreement on Trade in Civil Aircraft that was proposed by the Chairperson in April 1999. Thus, although the Agreement is part of the WTO Agreement, it remains outside the WTO framework. The Committee also discussed, *inter alia*, "end-use" customs administration, including a revised proposal by one Signatory concerning the definition of "civil" vs. "military" aircraft based on initial certification and matters concerning improved operation of Article 4, with regard to inducements. It was proposed that the Committee identify factors that could facilitate the effectiveness of Article 4, including a better mechanism for communication among Signatories. Finally, the Committee discussed the enlargement of the European Communities and its relationship with Article 9 of the Agreement and questions were put to the European Communities in this regard.

I. Cooperation with other international organizations and relations with civil society

Relations with non-governmental organizations/civil society

The WTO's relations with civil society continued to evolve with numerous activities and exchanges focusing on specific aspects related to the Doha Development Agenda and negotiations. Relations with Non-Governmental Organizations (NGOs) are specified in Article V:2 of the Marrakesh Agreement Establishing the WTO and were further elaborated in a set of guidelines (WT/L/162) adopted by the General Council in July 1996. The guidelines "recognize the role NGOs can play to increase the awareness of the public in respect of WTO activities".

While members of civil society and NGO representatives are in daily contact with the WTO Secretariat and WTO Members, they also attend WTO Ministerial Conferences and participate in issue-specific symposia. Briefings on meetings of the major WTO Councils and Committees are also organized regularly for Geneva-based representatives. The WTO Secretariat receives a large number of meeting requests from NGOs from all over the world and the WTO's Director-General and Secretariat staff regularly meet representatives from NGOs. WTO Secretariat officials participate as often as possible in major meetings where subjects of interest to civil society are discussed.

Since the adoption of the 1996 guidelines, the WTO Secretariat has enhanced its dialogue with civil society. In the run-up to the Doha Ministerial Conference in 2001, several new activities involving NGOs were proposed and agreed to by WTO Members (WT/INF/30). Among others, NGOs can be invited to the WTO to informally present their recent policy research and analysis directly to WTO Members. In 2002 the WTO Secretariat increased the number of NGO briefings on major WTO meetings and began listing the briefing schedules on its website. In 2003 and 2004, the briefings were primarily based on the preparations for the Fifth Ministerial Conference held in Cancún, Mexico, in September 2003 and its follow-up, in particular the adoption by WTO Members of the 2004 'July Package'.

A monthly list of NGO position papers received by the Secretariat is compiled and circulated for the information of WTO Members. Since 2003, the monthly electronic news bulletin for NGOs has been replaced by a bi-weekly WTO Update, further facilitating access to WTO information. Subscription requests should be sent by e-mail to the following address: ngobulletin@wto.org.

Ministerial Conferences

NGO attendance at WTO Ministerial Conferences is based on a basic set of registration procedures decided by the General Council: these normally involve (i) NGOs are allowed to attend the Plenary Sessions of the Conference and (ii) NGO applications to register are accepted by the WTO Secretariat on the basis of Article V:2, i.e. NGOs have to demonstrate that their activities are "concerned with matters related to those of the WTO". Information on these procedures can be found on the WTO website.

The table below gives the numbers of NGO attendees at the five WTO Ministerial Conferences held until now. The Fifth Ministerial Conference in Cancún, Mexico, saw the highest number of civil society representatives in WTO's history.

Table II.7

NGO attendance at ministerial conferences

Ministerial	No. of eligible NGOs	NGOs who attended	No. of participants
Singapore 1996	159	108	235
Geneva 1998	153	128	362
Seattle 1999	776	686	approx 1500
Doha 2001	651	370	370
Cancún 2003	961	795	1578

Symposia

Since 1999, WTO's annual public symposium has provided civil society with opportunities to engage with government officials, academics and other civil society representatives. The five symposia held until now have shown that governments and civil society can have open and constructive dialogues on issues where differences exist, but where possible solutions can also be identified and discussed. In 2004 a three-day symposium with some 800 participants was held at the WTO. Entitled "Multilateralism at a Crossroads", the symposium featured WTO-organized work sessions and also twenty-five sessions organized by NGOs on topics of their choice. Development opportunities, functioning of the WTO, and agriculture were among the main issues discussed. Another symposium is planned for 20 to 22 April 2005; this event takes on special significance as it coincides with the 10th anniversary of the WTO. Participants will be able to discuss "The WTO after 10 Years: Global Problems and Multilateral Solutions".

Cooperation with other international organizations

The WTO works closely with other international intergovernmental organizations and especially those involved with trade-related subjects. The WTO cooperates and coordinates with the United Nations and many of its agencies, with the Bretton Woods institutions and with other international and regional bodies.

In its efforts to further the development dimension of trade, the WTO works closely with the United Nations Conference on Trade and Development (UNCTAD). A major focus of joint work concerns capacity building and providing technical assistance to developing countries and least-developed countries. UNCTAD is a major partner in the Integrated Framework for Trade-Related Technical Assistance to Least-Developed Countries (IF) and also the Joint Integrated Technical Assistance Programme (JITAP). As well, many inter-regional meetings and training activities are organized to assist developing country representatives to learn more about WTO trade issues and negotiations. Such activities are sponsored either by WTO or UNCTAD, or both, and involve staff from both organizations. Other international intergovernmental organizations that cooperate with the WTO on the development dimension, particularly the IF and JITAP, include the United Nations Development Programme, International Trade Centre, International Monetary Fund and World Bank.

The WTO remains a participant in various activities organized by the United Nations, its agencies, and other international intergovernmental organizations. The Director-General attends regularly meetings of the UN Chief Executives Board (CEB); WTO Secretariat officials also participate in the Board's subsidiary bodies. As well, the WTO Secretariat is represented on a high-level United Nations coordination committee monitoring progress towards achieving the United Nations' Millennium Goals. WTO also participates in a follow-up mechanism relating to the International Conference on Financing for Development.

Outreach activities for parliamentarians and civil society

In 2004, the WTO extended its programme of outreach activities for civil society and parliamentarians. A first-ever workshop for civil society representatives in French-speaking Africa was held in Senegal in November. There were also regional workshops conducted in New Zealand (for parliamentarians from the Pacific), Morocco (for parliamentarians from Francophone Africa), and Singapore (for parliamentarians from various Asian Countries). The workshops are designed to help civil society representatives and legislators better understand the WTO and provisions of the Doha Ministerial Declaration. They are additional

to national workshops for parliamentarians carried out as part of the WTO's regular technical assistance work.

One very positive effect of the 2004 programme of outreach activities was the enhancement of close working relations with numerous civil society and parliamentary organizations. These relations were further augmented through WTO attendance at major events such as the Brussels Session of the Parliamentary Conference on the WTO, organized jointly by the Inter-Parliamentary Union and European Parliament in November.

Cooperation with the IMF and the World Bank (Coherence)

The WTO's cooperation with the IMF and the World Bank is based on the Marrakesh "Declaration on the Contribution of the WTO to Achieving Coherence in Global Economic Policy-Making" and on the WTO's formal cooperation agreements with the IMF and the World Bank. Cooperation at the staff level extends to many areas of the WTO, including on research topics, exchange of statistical data and trade policy information and technical assistance and training. More detailed information is available in the Director-General's Annual Report on Coherence.

The General Council held its second formal meeting on Coherence on 22 October 2004. For the second year in a row, the Managing Director of the IMF and the President of the World Bank participated in the meeting – underlining the importance both agencies attach to the current Doha negotiations and to deepening cooperation with the WTO. The main theme of the meeting was establishing long-term coherence between governments' trade, finance and development policies, at the domestic level and at the multilateral level, with support from the three organizations in providing high quality policy analysis, technical assistance and capacity building, and adjustment assistance. Among the issues that Members felt warranted attention in this context were the effects of the end of textile quotas under the Agreement on Textiles and Clothing, the erosion of preference margins as a result of multilateral liberalization, the fiscal effects of tariff liberalization, and the timing and sequencing of reforms to trade and other economic policies.

The IMF and the World Bank continue to expand their programmes related to trade and the support of the Doha Development Agenda (DDA). The IMF has stepped up its capacity to provide technical assistance, especially in customs administration and tariff policy; it has increased the trade focus of its Article IV Consultations; and it has reiterated its readiness to support Members dealing with the macroeconomic effects of price or other shocks through its Poverty Reduction and Growth Facility (PRGF). In addition, the IMF's new Trade Integration Mechanism (TIM) – designed to provide financial support to Members that face a net negative impact on their balance of payments as a result of implementation of multilateral trade commitments – was made operational in 2004, with Bangladesh being the first country to obtain funding under the arrangement. The World Bank has also continued to expand the significant support it already provides Members, in particular in the context of the Integrated Framework (IF) for Trade-Related Technical Assistance, the Standards and Trade Development Facility (STDF), and its work on trade facilitation, carried out under the umbrella of the Bank's new "Doha Development Initiative".

The Decision taken at the July General Council meeting also identifies new areas where WTO cooperation with the IMF and the World Bank should be expanded. Members have agreed to work multilaterally with the international financial institutions on development aspects of the Sectoral Initiative on Cotton. In this regard, the Director-General is instructed to consult with the IMF and World Bank, among others, to direct effectively existing programmes and any additional resources towards development of the economies where cotton has a vital importance. The General Council's Decision also calls for providing developing countries and low-income countries in transition, in particular least-developed countries, with enhanced technical assistance 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. Members have further encouraged improved coordination with other agencies, including under the Integrated Framework for LDCs and the Joint Integrated Technical Assistance Programme (JITAP). In addition, WTO Members have invited the IMF and World Bank to work with other relevant international organizations to make technical assistance and capacity building more effective and operational to support the negotiations on trade facilitation.

Opportunities for consultations at the heads-of-agency level arose at the General Council meeting on Coherence in October, at meetings of the International Monetary and Finance Committee (IMFC) and the Development Committee, at ECOSOC and other intergovernmental meetings. Attention in these consultations focused on actions that could be taken to help advance the Doha trade negotiations and work programme, including mobilizing the active support of Finance and Development Ministers.

Table II.8

International intergovernmental organizations – Observer status in the WTO (as at 2 July 2004)

The guidelines on observer status for international organizations (WT/L/161, Annex 3) provide that requests for observer status from organizations shall not be considered for meetings of the Budget Committee or the Dispute Settlement Body, therefore these bodies are not listed in the table. Also not listed are the Textiles Monitoring Body, which has no international intergovernmental organization observers, and Accession Working Parties.

The International Trade Centre UNCTAD/WTO, as a joint subsidiary organ of the WTO and UNCTAD, is not required to formally submit a request for observer status in the WTO bodies and is invited as appropriate to attend meetings of those WTO bodies it wishes to attend (WT/GC/M/25, item 1). The ITC is therefore not listed in this table.

The IMF and World Bank have observer status in WTO bodies as provided for in their respective Agreements with the WTO (WT/L/195), and are not listed in this table.

International intergovernmental organizations with universal representation are in italics. An "X" indicates observer status; a "P" indicates that consideration of the request for observer status is pending.

Table II.9: Explanatory Note

The bodies listed in the Table II.9 are, respectively, the General Council (GC); Trade Policy Review Body (TPRB); Council for Trade in Goods (CTG); Council for Trade in Services (CTS); Council for TRIPS (TRIPS); the Committees on Anti-Dumping Practices (ADP); Subsidies and Countervailing Measures (SCM); Safeguards (SG); Agriculture (AG); Sanitary and Phytosanitary Measures (SPS); Balance-of-Payments Restrictions (BOPS); Regional Trade Agreements (CRTA); Trade and Development (CTD); Trade and Environment (CTE); Market Access (MA); Import Licensing (LIC); Rules of Origin (RO); Technical Barriers to Trade (TBT); Trade-Related Investment Measures (TRIMS); Customs Valuation (VAL). Additional information concerning the observer status of the listed organizations in the GATT CONTRACTING PARTIES (GATT CPS), Council of Representatives (GATT CNCL) and Committee on Trade and Development (GATT CTD) is provided in the last three columns.

Table II.10: Explanatory Note

Table II.10 provides information on observer status in the four bodies under the Council for Trade in Services, namely the Committees on Financial Services and Specific Commitments, and the Working Parties on GATS Rules and Domestic Regulation, as well as in the Working Groups on Transparency in Government Procurement; the Relationship between Trade and Investment; the Interaction between Trade and Competition Policy; Trade, Debt and Finance; Trade and Transfer of Technology.

Table II.11: Explanatory Note

Information for the Committees under the Plurilateral Trade Agreements is provided in Table II.11, namely the Committee on Government Procurement (GPA), the Committee on Trade in Civil Aircraft (TCA) and the Committee of Participants in the Expansion of Trade in Information Technology Products (ITA).

Table II.9

International intergovernmental organizations – Observer status in the WTO

(See explanatory note)

		GC	TPRB	CTG	CTS	TRIPS	ADP	SCM	SG	AG	SPS	BOPS	CRTA	CTD	CTE	MA	LIC	RO	TBT	TRIMS	VAL	GATT CPS	GATT CNCL	GATT CTD
UN bodies and specialized agencies:																								
UN	United Nations	X		X	X	X								X	X					X		X	X	X
CBD	Convention on Biological Diversity					P				P	P				X				P					
CITES	Convention on International Trade in Endangered Species														X									
IPPC	FAO International Plant Protection Convention										X													
Codex	FAO/WHO Joint Codex Alimentarius Commission										X									X				
FAO	Food & Agriculture Organization of the United Nations	X	X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X		X	X	X
ITU ⁱ	International Tele-communication Union	P			X																			
UNAIDS	Joint United Nations Programmes on HIV/AIDS					(ii)																		
	Montreal Protocol on Substances that Deplete the Ozone Layer														P									
CSD	United Nations Commission for Sustainable Development														X									
UNCTAD	United Nations Conference on Trade & Development	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
UNDP	United Nations Development Programme	P												X	X									
ECA	United Nations Economic Commission for Africa													X								X	X	X
ECE	United Nations Economic Commission for Europe				P									X					X			X	X	X
ECLAC	United Nations Economic Commission for Latin America & the Caribbean													X								X	X	X
ESCAP	United Nations Economic & Social Commission for Asia & the Pacific													X								X	X	X
UNESCO	United Nations Educational, Scientific and Cultural Organization				P																			
UNEP	United Nations Environment Programme	P				P								iii	X									
UNFCCC	United Nations Framework Convention of Climate Change														X									
UNIDO	United Nations Industrial Development Organization	P												X	X				iv			X		
WFP	United Nations World Food Programme									X														
WHO	World Health Organization	P			v	vi				X					P					X				
WIPO	World Intellectual Property Organization	X				X								iii	X							X	X	

Table II.9 (continued)

International intergovernmental organizations – Observer status in the WTO

(See explanatory note)

		GC	TPRB	CTG	CTS	TRIPS	ADP	SCM	SG	AG	SPS	BOPS	CRTA	CTD	CTE	MA	LIC	RO	TBT	TRIMS	VAL	GATT CPS	GATT CNCL	GATT CTD
Other organizations:																								
ACP	African, Caribbean & Pacific Group of States	P		P	P		vii	vii	vii	P	iii	X		X	X	X	P	X	viii	P	X	X	X	X
OAPI	African Intellectual Property Organization					P																		
ARIPO	African Regional Industrial Property Org.					P																		
AU	African Union	P		P									P	iii										
	ANDEAN Community													X								X	X	X
AAAID	Arab Authority Agricultural Investment and Development									P														
AMU	Arab Maghreb Union	P		P	P								P	iii										
AMF	Arab Monetary Fund	P		P	P																	X	X	
ATFP	Arab Trade Financing Program	P		P	P																			
APCC	Asian and Pacific Coconut Community									P	P													
<i>BIPM</i>	<i>Bureau International des Poids et Mesures</i>																			P				
CARICOM	Caribbean Community Secretariat													X								X	X	X
CAEMC	Central African Economic & Monetary Community													X								X		X
<i>CFC</i>	<i>Common Fund for Commodities</i>				P										ix									X
COMESA	Common Market for Eastern and Southern Africa	P		P	P		P	P	P	P			P			P		P			P	P		
	Common-wealth Secretariat													X								X		X
CMA/ WCA	Conference of Ministers of Agriculture of West and Central Africa					P																		
GCC	Cooperation Council for the Arab States of the Gulf	P	P	P		P				P				X	P							X	X	X
ECOWAS	Economic Community of West African States														iii									
ECO	Economic Cooperation Organization	P											P	iii										
EBRD	European Bank for Reconstruction & Development	P	X	P	P							X	P									X	X	
EFTA	European Free Trade Association	P	X	P	P	P					iii	X	X	X	X			X	viii			X	X	X
GOIC	Gulf Organization for Industrial Consulting				P	P	P	P					P	P	P	P		P	P	P				
IADB	Inter-American Development Bank		P							P			P	X		X		X			P	X	X	X
IICA	Inter-American Institute for Cooperation on Agriculture									P	iii													

WTO activities
Cooperation with other international organizations and relations with civil society

Table II.9 (continued)

International intergovernmental organizations – Observer status in the WTO

(See explanatory note)

		GC	TPRB	CTG	CTS	TRIPS	ADP	SCM	SG	AG	SPS	BOPS	CRTA	CTD	CTE	MA	LIC	RO	TBT	TRIMS	VAL	GATT CPS	GATT CNCL	GATT CTD
IAIGC	Inter-Arab Investment Guarantee Cooperation													iii						P				
ICAO	International Civil Aviation Organization				v																			
ICCAT	International Commission for the Conservation of Atlantic Tuna														X									
IEC	International Electro-technical Commission																			X				
IGC	International Grains Council			P					X					X										X
OIE	International Office of Epizootics										X									X				
OILM	International Organization of Legal Metrology																			viii				
ISO	International Organization for Standardization										X				X					X				
IPGRI	International Plant Genetic Resources Institute					P									X									
ITCB	International Textiles and Clothing Bureau	P		X												X		X						
ITTO	International Tropical Timber Organization														P									
UPOV	International Union for the Protection of New Varieties of Plants					X																		
IVI	International Vaccine Institute					P																		
OIV	International Vine and Wine Office	P				P					P									P				
IsDB	Islamic Development Bank	P		P	P	P								iii	x						P			
SELA	Latin American Economic System	P		P	P	P			P	iii			P	X	X	P				P		X	X	X
ALADI	Latin American Integration Association												iii	X					viii			X	X	X
LAS	League of Arab States	P		P	P								P	P	P							X		
OECS	Organization of the Eastern Caribbean States								P					P	P									
OIF	Organisation Internationale de la Franco-phonie														P									
OAS	Organization of American States	P		P	P	P							X	X								X	X	X
OECD	Organization for Economic Cooperation & Development	X	X	X	P ^{xi}	X	xii	xii	xii	X	iii	X	P	X	X			X	X	X		X	X	X
OIC	Organization of the Islamic Conference	P	P	P	P	P							P	iii	P							X		
OPEC	Organization of the Petroleum Exporting Countries													P	P									
OIRSA	Regional International Organization for Plant Protection and Animal Health										iii													
	Pacific Islands Forum	P							P				iii	X										

Table II.9 (continued)

International intergovernmental organizations – Observer status in the WTO

(See explanatory note)

		GC	TPRB	CTG	CTS	TRIPS	ADP	SCM	SG	AG	SPS	BOPS	CRTA	CTD	CTE	MA	LIC	RO	TBT	TRIMS	VAL	GATT CPS	GATT CNCL	GATT CTD
SIECA	Permanent Secretariat of the General Treaty on Central American Economic Integration	P		P	P	P								X								X	X	X
	South Centre	P		P	P	P			P					iii										
SEAFDEC	Southeast Asian Fisheries Development Centre														x									
SADC	Southern African Development Community			P	P								P	X										
UPU	Universal Postal Union				P																			
WAEMU	West African Economic & Monetary Union	P											P	iii		P								
WCO	World Customs Organization	P		X		X									X	X		X			X	X		
WTO	World Tourism Organization				v																			

TABLE II.10

Observer status in certain other bodies

(See explanatory note)

		Financial Services	GATS Rules	Domestic Regulation	Specific Commitments	Working Group on Transparency in Government Procurement	Working Group on the Relationship between Trade and Investment	Working Group on The Interaction between Trade and Competition Policy	Working Group on Trade, Debt and Finance	Working Group on Trade and Technology
UN bodies and specialized agencies:										
UN	United Nations	X	X	X	X	xiii			X	
FAO	Food and Agricultural Organization								X	
UNCITRAL	United Nations Commission on International Trade Law					X				
UNCTAD	United Nations Conference on Trade and Development	X	X	X	X	X	X	X	X	X
ECLAC	United Nations Economic Commission for Latin America & the Caribbean							P		
UNIDO	United Nations Industrial Development Organization							xiv		X
WIPO	World Intellectual Property Organization								X	
Other Organizations:										
ACP	African, Caribbean & Pacific Group of States	X		X						
AU	African Union								P	

TABLE II.10 (continued)

Observer status in certain other bodies

(See explanatory note)

		Financial Services	GATS Rules	Domestic Regulation	Specific Commitments	Working Group on Transparency in Government Procurement	Working Group on the Relationship between Trade and Investment	Working Group on Trade and Competition Policy	Working Group on Trade, Debt and Finance	Working Group on Trade and Technology
	Energy Charter Conference						P			
GOIC	Gulf Organization for Industrial Consulting						P			
IAIS	International Association of Insurance Supervisors	P		P						
SELA	Latin American Economic System					P ^{xv}	P	P ^{xvi}		
OAS	Organization of American States						P			
OECD	Organization for Economic Cooperation and Development	X	X	X	X	P ^{xv}	xiv	X	X	
OIC	Organization of the Islamic Conference					P	P	P		
	South Centre						P	P		
UPU	Universal Postal Union				P					

TABLE II.11

International intergovernmental organizations – Observer status in committees under the plurilateral trade agreements

(See explanatory note)

		GPA	TCA	ITA
UN bodies and specialized agencies:				
UNCTAD	United Nations Conference on Trade and Development	X	X	
Other Organizations:				
ACP	African, Caribbean and Pacific Group of States		P	
ICAP	Central American Institute of Public Administration	P		
COMESA	Common Market for Eastern and Southern Africa	P		
EFTA	European Free Trade Association	P		
IADB	Inter-American Development Bank	P		
OECD	Organization for Economic Cooperation and Development	X		X
WCO	World Customs Organization			X ^{xvii}

ⁱThe ITU Secretariat shall [also] be invited as an observer to meetings of relevant WTO bodies other than the Council for Trade in Services and the Ministerial Conference (excluding the Committee on Budget, Finance and Administration, Dispute Settlement Body, Appellate Body and Dispute Settlement Panels) where that body considers that matters of common interest to both organizations will be under discussion.

ⁱⁱ The Council agreed to a request from the Joint United Nations Programme on HIV/AIDS (UNAIDS) for observer status during the Council's discussions on the TRIPS Agreement and public health.

ⁱⁱⁱ The Committee agreed to grant ad hoc observer status on a meeting-by-meeting basis.

^{iv} The Committee agreed to grant ad hoc observer status pending final agreement on the application of the guidelines for observer status for international intergovernmental organizations in the WTO.

^v The Council agreed to grant ad hoc observer status.

^{vi} The Council agreed to grant ad hoc observer status on the understanding that the WTO would be given reciprocal opportunities to observe meetings of all functional bodies under the WHO, including those at the regional level, except when meetings are limited to Member governments only.

^{vii} The Committee agreed to grant ad hoc observer status pending the outcome of the horizontal process.

^{viii} The Committee agreed to grant ad hoc observer status pending further decisions.

^{ix} The Committee agreed to grant ad hoc observer status on a meeting-by-meeting basis to the CFC when "Commodity item" is on the agenda.

^x The Committee agreed to grant ad hoc observer status.

^{xi} The Council had agreed to grant observer status to the OECD for its Special Sessions on Telecommunications Services on 25 June 1999.

^{xii} The Committee agreed to grant ad hoc observer status with access to restricted documents subject to objection to such access by a Member in particular cases.

^{xiii} The UNCITRAL, listed below, represents the UN.

^{xiv} The Working Group agreed to grant ad hoc observer status.

^{xv} The Working Group had agreed to grant ad hoc observer status for its meetings of 3-4 November 1997 and 19-20 February 1998 only.

^{xvi} The Working Group had agreed to grant ad hoc observer status for its meetings of 27-28 November 1997 and 11-13 March 1998 only.

^{xvii} The Committee agreed to invite the WCO as an observer whenever the issues of HS classification and HS amendments were on the agenda.

II. Public information activities

The positive change in public perceptions of the WTO which coincided with the launch of the Doha Development Agenda continued as the negotiations advanced. The agreement on the "July Package" approved by WTO Members on August 1, 2004 was particularly important in raising public awareness and support for the organization. The WTO Dispute settlement system continued to be highly regarded as an effective means for dealing with trade disputes, especially as developing countries were also shown to be using the system to good effect.

Public debate on the WTO has largely shifted from condemnation to a discussion of the value of various negotiating positions under the Doha Agenda, and on proposals to improve and reform the WTO system.

This significant shift in the focus of the debate on WTO issues is largely due to the existence of a better understanding among the general public, and among journalists, about the role and work of the organization.

Regular contacts with media and the public

A number of specific efforts in 2004 contributed to this new environment for public debate on the WTO, including:

- a sustained level of contacts with the public through 142 information briefings at the WTO involving about 4,000 participants.
- regular contact with journalists in Geneva through 102 press briefings, news conferences and photo opportunities, as well as regular contact with the 1,000 journalists around the globe who have registered to use our internet Media newsroom. Most of them received weekly email bulletins on developments at the WTO.
- More than 70,000 individuals have self-registered with our contacts database to receive regular email bulletins on WTO developments. This list is comprised largely of academics, consultants, government officials and students with a specific interest in trade issues.
- There were over 55,000 public email enquiries and comments received by the WTO over the year.
- The WTO distributed nearly 40,000 books and information brochures free of charge in English, French and Spanish to the public and to WTO Members during 2004.

The WTO website www.wto.org

The number of visitors to the WTO website continues to grow at the rate of 15-20% per month. There were 7.5 million visits to the website during 2003 (about 650,000 per month from about 170 countries) and over 270 million hits (indicating a high level of navigation through the site). Users of the site downloaded millions of pages of WTO publications and documents, including over 120,000 copies of the WTO Annual Report, about 110,000 copies of the World Trade Report and about 130,000 copies of the International Trade Statistics.

WTO Publications

A list of 155 books and brochures were produced during 2004 in English, French and Spanish. The full list of current WTO publications is included as Annex II at the end of this publication.

Annex I – Trade Policy Review Body – Concluding remarks by the Chair of the Trade Policy Review Body

Concluding Remarks:

United States

This seventh Trade Policy Review of the United States has provided a fruitful dialogue between the United States and its trading partners. The high level of participation by Members in the Review underlines the key role that the U.S. plays in world trade. I should like to emphasize that Members recognized that the U.S. economy has remained an engine of global growth and that, in part thanks to its general openness, has demonstrated strong resilience in the face of various shocks since 2001. However, although counter-cyclical

macroeconomic policy has promoted growth, many Members raised the matter of the sustainability of the twin deficits.

Members acknowledged the unique status of the United States in the multilateral trading system, and were greatly appreciative of the U.S. leadership in the WTO, of its commitment to trade liberalization and to the successful completion of the DDA. In this context, many Members expressed their appreciation for Ambassador Zoellick's recent letter on how the DDA may be moved forward.

Several Members were critical of the U.S. uneven record of compliance with WTO rulings, pointing out that this could undermine the credibility of the DSU. Members noted the growing involvement of the United States in regional trade agreements, with many considering such initiatives supportive of multilateral efforts while others queried their possible impact on third countries and on the multilateral trading system. A number of developing countries praised U.S. unilateral preferences and the U.S. contribution to trade capacity building.

Members agreed that the U.S. trade regime is open and transparent, but many noted that market access barriers exist in a few important areas. Several Members expressed concern about tariff peaks, non-ad valorem duties, tariff escalation, and the U.S. tariff-quota system, particularly in sectors such as textiles and clothing of concern to developing countries. Various Members referred to certain SPS and environmental measures as unjustified barriers to trade. Questions were posed on other measures like customs fees, rules of origin, labelling requirements, and trade restrictions. New U.S. security-related measures constituted a major theme of discussion. In this respect, concerns were expressed regarding compliance costs, and Members urged the United States to implement security measures in the least trade-restrictive manner.

The continued active use of contingency measures by the United States was a source of concern, and the United States was invited to exercise restraint in initiating investigations. While satisfaction was expressed for the recent dismantlement of safeguards on steel products, following a WTO ruling, concern was voiced with respect to the lack of progress in repealing other legislation found to be WTO inconsistent.

Another issue raised was assistance to the agriculture sector. Members pointed out that the 2002 Farm Act was yet to be notified. They were concerned about different aspects of the Act, including its potential for increased market-distorting support. Members also questioned the Act's compatibility with the aims of the DDA, as well as the effect of export credit guarantee schemes.

Discussions on market access in services focused mainly on telecommunications, maritime, financial, and professional services, and on movement of natural persons. Members encouraged the United States to review the Jones Act, and to consider tabling an offer on maritime transport. Questions were raised with respect to the effect that visa and qualification recognition requirements may have on market access for foreign workers.

I conclude by thanking the U.S. delegation for the numerous oral and written responses and explanations it provided during the meeting; we look forward to receiving answers on outstanding questions. I hope that our discussions in this review will contribute to our ongoing liberalization efforts, to the benefit of the United States and the WTO community at large. And I thank the United States for the motor-role it has continued to play in the world economy.

The Gambia

This first Trade Policy Review of The Gambia has been fruitful and comprehensive and we now have a better understanding of The Gambia's trade policies and practices. Our discussion has been facilitated by the informative contribution of the Honourable Edward Singhatey, Secretary of State for Trade, Industry and Employment, and his delegation, as well as by the incisive comments by our discussant, Mr. Neil McMillan.

Members welcomed the unilateral reforms taken by The Gambia since the late 1990s. These have substantially liberalized the economy and contributed to real GDP growth rates of over 5% on average over 1998-01. In light of recent policy slippages that have accentuated the vulnerability of the economy, Members encouraged The Gambia to consolidate macroeconomic reforms with a view to promoting private investment and diversifying production and exports in order to achieve its objective of becoming a middle-income country by the year 2020.

Members stressed that The Gambia does not implement any tariff preferences and has fully relied on the multilateral trading system to promote its trade. They shared The Gambia's desire to see progress in negotiations under the Doha Development Agenda. Some Members pointed out that further tariff reform, including reduction of the margins between bound and applied rates, and an increase in the coverage of bound tariffs would enhance the predictability of the tariff regime. Members encouraged The Gambia to implement the WTO

Customs Valuation Agreement and to ensure that customs procedures do not generate extra costs for importers.

Members noted that The Gambia's agricultural policy objectives are to increase rural incomes and to achieve food security, and sought clarification about the codification of land tenure and efforts to increase value added in the sector. They welcomed The Gambia's plan to develop its manufacturing sector for poverty reduction and economic diversification purposes. Some Members mentioned The Gambia's involvement in international trade in diamonds, and urged it to consider participating in the Kimberley Process. Members praised The Gambia for having taken substantial commitments in service subsectors, but urged it to implement reforms to make its policies and practices further match its commitments.

Members also asked questions on other issues, notably: future economic reform programme; internal taxation; standards and SPS; government procurement; free zones; investment incentives; privatization; and protection of intellectual property rights.

Members expressed their appreciation for the responses provided by the Gambian delegation and looked forward to receiving written answers to any outstanding questions.

In conclusion, it is my feeling that this Trade Policy Review has highlighted the commitment of the Gambian authorities to further liberalize their economy. I am pleased that many Members identified ways in which they were providing trade-related technical assistance to The Gambia and have committed themselves to continue assisting it. Nevertheless, I feel it important to call attention to The Gambia's supply-side constraints that still need to be addressed. Further assistance by the international community will help The Gambia to fully integrate into the multilateral trading system and I urge both the WTO Membership and the Secretariat to be receptive to this need.

Sri Lanka

This second Trade Policy Review of Sri Lanka has provided a constructive exchange of views between Sri Lanka and its trading partners, thereby clarifying many aspects of Sri Lanka's trade policy regime. The resulting discussion has been greatly facilitated by the valuable contributions of Secretary Wickremasinghe, together with the other members of his delegation, and our discussant, Ambassador Muhammad Noor Yacob.

Members commended the Government's efforts to press ahead with the reconstruction and rehabilitation programme outlined in the policy document "Regaining Sri Lanka". They encouraged the authorities to continue trade and other economic reforms, which along with lasting peace would be essential for the achievement of sustained economic growth and poverty reduction. Members reiterated their support for Sri Lanka's peace and reform process and expressed their readiness to contribute to it. They praised Sri Lanka's privatization initiative and steps to deregulate the petroleum and energy sectors. Concerns were raised about Sri Lanka's heavy dependency on a few export markets and products, such as textiles and clothing.

Members appreciated Sri Lanka's constructive involvement in the WTO and urged the authorities to continue its active participation in the current negotiations on agriculture, industrial products and services. They noted Sri Lanka's shift towards regional agreements. In response, the authorities reiterated the country's firm commitment to the primacy of the multilateral trading system, stressing that their regional agreements would complement multilateralism.

Several Members expressed concern about the tariff regime's lack of predictability and transparency. They also noted, inter alia: the high level of applied MFN tariffs, particularly for agricultural products; the low percentage of bound rates; the large gap between bound and applied rates; high tariff escalation and consequently high effective protection. Members also remarked on other import charges (notably the surcharge and the Ports and Airports Development Levy) and encouraged Sri Lanka to overhaul its duty exemptions. Members referred to the special import licensing regime and sought clarification on which goods are subject to licensing for "economic reasons". In addition, questions were raised regarding import restrictions on meat products, import prohibitions on GM products, standards, and contingency measures.

Members welcomed the simplification of customs procedures, particularly the introduction of computerized systems for customs clearance, and encouraged further streamlining. On government procurement, Members commented, inter alia, on the existence of price preferences for locally manufactured products and local work contracts as well as on the opacity of tendering procedures. Sri Lanka was encouraged to reform the procurement system and Members welcomed Sri Lanka's announced intention to apply for observer status in the GPA. Members welcomed the introduction of new intellectual property legislation, and emphasized the need to follow this up with effective implementation and enforcement.

On services, Members expressed their appreciation for steps taken by the authorities to reduce state involvement and eliminate foreign equity restrictions in financial services. They

commended efforts to liberalize the telecommunications market and encouraged Sri Lanka to continue this process.

Members also expressed their appreciation of the oral and written responses provided by the Sri Lankan delegation; they look forward to receiving replies to any outstanding questions.

In conclusion, this Review has provided Members with considerable insight into Sri Lanka's trade and trade-related policies. It has helped to identify areas where further reforms could establish the basis for sustained economic growth, and thus lasting peace and prosperity. Members encouraged Sri Lanka to liberalize its trade regime further and to continue its active participation in the DDA negotiations.

Singapore

We have had a most informative and constructive discussion of Singapore's trade policies and practices. The discussion benefited greatly from the valuable contributions made by Permanent Secretary Heng Swee Keat, and his delegation, by our discussant, Ambassador Eirik Glenne in leading the discussion today, and by Members of the TPRB. Several Members have also thanked Singapore for its efforts in facilitating multilateral trade discussions, especially in the areas of TRIPS and agriculture.

This, Singapore's Fourth Trade Policy Review, has demonstrated that its economy remains one of the most open to international trade and investment. This openness, in great part, has helped Singapore weather recent economic shocks, such as the Asian financial crisis and more recently the global economic slowdown, which was compounded by the SARS crisis and events in the Middle East. Members commended Singapore's continuing reforms aimed at promoting a competitive economy that is globalized, entrepreneurial and diversified in the face of these shocks. Some Members sought further details on the nature of these reforms, especially efforts to enhance wage flexibility, employment and training, and to address the challenge of an apparent recent decline in total factor productivity although I have noted Singapore's comments in this regards.

Members noted that with international trade amounting to about three times GDP, Singapore remains committed to a rules based multilateral trading system. Several Members, however, noted the number of bilateral free-trade agreements Singapore has signed since its previous Review and asked how it reconciled this trend with its participation in the multilateral trading system. Members urged Singapore to maintain its participation in current WTO negotiations. The representative of Singapore stressed his country's commitment to the multilateral trading system and responded that its bilateral FTAs are "WTO-plus" and could contribute to further multilateral trade liberalization. Singapore was also actively participating in the current WTO negotiations and would do its utmost to ensure their success.

Members raised questions about certain aspects of Singapore's trade policy, including: customs procedures and trade facilitation; the difference between bound and applied tariff rates; the use of specific duties; import licensing policies, particularly with regard to rice; standards; and Singapore's relatively stringent SPS policy. Questions were also raised about Singapore's government procurement procedures and the enforcement of intellectual property rights. It was noted that Singapore's use of contingency measures is relatively limited.

Since restrictions to international trade are relatively few, Members were mostly interested in Singapore's recent and ongoing domestic reforms. Several Members welcomed Singapore's announcement of an economy-wide competition policy to be put in place over the next few years. While noting that some reforms had been carried out with regard to government linked corporations (GLCs) held by the Government holding company, Temasek, Members sought further details on inter alia "demystifying Temasek", GLCs and their further disinvestment, measures to ensure fair competition between them and other private sector companies, as well as efforts to reduce government involvement in the economy. Questions were also raised with regard to tax and non-tax incentives and the sectors in which they are currently concentrated.

With regard to services, Members noted major reforms, especially in telecommunications, and banking and insurance services. They noted that liberalization of telecommunications services in particular, has resulted in benefits for consumers and encouraged Singapore to continue further reforms in other sectors as well. Further details were requested on banking and insurance, transport, audio visual services, professional services, and tourism. Some Members also requested information on Singapore's GATS Schedule.

To conclude, I would like to thank the Singapore delegation on its oral and written responses provided during the meeting and once again to congratulate Singapore on being an exemplary Member of the WTO and for its efforts in helping us to better understand its trade-related policies. Our discussions have also helped us to appreciate the significant

challenges facing Singapore today and the Government's measures to address these challenges.

Benin, Burkina Faso and Mali

This second trade policy review of Benin, Burkina Faso and Mali has allowed us all a far better understanding of recent developments in their trade and related policies and in the challenges they face. Our dialogue has been thorough and comprehensive, stimulated by the full and open engagement of the high-level delegations, the insightful comments by the discussant and the many interventions by Members.

Members commended Benin, Burkina Faso and Mali for their concerted efforts at macroeconomic stabilization and for their structural reforms in the period under review. They noted that sustainable development and poverty alleviation remained a challenge, as did elements of governance and certain structural disadvantages. In this connection, Benin, Burkina Faso and Mali were encouraged to move ahead with their reform programmes, including privatization and market and product diversification.

Members were appreciative of the efforts made by the three countries to simplify their tariff structure, through the implementation of the WAEMU common external tariff, reducing unilaterally the average MFN tariff of two of the three Members under review. Benin, Burkina Faso and Mali confirmed their commitment to the multilateral system and to the WTO. Some Members suggested that the countries under review should seek to narrow the gap between their bound and applied rates. Members also noted the imposition of additional border levies and charges, as well as the use by Burkina Faso and Mali of WAEMU-agreed administered prices for customs valuation purposes, and progress made recently on this matter.

Members emphasized trade as a development tool and underlined the importance of the Integrated Framework and other cooperation initiatives. Benin, Burkina Faso and Mali did not benefit fully from their WTO membership, as their own resource constraints did not always allow them to identify and/or exploit opportunities. Several Members indicated that, despite their direct or indirect contribution in providing technical assistance to and promoting trade with the Members under review, the progress in their integration into the multilateral trading system had been slow. Many Members underlined their commitment to continuing to provide trade-related technical assistance to the three countries.

Members noted the dependence of Benin, Burkina Faso and Mali on cotton and other agricultural commodities. They raised several questions in this respect, while recalling recent cotton-related developments in the WTO. Some expressed support for the gradual elimination of the cotton-support practices of certain developed countries.

Members sought further clarification on:

1. Investment incentives;
2. inter-regional integration process;
3. renegotiation of tariff bindings;
4. anti-dumping regulations and competition policy;
5. technical barriers to trade;
6. state-trading enterprises;
7. government procurement practices and prospects;
8. intellectual property rights;
9. issues relating to financial services, telecommunications, energy, transport and tourism.

Members expressed appreciation for the replies provided by the delegations of Benin, Burkina Faso and Mali and looked forward with interest to further responses and clarifications.

In conclusion, the Chairperson said that the review had enabled Members to take note of the progress made by Benin, Burkina Faso and Mali since their first review, and of the development problems they faced. The impressive participation by delegations in the meeting, the number of questions posed and the lively discussion demonstrated the importance attached to this trade policy review. She encouraged Benin, Burkina Faso and Mali to continue implementing their reform programmes with a view to enhancing the transparency, predictability and credibility of their foreign trade regimes and confirming their adherence to WTO principles. But that observation had to be put into context. Benin, Burkina Faso and Mali faced real resource constraints: technical assistance was required from the WTO and other competent organizations. The needs had been clearly identified in the Secretariat reports and efforts should be made to meet them. In addition, the trading partners could contribute by ensuring that their markets were open to products from Benin, Burkina Faso and Mali, and by further exploring opportunities to assist them in achieving their development objectives.

Belize and Suriname

The first Trade Policy Reviews of Belize and Suriname have shed considerable light on the trade and investment policies and practices of both countries. We owe this to the documentation prepared for the meeting, to the valuable contributions made by the delegations of Belize and Suriname, to the comments of our discussant, and to the involvement of several Members of the TPRB. I am very pleased that despite their heavy agendas Ministers Courtenay and Jong Tjien Fa chose to come to this meeting and see it as testament to their Government's desire to practically demonstrate their commitment to the multilateral trading system.

Members commended Belize and Suriname on their economic and institutional reform efforts, which include autonomous and regional initiatives to liberalize trade and investment. The progress achieved on these fronts is significant. Members appreciated the efforts made by both countries despite their limited institutional capacity and lack of a permanent representation in Geneva. However, they also urged Belize and Suriname to fulfil their outstanding WTO notification obligations, if necessary with the aid of the WTO Secretariat.

Some Members pointed to the importance of the participation of Belize and Suriname in CARICOM as a stepping stone towards greater integration in the global economy and as an engine of growth. They also sought clarification on future developments in CARICOM and other preferential arrangements involving Belize and Suriname.

While noting the differences in the economic performances of Belize and Suriname, Members underlined the need to increase the coherence of macroeconomic policymaking in both countries to ensure sustainable growth. Belize and Suriname were encouraged to continue diversifying their export bases, both in terms of markets and products. In this regard, some Members pointed to Belize's success in developing its tourism sector as a step in the right direction.

Members welcomed the decline of average applied MFN tariffs in Belize and Suriname over the years. Concerns were expressed, however, with respect to the relatively high levels of tariff protection enjoyed by the agriculture sectors of both countries. Belize and Suriname were invited to lower their tariff bindings to rates closer to applied rates in order to improve the predictability of their trade regimes. Members noted with concern that certain applied tariff rates exceed their bound levels.

Members also asked Belize and Suriname questions related to customs, technical regulations, sanitary and phytosanitary measures, incentive schemes, government procurement, state-owned enterprises, and the protection of intellectual property rights.

On sectoral policies, Members appreciated the efforts by Belize and Suriname to liberalize trade in services, but highlighted the need to strengthen the regulatory framework, develop infrastructure, and promote competition. Members sought additional information on sectoral policies and market access conditions in electricity, telecommunications, banking, tourism, and distribution and business services. Noting their currently limited GATS commitments, Members invited Belize and Suriname to expand those commitments in the context of the Doha Development Agenda.

As regards specific issues raised in connection with Belize's trade policies, some Members questioned the application of certain domestic taxes to imports only. Several Members also expressed concern about the possible distortions induced by Belize's non-automatic licensing regime and encouraged Belize to bring it into compliance with WTO disciplines. Belize reiterated its commitment to fulfilling the relevant WTO obligations, and noted that it intends to undertake a review of its licensing system.

Regarding Suriname, some Members considered that the procedures for approving investments are cumbersome, and underscored the need to accelerate public sector reforms and reduce the degree of government interference in the economy. In this respect, the recent establishment of a one-stop window for business licensing is a potentially significant step. In relation to tariff bindings, they sought details on the status of Suriname's renegotiation under Article XXVIII of the GATT. Suriname was congratulated for eliminating the licensing system previously in place to protect domestic producers.

We appreciate the oral and written responses and explanations provided by the delegations of Belize and Suriname.

In conclusion, it is my sense that this Review has amply fulfilled the objective of expanding our understanding of the trade regimes of Belize and Suriname, and the context within which they are formulated and implemented. In this regard, we have been made aware of the real difficulties faced by Belize and Suriname in participating in the multilateral system. Overcoming these challenges is important as the WTO remains the best forum to develop a rules-based trade system. Drawing on the views offered by Members in this meeting, Belize and Suriname are now in a better position to chart

future policy adjustments that would serve both the multilateral trading system and their individual development needs.

Republic of Korea

This fourth Trade Policy Review of the Republic of Korea has contributed significantly to an improved, informed understanding of recent developments in Korean trade and related policies. Our discussion has greatly benefited from the comprehensive engagement of the Korean delegation, led by Ambassador Choi Hyuck, the insightful comments from our discussant, Ambassador Muhamad Noor Yacob, and many thoughtful interventions by Members.

Members noted Korea's impressive economic performance, underpinned by generally prudent macro-stabilization policies, on-going trade liberalization, and corporate and financial sector restructuring. Korea was encouraged to continue these market-oriented reforms. A major challenge is to ensure continued economic improvements, given the economy's reliance on exports to compensate for weak domestic demand; this is a potential source of vulnerability.

Members welcomed Korea's active participation in the multilateral trading system, including the Doha Development Agenda. It is important that Korea's increasing involvement in bilateral/regional trading arrangements is compatible with the multilateral system, and that such agreements are sufficiently comprehensive to liberalize Korea's trade regime in difficult areas, such as agriculture, where most protection exists. While some Members noted that high agricultural protection reflected food security and other multifunctional concerns, other Members urged Korea to reform its agricultural policies, commenting that continued high levels of price support and tariffs as well as other forms of protection undermine economic efficiency and penalize Korean consumers. The contrast between low industrial and high agricultural tariffs was also noted.

Many Members thought that the multiplicity of rate bands, various flexible tariffs and other types of duties make the Korean tariff structure somewhat complex, and encouraged its simplification. Agricultural tariff quotas are of particular concern, including the possible restrictive impact on imports of their administration. Korea was urged to reduce high tariffs on some industrial products and to raise the coverage of tariff bindings and narrow the gap between bound and applied levels.

Many members noted that Korea had made substantial efforts to further liberalize its foreign investment regime; this was important at a time when FDI inflows had fallen. Some Members enquired about the range of tax and other incentives provided to attract investment, including the use of various types of "zones".

Members appreciated Korea's moves to harmonize standards and other technical barriers to trade with international norms, but also encouraged it to do more in this regard, especially in the areas of food-related standards, labelling provisions as well as duplicative inspection and testing requirements, including for pharmaceuticals. Some Members worried about the possible trade restrictiveness of some Korean SPS measures and encouraged Korea to review them.

Members welcomed efforts by Korea to improve the transparency of its government procurement and to strengthen corporate governance and its competition legislation and enforcement, including on the operations of chaebols. Steps to strengthen intellectual property rules and their enforcement were also recognized and complimented, including Korea's recent accession to the WIPO Copyright Treaty and the streamlining of patent applications. Services liberalization, especially of the financial and telecommunication sectors, was welcomed, although several Members noted that certain possible weaknesses remain in the regulatory regime for telecommunications.

Members sought clarification on a range of other issues, including: regulatory reform, particularly of customs procedures, and contingency measures, state trading, subsidies, privatization, services liberalization, future agricultural reforms, trade arrangements for rice, rules of origin, reforms in fisheries and labour markets.

Members appreciated the oral and written responses to their questions provided by the Korean delegation, and looked forward to receiving answers on any outstanding questions.

This successfully concludes our Review of Korea. The wide interest shown by Members, with many advance questions, interventions and high attendance, reflect the important role that Korea plays in the multilateral trading system. We now have a much better and current understanding of its trade-related policies and measures, and appreciate the challenges facing Korea, along with efforts to address them in a way that is consistent with the multilateral trading system.

Rwanda

The present Review has allowed Members to come to a better understanding of Rwanda's economic situation, its reconstruction efforts since the 1994 genocide, the enormous challenges it still faces and its reform agenda. For this, we have been greatly helped by Rwanda's delegation, led by Prof. Paul Manasseh Nshuti, Minister of Commerce, Industry, Investment Promotion, Tourism and Cooperatives, and by the discussant, Mr. Neil McMillan.

Members commended Rwanda on its macroeconomic reform efforts, which have resulted in its economic growth during the past ten years. They noted Rwanda's dependence on tea and coffee, and stressed that its high production costs, due to poor infrastructure, energy shortages and high transport costs related to its landlocked geographical situation, needed to be addressed to improve its supply-side capacity and diversify its economy. To this end, Members welcomed the Government's economic programme "Rwanda Vision 2020". Debt relief under the HIPC initiative and increased foreign direct investment should also help.

Members commended Rwanda on the role it played in helping to move forward the Doha Development Agenda, and were supportive of its intent to establish a national committee on the WTO issues. Members congratulated Rwanda for its participation in the free-trade area of COMESA and welcomed the increase in its trade with the other members. However, Members warned against the challenges and complexity of active involvement in several overlapping trade regimes. They also noted the potential gains for Rwanda from improvements in market access that would arise from completion of negotiations under the Doha Development Agenda, especially in agriculture. Some concerns were raised, however, about the difficulties faced by Rwanda in fulfilling its obligations.

Members stressed that further macroeconomic and structural reforms would allow Rwanda to increase its benefits from the multilateral trading system, and invited Rwanda to further improve the transparency and predictability of its trade regime. Members were pleased that Rwanda was participating in the Integrated Framework (IF) and supported the Government's call for the Diagnostic Trade Integration Study (DTIS) to be completed as soon as possible. They considered that the IF could help to meet priority technical assistance needs, and integrate trade reforms into Rwanda's overall poverty-reduction strategy.

Some clarification was sought on: the informal sector; the enactment of the new public procurement law; existing legislation on intellectual property rights; institutional framework; judiciary reform; investment regime; export promotion strategy; privatization; competition policy; services; sanitary and phyto-sanitary measures; other duties and charges; and price controls.

Members appreciated the responses provided by the Rwandan delegation.

I think that this meeting has allowed a profound reflection on assistance needed by Rwanda in the reconstruction of its economy. It has drawn attention to Rwanda's determination to continue with economic reforms, as well as to areas in which policy reforms could be further enhanced. I trust that the main considerations of this Review will be included into the Integrated Framework process in order to reinforce the linkages between trade policy and poverty-reduction strategy. I urge all Members to support Rwanda in its efforts to tackle the challenges it faces, and to be attentive to its request for technical assistance.

Norway

We have conducted this fourth Trade Policy Review of Norway in a friendly and well-informed manner, and our dialogue has been very constructive. We have greatly benefited from the valuable contribution of the Norwegian delegation, led by Mr. Harald Neple, Director General of the Ministry of Foreign Affairs, the very insightful comments by our discussant, Mr. Alexander Gross, and the active involvement of a large number of Members.

At the outset, allow me to highlight the considerable support of Members for Norway's solid macroeconomic performance since its last Review in 2000, with low inflation and unemployment rates, generally open investment regime, and growth well above other industrialized countries. Members also recognized that oil and gas made a considerable contribution to Norway's prosperity. Members welcomed Norway's firm commitment to and active participation in the multilateral trading system, including the Doha Development Agenda. Members noted that Norway is also active in the regional and bilateral fora. They expressed appreciation for its substantial direct aid to developing countries and to WTO technical assistance in particular, and for its far-reaching GSP scheme for least-developed countries.

Members commended Norway on its very liberal trade regime for non-agricultural products, and on its full implementation of the WTO Agreement on Textiles and Clothing well in advance of the timeline agreed. However, divergent views were expressed on its agricultural policy. Indeed, some Members shared a common position on the concept of non-trade concerns

which was at the heart of the justification for Norway's agricultural policy. By contrast, others expressed concerns on this issue and about Norway's high level of protection of agricultural products by means of a complex taxation system and large support, and urged Norway to reform its policy. They commented that such protection undermined economic efficiency and penalized both Norwegian tax payers and consumers.

Some Members shared Norway's concern on the widespread tendency to resort to trade remedy actions, commending Norway on the renunciation of any such measure over the past years. Questions were posed on public enterprises, with some Members urging Norway to further reduce the degree of public ownership in its economy. Members expressed concerns and requested information on administration of tariff quotas, SPS measures, and technical regulations. They also sought further clarification on the foreign investment regime; incentive schemes; competition legislation; government procurement; protection of intellectual property rights; and on specific activities, such as fisheries, maritime transport and financial services.

Members appreciated the responses provided by the Norwegian delegation, and looked forward to further written replies.

In conclusion, it is my feeling that the wide interest shown by Members, with many advance written questions, interventions and high attendance, reflects the important role that Norway plays in the multilateral trading system. We now have a much better and updated understanding of its trade-related policies and practices, and appreciate the challenges it faces and its efforts to address them in a way that is consistent with the multilateral trading system. Further liberalization of Norway's agricultural sector would support its widely recognized actions in favour of developing countries, mainly those with a key interest in agriculture.

European Union

This seventh Trade Policy Review of the European Communities (EC) has been conducted in a friendly and comprehensive manner, and our dialogue has been very constructive. We have greatly benefited from the engagement of the EC delegation, led by Mr. Pierre Defraigne, Deputy Director General DG Trade, the very insightful comments by our discussant, Ambassador Don Stephenson, and the active involvement of a large number of Members.

Members commended the EC on its continued efforts towards a liberal trade regime and on its monetary discipline. These efforts have contributed to a further decline in its already low inflation and to external current account surplus in the last few years. Members welcomed the ongoing recovery of the EC's economy following a slowdown since 2001; they hoped that the recovery would be sustained, given the positive impact this might have on unemployment and fiscal deficits within the EC, and on the global economy in general. Members welcomed the EC's strong commitment to, and active participation in, the multilateral trading system, including its strong leadership in striking a deal on the July Package. They expressed appreciation for its substantial contribution to the WTO's Global Trust Fund for technical cooperation, and for its non-reciprocal preferences to developing countries under its GSP scheme and Cotonou Agreement, and to LDCs under the Everything But Arms initiative. Nevertheless, several members expressed concerns on its planned reforms of the GSP scheme and hoped that it would be objective and consistent with the WTO rules and principles. Members also noted that the EC's MFN trade regime applied to only nine WTO Members because of its active involvement in various preferential trade arrangements.

Members commended the EC on its liberal trade regime for non-agricultural products. Some Members shared the EC's non-trade justification for its Common Agricultural Policy (CAP). However, other Members noted that, despite the ongoing reform of the CAP, mainly through the decoupling of payments from production, agriculture remains protected by high tariff rates, a complex tariff structure, and by high levels of domestic support and export subsidies. Arguing that such protection undermines economic efficiency and penalised both EC tax payers and consumers, they urged the EC to further liberalize its CAP. Several members also asked the EC to provide information on its specific agricultural policy, including the reforms of sugar and banana regimes.

Members noted the new opportunities provided by the enlargement of the EC. Concerns were expressed about the EC's consistency with and commitments to the WTO rules and disciplines as a result of its enlargement to 25 members, in particular the need to provide adequate information and compensation to Members. Various Members raised concerns about the continued active use of contingency trade remedies by the EC, and expressed fears that this might increase with the elimination of textiles and clothing quotas at the end of this year. Concerns were also expressed about the lack of harmonization within the EC in areas such as internal tax rates, and certain services. The EC's technical barriers to trade and SPS measures, including the new REACH system for chemicals, were deemed stringent and burdensome. Members sought further clarification on the EC's common fisheries policy; the scheme for the GMOs and biotechnology products; customs procedures; rules of origin;

tariff quota administration; government procurement; state aid and subsidies programmes; protection of intellectual property rights, including geographical indications; business regulation and competition policy; and on specific activities, including energy, steel, financial services, telecommunications, and transport.

Members appreciated the responses provided by the EC delegation, and looked forward to receiving written answers on any outstanding questions.

In closing, I would like to thank the EC delegation on its oral and written responses provided during the meeting. This Review has offered the opportunity for a much better and updated understanding of the EC's policies and practices, and for a collective appreciation of the challenges it faces and its efforts to address them in a WTO consistent way. The wide interest shown by Members, with many advance written questions, interventions, and high attendance, reflects the vital importance of the EC to the multilateral trading system. It appears that the main areas where many Members would like to have the EC's positive and expeditious response are the WTO issues related to its enlargement and the implementation of its agricultural and technical regulations reforms. This would strengthen both its support for the multilateral system and its widely recognized actions in favour of developing countries, mainly those with a key interest in agriculture.

The Chair stated that the Annual Report (WT/TPRW/32) had been circulated and proposed its adoption. The report was adopted.

The representatives of Australia and Chile agreed that there was considerable room for improvement in the way the TPR meetings were handled. Members should not only think seriously about the review cycle, but also on whether the format adopted was ensuring the most open discussion and analysis of each others policies.

The Chair noted that this was part of the appraisal process, and asked the Secretariat to take the floor.

The Director of the Trade Policies Review Division (C. Boonekamp) noted that an Appraisal of the Operation of the TPRM should be undertaken in preparation for the Hong Kong, China Ministerial. An informal note to start this process was being prepared. The discussions in the TPRB for the Appraisal would be a good opportunity to consider the whole review process, including the meetings and content of the Secretariat report. One procedural change was already in the making, at the forthcoming TPRB meeting (in December) on the Overview of Developments in the International Trading Environment, two discussants would be invited to consider the Director-General's report for that meeting; it was hoped that this would help the TPRB to hold an active debate, centred on the economics of the issues.

The representative of Australia asked the Ambassador for the European Commission to reflect the outcome of this trade policy review in his press statement.

Brazil

This fourth Trade Policy Review of Brazil has provided the opportunity for a fruitful dialogue between Brazil and other WTO Members. We have greatly benefited from the comprehensive engagement of the Brazilian delegation, led by Ambassador Tarragô, and by the insightful comments of our discussant, Ambassador Spencer. While noting that Brazil had been affected by adverse domestic and external developments during the period under Review, Members recognized and welcomed Brazil's continuing reforms. These had resulted in primary fiscal surpluses, decreased inflation and increased resilience to shocks. Members noted that growth had resumed, largely triggered by increased and diversified exports to non-traditional markets.

Members were greatly appreciative of Brazil's active participation in the WTO, of its commitment to trade liberalization and of the role played by Brazil in advancing the DDA. However, several Members noted that Brazil had not participated in the negotiations on ITA and had to date not ratified the Fourth and Fifth Protocols to the GATS. Brazil's active involvement in WTO dispute settlement procedures was noted, as were its efforts to enhance South-South cooperation. Several Members also referred to the growing number of preferential trade agreements recently negotiated or currently under negotiation by Brazil, and expressed their hope that such initiatives would be supportive of efforts at the multilateral level. Questions were raised with respect to the timetable for completion of the MERCOSUR integration process.

Members pointed out the importance of investment, particularly foreign direct investment, for Brazil's future growth prospects, but expressed some concern with respect to remaining restrictions to foreign participation. Members posed questions on the decision by the Executive to withdraw all bilateral investment agreements from consideration for ratification by Congress.

Members agreed that Brazil's trade regime had become more open and transparent during the period under review, but many noted that market access barriers persist in a

few but important areas. Brazil's applied tariff had declined since the last Review in 2000 but escalation and some peaks remained; Members also noted that reducing the still large gap between applied and bound rates would enhance the predictability of its trade regime. Concerns were expressed about the range and complexity of non-tariff charges on imports, both at the state and at the federal levels. Members observed that Brazil's import licensing regime had been streamlined, but highlighted the still large number of products subject to non-automatic licensing requirements. Brazil's continued active use of contingency measures was a source of concern for some Members, and Brazil was invited to exercise restraint in their use. Questions were posed on other measures like customs procedures, technical regulations, and SPS requirements.

Members sought clarification with respect to the rationale for maintaining a mail-order regime and for export taxes, and expressed concern about domestic content and other requirements for accessing the wide range of Brazil's support programmes. Members also noted that several of Brazil's manufacturing industries had become internationally competitive but questioned the use of tariff escalation and other support in some industries. Brazil was urged to make a significant contribution in the ongoing NAMA negotiations.

Discussions on services focused mainly on the telecommunications, maritime transport, and on financial and professional services. Members queried Brazil's legal provisions allowing the Executive to decide on foreign participation in financial services and telecommunications. Brazil was also encouraged to enhance its GATS commitments and make a substantial contribution in the services negotiations.

In conclusion, this Review has confirmed Brazil's progress towards greater transparency in, and liberalization of its trade and investment regime. The export-led recovery experienced over the last year provides concrete evidence of the benefits of Brazil's closer integration in the global economy. However, to ensure the sustainability of the gains already achieved, and translate them into higher living standards, further reforms are needed to reduce the market access barriers and internal inefficiencies that still create uncertainty for traders and investors, rise production costs and lower consumer welfare. I am thus pleased to hear of the various steps being taken by the Brazilian authorities to address these issues. I am also heartened to hear that Brazil is striving for deeper integration in world trade, and that it will continue to play an active role in the WTO. Achieving both objectives would be greatly aided by Brazil enhancing its WTO commitments to a level commensurate with the major role it plays in the multilateral system and its ambitious negotiating agenda in areas such as agriculture.

I close this meeting by expressing again my appreciation for Brazil's constructive engagement in this Review, and for the numerous answers provided to the questions asked by Members. Members look forward to receiving written answers to outstanding questions. I also thank the discussant and the many Members whose participation helped make this exercise a success.

Switzerland and Liechtenstein

The second joint review of Switzerland and Liechtenstein has been informative, open and thought-provoking. The two delegations, led by Ambassadors Wasescha and Frick, have been highly cooperative in their participation. We have greatly benefited from the perceptive remarks made by Ambassador Ujal Singh Bhatia, our discussant, and the active involvement of many Members.

Members commended Switzerland and Liechtenstein on their reforms, through both unilateral and regional initiatives, while maintaining the WTO as the foundation of their external trade policies. Members also appreciated Switzerland's technical cooperation efforts in favour of developing and acceding countries. The two economies experienced differing trends in growth since their last Trade Policy Review (TPR), with employment in Liechtenstein growing rapidly, and Switzerland slowly recovering from a prolonged period of economic stagnation. Liechtenstein has greatly benefited from its membership of the European Economic Area; Switzerland, too, has been taking steps to further integrate many policy areas with the European Communities (EC). In this respect, Members enquired about progress in the two sets of bilateral agreements between Switzerland and the EC, particularly in harmonizing their regulations on goods, services and movement of persons. Concerns were expressed about potentially discriminatory aspects of such regional integration for other WTO Members.

Members noted that Switzerland and Liechtenstein's tariff structure is complex. Their common tariff consists entirely of specific duties. Members enquired about plans to move to *ad valorem* duties and to reduce tariffs unilaterally, as well as about valuation of goods for internal taxation purposes. Members commended them for maintaining a generally low level of protection on non-agricultural products. While some Members shared the countries' agricultural policy vision, others emphasized the contrast between their openness in non-agricultural trade and their high level of protection for many agricultural and food products. Concerns were raised about broad agricultural policy prospects and specific measures,

including export subsidies, direct payments, and tariff quotas and their administration through, *inter alia*, the "prise en charge" system. Several Members look forward to progress in Switzerland's agricultural reform. Delegations also asked when Switzerland would provide its long overdue notifications on domestic support and export subsidies.

Several questions were asked about Switzerland's technical and sanitary/phytosanitary regulations, including labelling schemes, regulations on genetically modified organisms, and environmental measures; and about intellectual property legislation, notably on geographical indications. Members commended both countries for not having taken any trade-remedial actions. Members welcomed the ongoing efforts made to increase domestic competition, including the significant reinforcement of Switzerland's Law on Cartels, and called for greater competition in areas still under monopoly. The importance of services to the two economies was noted, and questions were asked about policy developments in telecommunications, tourism, electricity and gas, construction, and financial services, including the issues of bank secrecy, countering money laundering and tax evasion.

Members appreciated the responses provided by the two delegations, and looked forward to receiving written answers on outstanding questions.

This Review has given Members the opportunity to gain a much better understanding of the policy developments in Liechtenstein and Switzerland since 2000. The wide interest shown by Members is reflected in the depth of the interventions, the large number of advance written questions, and the comprehensive written replies. The importance of further reform in the two economies on an MFN basis, both externally and internally, and of greater liberalization particularly in agriculture, has been emphasized repeatedly. I should like to thank the two delegations for their willing and cooperative presence in this meeting, and Members for their active participation.

Annex II – WTO Publications

This booklet contains publications which can be purchased directly from the World Trade Organization. For the most up-to-date list, please visit the on-line bookshop on the WTO website at www.wto.org

Legal publications

The Results of the Uruguay Round of Multilateral Trade Negotiations: The Legal Texts

This book contains the legal texts of the agreements negotiated in the Uruguay Round, now the legal framework of the World Trade Organization. The agreements will govern world trade into the 21st century. They cover:

Goods: the updated General Agreement on Tariffs and Trade (GATT) that includes new rules on agriculture, textiles, anti-dumping, subsidies and countervailing measures, import licensing, rules of origin, standards, and pre-shipment inspection. (The original GATT text is also included in this volume.)

Services: the General Agreement on Trade in Services (GATS) Intellectual property: the Agreement on Trade-Related Intellectual Property Rights (TRIPS) Disputes: the new dispute settlement mechanism

Co-published with Cambridge University Press (contact details on page 98)

ISBN: 05-217-8580-4 Paperback

Price: CHF 70.00

Leatherbound edition with Bookmarks

Price: CHF 200.00

WTO Basic Instruments and Selected Documents

The official collection of legal documents, protocols, and reports adopted by the World Trade Organization. It contains the Protocols for Accession for new WTO members along with other legal instruments.

Co-published with Bernan Press (contact details on page 98)

Volume I (1995) – February 2003 ISBN: 08-9059-191-1

Volume II (1996) – February 2005 ISBN: 92-870-3302-1

Hardback

CHF 110.00

GATT Basic Instruments and Selected Documents – Vol 1 – 42

This complete set contains all 42 volumes of the GATT BISD series. This annual series presents the principal decisions, resolutions, recommendations and reports adopted by the GATT contracting parties every year. A volume was published every year from 1953 up to 1994.

Co-published with William S. Hein (contact details on page 98)
Hardback Edition
Price: CHF 1835.00

WTO Analytical Index — Guide to WTO Law and Practice

First Edition (2 volumes) The WTO Analytical Index is the authoritative guide to the interpretation and application of findings and decisions of WTO panels, the WTO Appellate Body and other WTO bodies. The material is presented in separate chapters for each WTO agreement. These chapters generally present the text of the particular article or agreement, chronologically arranged excerpts of relevant jurisprudence and decisions, a discussion of the relationship to other articles and WTO agreements, and cross-references to the GATT Analytical Index when applicable.

Co-published with Bernan Press (contact details on page 98)
ISBN 08-9059-603-4
Hardback
Price CHF 203.00

GATT Analytical Index: Guide to GATT Law and Practice (1995)

The GATT's own article-by-article handbook on the General Agreement, describing the draft history, interpretation and application of the rules, based on official documentary records.

The 6th edition is the most complete and up to date presentation of GATT law: it spans 1945 to the end of 1994, when the World Trade Organization was established. It includes decisions by GATT bodies, the many interpretations of GATT law made by dispute settlement panels, and a new chapter on institutional and procedural matters.

Thoroughly researched, each chapter analyses precedents and practice, and presents the relevant material in the original text, with full documentary references.

Co-published with Bernan press (contact details on page 98)
ISBN: 08-9059-480-5
Price: CHF 150.00

WTO Status of Legal Instruments

This loose-leaf edition is an up-to-date account of the legal instruments, showing a complete list of agreements and protocols in force, and the situation of their ratification and entry into force.

Supplement n° 4 – ISBN: 92-870-3322-6
Supplement n° 3 – ISBN: 92-870-1237-7
Supplement n° 2 – ISBN: 92-870-1236-9
Supplement n° 1 – ISBN: 92-870-1164-1
Price: Binder + Supplement No. 1 CHF 50.00
Each subsequent supplement CHF 20.00

WTO Agreements Series

Agreement Establishing the WTO

The WTO's agreements are the legal foundation for the international trading system that is used by the bulk of the world's trading nations. This series offers a set of handy reference booklets on selected agreements. Each volume contains the text of one agreement, an explanation designed to help the user understand the text, and in some cases supplementary material.

ISBN: 92-870-1168-0
Price: CHF 30.00

GATT 1994 and 1947

The WTO's agreements are the legal foundation for the international trading system that is used by the bulk of the world's trading nations. This series offers a set of handy reference booklets on selected agreements. Each volume contains the text of one agreement, an explanation designed to help the user understand the text, and in some cases supplementary material.

ISBN: 92-870-1165-6
Price: CHF 30.00

Agriculture

The WTO's agreements are the legal foundation for the international trading system that is used by the bulk of the world's trading nations. This series offers a set of handy reference booklets on selected agreements. Each volume contains the text of one agreement, an explanation designed to help the user understand the text, and in some cases supplementary material.

ISBN: 92-870-1207-5

Price: CHF 30.00

WTO Sanitary & Phytosanitary Measures

The WTO's agreements are the legal foundation for the international trading system that is used by the bulk of the world's trading nations. This series offers a set of handy reference booklets on selected agreements. Each volume contains the text of one agreement, an explanation designed to help the user understand the text, and in some cases supplementary material.

ISBN: 92 870 1207 5

Price: CHF 30.00

Technical Barriers to Trade

The WTO's agreements are the legal foundation for the international trading system that is used by the bulk of the world's trading nations. This series offers a set of handy reference booklets on selected agreements. Each volume contains the text of one agreement, an explanation designed to help the user understand the text, and in some cases supplementary material.

November 2004

ISBN: 92-870-1245-8

Price: CHF 30.00

Legal Instruments embodying the Results of the Uruguay Round – 1-34

The legal instruments embodying the results of the Uruguay Round of multilateral trade negotiations, adopted in Marrakesh on 15 April 1994, published in a set of 34 volumes. The complete set covers the legal texts, the ministerial decisions and the Marrakesh declaration, the signatory countries, as well as the individual agreements, the schedules of specific commitments on services, the tariff schedules for trade in goods, and the Plurilateral Agreements.

Schedules in the original language only.

Available from William S. Hein Inc. (contact details on page 98)

Hardback Edition

Price: CHF 3900.00

Annual publications

WTO Annual Report

The Annual report of the WTO focuses on the regular activities of the organization, the details of its current structure, staff and budget. The Annual report is published in the first half of each year.

WTO Annual Report 2005 – ISBN: 92-870-3307-2

WTO Annual Report 2004 – ISBN: 92-870-1239-3

WTO Annual Report 2003 – ISBN: 92-870-1223-4

Price: CHF 50.00

World Trade Report

The World Trade Report is an annual WTO publication focused on trade trends and policy issues. The 2004 edition reviews recent trade developments and examines issues including coherence in trade and macroeconomic policies, geographical indications, and the liberalization of trade in services through the temporary movement of natural persons .

World Trade Report 2005 – ISBN: 92-870-3310-2

World Trade Report 2004 – ISBN: 92-870-1240-7

World Trade Report 2003 – ISBN: 92-870-1230-X

Price: CHF 60.00

International Trade Statistics

This report provides comprehensive statistics on trade in merchandise and commercial services for an assessment of world trade flows by country, region and main product groups or service categories.

Some 250 tables and charts depict trade developments from various perspectives and provide a number of long-term time series. Major trade developments are summarized and discussed in the first part of the report under Overview. Detailed trade statistics are provided in Appendix tables.

International Trade Statistics 2005 – ISBN 92-870-3313-7 – November 2005

International Trade Statistics 2004 – ISBN 92-870-0241-X – November 2004

International Trade Statistics 2003 – ISBN 92-870-1225-3 – November 2003

Price CHF 50.00

The International Trade Statistics report is also available on a CD-Rom or online at http://www.wto.org/english/res_e/statis_e/statis_e.htm.

Handbooks and guides

A Handbook on the GATS Agreement

This handbook aims to provide a better understanding of GATS and the challenges and opportunities of the ongoing negotiations. For users who are familiar with the General Agreement on Tariffs and Trade (GATT), similarities and differences are pointed out where relevant. Likewise, for users who are familiar with the balance-of-payments definition of 'trade', departures from the Agreement's coverage are explained. To stimulate further thinking about the core concepts and implications of the Agreement, several text boxes have been included to provide 'food for thought', and at the end of each chapter test questions have been added to recapitulate and ensure understanding of the core content.

May 2005

Co-published with Cambridge University Press (contact details on page 98)

ISBN: 05-218-5071-1 Hardback

Price: CHF 100.00

ISBN: 05-216-1567-4 Paperback

Price: CHF 45.00

A Handbook on the WTO Dispute Settlement System

This guide has been prepared by the WTO Secretariat to explain the practices that have arisen in the operation of the WTO dispute settlement system since its entry into force on 1 January, 1995. Its detailed content will be useful to expert practitioners as well as to those wanting to gain a basic understanding of the dispute settlement system.

July 2004

Co-published with Cambridge University Press (contact details on page 98)

ISBN: 05-216-0292-0 – Paperback

Price: CHF 75.00

ISBN: 0-521-84192-5 – Hardback

Price: CHF 160.00

A Handbook of Anti-Dumping Investigations

This unique handbook prepared by specialists in the WTO Secretariat covers the major areas arising in anti-dumping investigations as embodied in the relevant WTO provisions. It provides explanations for grasping the intricacies of anti-dumping proceedings. This book will interest anyone dealing with anti-dumping and related issues in international trade.

Can also be ordered from Cambridge University Press (contact details on page 98)

ISBN: 05-218-3042-7

Price: CHF 144.00

Dictionary of Trade Policy Terms

Walter Goode

This is a guide by the WTO and Cambridge University Press to the vocabulary used in trade negotiations. Its nearly 2000 entries cover in simple language traditional GATT and WTO concepts and terms used in trade-related activities.

Co-published with Cambridge University Press (contact details on page 98)

ISBN: 05-215-3825-4

Price: CHF 48.00

Tariff Negotiations and Renegotiations under the GATT and the WTO – Procedures and Practices

The procedures and practices to implement the provisions relating to tariff negotiations and renegotiations have evolved considerably since the GATT was established in 1947. The provisions themselves have undergone some changes in the last fifty-four years. Professor Hoda reviews the evolution of these provisions and of the procedures adopted and practices followed by the contracting parties to GATT 1947 and the Members of the WTO. He offers some conclusions and recommendations. This new book will be of particular interest to negotiators including Geneva based delegations, members of government trade ministries, economists, and all academics who specialise in trade policy.

October 2001

Co-published with Cambridge University Press (contact details on page 98)

ISBN: 05-218-0449-3

Hardback

Price: CHF 110.00

The Internationalization of Financial Services – Issues and Lessons for Developing Countries

The Internationalization of financial services is an important issue for the strengthening and liberalizing financial systems in developing countries. There has been considerable support for the view that internationalization can assist countries in building financial systems that are more stable and efficient by introducing international standards and practices. At the same time, there have been concerns about the risks that internationalization may carry for some countries, particularly in the absence of adequate regulatory structures. The chapters in this book examine different aspects of this debate, the relative benefits and costs of internationalization, and together provide an insight into the diversity and significance of the effects of internationalization on domestic financial systems.

November 2001

Co-published with Kluwer Law International

ISBN: 90-411-9817-2

Price: CHF 75.00

Guide to the GATS

This work brings together in one volume the background papers on major service sectors prepared by the WTO Secretariat for the WTO's Council for Trade in Services, in preparation for the new round of negotiations which started in January 2000 and includes the issues which WTO Members need to consider when framing their negotiating positions and objectives for the new round and preparing their industries for a more open trading environment.

Co-published with Kluwer Law International (contact details on page 98)

ISBN: 90-411-9775-3

Price: CHF 60.00

Trade, Development and the Environment

In recent years the relationships between trade and the environment, and trade and development, have become increasingly complex. The need to reconcile the competing demands of economic growth, economic development, and environmental protection has become central to the multilateral trade agenda. In this volume various commentators debate the role of the World Trade Organization and other institutions in addressing these challenges. The book arises from the papers presented at two High Level Symposia hosted by the World Trade Organization in March 1999, on Trade and the Environment and Trade and Development.

Co-published with Kluwer Law International (contact details on page 98)

ISBN: 90-411-9804-0

Price: CHF 52.00

Guide to the Uruguay Round Agreements

This publication is the only official and comprehensive explanation by the WTO of the Uruguay Round treaties. It helps readers to navigate the complexities of well over 20,000 pages of decisions, agreements, and commitments arising out of the negotiations.

Co-published with Kluwer Law International (contact details on page 98)

ISBN: 90-411-1125-5

Price: CHF 30.00

Reshaping the World Trading System – Second edition

Take 120 government and territories, each bent on vigorously seeking its own self-interest. Give them a mandate to reach agreement on new rules for more open markets – not only for goods but for services and intellectual property as well. And give them a time-limit – four years. It sounds impossible and it almost was. This is the story, told in frank, lively and non-technical terms, of how and why the Uruguay Round came about, what the participant countries sought, and the twists, turns, setbacks and successes of each stage and sector of the negotiations... and how, after seven years, the final achievement in many instances surpassed the original goals.

Co-published with Kluwer Law International (contact details on page 98)

ISBN: 90-411-1126-3

Hardback

Price: CHF 150.00

Dispute settlement publications

WTO Appellate Body Repertory of Reports and Awards 1995–2004

The WTO Appellate Body Repertory of Reports and Awards is the essential research tool for professionals involved in international trade law. Originally developed as an internal research tool to assist the Appellate Body Secretariat in carrying out its duty to provide legal support to Appellate Body Members, the Repertory is now being made available to the public in the hope that it will become a practical tool for officials from WTO Members, academics, students and private practitioners of international trade law and dispute settlement.

Available March 2005 – English

French and Spanish versions expected summer 2005

Co-published with Cambridge University Press (contact details on page 98)

ISBN: 05-218-5072-X Hardback

Price: CHF 160.00

A Handbook on the WTO Dispute Settlement System

This guide has been prepared by the WTO Secretariat to explain the practices that have arisen in the operation of the WTO dispute settlement system since its entry into force on 1 January, 1995. Its detailed content will be useful to expert practitioners as well as to those wanting to gain a basic understanding of the dispute settlement system.

July 2004

Co-published with Cambridge University Press (contact details on page 98)

ISBN: 05-216-0292-0 Paperback

Price: CHF 75.00

ISBN: 0-521-84192-5 Hardback

Price: CHF 160.00

WTO Dispute Settlement Procedures – 2nd Edition

The 2nd edition, co-published with Cambridge, takes into account legal decisions and other legal instruments adopted since 1995. New material has been added, including the 'Working Procedures for Appellate Review', and the 'Rules of Conduct for the DSU'. In the second edition the provisions on consultation and on dispute settlement in each of the Multilateral Trade Agreements covered by the DSU are now collected together. Older, less relevant material has been removed. The internal text design is somewhat altered too, and cross references between the texts have been extended. Key words within the index have been augmented to reflect the extended coverage. This is the procedural bible for practitioners, academics, students, and all who need to interact with the dispute settlement procedures of the WTO Panels and Appellate Body.

Co-published with Cambridge University Press (contact details on page 98)

ISBN: 05-210-1077-2 Paperback

Price: CHF 50.00

Dispute Settlement Reports

The Dispute Settlement Reports of the World Trade Organization (WTO) include Panel and Appellate Body reports, as well as arbitration awards, in disputes concerning the rights and obligations of WTO members under the provisions of the Marrakesh Agreement Establishing the World Trade Organization

Dispute Settlement Reports Complete Set (43 Hardback books)

Volumes 1996-2001

Price for Complete Set: £ 3500.00

Price per volume – from 1996 – 2002: £ 90.00

Analysis and special reports

All publications in this category are available as free downloads on the WTO website.

Dispute Settlements Reports

The Dispute Settlement Reports of the World Trade Organization (WTO) include Panel and Appellate Body reports, as well as arbitration awards, in disputes concerning the rights and obligations of WTO members under the provisions of the Marrakesh Agreement Establishing the World Trade Organization

Dispute Settlement Reports Complete Set (43 Hardback books)

Volumes 1996-2001

Price for Complete Set: £ 3500.00

Price per volume – from 1996 – 2002: £ 90.00

WTO Agreements & Public Health

This joint study by the World Health Organization and the World Trade Organization Secretariat on the relationship between trade rules and public health. The 171-page study explains how WTO Agreements relate to different aspects of health policies. It is meant to give a better insight into key issues for those who develop, communicate or debate policy issues related to trade and health. The study covers areas such as drugs and intellectual property rights, food safety, tobacco and many other issues which have been subject to passionate debate. In this joint effort, the first of its kind, WHO and the WTO Secretariat endeavour to set out the facts.

ISBN:92-870-1223-7

Price: CHF 30.00

Special Study N° 7: Adjusting to Trade Liberalization – The Role of Policy, Institutions and WTO Disciplines

This study seeks to identify tools at the disposal of governments to smooth adjustment, to minimize an economy's adjustment costs and to alleviate the burden of those who suffer most.

ISBN: 92-870-1232-6

Price: CHF 30.00

Special study N° 6: Market Access: Unfinished Business – Post Uruguay Round Inventory

The study profiles post-Uruguay Round market access conditions in three areas — industrial tariffs, agriculture and services — the latter two of which are already the subject of ongoing negotiations. The detailed study is intended as a comprehensive resource for negotiators and the interested public.

ISBN: 92-870-1217-2

Price: CHF 30.00

Special study N° 5: Trade, Income Disparity and Poverty

A WTO study, which is based on two expert reports commissioned by the WTO Secretariat, aims to clarify the interface between trade, global income disparity, and poverty. Professor Dan Ben-David of Tel Aviv University, takes an in-depth look at the linkages between trade, economic growth, and income disparity among nations. Professor L. Alan Winters of University of Sussex, discusses the various channels by which trade may affect the income opportunities of poor people. The publication also includes a non-technical overview of the two expert reports.

ISBN: 92-870-1215-6

Price: CHF 30.00

Special study N° 4: Trade and the Environment

This study by the WTO addresses several key questions related to the environment. The study shows that trade could play a positive role in the diffusion of environment-friendly technologies around the world and is backed up by the five case studies on chemical-intensive agriculture, deforestation, global warming, acid rain, and overfishing.

ISBN: 92-870-1211-3

Price: CHF 30.00

Special study N° 3: Trade, Finance and Financial Crises

This study by the WTO explains the basic links between trade and the financial sector, and how financial crises are interrelated with trade.

This study also includes case studies on past financial crises

ISBN: 92-870-1210-5

Price: CHF 30.00

Special Study N° 2: Electronic Commerce and the role of the WTO

This second study in a popular series examines the potential trade gains from the rapidly increasing use of the Internet for commercial purposes. The study was written as a means of providing background information for the 132 WTO members who are now developing policy responses to this new form of commerce. Written by a team of economists from the WTO Secretariat, it identifies the complexities as well as the potential benefits of trade via the Internet. The book describes the extraordinary expansion of opportunities that electronic commerce offers, including for developing countries.

Print version no longer available. Download for free from the WTO website

Special Study N° 1: Opening Markets in Financial Services and the Role of the GATS

This first publication in a new series of special studies explores some of the issues surrounding the financial services negotiations, analyzes what is at stake, and assesses what WTO members have already achieved in previous negotiations. This 50-page study contains detailed tables, charts, and boxes to help the reader understand some of the characteristics of the financial services sector and appreciate the full benefits of its trade liberalization.

Print version no longer available. Download for free from the WTO website

Discussion Papers

Discussion Paper N° 7 – Selected Issues Concerning the Multilateral Trading System

This paper explores selected issues that were stumbling blocks at the Cancún Ministerial Conference, including international trade and investment and market access of developing countries in textiles and clothing.

December 2004

ISBN: 92-870-3301-3

Price: CHF 20.00

Discussion Paper N° 6 – The Trade, Debt and Finance Nexus: at the Cross-roads of Micro and Macroeconomics

This paper seeks to clarify how the WTO is part of the national and international effort to address some of the challenges raised by these relationships. It reviews some of the theoretical links and existing literature on the subject, and analyses practical steps and priorities that are directly addressed in the newly established Working Group on Trade, Debt and Finance .

November 2004

ISBN: 92-870-3300-5

Price: CHF 20.00

Discussion Papers N° 5 – The Global Textile and Clothing Industry post the Agreement on Textiles and Clothing

This paper, written under the exclusive responsibility of a staff member of the WTO Secretariat in a personal capacity, assesses some of the possibilities with respect to the potential impact of trade liberalization in the textiles and clothing sector with the end of import quotas on 1 January 2005.

ISBN: 92-870-1244-X

Price: CHF 20.00

Discussion Papers N° 4 – The Role of Export Taxes in the Field of Primary Commodities

This paper examines the economic effects of an export tax on commodity prices and the volume of exports. It examines how welfare resulting from an export tax is redistributed among foreign and domestic consumers, producers and the government, and the effects of an export tax used as an instrument of trade policy to improve developing countries' terms of trade, favours economic diversification and help the poor.

ISBN: 92-870-1243-1

Price: CHF 20.00

Discussion paper N° 3 – Income Volatility in Small and Developing Economies: Export Concentration Matters

This paper examines the effect of export concentration on income volatility in small economies, and concludes that volatility is reduced if small economies diversify their exports.

ISBN: 92-870-1242-2

Price: CHF 20.00

WTO Discussion Papers – N° 2: Improving the Availability of Trade Finance during Financial Crises

This paper explores the reasons behind the failure by private markets and other institutions to meet demand for cross-border and domestic short-term trade finance during financial crises such as the one which affected emerging economies in the 1990s.
ISBN: 92-870-1238-5
Price: CHF 20.00

WTO Discussion Papers – N° 1: Industrial Tariffs and the Doha Development Agenda

Containing many tables and charts, the paper focuses on the basic mandate given to negotiators at Doha and looks at specific issues facing developed, developing and least-developed countries.
ISBN: 92 870 1231 8
No longer available in print – download from the WTO website

Trade policy reviews

Surveillance of national trade policies is a fundamentally important activity running throughout the work of the WTO. At the centre of this work is the Trade Policy Review Mechanism (TPRM). All WTO members are reviewed, the frequency of each country's review varies according to its share of world trade.

More information on the WTO website at: http://www.wto.org/english/tratop_e/tpr_e/tpr_e.htm

Trade Policy Reviews are co-published with Bernan Press (contact details on page 98)

Each volume costs CHF105

The following Trade Policy Reviews will take place in 2005:

- Jamaica
- Japan
- Sierra Leone
- Qatar
- Mongolia
- Paraguay
- Nigeria
- Ecuador
- The Philippines
- Egypt
- Trinidad and Tobago
- Tunisia
- Guinea and Togo
- Bolivia
- Djibouti
- Romania
- Malaysia

For Trade Policy Reviews from previous years, please visit the WTO website.

Electronic publications

Computer based training

Dispute Settlement

This training module is aimed at anyone who needs a basic understanding of the dispute settlement system. It was developed by WTO specialists on dispute settlement and includes interactive tests which allow you to measure your progress in learning the content. In addition to the course material itself, you will find links to reference documents, such as legal texts and other official WTO documents. There is also a popup glossary for related terms.
February 2005
Trilingual
ISBN: 92-870-0229-0
Price: CHF 30.00

General Agreement on Trade in Services

This CD is a training course on the GATS, using text and interactive methods to enable users to acquire a detailed knowledge of this agreement. It includes a library of documents on the GATS, including the basic Agreement.

Trilingual
ISBN: 92-870-0227-4
Price: CHF 75.00

Agreement on Sanitary and Phytosanitary Measures

This is the second in a series of easy-to-use interactive guides to WTO Agreements on CD-ROM. Each CD-ROM module is designed to guide the user through the complex WTO agreements in a simple step-by-step manner. This module, which covers the WTO Agreement on Sanitary and Phytosanitary Measures, includes text, video and audio material and is complemented by a multiple-choice test to enable users to monitor their individual progress. The complete text of the Agreement is also included.

Trilingual
ISBN: 92 870 0222 3
Price: CHF 75.00

WTO Agreements on CD-ROM: The Legal Texts and Schedules: Services

This CD-ROM, co-published with Cambridge University Press, contains the updated schedules of services commitments and/or MFN exemptions for WTO member countries to the year 2000 in English, plus the English, French and Spanish versions of the WTO Legal Texts.

Co-published with Cambridge University Press (contact details on page 98)
ISBN: 05-217-9645-8
Price: CHF 800.00

CD-ROM: WTO Analytical Index – Guide to WTO Law & Practice

Researchers can use this CD-ROM as a guide to the to the interpretation and application of findings and decisions of WTO panels, the WTO Appellate Body, and other WTO bodies. This CD-ROM presents the text of the particular articles or agreements; chronologically arranged excerpts of relevant jurisprudence and decisions; discussions of the relationships to other articles and WTO agreements; and cross-references to the GATT Analytical Index when applicable.

March 2004
Co-published with Bernan Press (contact details on page 98)
ISBN: 08-905-9863-0
Price: CHF 210.00

CD-ROM: GATT Analytical Index – Guide to GATT Law and Practice

The GATT's own article-by-article handbook on the General Agreement, describing the drafting history, interpretation and application of the rules, based on official documentary records. The 6th edition is the most complete and up-to-date presentation of GATT law: it spans 1945 to the end of 1994, when the World Trade Organization was established. It includes decisions by GATT bodies, the many interpretations of GATT law made by dispute settlement panels, and a new chapter on institutional and procedural matters. Thoroughly researched, each chapter analyses precedents and practice, and presents the relevant material in the original text, with full documentary references.

English only
Price: CHF 200.00

CD-ROM: International Trade Statistics

The figures have been compiled and analyzed by the WTO's economists and statisticians. The electronic version offers the user the opportunity to examine international trade figures by country, region, and economic sector. It includes search and graphics capabilities, permitting the researchers to examine data in chart, table, or graphical formats, and even to create their own analyses from the database.

March 2004
Co-published with Bernan Press (contact details on page 98)
2004 ISBN: 1-886222-42-8
Price: CHF 100.00
2003 ISBN: 08-905-9872-X
Price: CHF 100.00
2002 ISBN: 92 870 1181 8 1
Price: CHF 120.00

CD-ROM: Trade Policy Review 1999-2002

This CD-ROM is an efficient tool to locate, compare and contrast the reviews of trade policies and practices of the twenty-eight member countries made by the World Trade Organization (WTO) between 1999 and 2002. The CD-ROM provides the English text of the 2001 and 2002 reports, and the French and Spanish text of the 1999, 2000, and 2001 reports.

March 2004

Co-published with Bernan Press (contact details on page 98)

ISBN: 08-905-9873-8

Price: CHF 165.00

Complete Results of the Uruguay Round of Multilateral Trade Negotiations

This unique CD-ROM contains the complete legal texts and market-opening commitments of the 125 countries who participated in the 1986-94 Uruguay Round. It includes the capability to organize information for specific countries or country groups. The material covers 30,000 pages of legal text covering goods, services, trade-related intellectual property rights, dispute settlement and individual countries' schedules of commitments in the goods and services areas.

Trilingual version

ISBN: 92 870 0145 6

Single user network licence

Price: CHF 1000.00

Multiple-user network licence

Price: CHF 2000.00

CD-ROM: GATT Basic Instruments and Selected Documents

The entire GATT Basic Instruments and Selected Documents (BISD) – all 42 volumes in English, French and Spanish – on one CD-ROM. Jointly developed by Bernan Associates and the WTO, this disk uses technology that turns the large library of documents into a highly accessible and useful tool for research. Its release coincides with the publication of the printed version of the final GATT BISD supplement. With a multiple-user licence, the data can also be accessed by several people on a computer network.

Co-published with Bernan Associates (contact details on page 98)

Price is for Single user network licence

Price: CHF 700.00

Multiple-user network licence

Price: CHF 835.00

CD-ROM: International Trade Statistics 2004

The figures have been compiled and analyzed by the WTO's economists and statisticians. The electronic version offers the user the opportunity to examine international trade figures by country, region, and economic sector. It includes search and graphics capabilities, permitting the researchers to examine data in chart, table, or graphical formats, and even to create their own analyses from the database.

March 2005

Price CHF 120

Can also be ordered from Bernan Press (co-publisher).

Videos

To the heart of the WTO

This video explains the WTO through member governments' eyes. It seeks to shed light on how the WTO system works, through the experience and motivations of two very different countries: Brazil, a large developing nation, and Norway, a small but economically advanced state.

Length: 23 minutes

Price: CHF 25.00

Solving Trade Disputes

This video explains how trade disputes between WTO members are solved through the dispute settlement system. The first part of the video explains how the dispute settlement system was created by WTO members during the 1986-1994 Uruguay round of global trade talks and how the system operates. The process is clearly illustrated in the second part of the video using specific cases.

Price: CHF 30.00

Free publications

All free publications can be downloaded from the WTO website. If you require print versions, please email free@wto.org

The Future of the WTO

The Future of the WTO" is a Report by the Director-General's Consultative Board on the future of the multilateral trading system, including recommendations on reforms. Available in English, French and Spanish. January 2005

Trade and Environment at the WTO

Developed to assist public understanding of the trade and environment debate in the WTO, this document briefly presents its history and focuses on trade and environment related issues within the Doha mandate, the effects of trade liberalization on the environment, the relationship between multilateral environmental agreements and the WTO, and a review of trade disputes involving environmental issues. May 2004

Understanding the WTO

An introduction to the WTO, what it is, why it was created, how it works, and what it does. You can browse the html version on the WTO website.

Doha Declarations

This booklet contains the full texts of the Declarations and Decisions adopted by WTO Members at the Doha Ministerial. Also included are relevant documents of the WTO General Council dealing with implementation of the Doha Development Agenda.

The WTO in brief

A starting point for essential information about the WTO. You can browse the html version on the WTO website.

10 benefits of the WTO trading system

From the money in our pockets and the goods and services that we use, to a more peaceful world – the WTO and the trading system offer a range of benefits, some well-known, others not so obvious. You can browse the html version on the WTO website.

10 common misunderstandings about the WTO

Is it a dictatorial tool of the rich and powerful? Does it destroy jobs? Does it ignore the concerns of health, the environment and development? Emphatically no. Criticisms of the WTO are often based on fundamental misunderstandings of the way the WTO works. You can browse the html version on the WTO website.

Contact details for co-publishing partners

Bernan Press

4611-F Assembly Drive
Lanham, MD 20706-4391
USA
Tel.: (800)274-447
www.bernan.com
query@bernan.com
Cambridge University Press (Europe)
The Edinburgh Building
Shaftesbury Road
Cambridge CB2 2RU
Tel.: + 44 1223 325892
Fax: + 44 1223 325891
Email: uksales@cambridge.org
<http://uk.cambridge.org>

Cambridge University Press (North American Branch)

40 West 20th Street
New York
NY 10011-4211,
USA
Tel.: + 1 212 924 3900
Fax: + 1 212 691 3239
Email: information@cup.org
<http://us.cambridge.org>

Kluwer Law International

P.O. Box 85889
2508 The Hague
The Netherlands
Tel.: ++31 70 3081501
Fax: ++31 70 3081515
www.kluwerlaw.com
sales@kli.wkap.nl

William S. Hein & Co. Inc

1285 Main Street
Buffalo, New York 14209-1987
Tel.: 1-800-828 7571
Fax: ++1716 883 8100
www.wshein.com
mail@wshein.com

Chapter Three

ORGANIZATION, SECRETARIAT AND BUDGET

Organization, Secretariat and budget

The organization

The World Trade Organization came into being in 1995, as the successor to the General Agreement on Tariffs and Trade (GATT), which had been established (1947) in the wake of the Second World War. The WTO's main objective is the establishment of rules for Members' trade policy which help international trade to expand with a view to raising living standards. These rules foster non-discrimination, transparency and predictability in the conduct of trade policy. The WTO is pursuing this objective by:

- Administering trade agreements,
- Acting as a forum for trade negotiations,
- Settling trade disputes,
- Reviewing national trade policies,
- Assisting developing countries in trade policy issues, through technical assistance and training programmes.
- Cooperating with other international organizations.

The WTO has 148 Members, accounting for 90% of world trade (see inside cover for a complete list of Members). Members are mostly governments but can also be customs territories. Nearly 30 applicants are negotiating to become Members of the WTO. Decisions in the WTO are made by the entire membership, typically by consensus.

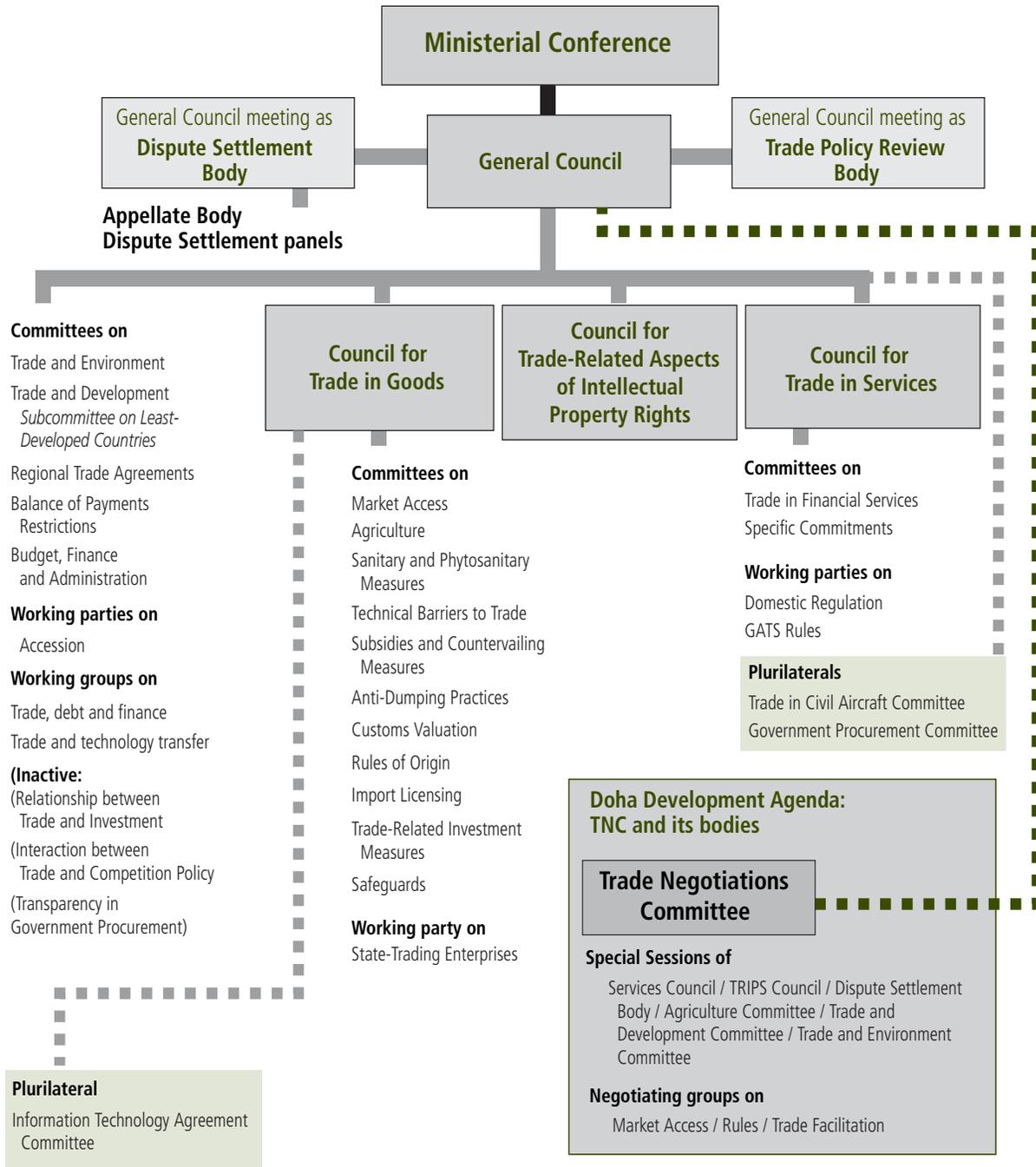
The WTO's top level decision-making body is the Ministerial Conference, which meets at least once every two years. In the intervals between sessions of the Ministerial Conference, the highest-level WTO decision-making body is the General Council where Members are usually represented by ambassadors or heads of delegations. The General Council also meets as the Trade Policy Review Body and the Dispute Settlement Body. At the next level, the Goods Council, Services Council and Trade-Related Aspects of Intellectual Property (TRIPS) Council report to the General Council.

Numerous specialized committees, working groups and working parties deal with the individual agreements and other important areas such as the environment, development, membership applications, regional trade agreements, trade and investment, trade and competition policy and transparency in government procurement.

A Trade Negotiations Committee (TNC) was set up by the Doha Declaration at the Fourth WTO Ministerial Conference in 2001. The Declaration provides the mandate for negotiations in the TNC and its subsidiaries on a range of subjects. The TNC operates under the authority of the General Council.

WTO structure

All WTO Members may participate in all councils, committees, etc, except Appellate Body, Dispute Settlement panels, and plurilateral committees.



Key

- Reporting to General Council (or a subsidiary)
- Reporting to Dispute Settlement Body
- Plurilateral committees inform the General Council or Goods Council of their activities, although these agreements are not signed by all WTO members
- Trade Negotiations Committee reports to General Council

The General Council also meets as the Trade Policy Review Body and Dispute Settlement Body

Secretariat

The WTO Secretariat, with offices only in Geneva, has 630 regular staff¹ and is headed by a Director-General. Since decisions are taken by Members only, the Secretariat has no decision-making powers. Its main duties are to supply technical and professional support for the various councils and committees, to provide technical assistance for developing countries, to monitor and analyze developments in world trade, to provide information to the public and the media and to organize the ministerial conferences. The Secretariat also provides some forms of legal assistance in the dispute settlement process and advises governments wishing to become Members of the WTO.

The Secretariat staff includes individuals representing about 70 nationalities. The professional staff is composed mostly of economists, lawyers and others with a specialization in international trade policy. There is also a substantial number of personnel working in support services, including informatics, finance, human resources and language services. The total staff complement is composed almost equally of men and women. The working languages of the WTO are English, French and Spanish.

The Appellate Body was established by the Understanding on Rules and Procedures Governing the Settlement of Disputes to consider appeals to decisions by Dispute Settlement panels. The Appellate Body has its own Secretariat. The seven-member Appellate Body consists of individuals with recognized standing in the fields of law and international trade. They are appointed to a four-year term, and may be reappointed once.

¹ Total number of regular positions is 615.5 while total staff actually employed, including staff working part-time, is 630.

**WTO Secretariat
Organization Chart – March 2005**

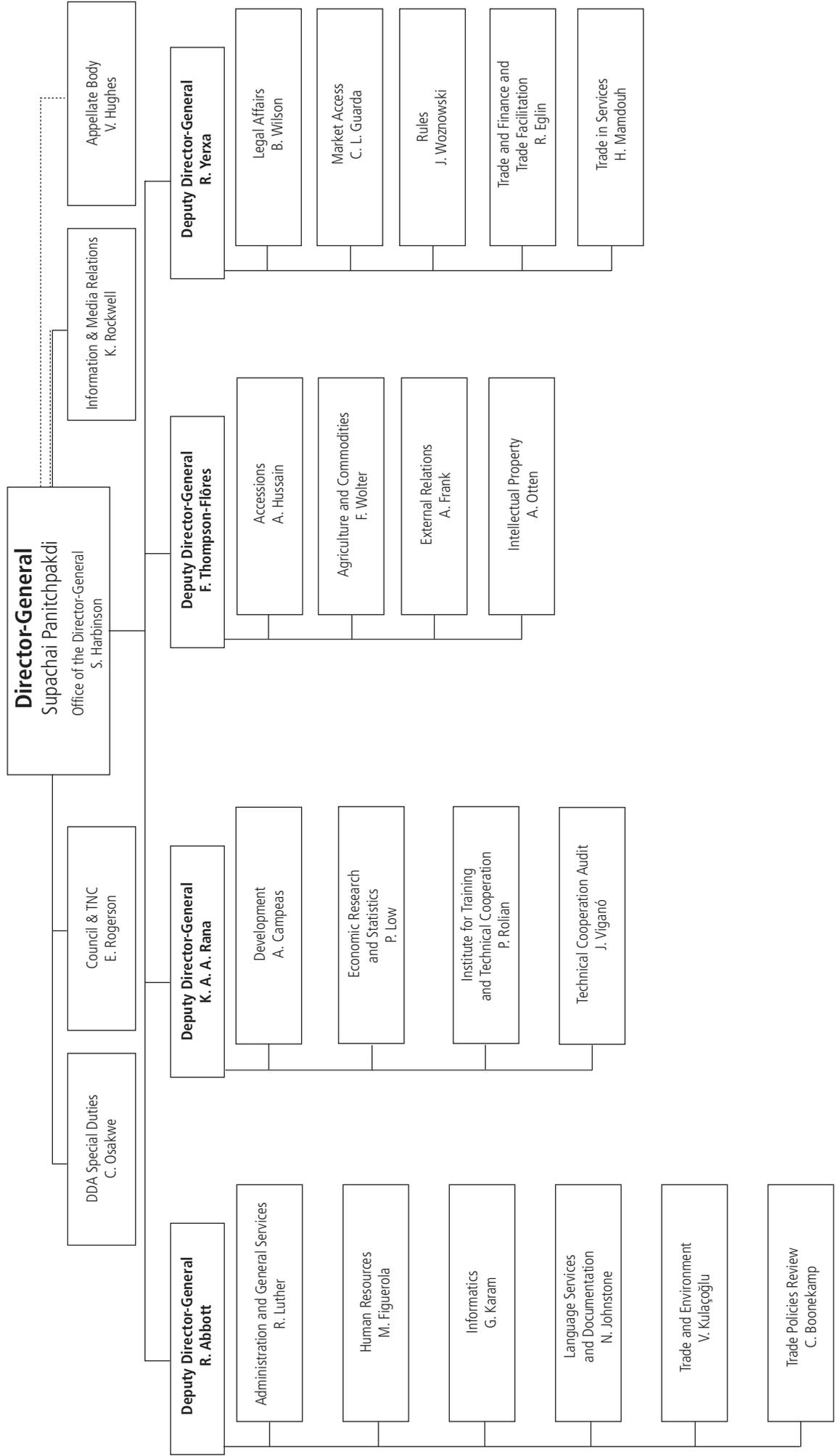


Table III.1

Table of regular staff by nationality

Country	F	M	Total
Argentina	2	5	7
Australia	4	7	11
Austria	2	3	5
Bangladesh		1	1
Belgium	4	3	7
Benin		1	1
Bolivia	2	1	3
Brazil	3	3	6
Bulgaria		1	1
Canada	9	18	27
Chile	3	3	6
China	5	2	7
Colombia	1	6	7
Congo, the Democratic Republic of the		1	1
Costa Rica	1	1	2
Côte d'Ivoire		1	1
Cuba	1	1	2
Denmark	1	1	2
Ecuador		1	1
Egypt	2	3	5
Estonia	1		1
Fiji	1		1
Finland	1	3	4
France	83	82	165
Germany	5	12	17
Ghana		3	3
Greece	2	2	4
Guatemala	1		1
Honduras	1		1
Hong Kong, China	1		1
Hungary		1	1
India	5	7	12
Ireland	10	2	12
Italy	6	6	12
Japan	1	3	4
Kenya		1	1
Korea, Republic of	1	1	2
Malawi		1	1
Malaysia	1	1	2
Mauritius		2	2
Mexico	1	5	6
Morocco	1	1	2
Netherlands	2	5	7
New Zealand	1	4	5
Nigeria		1	1
Norway		2	2
Paraguay	1		1
Peru	3	4	7
Philippines	3	5	8
Poland	2	3	5
Portugal		2	2
Romania	2		2
Rwanda		1	1
Senegal		1	1
Slovenia	1		1
South Africa		1	1
Spain	27	20	47
Sri Lanka	2	2	4
Sweden	3	2	5
Switzerland	21	14	35
Thailand	1	4	5
Tunisia	2	3	5
Turkey	2	1	3
Uganda	1		1
United Kingdom	62	20	82
United States	19	8	27

Table III.1 (continued)

Table of regular staff by nationality

Uruguay	2	7	9
Venezuela	1	3	4
Zimbabwe	1		1
Grand Total	321	309	630

Table III.2

Distribution of staff positions within the WTO's various divisions

Division	Regular Staff	Directors	Senior Management	Grand Total
Senior Management			5.0	5.0
Office of the Director-General	8.0	1.0		9.0
Offices of the Deputy Directors-General	7.5			7.5
Accessions Division	7.4	1.0		8.4
Administration and General Services Division	83.0	1.0		84.0
Agriculture & Commodities Division	15.0	1.0		16.0
Council and TNC Division	11.5	1.0		12.5
Development Division	9.5	1.0		10.5
Economic Research and Statistics Division	50.0	1.0		51.0
External Relations Division	9.0	1.0		10.0
Human Resources Division	14.1	1.0		15.1
Informatics Division	32.0	1.0		33.0
Information & Media Relations Division	21.0	1.0		22.0
Institute for Training and Technical Cooperation	26.0	1.0		27.0
Intellectual Property Division	13.5	1.0		14.5
Language Services & Documentation Division	146.0	1.0		147.0
Legal Affairs Division	16.0	1.0		17.0
Market Access Division	12.0	1.0		13.0
Rules Division	17.0	1.0		18.0
Technical Cooperation Audit	1.0			1.0
Trade & Environment Division	9.0	1.0		10.0
Trade and Finance and Trade Facilitation Division	8.0	1.0		9.0
Trade in Services Division	15.0	1.0		16.0
Trade Policies Review Division	34.0	1.0		35.0
Appellate Body	14.0	1.0		15.0
Posts pending re-deployment	6.0	3.0		9.0
Grand Total	585.5	25.0	5.0	615.5*

* Total number of regular positions is 615.5 while total staff actually employed, including staff working part-time, is 630.

WTO Secretariat: Divisions

The WTO Secretariat is organized into divisions with functional, information and liaison and support roles. Divisions are normally headed by a Director who reports to a Deputy-Director General or directly to the Director-General.

Functional divisions

Accessions Division

The work of the division is to facilitate the negotiations between WTO Members and states and entities requesting accession to the WTO by encouraging their integration into the multilateral trading system through the effective liberalization of their trade regimes in goods and services; and to act as a focal point in widening the scope and geographical coverage of the WTO. There are at present nearly 30 accession working parties in operation.

Agriculture and Commodities Division

The division handles all matters related to the ongoing negotiations on agriculture. Furthermore, the division provides support in the implementation of the existing WTO rules and commitments on agriculture, including by ensuring that the process for multilaterally reviewing these commitments by the Committee on Agriculture is organized and conducted in an efficient manner. The work of the division encompasses to facilitate implementation of the Agreement on the Application of Sanitary and Phytosanitary Measures, including by servicing the SPS Committee. Other activities of the division include support for the implementation of the Ministerial Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries; dealing with matters related to trade in fisheries and forestry products as well as natural resource-based products; providing services for dispute settlement in the area of agriculture and SPS; providing technical assistance in all areas under its purview; and cooperation with other international organizations and the private sector.

Council and Trade Negotiations Committee Division

The division provides support for sessions of the Ministerial Conference, in the work of the General Council, the Dispute Settlement Body, and the Trade Negotiations Committee. It is responsible for the preparation and servicing of relevant meetings and consultations between ministerial sessions, for preparation of Basic Instruments and Selected Documents (BISD) supplements and for derestriction of documents.

Development Division

The Development Division is the focal point for all developmental policy issues and assists senior management and the Secretariat as a whole on issues relating to the participation of developing countries, including the least-developed among them, in the multilateral trading system. The division services the Committee on Trade and Development in regular session, as well as its dedicated sessions on small economies and its special sessions on special and differential treatment, as well as the newly constituted Working Group on Trade and Transfer of Technology. It services the Sub-Committee on LDCs. It is also responsible for the Integrated Framework (IF), holds its secretariat and is responsible for its management structure such as the Integrated Framework Working Group (IFWG) and the Integrated Framework Steering Committee (IFSC).

Doha Development Agenda Special Duties Division

The DDA/SDD is responsible for the development assistance aspects of the cotton issue. It is also responsible for other DDA development-related substantive issues as directed by the Director-General for the purpose of assisting positive progress in the period leading up to the Hong Kong Ministerial (December, 2005). The division undertakes assignments, as determined by the Director-General, on selected issues relating to membership groups such as the G-90 and the African Group. The division works in close cooperation with the relevant Deputy Directors-General and Directors of existing operational divisions on a range of development-oriented issues and specific assignments. The purpose is to achieve an enhanced and sharper focus on the range of specific development issues through "a more direct engagement by the Office of the Director-General", to which the division directly reports.

Economic Research and Statistics Division

The division provides economic analysis and research in support of the WTO's operational activities, including monitoring and reporting on current economic news and developments. It carries out economic research on broader policy-related topics in connection with the WTO's work programme, as well as on other WTO-related topics of interest to delegations arising from the on-going integration of the world economy, the spread of market-oriented reforms, and the increased importance of economic issues in relations between countries. The division contributes to regularly scheduled annual publications, including the World Trade Report. Other major activities include work related to cooperation with other international organizations and the academic community through conferences, seminars and courses; preparation of special research projects on policy-related topics in the area of international trade; preparation of briefings to senior management.

On the statistics side, the division supports WTO Members and the Secretariat with quantitative information in relation to economic and trade policy issues. The division is the principal supplier of WTO trade statistics through the annual "International Trade Statistics" report and Internet and Intranet sites. The division is responsible for the maintenance and development of the Integrated Data Base which supports the Market Access Committee's information requirements in relation to tariffs. The division's statisticians also provide Members with technical assistance in relation to the Integrated Data Base. And finally,

the division plays an active role in strengthening cooperation and collaboration between international organizations in the field of merchandise and trade in services statistics, and in ensuring that WTO requirements in respect to the concepts and standards underpinning the international statistical system are met.

The WTO Library supports WTO activities and research through its print and electronic collection of documents; provision of an online public access catalogue; bibliographic reference services including Internet research; inter-library loans; depository for national statistics from Member and non-Member countries as well as specific product statistics; depository of GATT/WTO documents and publications; printed archives of the WTO.

Institute for Training and Technical Cooperation

The Institute's mission is to contribute to the fuller participation of beneficiary countries in the multilateral trading system through human resource development, institutional capacity building, and increased public awareness of the multilateral trading system. It delivers technical cooperation and training through activities including: advisory missions; seminars and workshops on a country or regional basis, and/or technical notes on issues of interest to beneficiary countries; trade policy courses; training of trainers; outreach activities with universities; and internet-based training activities. The aim is to develop better understanding of WTO rights and obligations, adaptation of national legislation and increased participation of these countries in the multilateral decision-making process. Legal advice is also made available under Article 27.2 of the DSU. Related activities include establishing and supporting WTO Reference Centers with Internet connectivity and with training provided on how to track down trade-related sources on the Internet, particularly the WTO website; and how to use information technology tools to meet notification requirements. The Institute manages trust funds provided by individual donor countries for the purpose of training and technical cooperation.

Intellectual Property

The division provides service to the TRIPS Council and to dispute settlement panels; service to any negotiations that may be launched on intellectual property matters; provides assistance to WTO Members through technical cooperation, in particular in conjunction with the World Intellectual Property Organization (WIPO), and through the provision of information/advice more generally; maintains and develops lines of communication with other intergovernmental organizations, the NGO community, intellectual property practitioners and the academic community so that they have an adequate understanding of the TRIPS Agreement and of the WTO processes. In the area of competition policy it provides service to work in the WTO on the interaction between trade and competition policy; provides technical cooperation, in conjunction with UNCTAD and other intergovernmental organizations, and information/advice more generally to WTO Members. In the area of government procurement the division provides service to work in the WTO on transparency in government procurement; provides service to the Committee established under the plurilateral Agreement on Government Procurement and to dispute settlement panels that may arise; provides technical cooperation and information/advice more generally to WTO Members.

Legal Affairs Division

The principal mission of the Legal Affairs Division is to provide legal advice and information to WTO dispute settlement panels, other WTO bodies, WTO Members and the WTO Secretariat. The division's responsibilities include providing timely secretarial and technical support and assistance on legal, historical and procedural aspects of disputes to WTO dispute settlement panels; providing regular legal advice to the Secretariat, and in particular to the Dispute Settlement Body and its Chairman, on interpretation of the Dispute Settlement Understanding (DSU), WTO agreements and on other legal issues; providing legal information to WTO Members on the DSU and WTO agreements; providing legal support in respect of accessions; providing training in respect of dispute settlement procedures and on WTO legal issues through special courses on dispute settlement, regular WTO training courses and WTO technical cooperation missions; attend meetings of other organizations with WTO-related activities (e.g., IMF, OECD, Energy Charter).

Market Access Division

The division works with the following WTO bodies:

Council for Trade in Goods: oversees the multilateral trade agreements and ministerial decisions covering the goods sector and takes actions on the issues raised by the various committees which report to it. Servicing the Council includes the organization of formal meetings. The division also arranges informal meetings/consultations prior to formal meetings.

Committee on Market Access: supervises the implementation of concessions relating to tariffs and non-tariff measures; provides a forum for consultation on matters relating to tariffs and non-tariff measures; oversees the application of procedures for modification or withdrawal of tariff concessions; ensures that WTO Schedules are kept up-to-date, and that modifications, including those resulting from changes in tariff nomenclature, are reflected; conducts the updating and analysis of the documentation on quantitative restrictions and other non-tariff measures, in accordance with the timetable and procedures agreed by the GATT CONTRACTING PARTIES in 1984 and 1985 (BISD 31S/227 and 228, and BISD 32S/92 and 93); oversees the content and operation of, and access to, the Integrated Data Base and will do the same for the future Consolidated Tariff Schedules Database.

Committee on Customs Valuation: Monitor and review annually the implementation of the Customs Valuation Agreement; provide service to the Committee on Customs Valuation; organizing, managing the WTO programme for technical assistance on customs valuation for developing countries that have invoked the five-year delay; cooperating with the World Customs Organization Secretariat on providing technical assistance to developing countries having requested a five-year delay in the implementation of the Agreement.

Committee on Rules of Origin: carrying out the harmonization work programme on non-preferential rules of origin; provide service to the Committee on Rules of Origin; providing information and advice to delegations, private parties and other divisions in the Secretariat on matters relating to rules of origin.

Committee on Import Licensing: Monitoring and reviewing the implementation and operation of the Agreement on Import Licensing Procedures; providing information and advice to acceding countries, delegations, private parties and other divisions in the Secretariat on matters relating to import licensing.

Committee of Participants on the Expansion of Trade in Information Technology Products (ITA): providing technical assistance and information to acceding participants; review the implementation of the ITA; continue the work, technical and otherwise, with respect to non-tariff barriers and classification issues; for review of product coverage (ITAII); provide continuing support for the negotiations and the follow-up if necessary.

Rules Division

The role of the division is to ensure the smooth functioning of all WTO bodies serviced by the division. This includes facilitating new and on-going negotiations and consultations, monitoring implementation of the WTO Agreements in the area of anti-dumping, subsidies and countervailing measures, safeguards, state-trading and civil aircraft and actively assisting in their implementation; providing all necessary implementation assistance, counselling and expert advice to Members concerning the above agreements; providing secretaries and legal officers to WTO dispute settlement panels involving the rules-area agreements; and active participation in the WTO technical assistance programme.

The bodies serviced by the Rules Division are: Committee on Anti-Dumping Practices, Committee on Subsidies and Countervailing Measures, Committee on Safeguards, Committee on Trade in Civil Aircraft, Working Party on State-Trading Enterprises, Informal Group of Experts on the Calculations of Subsidies under Article 6.1 of the Subsidies Agreement, Permanent Group of Experts, Informal Group on Anti-Circumvention, Working Group on Implementation of the Agreement on Anti-Dumping and Working Group on Trade and Competition (co-secretary).

Technical Cooperation Audit Division

Its responsibility is to ensure ongoing monitoring and evaluation of all forms of technical assistance provided by the WTO.

Trade and Environment Division

The division provides service and support to WTO committees dealing with trade and environment and technical barriers to trade. For Trade and Environment, it supports the work of the Committee on Trade and Environment (CTE) by providing technical assistance to WTO Members; reporting to senior management and WTO Members on discussions in other intergovernmental organizations (IGOs), including negotiation and implementation of trade-related measures in multilateral environmental agreements. The division maintains contacts and dialogue with NGOs and the private sector on issues of mutual interest in the area of trade and environment.

Its work in the area of technical barriers to trade includes providing service to the Working Group on Technical Barriers to Trade (WGTBT), if the TBT Committee so decides; providing technical assistance to WTO Members; providing Secretariat support to dispute panels and accessions examining aspects of the TBT Agreement. The division follows and reports on matters related to the TBT Agreement, and maintains contacts with the private sector on issues of mutual interest in this area.

Trade and Finance and Trade Facilitation Division

The division services the needs of WTO Members and WTO management in supporting the work of the Committees on Balance-of-Payment Restrictions and on Trade-Related Investment Measures, the Negotiating Group on Trade Facilitation, the Working Groups on Trade, Debt and Finance and on Trade and Investment, and General Council meetings on Coherence in Global Economic Policy-making. The Division is responsible for overseeing the cooperation agreements between the WTO and the Bretton Woods Institutions (IMF and the World Bank). The division contributes to the work of dispute panels addressing matters falling under its responsibility and provides technical assistance and expert advice to Members in Geneva and in capitals.

Trade in Services Division

The Services Division provides support for the new round of services negotiations underway since 2000. It also continues to provide support for the Council for Trade in Services and other bodies established under the GATS including the Committee on Financial Services; the Working Party on Domestic Regulation; disciplines under Article VI:4; the Working Party on GATS Rules; disciplines relating to safeguards, subsidies, government procurement; the Committee on Specific Commitments; any additional bodies set up under the Council; any dispute settlement panels involving services.

Other work includes providing support for the Committee on Regional Trade Agreements in its work relating to Article V of the GATS, and for working parties on accession of new Members in relation to services; facilitating the implementation of the results of negotiations on basic telecommunications, financial services and professional services; participating actively in technical cooperation and other forms of public explanation of the GATS, and providing a continuing service of advice and assistance to Geneva delegations; monitoring implementation of the GATS in terms of notifications and implementation of existing and new commitments.

Trade Policies Review Division

The principal task of the TPR Division is, pursuant to Annex 3 of the WTO Agreement, to prepare reports for meetings of the Trade Policy Review Body (TPRB), at which reviews of Members are carried out. The division provides a secretariat for the TPRB meetings. The division also prepares the Director-General's Annual Overview of trade policy developments. The division also supports the work of the Committee on Regional Trade Agreements.

Information and liaison divisions

External Relations Division

The division is the focal point for relations with Non-Governmental Organizations, International Intergovernmental Organizations, with parliaments and parliamentarians. It also carries out responsibilities in regard to protocol and the maintenance of the WTO registry of documents. Its principle activities are to organize and develop dialogue with civil society and its various components; to maintain liaison with the UN system, and in particular with UN New York HQ and with UNCTAD and the ITC. The division maintains liaison with OECD, particularly with the Trade Directorate regarding substantive issues. The division acts as the focal point in the Secretariat to ensure coordination of attendance at relevant meetings, attends meetings on behalf of the WTO and delivers lectures and speeches. It is also in charge of official relations with Members including host country and protocol matters in close liaison with the Office of the Director-General and it maintains the WTO Directory.

Information and Media Relations Division

As mandated by Member Governments the focus of the division is to use all the means at its disposal to better inform the public about the World Trade Organization. The division offers the public clear and concise information through frequent and regular press contact, a wide range of relevant publications and an extensive Internet service. Its work includes providing publications which delegations and the public deem necessary to their understanding of trade and the WTO.

The Internet is an important vehicle for distributing WTO information. The "Newsroom" feature on the WTO website (www.wto.org) is accessible by journalists from around the world, while the main Internet site is accessed by an average of 750,000 individual users every month from more than 170 countries. Webcasting on the Internet is used to increase public access to special events such as ministerial meetings and symposia.

Support divisions

Administration and General Services Division

Its work focuses on ensuring the efficient functioning of services in (a) all financial matters, including budget preparation and control, accounting, and payroll, (b) logistical

issues related to the physical facilities, and (c) missions and other travel arrangements. This includes monitoring the decentralized budget as well as the Extra-budgetary Funds and providing timely information to divisions; ensuring the administrative functioning of the Committee on Budget, Finance and Administration; managing the WTO-specific pension arrangements; providing information to senior management; and assisting the host country in the preparation of WTO Ministerial Conferences.

Human Resources Division

The division is responsible for human resources management of WTO staff members (regular and temporary) in its Geneva-based Secretariat. The responsibilities span division restructuring, performance management, including development and training, workforce planning, recruitment and selection, as well as career management (internal career mobility, transitions and exit); and management of staff benefits and entitlements. Its objective is to respond to the evolving needs of the WTO, aligning its workforce and providing strategic advisory services to the staff and to WTO Members.

Informatics Division

The division ensures the efficient operation of the information technology (IT) infrastructure as well as the necessary support to cover the information technology needs of Members and Secretariat. This includes implementation of the IT security policy. The division works to constantly enhance IT services and procedures to better facilitate dissemination of WTO information to Members and the public through the Internet and specialized databases.

The division supports a complex desktop and network environment covering staff members, temporary staff and interns and a multitude of services (office automation, e-mail, Intranet, Internet, mainframe, client/server systems, etc.). In relation with the creation of WTO Reference Centers in the capitals of LDC and developing countries, the division provides IT expertise and participates in technical cooperation missions.

Language Services and Documentation Division

The division provides a range of language and documentation services to Members and to the Secretariat, including translation, documentation, printing and related tasks. The advent of the Internet has provided the Secretariat with a powerful vehicle to disseminate its documentation. The vast majority of people consulting WTO's homepage visit the LSDD's documentation facilities. Consultation is growing at a rate of 15% per month. LSDD ensures WTO documents, publications and electronic materials are available to the public and to Members in the three WTO working languages – English, French and Spanish.

WTO Appellate Body and its Secretariat

The WTO Appellate Body

The Appellate Body was established pursuant to the *Understanding on Rules and Procedures Governing the Settlement of Disputes* (the "DSU"), which is contained in Annex 2 to the *Marrakesh Agreement Establishing the World Trade Organization*. The function of the Appellate Body is to hear appeals arising from panel reports pursuant to Article 17 of the DSU. The Appellate Body comprises seven members, recognized authorities in law, international trade and the WTO agreements generally, who reside in different parts of the world and are required to be available at all times and on short notice to hear appeals. Individual members of the Appellate Body are sometimes called upon to act as arbitrators under Article 21 of the DSU.

WTO budget 2005

The WTO derives most of the income for its annual budget from contributions by its 148 Members. These are established according to a formula based on their share of international trade. The list of Members' contributions for 2005 can be found in Table 3.5. The balance of the budget is financed from miscellaneous income.

Miscellaneous income is earned from rental fees and sales of WTO print and electronic publications. The WTO's total budget for the year 2005 is as follows:

- 2005 Budget for the WTO Secretariat: CHF 164,131,000 (Table 3.3);
- 2005 Budget for the Appellate Body and its Secretariat: CHF 4,572,400 (Table 3.4);
- Total WTO Budget for the year 2005: 168,703,400 CHF

Table III.3

WTO Secretariat budget for 2005

Part	Section	Item	2005 CHF
A	Sect 1 Work Years	(a) Salary	74,749,500
		(b) Pension	14,896,200
		(c) Common Staff Costs	15,073,000
	Sect 2 Temporary Assistance		14,186,750
B	Sect 3 Communications	(a) Telecommunications	758,000
		(b) Postal Charges	1,305,000
	Sect 4 Building Facilities	(a) Rental	362,400
		(b) Utilities	1,619,500
		(c) Maintenance and Insurance	1,166,000
	Sect 5 Permanent Equipment		2,668,100
	Sect 6 Expendable		1,359,000
	Sect 7 Contractual Services	(a) Reproduction	1,380,000
		(b) Office Automation	2,227,200
		(c) Other	332,000
		(d) Security Outsourcing Contract	2,125,100
C	Sect 8 Staff Overheads	(a) Training	490,000
		(b) Insurance	1,973,700
		(c) Joint Services	177,600
		(d) Miscellaneous	46,500
	Sect 9 Missions	(a) Missions Official	1,181,100
		(b) Missions Technical	1,383,200
	Sect 10 TPTC		3,671,000
	Sect 11 Various	(a) Representation and Hospitality	283,000
		(b) Dispute Settlement Panels	1,217,000
		(e) Library	578,900
		(f) Publications	425,000
		(g) Public Information Activities	210,000
		(h) External Auditors	40,000
		(i) Ministerial Operating Fund	600,000
		(j) ISO	57,000
		(k) Other	90,000
		(m) Security Enhancement Programme	1,119,000
		Sect 12 Unforeseen	Unforeseen
D	Sect 13 International Trade Center (ITC)	ITC	16,280,250
	Grand Total		164,131,000

Table III.4

Budget for the Appellate Body and its Secretariat, 2005

Part	Section	Item	2005 CHF
A	Sect 1 Work Years	(a) Salary	1,855,500
		(b) Pension	368,200
		(c) Common Staff Costs	345,700
	Sect 2 Temporary Assistance		36,000
B	Sect 3 Communications	(a) Telecommunications	6,500
		(b) Utilities	13,000
	Sect 4 Building Facilities	(c) Maintenance and Insurance	5,000
		Sect 5 Permanent Equipment	23,000
		Sect 6 Expendable	20,000
	Sect 7 Contractual Services.	(a) Reproduction	15,000
C	Sect 8 Staff Overheads	(a) Training	25,000
		(b) Insurance	9,000
		(d) Miscellaneous	2,000
		(a) Missions Official	10,000
	Sect 11 Various	(a) Representation and Hospitality	1,000
		(d) Appellate Body Members	688,100
		(e) Library	8,000
		(l) Appellate Body Operating Fund	1,141,400
	Grand Total		4,572,400

Table III.5

Members' contributions to the WTO budget and the budget of the Appellate Body, 2005
(Minimum contribution of 0.015 per cent)

Members	2005 Contribution	
	%	CHF
Albania	0.015	25,110
Angola	0.077	128,898
Antigua and Barbuda	0.015	25,110
Argentina	0.409	684,666
Armenia	0.015	25,110
Australia	1.126	1,884,924
Austria	1.377	2,305,098
Bahrain	0.075	125,550
Bangladesh	0.106	177,444
Barbados	0.019	31,806
Belgium	2.648	4,432,752
Belize	0.015	25,110
Benin	0.015	25,110
Bolivia	0.024	40,176
Botswana	0.035	58,590
Brazil	0.913	1,528,362
Brunei Darussalam	0.039	65,286
Bulgaria	0.101	169,074
Burkina Faso	0.015	25,110
Burundi	0.015	25,110
Cambodia	0.027	45,198
Cameroon	0.034	56,916
Canada	3.921	6,563,754
Central African Republic	0.015	25,110
Chad	0.015	25,110
Chile	0.300	502,200
China, People's Republic of	3.599	6,024,726
Colombia	0.207	346,518
Congo	0.025	41,850
Costa Rica	0.102	170,748
Côte d'Ivoire	0.062	103,788
Croatia	0.139	232,686
Cuba	0.065	108,810
Cyprus	0.063	105,462
Czech Republic	0.536	897,264
Democratic Republic of the Congo	0.015	25,110
Denmark	0.966	1,617,084
Djibouti	0.015	25,110
Dominica	0.015	25,110
Dominican Republic	0.126	210,924
Ecuador	0.081	135,594
Egypt	0.250	418,500
El Salvador	0.061	102,114
Estonia	0.067	112,158
European Communities	0.000	0
Fiji	0.015	25,110
Finland	0.622	1,041,228
Former Yugoslav Republic of Macedonia	0.024	40,176
France	5.152	8,624,448
Gabon	0.034	56,916
Gambia	0.015	25,110
Georgia	0.015	25,110
Germany	8.872	14,851,728
Ghana	0.037	61,938
Greece	0.438	733,212
Grenada	0.015	25,110
Guatemala	0.065	108,810

Table III.5 (continued)

Members' contributions to the WTO budget and the budget of the Appellate Body, 2005
(Minimum contribution of 0.015 per cent)

Members	2005 Contribution	
	%	CHF
Guinea	0.015	25,110
Guinea-Bissau	0.015	25,110
Guyana	0.015	25,110
Haiti	0.015	25,110
Honduras	0.039	65,286
Hong Kong, China	3.122	5,226,228
Hungary	0.501	838,674
Iceland	0.044	73,656
India	0.922	1,543,428
Indonesia	0.773	1,294,002
Ireland	1.246	2,085,804
Israel	0.563	942,462
Italy	4.087	6,841,638
Jamaica	0.054	90,396
Japan	6.125	10,253,250
Jordan	0.064	107,136
Kenya	0.044	73,656
Korea, Republic of	2.387	3,995,838
Kuwait	0.193	323,082
Kyrgyz Republic	0.015	25,110
Latvia	0.051	85,374
Lesotho	0.015	25,110
Liechtenstein	0.025	41,850
Lithuania	0.084	140,616
Luxembourg	0.355	594,270
Macao, China	0.065	108,810
Madagascar	0.015	25,110
Malawi	0.015	25,110
Malaysia	1.277	2,137,698
Maldives	0.015	25,110
Mali	0.015	25,110
Malta	0.047	78,678
Mauritania	0.015	25,110
Mauritius	0.038	63,612
Mexico	2.317	3,878,658
Moldova	0.015	25,110
Mongolia	0.015	25,110
Morocco	0.157	262,818
Mozambique	0.015	25,110
Myanmar, Union of	0.032	53,568
Namibia	0.022	36,828
Nepal	0.019	31,806
Netherlands, Kingdom of the	3.388	5,671,512
New Zealand	0.244	408,456
Nicaragua	0.019	31,806
Niger	0.015	25,110
Nigeria	0.187	313,038
Norway	0.844	1,412,856
Oman	0.107	179,118
Pakistan	0.153	256,122
Panama	0.110	184,140
Papua New Guinea	0.029	48,546
Paraguay	0.044	73,656
Peru	0.125	209,250
Philippines	0.532	890,568
Poland	0.725	1,213,650
Portugal	0.558	934,092

Table III.5 (continued)

Members' contributions to the WTO budget and the budget of the Appellate Body, 2005
(Minimum contribution of 0.015 per cent)

Members	2005 Contribution	
	%	CHF
Qatar	0.091	152,334
Romania	0.188	314,712
Rwanda	0.015	25,110
Saint Lucia	0.015	25,110
Senegal	0.021	35,154
Sierra Leone	0.015	25,110
Singapore	1.995	3,339,630
Slovak Republic	0.184	308,016
Slovenia	0.160	267,840
Solomon Islands	0.015	25,110
South Africa	0.469	785,106
Spain	2.460	4,118,040
Sri Lanka	0.091	152,334
St. Kitts and Nevis	0.015	25,110
St. Vincent and the Grenadines	0.015	25,110
Suriname	0.015	25,110
Swaziland	0.016	26,784
Sweden	1.363	2,281,662
Switzerland	1.452	2,430,648
Chinese Taipei	1.947	3,259,278
Tanzania	0.024	40,176
Thailand	0.972	1,627,128
Togo	0.015	25,110
Trinidad and Tobago	0.050	83,700
Tunisia	0.129	215,946
Turkey	0.718	1,201,932
Uganda	0.016	26,784
United Arab Emirates	0.602	1,007,748
United Kingdom of Great Britain and Northern Ireland	5.704	9,548,496
United States of America	15.798	26,445,852
Uruguay	0.050	83,700
Venezuela	0.325	544,050
Zambia	0.016	26,784
Zimbabwe	0.032	53,568
TOTAL	100.000	167,400,000

Miscellaneous income for 2005

	2005
	CHF
Sale of publications	180,000
Savings on previous year's outstanding obligations	153,000
Rental of meeting rooms, office space and parking at Centre William Rappard to others	130,000
Contributions of Observer Countries	680,000
Other:	0
- Interest on Current Account	40,000
- Various	120,400
TOTAL	1,303,400



WORLD TRADE
ORGANIZATION

10th Anniversary 1995-2005



WTO 10th Anniversary – Highlights of the first decade

This year marks the 10th anniversary of the creation of the World Trade Organization on 1 January, 1995 as part of the entry into force of the agreements concluded under the Uruguay Round of trade negotiations, signed by ministers at Marrakesh on 15 April 1994.

The WTO's role at the centre of the world trading system as well as its success at pursuing objectives set by its Members have quickly made of it one of the most visible and influential multilateral organizations. This special section of the WTO Annual Report 2005 presents some of the highlights of the work accomplished over the past ten years. An important aspect of this section of the Annual Report is that it is based on the views of specialists in the WTO Secretariat who have provided their expertise and energies in support of the work by WTO Members to shape the first decade of the WTO.

Ministerial conferences

The WTO Agreement provides for a ministerial conference to be held at least once every two years, to help ensure the direct and formal involvement of political leaders in the work of the WTO on a regular basis; ministerial involvement of this type did not exist in the General Agreement on Tariffs and Trade (GATT), the predecessor of the WTO.

Ministerial conferences review ongoing work, provide political guidance and direction to that work, and set the agenda for further work as necessary. There have been five ministerial conferences since the creation of the WTO in 1995. The Sixth Ministerial Conference will take place in Hong Kong this year from 13 to 18 December.

The major achievement of the ministerial conferences to date has been their contribution to the launching of the Doha Development Agenda at the Doha Ministerial Conference (Qatar) in 2001. Subsequent efforts at the Cancún Ministerial and in its aftermath have contributed to advancing The Doha Agenda negotiations, including the agreement by WTO Members on August 1, 2004 on what is being called the "July Package". The text of the "July Package" includes "frameworks" in key areas such as agriculture and industrial market access.

WTO Director-General Supachai Panichpakdi identified the "achievements" of the "July Package" as follows:

"For the first time, Member governments have agreed to abolish all forms of agricultural export subsidies by a certain date. They have agreed to substantial reductions in trade distorting domestic support in agriculture.

As part of this agreement we have achieved a significant breakthrough in cotton trade which offers great opportunity for cotton farmers in West Africa and throughout the developing world. Governments have agreed to launch negotiations to set new rules streamlining trade and customs procedures. We have assigned ourselves ambitious guidelines for opening trade in manufactured products and we have set ourselves a clear agenda for improving rules that are of great benefit to developing countries.

As importantly, WTO governments have sharpened the focus of the Doha Round and provided a foundation which will enable negotiators to continue these talks from significantly higher level, greatly enhancing our chances for successful completion of these important talks".

Dr Supachai predicted that the progress now made in agriculture, non-agricultural market access, development issues and trade facilitation would provide substantial momentum to WTO Members' work in other important areas such as rules, services, environment, reform of dispute procedures and intellectual property protection.

Summary of developments at ministerial conferences

Singapore, 9–13 December 1996

The First Ministerial Conference held by the WTO. Ministers examined issues related to the work of the WTO's first two years of activity and the implementation of the Uruguay Round Agreements, and adopted a Declaration establishing a firm political direction for the work of the WTO for the coming years.

Ministers also adopted a Plan of Action for Least-Developed Countries (LDCs), which offered a comprehensive approach and included measures relating to the implementation of the previously-adopted Decision in Favour of LDCs, as well as in the areas of capacity-building and market access from a WTO perspective. In addition, a

plurilateral Declaration was adopted by the ministers of a number of countries on the expansion of world trade in information technology products.

Geneva, 18–20 May 1998

The Second Ministerial Conference was timed to coincide with the commemoration of the 50th anniversary of the multilateral trading system. In their Declaration, ministers launched a work programme to ensure full and faithful implementation of existing WTO agreements and to prepare for the Third Ministerial Conference. In a separate Declaration, the ministers instructed the General Council to establish a comprehensive work programme to examine all trade-related issues relating to global electronic commerce, taking account of the needs of developing countries and the ongoing work in other international organizations.

Seattle, 30 November–3 December 1999

The Third Ministerial Conference was expected to launch a broad work programme consisting of trade liberalization negotiations and other elements, including implementation of existing agreements. Ultimately, however, the Conference did not result in the necessary consensus.

The failure of the Seattle Ministerial Conference to launch a new round of trade negotiations exposed both significant policy differences among Member governments as well as shortcomings in the way the business of the WTO had been conducted in the run-up to the Conference. Following Seattle, Members engaged in a process of collective reflection aimed at learning from the experience of Seattle, rebuilding lost confidence and keeping the WTO moving forward in the interests of all its Members.

Several points were taken up as immediate priorities. These included taking the procedural steps to launch the negotiations on agriculture and services that were already mandated in the WTO Agreement; reaching agreement on a package of measures for LDCs, encompassing both market access and capacity-building, that had been close to agreement in preparation for Seattle; taking a focused approach to the issues related to the implementation of existing agreements raised particularly by a number of developing countries in the preparation for Seattle; reviewing the consultative and decision-making processes of the WTO; and, subsequently, reviving the elements of the WTO work programme that were built into the WTO agreements. In the course of the confidence-rebuilding efforts, and the reformed WTO operations that resulted, as well as other ongoing work, governments began to come to a realization that it was in the interests of both developed and developing countries to re-engage in new trade negotiations, and that such negotiations could promote trade and development and strengthen public support for the trading system. The preparations for the Doha Ministerial Conference were thus launched.

Doha, 9–13 November 2001

The success of the Doha Ministerial Conference reflected the determination of Governments to overcome differences, and to work together to make trade an instrument for global development and peace and security at a time of considerable economic and political uncertainty. The leadership, direction and solidarity shown by Member governments provided an enormous boost to the confidence of investors, producers, traders and consumers worldwide in the face of a bleak short-term outlook for the world economy. The improved working methods of the WTO, put in place over the years following Seattle, also contributed enormously to the positive spirit of the meeting and to the outcome.

Ministers launched a broad and ambitious work programme for the WTO for the coming years to address the challenges facing the trading system and the needs and interests of the diverse WTO membership. The work programme (the “Doha Development Agenda”) incorporates both a comprehensive set of multilateral trade negotiations as well as other activities designed to address these challenges and needs.

In particular, the DDA reflects a shared desire to ensure that the trading system is relevant and responsive to the needs of developing countries, by placing development-related issues at the centre of the Doha Declaration. It acknowledges the need to assist developing countries strengthen their capacity to participate more fully in international trade and in the deliberations and make their voices heard. It outlines a work programme for implementing these objectives, reaffirms the role of special and differential treatment in fostering development, and marks a new departure in the approach to effective capacity-building and technical assistance with the joint provision of support with other agencies and governments. It also outlines the development dimensions of market access, rules-related issues and dispute settlement, and launches

work on particular areas of developing country interest including trade and transfer of technology, trade, debt and finance, and small economies. Other development-related work includes the ongoing examination of proposals for modifications to WTO provisions and procedures made in the context of the post-Uruguay Round implementation discussions.

In addition, ministers adopted the important Declaration on the TRIPS Agreement and Public Health, in response to the concerns expressed about the possible implications of the TRIPS Agreement for access to drugs. Doha also saw the historic accessions of China and Chinese Taipei.

Cancún, 10–14 September 2003

The first eight months of 2003 saw very intensive work on all areas of the DDA negotiations in preparation for the WTO's Fifth Ministerial Conference which took place in Cancún, Mexico from 10 to 14 September 2003. Significant progress was made across the board in bringing Members' positions closer together.

Over the course of over five days of intensive consultative work at their Conference, ministers made considerable progress towards fulfilling the Doha mandates. However, they were unable to reach agreement during this short period of time on a text which would serve as a framework for guiding the negotiations to a conclusion by the mandated deadline of 1 January 2005. Instead, it was agreed that consultations should continue under the auspices of the General Council, with the aim of taking the action necessary by mid-December to enable Members to move forward. While the December Council meeting did not bring about a major breakthrough, the key issues became clearer and progress was made towards getting the DDA back on track.

Work then intensified in the first half of 2004, and agreement was reached in the General Council on a package of framework agreements at the end of July. This framework deal represented an important signal that governments are able to come together to conclude mutually beneficial agreements, boosting confidence in the world economy and strengthening the foundations of the multilateral trading system.

With this framework decision, the DDA is back on track. Framework agreements are now in place for the negotiations on agriculture – including cotton – and non-agricultural market access, and Members have agreed to a package on development and taken a decision to begin negotiations on trade facilitation. They have thus finally laid to rest the disappointment of Cancún and showed their commitment to fulfilling the Doha mandates. The decision gives a sense of the path towards that shared goal and opens the way to move ahead with renewed momentum and a sense of purpose towards a successful conclusion of the Round.

General Council

The General Council is the WTO's highest decision-making body in the intervals between meetings of the ministerial conference. It carries out the functions of the WTO, as well as specific tasks assigned to it by the WTO Agreement, and takes any action necessary towards this end. The contribution of the General Council, and its successive chairpersons, to the smooth functioning of the WTO and its agreements is an achievement in itself. In particular, during the last ten years the Council has been called on to take an increasingly major role in the preparatory work for ministerial conferences and in the follow-up to them.

The General Council played a key role in a number of the major achievements of the WTO over this period, such as the measures taken to rebuild confidence after the Seattle Ministerial Conference, in particular through improved consultative procedures and more effective participation of all Members in decision-making, the Decision on TRIPS and Public Health in August 2003, and the July 2004 Decision to take the DDA work programme and negotiations forward.

Other specific achievements of the General Council include decisions aimed at improving transparency in WTO operations, through both improved public access to WTO documentation and guidelines for improving communication with civil society representatives, and achieving better cooperation and coordination – in economic policy-making and technical cooperation and capacity-building efforts – between the IMF, World Bank, WTO and other international organizations.

Trade Negotiations Committee

The Trade Negotiations Committee (TNC) operates under the authority of the General Council and was established by the Doha Declaration, which also assigned it to create subsidiary negotiating bodies to handle individual negotiating subjects. The TNC duly set up the negotiating bodies on 1 February 2002 and appointed their Chairpersons. Chaired by the

Director-General, the TNC plays a key role in the Doha Round by overseeing the negotiations and ensuring the overall balance of the negotiations under the Single Undertaking.

The TNC's contribution to the negotiations can be judged by the large number of senior capital-based officials who attend its meetings. For many delegations, it provides a link between the work of the negotiators in Geneva and the governments which they represent. This role of bringing political input to the work in Geneva will be even more crucial as the Round enters its final stage with negotiations on modalities in key areas.

Dispute Settlement Body

Dispute settlement is the central pillar of the multilateral trading system, and the WTO's unique contribution to the stability of the global economy. Without a means of settling disputes, the rules-based system would be less effective because the rules could not be enforced. The WTO's procedure underscores the rule of law and makes the trading system more secure and predictable. The system is based on clearly-defined rules, with timetables for completing a case. Rulings are made by a panel and can be appealed to the Appellate Body, which can either uphold, modify or reverse the legal findings and conclusions of the panel. The rulings and recommendations of the panel and Appellate Body may either be endorsed or rejected by the WTO's full membership in the Dispute Settlement Body (DSB).

The General Council convenes as the DSB to deal with disputes arising from any agreement contained in the Final Act of the Uruguay Round. In the last ten years, it has taken up over 320 dispute cases in some 180 meetings – more than the GATT during close to half a century. The smooth functioning of the DSB throughout this period has made a major contribution to Members' trade relations.

(The WTO's work on dispute settlement is dealt with in more detail below.)

Accessions to the WTO: 1995–2005

More than 45 governments have applied to accede to the WTO since the Marrakesh Agreement Establishing the WTO entered into force on 1 January 1995. Of these, 20 have completed their accession procedures and have become WTO Members.¹

This represents a significant advance for the WTO's goal of achieving universal scope and membership. The steady increase in membership in the first decade of the WTO has brought new entrants from several regions of the world, with differences in size, trade shares, and levels of economic development. This adds to the diversity of the organization and bodes well for the future of the multilateral trading system.

Currently, WTO's 148 Members account for more than 90 per cent of world trade. The membership's share in world trade is set to rise even further as the governments currently seeking to accede to the WTO conclude their entry negotiations.² Among those expected to conclude accession negotiations in the near future are Cape Verde, Samoa, Saudi Arabia, Russian Federation, Tonga, Ukraine and Viet Nam.

It is equally significant that the political focus of Member governments on making the WTO universal has neither been diluted nor weakened by their involvement with advancing the multilateral negotiations under the DDA.

China, Chinese Taipei

While each completed accession is noteworthy in its own right – a few stand out. The Fourth WTO Ministerial Conference in 2001, is remembered almost as much for the accession of China and Chinese Taipei as it is for launching the DDA negotiations. While China's accession took over 15 years to complete (including almost eight years as a GATT Working Party), the accession of Chinese Taipei took ten years (with three years as a GATT Working Party). The time taken to conclude these accessions reflected the pace of domestic reforms as well as the complexity of these negotiations. With its accession, China, one of the fastest growing economies in the world, agreed to undertake a series of important commitments to open and liberalize its economic and trade regime. This has enabled China to better integrate in the world economy and for its trading partners it offers greater market access and a more predictable environment for trade and foreign investment in accordance with WTO rules.

Transition economies

Many of the recently acceded or currently acceding governments had or are undergoing a transition from centrally-planned to market economies. Accession to the WTO has led

¹ Completed accessions (in the order they have become WTO Members): Ecuador, Bulgaria, Mongolia, Panama, Kyrgyz Republic, Latvia, Estonia, Jordan, Georgia, Albania, Oman, Croatia, Lithuania, Moldova, China, Chinese Taipei, Former Yugoslav Republic of Macedonia, Nepal and Cambodia.

² Ongoing accessions (as of 31 December 2004): Afghanistan, Algeria, Andorra, Azerbaijan, Bahamas, Belarus, Bhutan, Bosnia and Herzegovina, Cape Verde, Ethiopia, Iraq, Kazakhstan, Lao PDR, Lebanon, Libya, Russian Federation, Samoa, Saudi Arabia, Serbia, Montenegro, Seychelles, Sudan, Tajikistan, Tonga, Ukraine, Uzbekistan, Vanuatu, Viet Nam, Yemen.

these countries – in addition to the usual trade benefits – to underpin and lock in their autonomous domestic reform process. The difficult decisions taken by these governments in undertaking these reforms are well documented. But their efforts have been compensated by efficiency gains and increased growth, trade or investment. In the case of the Baltic republics – Estonia, Latvia, Lithuania – WTO accession has been a stepping stone for further integration and entry into the European Union. In a similar vein, the accessions of Jordan, Croatia, the Former Yugoslav Republic of Macedonia have been beacons of future political and economic stability in regions which have been chronically volatile and insecure.

In yet other instances, accession requests from countries in war-torn regions have coincided with rebuilding efforts and a return to normalcy. In Afghanistan and Iraq, joining the WTO has been viewed as an instrument to promote peace, greater economic stability and prosperity. For economic powers like Libya, the commencement of WTO accession has meant the end of isolation. Iran and Syria, continue to have their accession requests pending before the WTO membership.

Least-developed countries (LDCs)

LDCs account for about a third of ongoing accessions. Facilitating their integration into the WTO and the rules-based multilateral trading system has been a special challenge and priority for the membership. In Doha, ministers agreed to facilitate and accelerate LDC accession negotiations. The adoption of the LDC Accession Guidelines in December 2002, proved to be a turning point in our efforts to simplify accession procedures and advance LDC accessions. The first results came quickly in the accession packages of Cambodia and Nepal being adopted at Cancún in 2003. They were the first two LDCs to accede to the WTO under the procedures established in 1995. Efforts are ongoing to advance other LDC accessions including the previously inactive ones. Technical assistance has been stepped up at all stages of the accession process, though in light of the considerable needs much more remains to be done.

Accession process

The increase in scope and coverage of the WTO and its agreements has increased the complexity of the accession negotiations, particularly when compared to accession to the GATT. On the other hand, the process itself has evolved and become more structured and transparent. However, there is always more that can be done to improve the accession process. Some have argued that the negotiations remain demanding, unduly lengthy and costly for acceding governments both in financial and human resource terms. The challenge has been to balance the special interests of acceding governments for entry terms and the systemic interest of Members to maintain the integrity of the multilateral trading system. It is expected that the accession process will see the new entrants participate as full and effective players in the multilateral trading system.

Technical assistance

Technical assistance and capacity-building is of critical importance for all acceding governments and at all stages of the accession process. Constraints faced by acceding governments, especially LDCs, include scarce human and financial resources; the absence of WTO-consistent legislation and mechanisms; and limited institutional and negotiating capacity to manage the accession process. Technical assistance required by acceding governments ranges from awareness generation activities and the preparation of documentation to the longer term support required for setting up legislative infrastructure and enforcement mechanisms. Priority has been given to acceding governments, in particular LDCs, in the WTO Annual Technical Assistance Plans. However, given the enormity of the technical assistance needs of acceding governments, and the limited resources at the disposal of the WTO Secretariat, a widening gap remains to be filled.

Trade in services

The creation of the General Agreement on Trade in Services (GATS) can be viewed as a milestone in the history of the multilateral trading system, comparable to the inception of GATT, its counterpart in merchandise trade, in 1947/48. Beyond its significance for international relations, this extension of trade rules reflects a major change in the role of services as part of a country's economic fabric. Traditionally, services had been viewed essentially as domestic activities that could not be traded for at least two reasons: first, the

need for direct physical contact between producer and consumer in many traditional areas of personal services and, second, the existence of government monopolies in infrastructure-related sectors such as telecommunications, transport and various insurance sectors.

This perception has changed significantly. New communication technologies, in particular the ascent of the Internet, have helped to develop new variants of hitherto location-related services (e-commerce, e-banking, tele-health, tele-education) and, thus, to overcome the constraints of space. In turn, the gradual emergence of foreign suppliers has started undermining some long-entrenched monopolies and exposing them to an element of outside competition. At the same time, governments have found it increasingly difficult to apply established principles of public finance and administration to the newly-emerging, technology-driven activities. And a third factor entered the policy equation: internationally mobile user industries became increasingly sensitive to location-related cost and efficiency differentials associated with services innovation and reform in individual markets. Whether they liked it or not, governments thus had little option but to re-think their traditional approaches to organizing and regulating major services sectors. The pillars of many traditional monopolies, including in telecommunications, transport and finance, started to crumble. Market access issues emerged in services, possibly in slightly different guises, as they had emerged long before in merchandise trade.

Trading in new (modal) dimensions

The extension of the multilateral trading system to services was made possible by various innovations that extended the scope and coverage of the new Agreement into 'virgin territory'. The possibly most obvious change is the introduction of the concept of four modes of supply. Accordingly, the scope of GATS not only applies to cross-border trade – mode 1 – like its precursor in merchandise trade, the GATT, but to three additional types of transactions not yet referred to in trade agreements. These are:

- mode 2 – consumption of services abroad (examples: tourists, students, patients);
- mode 3 – commercial presence (examples: inward foreign direct investment in a country's financial, telecommunications or tourism sector); and
- mode 4 – presence of natural persons supplying services (examples: foreign independent professionals, such as doctors, or foreign staff of foreign-owned banks, hotels, etc.).

The inclusion of modes 2 to 4 reflects the continued necessity that, in order for many services to be traded, both supplier and user (consumer) must be simultaneously present to complete the transaction. In turn, this also explains why, unlike the GATT, the GATS applies not only to the treatment of *products*, but also to the treatment of *suppliers*, i.e. producers and/or distributors.

The breadth of the Agreement's coverage and (potential) application is balanced by much leeway in Members' assumption of trade obligations. In particular, *market access* and *national treatment* – the two main parameters governing trading conditions – are guaranteed only in the sectors that a Member has listed in its schedule of specific commitments ('bottom-up' approach). And even such listing of sectors does not automatically amount to unqualified market access and national treatment. Rather, Members are free to attach limitations or to fully exclude one or more modes from the scope of their commitments ('top-down') and, thus, retain policy discretion. The flexibility to select sectors and to attach limitation creates almost unlimited scope for customizing commitments to national policy choices and negotiating objectives. Thus, while all WTO Members are legally required to submit a schedule of commitments (Article XX:1), it might be impossible to find Members with identical schedules. The commitments which governments have assumed under the GATS are thus specific to particular services and to the particular modes by which they are delivered.

Current levels of commitments

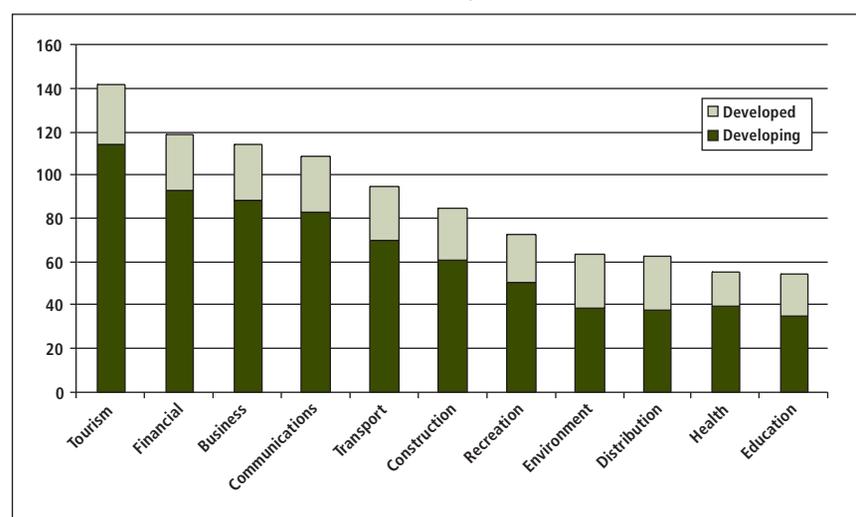
The Agreement's flexibility has apparently been used to a very large extent. Scheduled levels of commitments vary widely across Members, sectors, and modes of supply.

Chart 1 shows significant differences in the extent to which individual sectors have been included in schedules. Relevant decisions may have been influenced, first, by the degree to which particular sectors have traditionally been open to foreign participation (e.g. almost all schedules contain commitments on tourism, an area in which virtually all Members have long maintained comparatively liberal investment regimes.) Second, there is an apparent concentration of commitments on sectors of general infrastructural importance that provide economy-wide inputs, including financial services, a broad range of business services, and communications services. Economic openness in these sectors, and the related flows of investment, skills and expertise, may have broad growth and efficiency effects.

Related expectations may also explain why several developing countries that did not initially participate in the extended negotiations on basic telecommunications in 1997, nevertheless volunteered deeper commitments in the wake of these negotiations.

The diversity of sector commitments reflects in large part the scheduling decisions of developing countries, given their share (some 80 per cent) in the WTO membership. Table 1 shows the number of commitments inscribed by individual groups of Members, indicating strong differences between least-developed countries, developing and transition economies, as well as developed countries.³ However, the commitments undertaken by new WTO Members, i.e. developing and transition economies that have joined since 1995, are comparable in number to those undertaken by developed Members. Also, these commitments tend to be deeper, i.e. subject to a smaller number of limitations, than those undertaken by other Members.

Chart 1: Sector focus of current commitments, November 2004



Note: The vertical axis displays the number of Members that have scheduled at least one sub-segment out of the 11 large sectors, from tourism to education, listed horizontally. EC Members are counted individually.

The averages for groups of Members may mask wide variations. This is particularly the case for least-developed and for developing economies. Some least-developed Members committed as many sectors as the group of developed Members on average (see third column in Table 1).

Table 1

Commitments of different groups of Members, November 2004

Members	Average number of sectors committed per Member	Range (Lowest/highest number of scheduled sectors)
Least-developed economies	24	1 – 111
Developing & transition economies	53 (105)*	1 – 149 (58-149)*
Developed countries	106	87 – 117
Accessions since 1995	103	37 – 149
All Members	52	1 – 149

* Transition economies only.
Total number of sectors: ~160. Total number of Members: 148.

Specific commitments

Unlike previous trade rounds under the GATT, which essentially focused on trade liberalization within an established legal framework, the Uruguay Round broke new ground in integrating completely new areas – services and trade-related aspects of intellectual property rights – into the system. For services in particular a new legal architecture needed to be created and filled with substance. This was an enormous task, requiring negotiators to re-think and sometimes re-invent basic trade policy concepts and instruments. Apart from the EC's Single Market, there was little experience with comprehensive services

³ However, such comparisons need to be interpreted with care. For example, they do not take into account differences in economic importance between sectors, nor the restrictiveness of the limitations that may have been attached in individual cases.

trade agreements. Although tempting, it was impossible to simply reapply basic GATT provisions – given important structural differences between merchandise and services trade – and retain the GATT's focus on measures affecting the sale of products across borders. This meant that a great deal of negotiating energy went into rule-making, partly at the expense of market-opening negotiations.

WTO Members have been negotiating on services continuously since the end of the Uruguay Round in December 1993. In addition to the negotiations on rule-making directed towards completion of the framework of the GATS, there have been four discrete negotiations whose purpose was the expansion of market access commitments – on financial services, maritime transport, movement of natural persons and basic telecommunications. The essential motivation for further negotiation in the first three cases was dissatisfaction with the results achieved in these sectors in the Uruguay Round. The case of basic telecommunications, however was different. Negotiators had agreed during the Uruguay Round that the time was not ripe for substantive negotiations in that sector because the profound economic and political transformations it was undergoing, not least in the EC, were not complete.

Trade policy-makers have often debated the question whether it is practicable to achieve significant liberalization in a self-contained or single-sector negotiation, or whether important results can only be expected in the context of a major round encompassing many subjects and therefore offering the possibility of trade-offs between them. The experience of the Uruguay Round certainly suggested that the sheer size of the undertaking and the extent of the interests involved in the end made failure unthinkable: but the length and complexity of the Round also caused some to believe that more limited, even single-sector, negotiations would produce tangible results within short periods. The experience of the sectoral negotiations in services throws some light on this question. Whereas the results achieved in maritime transport and the movement of natural persons were frankly disappointing, the negotiations on financial services and basic telecoms were notably successful.

Financial services

Of the post-Uruguay Round negotiations those on financial services were the most protracted but ultimately one of the most successful. Although 76 countries had made commitments on financial services in the Round, the United States in particular took the view that commitments by some important partners, and thus the overall package, were not adequate to justify a full MFN commitment on its own part. This was consistent with a long-held US position that since the existing, essentially bilateral, international regime in banking and related services worked reasonably well, to introduce a new system of multilateral obligations could only be justified if the overall level and quality of commitments were sufficiently high. WTO Members therefore decided to continue negotiations in the sector until 30 June 1995, a deadline which was later extended to 28 July 1995. The stated objective of the negotiation was to secure significant improvement of the commitments and to have them applied on an MFN basis.

The further negotiations produced substantial improvements in scheduled commitments, notably by a large number of developing countries, and resulted in the full integration of financial services into the GATS: the threat of wholesale MFN exemptions, amounting to the virtual exclusion of the sector, was ended. It was notable that the concluding phases of the negotiation coincided with the peak of the Asian financial crisis in the latter months of 1997, and that the crisis had no apparent effect on the commitment of WTO Members to the process.

It was recognized that liberalization of financial services under the GATS in no way compromised the ability of governments to pursue strong regulatory policies or to take any measures necessary to safeguard the integrity of financial systems, and indeed that the introduction through liberalization of foreign equity capital and expertise might be expected to increase the sector's resilience to shocks. As a result, the number of Members making commitments in this sector exceeded 100, second only to tourism. It has since further risen due to commitments made by acceding countries.

Basic telecommunications

Although a few Members made commitments on services falling within the definition of basic telecommunication services, they were for the most part deliberately left aside in the Uruguay Round. The initial extension was scheduled to end in April 1996, but at that point it was again impossible to reach agreement that a "critical mass" of commitments had been achieved, and the negotiations were prolonged until February 1997.

At that time, commitments were agreed by 69 Members and annexed to the Fourth Protocol to the GATS. They entered into force on 5 February 1998. The markets of the

participating countries accounted for more than 90% of global telecommunications revenues. The success of this negotiation clearly owed a great deal to the profound changes taking place at the time in world telecoms markets. Government monopolies were being privatized and subjected to competition, under the pressure of call-back and other technologies which made it possible to bypass high-cost monopoly suppliers, and in response to growing demand of user industries for better and cheaper service.

Under the Fourth Protocol more than 60 governments permitted competitive supply of fixed public voice telephony, usually through the establishment of a commercial presence. Given that basic telecommunication services had until very recently been regarded everywhere as a “natural monopoly” in which the concept of foreign competition seemed anomalous, this was a remarkable outcome. Since it was clear that in many markets, monopolies or former monopolies would continue to be dominant for some time to come, it was necessary to take measures to prevent the nullification of negotiated commitments by the abuse of market power. The necessity arises in particular because the ability to provide public telephony depends on having access to the existing network, which in most cases continues to be owned or controlled by the former monopoly. If interconnection with the network were not to be available on reasonable commercial terms effective competition would be impossible.

The participants therefore negotiated a set of regulatory principles including competition safeguards, interconnection guarantees, transparency in licensing, independence of regulators, competition-neutral universal service mechanisms and fairness in allocating scarce resources such as radio spectrum and rights of way. The principles are included in a “reference paper”, which participants were free to include, in whole or in part, as legally binding additional commitment in their schedules. Fifty-seven Members assumed these obligations in full or with only minor modifications at the time. Six chose to commit on a modified or scaled-down set of regulatory principles and a further six made no regulatory commitments.

As in the case of financial services, the level of participation by developing countries in this negotiation was striking. Forty-six developing countries and countries in transition, many of them very small, made commitments, in addition to all of the industrialized Members of the WTO. The strong emphasis on mode 3 commitments, as well as direct contacts with the governments concerned, made it clear that their participation was strongly motivated by the intention to induce foreign direct investment in the sector, and to put incumbent suppliers under competitive pressure. After the conclusion of the negotiation, five additional developing countries unilaterally submitted basic telecoms commitments, and three of the participants in the Fourth Protocol improved on the commitments they had negotiated. These bindings of unilateral liberalization by developing countries appear to be without precedent, and they testify to the recognition that efficient and competitive telecommunication systems are a necessity in modern economies. In addition, several developing countries have so far included commitments on basic telecommunications in their schedules of accession to the WTO.

Maritime transport

The decision to continue negotiation on maritime transport services was taken in the last days of the Uruguay Round following decisions by the United States and the European Union to make no commitments in this sector. Thirty-one other Members maintained the commitments which they had offered during the Round and it was agreed to prolong negotiations until 30 June 1996, at which time Members would be free to improve, maintain or withdraw their commitments and to finalize MFN exemptions.

It had been recognized throughout the Uruguay Round that this sector presented special political difficulties, and these difficulties did not diminish during the period of extended negotiations. Indeed, in this case there is some reason to believe that negotiators came closer to the achievement of a successful outcome in the Uruguay Round – in the sense of the tabling of commitments by the US and the EU, which would no doubt have stimulated further commitments by others – than was possible in the self-contained negotiations of 1996, which failed to produce significant results. Only two countries, Iceland and Norway, improved on the commitments they had made in the Uruguay Round. Canada and Malaysia modified their earlier commitments and Austria and the Dominican Republic decided to withdraw them. It was agreed to suspend the negotiations and to resume them at the commencement of the next comprehensive round. This is therefore the only sector on which a specific obligation to negotiate in the new round exists. It is also the only sector falling within the scope of the GATS in which the MFN principle is not fully applied: for those Members not making commitments on maritime transport, the MFN obligation was suspended until the end of the new round, though existing commitments are of course applied on an MFN basis.

It should not be concluded from this that there is widespread protectionism in maritime transport, in which many formerly significant restrictions – for example, the strict implementation of the United Nations Code of Conduct for Liner Conferences, bilateral agreements with state trading countries, unilateral cargo reservations, public monopoly of harbour services – have greatly diminished in the past 20 years. Nonetheless, there are still serious obstacles to doing business which could be addressed in negotiations.

Movement of natural persons

The extension of negotiations on the movement of natural persons was motivated by the dissatisfaction of developing countries with the level of commitments undertaken on mode 4, which were largely confined to business visitors and intra-corporate transfers of managers and technical staff. Very few Members have made liberal commitments in this mode, for which market access conditions tend to be significantly more restrictive than for any other.

Negotiations on mode 4 were extended until 30 June 1995, the same as the original deadline for financial services, with the clear implication of a negotiating link between the two. Indeed, some countries made their participation in the extended financial services negotiations conditional on improved offers in mode 4. In that sense, the negotiations on mode 4 were not entirely “self-contained”. Nevertheless, they produced no major breakthrough. Australia, Canada, the EU and its Member States, India, Norway and Switzerland improved on the commitments they had made in the Uruguay Round, and these improvements were annexed to the Third Protocol to the GATS. The improvements mostly concern access opportunities for additional categories of service suppliers, usually independent foreign professionals in a number of business sectors, or the extension of their permitted duration of stay.

Rule-making agenda

Apart from the mandate under Article XIX, embodying the principle of progressive liberalization in subsequent trade rounds, the GATS contains four rule-making mandates. They reflect that within the constraints of the Uruguay Round, Members were not able to fully explore the need for, or the necessary depth of, rules in certain areas that may significantly affect trade in services. The continued existence of “white spots” in the framework of GATS may not only be attributable to time pressure at the concluding stages of the Uruguay Round, but also to the particular structure of GATS, including the concept of four modes of supply, which prevented negotiators to simply transpose certain existing concepts from GATT into GATS.

Although the rule-making negotiations have started relatively soon after the conclusion of the Uruguay Round, relatively little headway has been made to date.

Domestic regulation

As noted before, the GATS makes a clear distinction between specific commitments as specified in a Member’s schedule, and the right to pursue national policy objectives by way of regulation. Nevertheless, there may be different options to pursue the same regulatory objective, and it appears only reasonable to prevent the government concerned from using measures that are unduly trade restrictive. This objective is reflected in Article VI:4 of the GATS, which refers to three specific types of domestic regulation (licensing requirements and procedures, qualification requirements and procedures, and technical standards) and mandates the development of “any necessary disciplines”.

Recognizing as well that government regulation is especially pervasive in professional services, the first step in implementing this mandate was the Ministerial *Decision on Professional Services*, and the establishment of the Working Party on Professional Services (WPPS). After several years of difficult discussions, especially in regard to the delimitation of Article VI with respect to the market access and national treatment provisions of Articles XVI and XVII of the GATS, WTO Members succeeded in creating the voluntary *Guidelines for Mutual Recognition Agreements or Arrangements in the Accountancy Sector*⁴ (WTO document S/L/38, dated 28 May 1997), followed by the mandatory *Disciplines on Domestic Regulation in the Accountancy Sector* (WTO document S/L/64, dated 17 December 1998).

These Accountancy Disciplines are the more important of the two agreements. They are very concise, comprising only 26 paragraphs in four pages (six pages with the appendix). The main achievement is that the Disciplines mandate a “necessity test” for all applicable regulatory measures. WTO Members are also required to explain upon request the specific objectives intended by their accountancy regulations, and are asked to provide an opportunity for trading partners to comment upon proposed accountancy regulations, and to

⁴ The core elements of the Guidelines, in addition to a reminder of the notification requirements under Article VII of the GATS, are recommendations on the form and content of MRAs. The Guidelines state that MRAs should clearly identify the: participants; purpose of the agreement; scope of the agreement; details of the mutual recognition provisions, including eligibility requirements for recognition as well as specification of the conditions under which any additional supplementary requirements may be applied; mechanisms for implementation; further licensing or related requirements; and terms for revision of the agreement.

give consideration to such comments. However, the Disciplines have not yet become legally enforceable.

The *Decision* of the Council for Trade in Services adopting the Disciplines (WTO document S/L/63, dated 15 December 1998) states that, before the end of the current round of services negotiations, the Accountancy Disciplines and any regulatory disciplines developed subsequently are to be integrated into the GATS and will then become binding.

Both the Accountancy Disciplines and the MRA Guidelines are very general in scope, and address the most fundamental means by which trade in accountancy (and potentially in many other services sectors) could be obstructed. In this regard, they serve as an indicator to other services sectors that the WTO is at some point likely to address their regulatory barriers as well. The *Accountancy Disciplines* are also well-suited to serve as the foundation for the subsequent development of horizontally applicable disciplines for professional services (and probably for trade in services in general), as well as for the development of specific sectoral measures. This potentially expanded application is the main element of the current GATS work on domestic regulation, as conducted by the Working Party on Domestic Regulation (WPDR) which replaced the Working Party on Professional Services in April 1999.

Negotiating mandate: progressive liberalization

Unlike the GATT, the GATS explicitly provides for future trade negotiations. According to Article XIX:1, WTO Members are committed to enter into successive rounds of such negotiations, the first of which was to start "not later than five years from the date of entry into force of the WTO Agreement", i.e. 1 January 2000. The failure of the Seattle Ministerial Meeting in late 1999 thus did not prevent these negotiations from being launched. Nevertheless, the overall climate had deteriorated, and it took more than one year until delegations in Geneva were able to agree upon a negotiating mandate for services. The Seattle Draft Ministerial Declaration had contained such a mandate, which initially mustered broad support, but no longer proved acceptable to all Members as a basis for single-track negotiations.

In March 2001, the Council for Trade in Services, in Special Session, finally approved the 'Guidelines and Procedures for the Negotiations on Trade in Services'. The two-page document, in three parts, builds to a large extent on relevant GATS provisions, in particular Article IV ('Increasing Participation of Developing Countries') and Article XIX ('Negotiation of Specific Commitments'). The Guidelines' main content may be summarized as follows:⁵

1. Objectives and Principles

Confirmation of the objective of progressive liberalization as enshrined in relevant GATS provisions; appropriate flexibility for developing countries, with special priority to be given to least-developed countries; *reference to the needs of small and medium-sized service suppliers, particularly of developing countries*; and commitment to respect "the existing structure and principles of the GATS" (e.g. the bottom-up approach to scheduling and the four modes of supply).

2. Scope

No sectors or modes are excluded a priori; special attention to be given to export interests of developing countries; (re-)negotiation of existing MFN exemptions.

3. Modalities and Procedures

Current schedules as the starting point (rather than actual market conditions); *request-offer negotiations as the main approach* (Article XIX:4 of the GATS simply refers to the possibility of bilateral, plurilateral and multilateral negotiations, but does not establish priorities); negotiating credit for autonomous liberalization based on common criteria;⁶ *ongoing assessment of trade in services*;⁷ *mandate for the Services Council to evaluate the results of the negotiations prior to their completion in the light of Article IV.*

In keeping with another mandate under Article XIX:3, the Negotiating Guidelines were complemented later by the 'Modalities for the Special Treatment for Least-Developed Country Members' (TN/S/13). The Modalities are intended to ensure "maximum flexibility" for LDCs in the negotiations. Moreover, all Members are committed, *inter alia*, to exercising restraint in seeking commitments from LDCs as well as, in preparing their own schedules, giving special priority to sectors and modes of export interest to these Members. In turn, least-developed countries are called upon to indicate their priority sectors and modes so that these can be taken into account. Referring to mode 4, the Modalities recognize the potential benefits provided by the movement of natural persons to both sending and recipient countries. Further, Members envisage, to the extent possible and consistently with Article XIX of the GATS, to undertake commitments on that mode taking into account "all categories of natural persons identified by LDCs in their requests".

⁵ Elements that go beyond existing GATS provisions are in italics.

⁶ These criteria were developed later by the Services Council ('Modalities for the Treatment of Autonomous Liberalization' in WTO document TN/S/6 of 10 March 2003).

⁷ This assessment was not initially conceived as an ongoing process, but should have been conducted for the purpose of establishing the Negotiating Guidelines (Article XIX:3).

In view of the relatively detailed Negotiating Guidelines of March 2001 and the absorption of Members' attention by other issues, the Doha Ministerial Declaration essentially confined itself to endorsing the Guidelines and integrating the services negotiations, including the rule-making parts in the wider framework of the Doha Development Agenda. The Doha Declaration contains target dates for the circulation of initial requests (30 June 2002) and initial offers (31 March 2003) of specific commitments, and envisages all negotiations, which form part of a single undertaking, to be concluded not later than 1 January 2005.

The Cancún Ministerial Conference in early September 2003 marked a new setback in the progress of negotiations. The concluding Statement merely reaffirmed the Doha Declarations and Decisions and recommitted Members "to working to implement them fully and faithfully". Reflecting the lack of political impetus, the request-and-offer process in services virtually ground to a halt in the wake of Cancún. It was not until mid-2004 that the so-called July Package (Doha Work Programme – Decision adopted by the General Council on 1 August 2005) injected new momentum into the negotiations.

With regard to services, the July Package contains a target date of May 2005 for the submission of revised offers and adopts a set of recommendations that had been agreed before by the Council for Trade in Services (Special Session). These include recommendations for: Members that have not yet submitted initial offers to do so as soon as possible; ensuring a high quality of offers, in particular in sectors and modes of export interest to developing countries, with special attention being given to least-developed countries; intensifying efforts to conclude the rule-making negotiations under Articles VI.4, X, XIII and XV in accordance with their mandates and deadlines; and providing "targeted" technical assistance to developing countries with a view to enabling them to participate effectively. In addition, the Council for Trade in Services (Special Session) is mandated to review progress in the negotiations and provide a full report to the Trade Negotiating Committee, including possible recommendations, for the purpose of the Sixth Ministerial Meeting in December 2005.

Scope for change in the current Round

Many current schedules, with the possible exception of those submitted by recently acceding countries, offer scope for significant improvements. The Uruguay Round proved a landmark event because it helped to establish a set of multilateral rules for services trade and the architecture for future negotiating rounds. As indicated before, however, judged by the breadth and depth of most current commitments, the Round will certainly not be remembered for its contribution to liberalization of services trade;⁸ possible exceptions are the extended negotiations in basic telecommunications and financial services.

While developing economies have undertaken fewer commitments on average than other Members (Table 1), many of them have implemented sweeping reforms in recent years. Since such reforms have often been associated with profound institutional changes (e.g. the abolition of previous telecom, transport or insurance monopolies), they may prove irreversible and, thus, could not easily be used as negotiating coinage. To bolster their negotiating position, nevertheless, the governments concerned may refer to, and seek credit under, the 'Modalities for the Treatment of Autonomous Liberalization', adopted by the Services Council (Special Session) in March 2003.

Where do Members currently stand in the request-and-offer process?

There are no WTO documents that could be used to trace the *initial requests* that have been exchanged to date between Members. This stage in the negotiating process is essentially bilateral in nature and is not subject to any further information or notification requirements, let alone guidelines concerning the structure or content of requests. It is for individual Members to decide whom to approach, in what form, and what issues to raise under relevant GATS provisions (Annex on Article II Exemptions as well as Articles XVI, XVII and XVIII). There is thus no basis to judge whether and to what extent least-developed participants have in fact used this exercise to indicate the sectors and modes "that represent priority in their development policies, so that Members take these priorities into account in the negotiations".⁹

Anecdotal evidence suggests that large developed countries have circulated requests to almost all other Members, covering a wide range of services, and that most economically advanced developing Members have actively participated in this process as well. There may thus be no WTO Member that has not received at least a handful of requests to date. The *initial offers* of new or improved commitments are made known to all WTO Members since the entire membership may be affected by these commitments' entry into force. Envisaged amendments are inscribed into the existing schedules and made commonly available via the WTO Secretariat.

While the request-and-offer process seems to have progressed smoothly to date, at least in procedural terms, some qualifications may be needed. First, the overall momentum has

⁸ See, for example, an informal note of the WTO Secretariat of June 1999 ('The Developmental Impact of Services Liberalization under GATS', WTO document Job 2748/Rev.1).

⁹ WTO document TN/S/13 of 5 September 2003, para. 6.

not been particularly impressive. At the target date of 31 March 2003, only 12 offers were available, to be followed by 26 more submissions prior to the Cancún Ministerial Meeting in early September 2003.¹⁰

By mid-January 2005, the total number had increased to 47, covering over 70 WTO Members which is close to 50 per cent of the membership (70 per cent if least-developed economies and recently acceding Members are excluded).

Second, the regional distribution has remained uneven. While relatively many countries from Latin America and, despite significant gaps, Asia have made contributions, Africa and the Arab region have remained largely on the sidelines.

Third, there is a sense of disappointment concerning the 'quality' of offers, both in terms of new sector inclusions and improvements of existing commitments. The overall emphasis is on the sectors and modes that already dominate existing schedules, with relatively few significant changes in "sensitive" areas such as education, health and other social services (Chart 2) as well as mode 4.¹¹ Thus, the overall focus has been on improving existing commitments rather than inscribing new sectors (Chart 3). However, the picture may change as a result of additional developing countries, in particular those that refrained from undertaking broad commitments in the Uruguay Round, participating in this process.

Since the initial offers are steps in a longer negotiating process, it is too early to pass judgement. Heeding the recommendations contained in the July Package, a significant number of governments can still be expected to prepare and submit offers, while others will be revising – and upgrading – their existing offers by May 2005. The extent to which these expectations materialize and the final outcome of all services negotiations, including those on rules, are still subject to an element of uncertainty, however. Given the concept of Single Undertaking, many Members may make their final position contingent on progress being achieved across all areas of the Doha Development Agenda.

¹⁰ Including one schedule for the then 15 Member States of the European Communities.

¹¹ In 1998/99, the WTO Secretariat prepared two background notes discussing, respectively, the structure of commitments scheduled under mode 4 (WTO document S/C/W/75) and those assumed for modes 1, 2 and 3 (WTO document S/C/W/99).

Chart 2: Sector profile of initial offers, November 2004

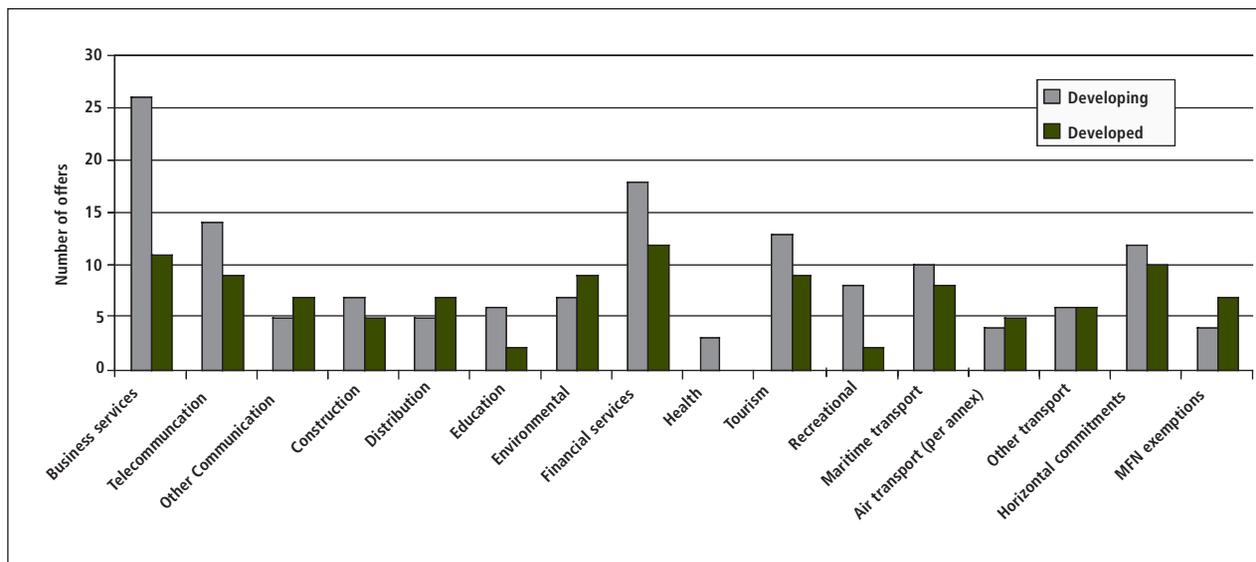
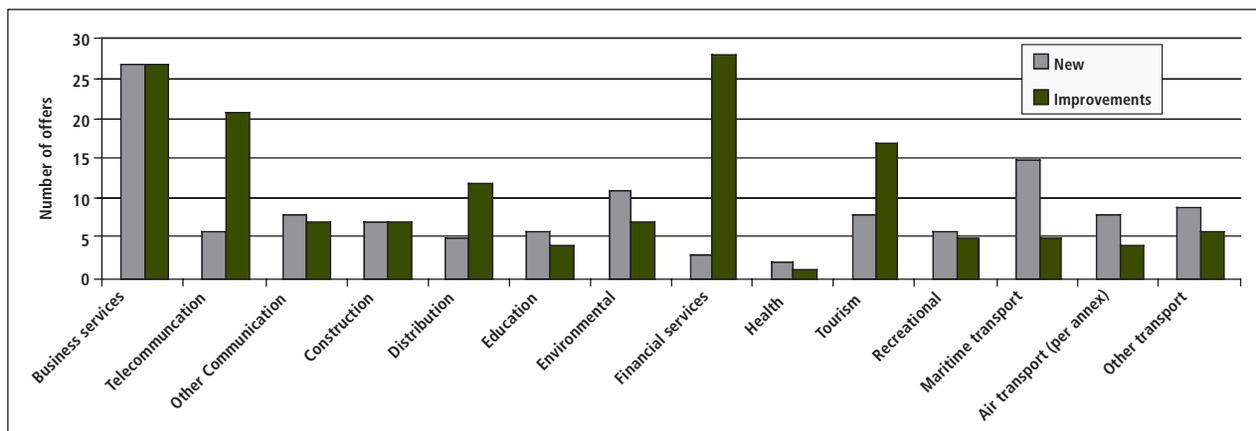


Chart 3: Content of initial offers (new commitments versus improvements), November 2004



Doha non-agricultural market access (NAMA) negotiations

One of the major achievements of the Uruguay Round negotiations in the area of tariffs was the enhancement of the security and predictability of the trading environment through the substantial increase in the number of bindings. Developed countries increased the total number of bound tariff lines from 78% to 99%, while developing countries increased their bindings from 21% to 73%. As of today, 61 Members have binding commitments on more than 99% of their non-agricultural tariff lines (counting the EC-25 as one), 18 on more than 90% of their non-agricultural tariff lines, ten on more than 50%. Only 33 Members have bindings on less than 50% of their non-agricultural tariff lines. In the area of tariff cuts for industrial products, the Uruguay Round resulted in a trade-weighted tariff average reduction of 40%, from 6.3% to 3.8% for developed countries. However, it is clear that while a substantially higher degree of market security for traders and investors was achieved at the end of the Uruguay Round, many specific issues continue to create difficulties for traders including high duties, tariff peaks and tariff escalation. This situation is what the Doha non-agricultural market access negotiations (NAMA) seek to address, along with non-tariff barriers, which have been considered by many as being far more problematic than tariffs. Specifically, the Doha mandate on NAMA foresees the following:

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.

The Negotiating Group on Market Access (NGMA) began working in early 2002 on developing a programme of work which it finally approved on 19 July 2002. This programme envisaged the submission of proposals on modalities for market access negotiations in the year 2002, with a view to producing an overview of such proposals at the beginning of 2003. It was envisaged further that Members would reach a common understanding on a possible outline of modalities by the end of March 2003, and an agreement on modalities by 31 May 2003. However, in spite of efforts made by participants, the deadline was missed and work shifted towards agreeing on a "Framework" for modalities by the Cancún Ministerial meeting. The idea was to capture convergence in some key areas, while allowing the negotiations to move towards "final modalities" at a later stage. To date, some 60 Members have presented more than 70 individual and collective submissions to the NGMA indicating how they consider the Doha mandate should be fulfilled in this area.

The "July Package"

The latest step in NAMA has been Annex B of the decision of 1 August 2004, on a Framework containing the initial elements for future work on modalities. This decision also recognizes that additional negotiations are required to reach agreement on the specifics of five elements: the formula, the issues concerning the treatment of unbound tariffs, the flexibilities for developing-country participants, the issue of participation in the sectoral tariff component and the preferences. The NGMA was 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.

The Framework on NAMA constitutes a major step forward as it provides direction to the negotiations in some of the major issues. Equally it fleshes out the flexibilities that could be given to developing countries, including the exemption of least-developed countries from any tariff cut. Technical work in Geneva has already touched on a variety of issues, including: product coverage, the treatment of tariff peaks, high tariffs and tariff escalation through the formula, participation in sectoral negotiations, the calculation of *ad valorem* equivalents (AVEs), the identification of products of export interest to developing countries, the possible ways to reflect the principles of special and differential treatment and less than full reciprocity in reduction commitments, the special provisions that could be applied by newly

acceded Members, the elimination of low duties, non-reciprocal preferences, tariff revenue dependency, environmental goods, as well as appropriate studies and capacity-building measures for developing countries and least developed countries. A substantial amount of technical work and difficult political decisions are still required to translate this Framework into full-fledged modalities.

Work on non-tariff barriers has progressed at a slower pace than on tariffs. The NGMA has been grappling with two fundamental questions: what Non-Tariff Barriers (NTBs) should be addressed in the NGMA and how should they be addressed. As a first step to answering these questions, the Group embarked on an identification exercise where Members were requested to identify NTBs that they felt should be addressed in the Group. The NGMA will now be engaged in a process of examining these notifications. In parallel to this multilateral process, there has been an emergence of a "vertical NTB process" where interested Members are looking at NTBs affecting a particular sector. Proposals in this regard have covered electronics, auto and auto parts and wood products.

Council for trade in goods

The Council for Trade in Goods oversees the functioning of all Multilateral Trade Agreements in Goods, which are the GATT 1994, the Agreements on Agriculture, Application of Sanitary and Phytosanitary Measures, Textiles and Clothing¹², Technical Barriers to Trade, Trade-Related Investment Measures, Anti-Dumping, Customs Valuation, Preshipment Inspection, Rules of Origin, Import Licensing Procedures, Subsidies and Countervailing Measures, and Safeguards

The Goods Council has 11 committees dealing with the above-mentioned agreements. In addition, the following bodies also report to the Council: Committee on Market Access, Textiles Monitoring Body, the Working Party on State Trading Enterprises and the Committee of Participants on the Expansion of Trade in Information Technology Products .

The Council has considered in past years different requests for waivers from Members which, when approved, allow them to deviate from a provision of the GATT 1994. These waiver requests have been considered in connection with different subject matters, such as the introduction of Harmonized System changes to Members' Schedules of concessions; the Kimberley Process Certification Scheme for Rough Diamonds; issues under the WTO Customs Valuation and TRIMs Agreements; and on preferences given by developed countries to groups of developing countries, for example, the new ACP-EC Partnership Agreement.

The Council has also dealt with the review of the operation of the Agreement on Trade-Related Investment Measures (TRIMs Agreement), the issue of trade facilitation up until the launching of negotiations as set out in the July package 2004, and the three Major Reviews of the Implementation of the Agreement on Textiles and Clothing. It has started to consider, at the request of certain Members, post-ATC adjustment-related issues.

The Council for Trade in Goods has been successful in monitoring the agreements under its responsibility and in providing a forum at a political level where Members have discussed and found solutions to several controversial subjects, ranging from the Kimberley Certification Process and the extension of the implementation of the TRIMs Agreement, to the new ACP-EC Partnership Agreement, thus facilitating their consideration at the level of the General Council.

Tariffs and NTBs

The Committee on Market Access (CMA) oversees most of the work in the tariff and non-tariff barriers areas that are not specifically dealt by other WTO bodies. It has the objective of: i) supervising the implementation of concessions relating to tariffs and non-tariff measures as contained in the schedules of concessions and serving as a forum for consultation on these matters; ii) overseeing the application of procedures for modification or withdrawal of tariff and non-tariff concessions; iii) ensuring that GATT schedules are kept up-to-date, and that modifications are reflected therein, including those resulting from changes in tariff nomenclature; and iv) overseeing the content, operation and access to the Integrated Data Base (IDB) and, more recently, the Consolidated Tariff Schedule Database (CTS). All these objectives are key to safeguarding the rights and obligations of Members with respect to concessions in the goods area through transparency and predictability.

Generally speaking, there appears to have been a relatively smooth implementation of commitments undertaken by Members during the Uruguay Round as contained in their schedules of concessions. That is not to say that there have not been any complaints, however, they have been limited. Some tariff issues which have cropped up and gone as far as the dispute settlement process include tariff classification matters and issues relating to "other duties and charges".

¹² On 1 January, 2005, the Agreement on Textiles expired in accordance with its article 9, therefore the Textiles Monitoring Body (TMB) also ceased to exist.

On a more specific and technical level:

- Concerning the modification or withdrawal of tariff concessions through GATT Article XXVIII, this is mostly a bilateral process with the outcome being subsequently applied on an MFN basis. In a nutshell, Article XXVIII negotiations gives a Member the possibility to modify or withdraw a concession subject to that Member entering into consultations and/or negotiation with a view to offering adequate compensation to trading partners holding certain rights on that product. If no agreement is reached and the proposed modification is nevertheless implemented, the possibility exists for those trading partners to withdraw substantially equivalent concessions on an Most-Favoured Nation (MFN) basis. While only twenty-three requests for renegotiations have been made under GATT Article XXVIII since 1995, which would suggest that implementation of tariff commitments undertaken during the Uruguay Round has not created too many difficulties for Members, it is worth noting that some Article XXVIII negotiations have hit the media headlines due to the sensitivity of the products involved. These include the EC's modification of certain rice concessions, and its move to a tariff-only system in bananas. Additionally, Article XXVIII is used in the context of the formation of customs union, and a well known example would be the enlargement negotiations of the EC (from 12 to 15 member states and 15 to 25 member states). The process is very complex in these circumstances, and negotiations can take place over a number of years.

- With a view to ensuring transparency in respect of commitments, the CMA agreed in 1996 (formalized through a CTG decision) that Members should prepare "consolidated loose-leaf schedules". There was a growing recognition that it had become difficult to identify accurately the current status of commitments of Members given that in some cases the commitments were dispersed over many legal instruments spanning 50 years. Unfortunately, only a handful of Members submitted such consolidated schedules, and initially it appeared that the goal of grouping all the commitments of Members in one place would not be achieved. However, originating from this exercise, came the idea of setting up a Consolidated Tariff Schedule (CTS) database which, although not legally binding, has proven to be a very useful instrument for analysis in the tariff area, in particular in the context of the Doha negotiations. The CTS database coupled with the Integrated Data Base (IDB) which contains trade and applied tariff information of Members, constitute powerful research tools as witnessed by the number of requests for access to these databases that are being made to the CMA by a number of organizations.

- Probably one of the major areas of technical work in respect of tariff commitments has been the introduction of nomenclature changes to schedules of concessions. Nearly all Members use the Harmonized (HS) System nomenclature to describe their product-by-product commitments in their schedules. The Harmonized System Committee of the World Customs Organization (WCO), which oversees the HS, undertakes a periodic review of the HS to take account of changes in technology and patterns in international trade and recommends amendments to the HS. The first set of such changes came into force on 1 January 1992 (HS92), a second set on 1 January 1996 (HS96), and a third set on 1 January 2002 (HS2002). With a view to keeping the authentic texts of schedules up to date and in conformity with the national customs tariff, it is necessary for Members to update and transpose their WTO commitments to reflect each of these HS amendments. The required transposition into HS96 remains outstanding for many Members. Acknowledging the difficulties faced by most of the Members with respect to the HS96 transposition, improved procedures were approved in 2001 and then revised further in 2004. It is foreseen that a fourth set of changes to the HS will enter into force in 2007, ensuring a substantial workload for the CMA in times to come.

- With regard to non-tariff barriers, the Committee agreed in 1995 (formalized through CTG decisions) that Members should notify their quantitative restrictions and should be allowed the possibility of making reverse notifications of non-tariff barriers. While a certain number of quantitative restrictions have been communicated, many Members have yet to complete this task. Since 1995, one Member has made a reverse notification of a non-tariff barrier. The challenge of addressing NTBs is currently with the NAMA Group, as seen hereafter.

The Information Technology Agreement

The Ministerial Declaration on Trade in Information Technology Products (ITA) was concluded at the WTO Singapore Ministerial Conference in December 1996. This plurilateral agreement commits its participants to eliminate and bind MFN duties and other duties and charges on a defined set of information technology products that include: semiconductors, semiconductor manufacturing equipment, computers and telecommunications equipment.

The agreement came into force once the requirement was met that participants to the agreement covered approximately 90 percent of world trade in ITA products. The first staged reductions of tariffs started on 1 July 1997. Since then, the number of participants has increased to 63 (counting the EC as 25)¹³, out of which 29 are developing countries. Together, they represent approximately 97% of world trade in information technology products. Mexico, South Africa and Brazil are the most important non-ITA participants, accounting for approximately 3 per cent of world ITA trade. The ITA stands as the most important trade liberalization initiative applied on an MFN basis after the Uruguay Round.

The value of ITA exports grew consistently from 1988 to 2000, when it peaked. The growth was so strong that ITA exports accounted for as much as 16.5% of world exports in the year 2000. However, its share of world exports fell in 2003 to slightly more than 12 %. It is worth noting that the share of ITA products in world trade still exceeds that of agricultural products.

A "Committee of Participants on the Expansion of Trade in Information Technology Products" was established under the auspices of the WTO to implement the agreement. In that context, the participants approved at the end of the year 2000 a Work Programme on non-tariff measures (NTMs) with the objective of identifying impediments to trade in ITA products. A recent successful outcome in this area has been the elaboration of guidelines for Electromagnetic Compatibility (EMC) and Electromagnetic Interference (EMI) conformity assessment procedures. Work is ongoing in this Committee to address other NTBs and also to iron out the divergences in classification of some information technology products, with the goal of narrowing them down to one or two classifications, if possible.

In addition, the Committee has regularly reviewed the status of implementation of the ITA. Through this process, participants raise trade related concerns on IT products and new participants submit their documentation for rectification and modification of their WTO schedules in order to incorporate the commitments arising from the Ministerial Declaration.

Furthermore, a WTO Information Technology Symposium was held on October 2004 with the goal of updating ITA participants and other WTO Members on developments in the information technology area. It also elicited updated information on the nature of trade barriers to trade in IT products, and assessed the role of IT trade in supporting development in those markets where liberalization has occurred.

Import licensing

The Agreement on Import Licensing came into force on 1 January 1995. It establishes disciplines on users of import licensing systems with the principal objective of ensuring transparency of Members' import licensing procedures. The Agreement aims to simplify, clarify and minimize the administrative requirements necessary to obtain import licences. Accordingly, the Committee on Import Licensing was established to afford Members the opportunity of consulting on any matters relating to the operation of the Agreement.

The Agreement stipulates that all Members are required to notify their laws, regulations and administrative procedures relevant to import licensing. Members are also required to annually provide replies to the Questionnaire on import licensing procedures, and to notify the institution of new procedures or modifications. Since the establishment of this Committee, 90 Members have notified their legislation and/or publication relevant to import licensing, 26 Members have submitted notifications relating to the institution of new import licensing procedures or changes in these procedures and 84 Members have provided replies to the Questionnaire at least once but none have replied annually (EC counted as one). Still, many Members have not submitted the required notifications. This unsatisfactory situation with respect to compliance with the notification obligations of the Agreement has seriously undermined the ability of the Committee to carry out its main function of reviewing Members' implementation of this Agreement.

A number of other issues raised by the Members on import licensing were also solved under the Dispute Settlement Understanding. A total of 35 consultations where *inter alia* import licensing provisions were mentioned, were held by Members in the last ten years. Most of them were satisfactorily settled throughout consultations amongst Members.

Through the past years, the Import Licensing Committee has provided a regular forum for discussion of specific notifications submitted by Members and of concerns regarding import licensing matters. It has contributed to the establishment of standards on import licensing regimes, ensuring that procedures applied for granting import licences do not in themselves restrict trade.

Rules of origin

The Agreement on Rules of Origin entered into force in 1995 as a result of the Uruguay Round trade negotiations. The Agreement aims to harmonize non-preferential rules of origin and to ensure that such rules do not themselves create unnecessary obstacles to trade.

¹³ Albania; Australia; Bahrain, Kingdom of; Bulgaria; Canada; China; Costa Rica; Croatia; Egypt; El Salvador; EC-25; Georgia; Hong Kong; China; Iceland; India; Indonesia; Israel; Japan; Jordan; Korea; Kyrgyz Republic; Macao, China; Malaysia; Mauritius; Moldova; Morocco; New Zealand; Norway; Oman; Panama; Philippines; Romania; Singapore; Switzerland (including Liechtenstein); Separate Customs Territory of Taiwan, Penghu, Kinmen, and Matsu; Thailand; Turkey; and the United States.

Until the completion of the Harmonization Work Programme (HWP), Members are expected to ensure that their rules of origin are transparent; that they are administered in a consistent, uniform, impartial and reasonable manner.

Rules of origin are regulations to determine the country in which a good was made. The country of origin of a particular good is either the country where the good has been wholly obtained, or when more than one country is involved in the production of a particular good, the country where the last substantial transformation has been carried out.

Change of classification of a good in the HS nomenclature is normally considered as an expression of substantial transformation. If each imported input material has changed its classification as a result of the production processes in a country, origin shall be conferred to that country. However, where exclusive use of the HS nomenclature does not allow for the expression of substantial transformation, other requirements, including *ad valorem* percentages and/or manufacturer processing operations can be used.

Non-preferential rules of origin (NPRO) are useful trade policy instruments for origin-marking and trade statistics as well as for the application of specific trade measures to particular products. The quota administration is also based on origin determination of imported goods, as well as trade remedy investigations.

The HWP was launched in July 1995, and is still underway. Although substantial progress has been made, the work has been considerably delayed with respect to the time-frame foreseen in the RO Agreement, in which the HWP was scheduled to be completed in July 1998, and also in respect to the decision made in the Doha Ministerial Conference which urged the Committee on Rules of Origin to complete the work by the end of 2001 (WTO document WT/MIN(01)/17).

Faced with the reality of globalization and increasing multi-country production of a good, this work requires reaching an agreement on specific origin rules for every tariff line, which are more than 5,000. Significant work has been done, including the overall architecture of harmonized rules of origin (HRO) and definitions of wholly obtained goods. The number of outstanding issues, however, is still 137 out of 486, and most of these issues are linked to important commercial policy concerns. Members are also split on several sensitive issues, e.g. automobiles, computers, footwear and leather products. As concerns the machinery sector, Members are divided between those who would not like to use the *ad valorem* percentage rule and those that favour its use because of the rapid technological change in this sector. Despite these difficulties the WTO will continue its work to fulfil its mandate.

Customs valuation

The backbone of the Customs Valuation Agreement (CV Agreement) is the same as the GATT Valuation Code which came into force in 1981, as a result of the Tokyo Round trade negotiations. The primary basis for customs value of a good under this Agreement is the so-called "transaction value", i.e. the price actually paid by the buyer for the goods. Alternative five valuation methods are also set out in the prescribed hierarchy to be used only if the transaction value could not be used. All these six values, however, are the prices of a good determined by the market, not an arbitrary price. By preventing customs authorities from arbitrarily increasing the price of imported goods for collection of import duties and charges, the Agreement has provided greater predictability and simplicity in international trade.

Since customs duties provided a very important share of total government revenue for many developing countries, undervaluation and fraud could be a serious threat to their fiscal revenue. Therefore many developing countries were reluctant to accept the importer's declared value as customs value. Acknowledging these difficulties, the CV Agreement allowed developing country Members to delay the application of the Agreement for five years (or more as agreed by the Committee on Customs Valuation (CV Committee)).

Developing country Members, due to active technical assistance over the last ten years provided by the developed country Members and the international organizations, mainly the WTO, WCO and World Bank, have now phased out these reservations; none are invoking the provision of delayed application. Four developing countries however, still maintain minimum value systems for a limited number of products, such as used cars.

The Doha Ministerial Conference in 2001, also took an additional decision to prevent customs fraud. According to this decision when the customs administration of an importing Member has reasonable grounds to doubt regarding the truth or accuracy of the declared value, and seek assistance from the exporting Member, the exporting Member shall offer cooperation and assistance, consistent with its domestic laws and procedures (WTO document WT/MIN(01)/17). The CV Committee, under the direction of the Ministerial Conference, is working to identify and assess practical means to address such concerns, including the exchange of information on export values.

The CV Agreement established the Technical Committee on Customs Valuation (TCCV) under the auspices of the WCO. The TCCV has been working to address technical questions

faced by customs authorities in the daily operation of the CV Agreement and set up very comprehensive and detailed guidelines for valuation procedures. The effective work of the TCCV has helped resolve many valuation issues without the need of Members to invoke the WTO dispute settlement procedures. In fact, up to date, no consultations initiated under the Dispute Settlement Understanding have gone into the panel stage.

This Agreement has been successful in that it has provided a uniform methodology to value goods and all Members are applying it, although many developing countries have had difficulty implementing it and are still in the process of improving its application through reforms and modernization of their customs services.

Preshipment inspection

The Agreement on Preshipment Inspection (PSI) came into force in 1995 as a result of the Uruguay Round negotiations, and provides a rule-based code of conduct for the activities of preshipment inspection companies. The Agreement recognizes that some WTO Members may wish to use the services of such private companies to control over- and under-invoicing and fraud, as well as for the control of quality and quantity of imports entering their territories. The Agreement also addresses concerns that such services must be carried out without giving rise to unnecessary delays or unequal treatment.

The Working Party on Preshipment Inspection was established in 1997 to review the operation of the Agreement. It endorsed a proposal by Switzerland which established a model contract which governments could use as a basis in elaborating their own contracts with PSI companies. The working party has been replaced by the Committee on Customs Valuation.

The dispute resolution mechanism – the Independent Review Entity (IE) – was established in 1996 as a subsidiary body of the CTG. This is the mechanism for dispute resolution between exporters and PSI entities for cases involving an alleged violation of the Agreement, where the internal appeals procedure of the PSI entity has failed to resolve the dispute. To date no application for dispute resolution has ever been filed with the IE.

The predominant users of preshipment inspection services are developing countries. As of October 2000, 30 of the 37 countries using preshipment inspection are African Members. The Agreement seems to have worked satisfactorily and has brought about a uniformity in the functioning of PSI companies by providing an institutional framework of rights and obligations, of both user Members and exporter Members.

Agriculture

Contrary to what is sometimes perceived, agriculture was covered under the old GATT. But the disciplines related to agriculture had been rather weak. As a result, trade in many agricultural products was impeded by high tariffs, a host of non-tariff measures and increasing recourse to trade-distorting subsidies.

The implementation of the Uruguay Round results has been a big step forward, including a collective U-turn in the direction agricultural protection and support had been developing. Whoever criticises these results should revisit the literature on the agricultural trade barriers and subsidy wars of the 1970s and 1980s.

Upon entering into effect, the WTO has overseen the implementation of the complex new rules governing trade in agricultural products and of the related specific commitments by Members in the areas of market access, domestic support and export competition. Essentially, this task was carried out by the Committee on Agriculture set up in 1995. Generally, the work of the Committee has greatly contributed to the smooth implementation of the rules and commitments, although in a number of cases Members took recourse to the new dispute settlement procedures.

Furthermore, in accordance with Article 20 of the Agreement on Agriculture, the WTO has launched on schedule negotiations to continue the reform process in line with the agreed long-term objective of substantial progressive reductions in support and protection resulting in fundamental reform.

At the Doha Ministerial Conference, a new and more specific mandate for these negotiations was agreed and they became part of the single undertaking under the Doha Development Agenda. A further important step was the agreement, on 1 August 2004, of a framework for establishing modalities in agriculture. This framework has given further substantive precision to the Doha mandate and is the basis for the negotiations of modalities which are currently under way.

Market access

A key feature of the implementation of the Uruguay Round results has been the changeover from a system where a myriad of non-tariff measures governed access to agricultural markets, to a regime of bound tariff-only protection plus reduction commitments. The key objectives of this fundamental change have been to stimulate investment, production and trade in agriculture by (i) making agricultural market conditions more transparent, predictable and competitive, (ii) establishing or strengthening the link between national and international agricultural markets, and thus (iii) relying more prominently on the market for guiding scarce resources into their most productive uses both within the agricultural sectors and economy-wide.

To achieve these objectives, agriculture-specific non-tariff measures were eliminated or converted into ordinary customs duties ("tariffication"). Quantitative import restrictions, variable levies, minimum import prices, discretionary licensing and similar non-tariff measures are now prohibited, except for measures permitted under the balance of payments provisions of the GATT and other general non-agriculture-specific WTO provisions such as measures in accordance with the Agreement on Technical Barriers to Trade (TBT) and the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS). On average, for all WTO Members, tariffied products account for around one-fifth of all tariff items, but for a number of Members this percentage is substantially higher.

Improvements in market access were achieved by reducing all agricultural tariffs, including those resulting from the tariffication exercise, by an average of 36 per cent over 1995-2000 (developing countries 24 per cent over 1995-2004). Developing countries had the option to offer ceiling bindings for pre-Uruguay Round unbound items instead of tariffication. As in many cases, tariffication resulted in very high or prohibitive tariffs; tariff quotas with relatively low in-quota tariff rates had to be established in order to maintain or expand pre-existing market access opportunities. Tariff quota expansion was implemented in tandem with the tariff reductions. Furthermore, the tariffication package included access to a special agricultural safeguard mechanism for tariffied products so as to smooth the adjustment to the new tariff-only regime.

Moreover, the WTO enhanced predictability and security of market access opportunities. Virtually all agricultural tariffs of all WTO Members have been bound (for once, agriculture is now ahead of non-agricultural goods). The incidence of agricultural tariffs remains nevertheless difficult to assess because many tariffs are bound in non-*ad valorem* terms.

The implementation of the Uruguay Round results also led to progress in reducing tariff escalation. Often this resulted simply from the fact that already prior to the Round, certain agricultural raw materials entered a number of markets duty free. In these cases the tariff cuts agreed upon in the Round had to be made on semi-processed or processed agricultural products and therefore tariff escalation was reduced quasi-automatically. However, the issue was not fully resolved. Tariff escalation continues to exist in a number of product chains such as cocoa, coffee, vegetables, fruits, nuts and oilseeds in a number of markets.

Domestic support

The implementation of the Agreement on Agriculture has fundamentally changed the way domestic support in favour of agricultural producers was treated prior to the WTO. Under the Agreement, a main objective has been to discipline and reduce trade-distorting domestic support while at the same time allowing wide scope for governments to design domestic agricultural policies in the face of, and in response to, the wide variety of specific circumstances in individual countries and individual agricultural sectors, including the achievement of policy objectives related to non-trade concerns such as the need to protect the environment or food security.

The approach that has been implemented has also aimed to help ensure that the specific binding commitments in the areas of market access and export competition are not undermined through domestic support measures. This point is of particular value to developing countries because the domestic support commitments are by nature mainly a discipline targeted at developed countries which can afford high levels of support for their farmers and which, in the absence of such disciplines, could continue to distort competition unabatedly by bringing to bear the financial power of their treasuries.

To achieve its objectives in the area of domestic support, the Agreement on Agriculture has introduced a fundamental distinction between trade-distorting domestic support, on the one hand, ("Amber Box" and "Blue Box") and domestic support measures that do not, or at least minimally, distort trade and production ("Green Box").

WTO Members are free to use or introduce domestic support measures as they see fit as long as these measures have no, or at most minimal, trade-distorting effects or effects

on production (these Green Box measures are defined in Annex 2 to the Agreement on Agriculture). The Green Box offers a wide variety of measures to achieve a wide variety of policy objectives, including public services related to research; pest and disease control and inspection services; training, extension and advisory services; marketing and promotion services; a variety of infrastructural services; as well as food security programmes and domestic food aid. The Green Box also includes, again subject to specific criteria, direct payments to producers, including decoupled income support; income insurance and safety net programmes; natural disaster relief programmes; structural adjustment assistance through producer and resource retirement programmes as well as investment aids; and environmental and regional assistance programmes.

Measures not qualifying under the Green Box criteria are, in principle, considered more than minimally trade-distorting and therefore subject to specific disciplines under the "Amber Box" and the "Blue Box". Amber Box measures include market price support, production subsidies and input subsidies. Amber Box support were in aggregate reduced by 20 per cent over the 1995-2000 implementation period (13.3 per cent over the period 1995-2004 for developing countries).

However, most developing countries have not been affected by the reduction discipline. Least-developed countries were not required to undertake reduction commitments in domestic support, market access or export subsidies (although they have to respect their tariff bindings and the new rules in the three areas). Most other developing countries have been covered by two of the special and differential treatment provisions contained in the Agreement. First, a *de minimis* provision allows developing countries to provide product-specific trade-distorting domestic support up to 10 per cent of the current value of production of the product concerned and general ("non-product-specific") support up to 10 per cent of the current value of total agricultural production (for developed countries the *de minimis* level is 5 per cent). Secondly, in contrast to developed countries, developing countries have not been required to reduce certain measures to encourage agricultural and rural development (investment subsidies generally available to agriculture, input subsidies generally available to low-income or resource poor farmers and domestic support to encourage diversification from growing illicit narcotic crops).

Partially decoupled payments under production-limiting programmes that meet specific criteria set out in the Agreement on Agriculture have also been exempted from reduction commitments. Such "Blue Box" payments, currently used by not more than three WTO Members (counting the EC25 as one; Japan; and Norway), are under the existing provisions not subject to any limit.

The domestic support reduction commitments have been fully implemented by the Members concerned (35 Members counting the EC(15) (i.e. EC and its pre-May 2004 Member States) and Switzerland-Liechtenstein as one). Notifications received to date show that in most cases the WTO ceilings have not been fully utilised. There has also been a shift from Amber Box to Green Box measures – a built-in incentive in the Agreement on Agriculture.

Export competition

Due to rather ineffective GATT disciplines, agricultural export subsidies proliferated in the 1970s and 1980s, and success in international markets of agricultural products became increasingly determined by the financial power and largesse of national treasuries rather than the efficiency and marketing skills of agricultural producers and exporters. Export subsidies also became a factor in depressing, or destabilizing, world market prices for agricultural products. The implementation of the Agreement on Agriculture has begun the process of redressing this situation and in so doing also to improve the international competitiveness of non-subsidisers such as most developing countries and to encourage domestic production in these countries to the extent world prices are allowed to feed through to the farmers.

However, net food-importing developing countries have been concerned that the WTO commitments to reduce export subsidies would result in a sustained increase in world prices for basic foodstuffs such as cereals and thus increase their food import bills. The Ministerial Decision on the Possible Adverse Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries has been a response to these concerns. While a number of developing countries have voiced concerns that the Decision has not been fully implemented, some other Members do not concur.

Special and differential treatment

As noted above, special and differential treatment is an integral element of the implementation of the Agreement on Agriculture. Under the Uruguay Round results,

developing countries had lower or, in case of the least-developed countries, no reduction commitments in the areas of market access, export subsidies and trade-distorting supports and longer time-frames to implement these commitments. Furthermore, in addition to the special and differential treatment provisions referred to in the section on domestic support above, there are also special and differential treatment rules with respect to domestic food aid and public stockholding for food security purposes under the Green Box, certain export subsidies, and in the context of the provisions on export restrictions.

Much remains to be done

The Agreement on Agriculture that emerged from the Uruguay Round and its implementation has not been perfect. For example, despite the progress made:

- (i) for many WTO Members, the average level of bound agricultural tariffs continues to be much higher than that for non-agricultural products;
- (ii) in many cases the dispersion of tariffs across agricultural products continues to be higher than for non-agricultural products;
- (iii) tariff peaks are present in a wide range of WTO Schedules; and
- (iv) while the UR brought progress in reducing tariff escalation, this phenomenon continues to be a feature of many tariff structures (although there are also cases of tariff de-escalation).¹⁴

Likewise, trade-distorting Amber and Blue Box support continues to amount to billions of euros, US dollars, yens etc. And the reductions achieved in the Uruguay Round still have left plenty of room for subsidizing exports in a variety of forms.

The Uruguay Round negotiators accepted that the result of their years of work was only the beginning of the way towards a fair and market-oriented agricultural trading system. They built into the Agreement on Agriculture as Article 20 the requirement to restart negotiations in 2000 with the objective of further substantial progressive reductions in support and protection. Those negotiations have started on schedule and are currently being pursued under the new mandate established in September 2001 at Doha. The latest step has been the agreement, on 1 August 2004, of a framework for negotiating the modalities for further commitments in the areas of market access, domestic support and export competition and related strengthening of the rules of the Agreement on Agriculture.

The framework on agriculture constitutes a major step forward. It fleshes out the Doha mandate by establishing specific objectives for the negotiations on agriculture and the means to achieve them. To translate the framework into fully-fledged modalities will still require a lot of technical work in all three pillars before the options are clear and the hard political bargaining on the reduction figures, implementation periods and other key parameters can begin.

It is worth underlining that the Framework already reflects important movements in positions towards convergence in all three pillars, most notably in export competition. At the same time, the post-July work has made clear that many conflicting concerns and ambitions still persist among WTO Members. These gaps in positions and ambitions will have to be bridged in the course of the work ahead.

Export subsidies

In export competition the framework does contain an important down-payment on the results of the negotiations by including the historic commitment to eliminate all forms of export subsidization at a date certain. The concession to eliminate all scheduled export subsidies is, *inter alia*, conditional on parallel and equivalent commitments with respect to all other forms of export subsidization (i.e. in the areas of officially supported export credits, exporting state trading enterprises and non-genuine food aid).

The greatest challenges for the work ahead appear to be in market access. The framework lays down the basic approach for tariff cutting and a variety of other instruments to improve market access. However, it also includes substantial flexibility and leaves most of the elements unspecified and subject to further negotiation.

A key achievement of the framework is the agreement that the principle of "substantial improvement" in market access will apply for each agricultural product (the Doha mandate only established this principle in general terms). While the framework envisages flexibility for sensitive products, they will also be subject to this principle.

The technical work in Geneva has already touched on a variety of market access issues. The gateway to progress is to agree, in the near future, on a conversion methodology for non-*ad valorem* duties and, subsequently, to submit the *ad valorem* equivalents (AVEs) as soon as possible – without this information it will be extremely difficult to make progress on the tiered formula and related issues, including the issues of sensitive products, SP and SSM.

¹⁴ These observations refer to tariff bindings. It is therefore important to keep in mind that in many developing countries the applied tariffs are frequently lower than the bound tariffs. In developed countries, the gap between bound and applied tariff rates is generally much less significant.

The agenda for the work ahead includes a number of other matters, including the erosion of long-standing preferences (such as ACP sugar), tariff escalation, tariff quota administration and tariff simplification. Overall, there is still a long way to go in fleshing out the market access section of the modalities package.

Obviously, in domestic support as in the other areas, important political decisions are involved. They will have to wait until further intensive technical work has cleared the ground. Key challenges include the development of a tiered formula for substantial reduction of all trade-distorting support, the issue of Blue Box criteria and the review and clarification of the Green Box. In the Green Box context, the framework also refers to non-trade concerns.

Finally, as directed by the August 2004 Decision of the General Council, the trade-related aspects of cotton are taken up as part of the negotiations on the three pillars of market access, domestic support and export competition. While the negotiations are carried out in the Special Session of the Committee on Agriculture, a Sub-Committee on Cotton has been set up to facilitate progress.

Sanitary and phytosanitary measures

The WTO has also overseen the implementation of the Agreement on the Application of Sanitary and Phytosanitary Measures that had been negotiated during the Uruguay Round. The basic aim of the SPS Agreement is to maintain the sovereign right of any government to provide the level of health protection it deems appropriate, but to ensure that this sovereign right is not misused for protectionist purposes and does not result in unnecessary barriers to international trade.

All governments accept the fact that some trade restrictions may be necessary to ensure food safety and animal and plant health protection. However, governments are sometimes pressured to go beyond what is needed for health protection and to use sanitary or phytosanitary restrictions at the border as a disguised measure to shield domestic producers from competition from abroad. Such pressures are likely to increase as other market access barriers are reduced as has been the case in the course of the implementation of the Uruguay Round results on market access. A sanitary or phytosanitary measure which is not genuinely required for health reasons can be a very effective protectionist device, and because of its technical complexity, a particularly deceptive and difficult barrier to challenge.

The SPS Agreement permits governments to adopt, maintain or enforce appropriate sanitary and phytosanitary protection. But the Agreement requires that SPS measures are applied for no other purpose than for ensuring food safety and animal and plant health and it contains provisions to reduce possible arbitrariness of decisions and to encourage consistent decision-making in the area of health protection. For example, the Agreement stipulates that measures to ensure food safety or to protect the health of animals and plants should be based as far as possible on the analysis and assessment of objective and accurate scientific data and clarifies which factors should be taken into account in the assessment of the health risks involved.

The WTO Committee on Sanitary and Phytosanitary Measures administers the implementation of the SPS Agreement. The Committee has been very effective in increasing transparency in this technically very complex area as well as in reducing trade frictions resulting from arbitrary or unjustifiable discrimination between WTO Members where the same conditions prevail or from disguised restrictions on international trade. The SPS Agreement encourages the use of international standards, guidelines or recommendations and in this regard the WTO has closely cooperated with the relevant international standard-setting organizations, particularly the Codex Alimentarius Commission, the World Animal Health Organization and the International Plant Protection Convention. In the course of its work, the SPS Committee has developed and taken a series of decisions to further clarify and refine the provisions of this important WTO agreement. Currently, the Committee conducts a formal review of the operation and implementation of the SPS Agreement – another opportunity to further advance the WTO provisions in this area to the benefit of WTO Members.

The TRIPS Agreement

The WTO broke new ground by incorporating, through the TRIPS Agreement, rules on the protection of intellectual property in the multilateral trading system. This reflected the growing importance of technology and creativity, and the standards of its protection as intellectual property, in the conditions of competition facing countries in an increasingly integrated global economy. Although long-standing, important multilateral conventions already existed, it had become apparent by the mid-1980s that they no longer represented

a functioning international consensus about the extent to which countries should protect the intellectual property of the nationals and companies of other countries, especially in the area of industrial property. Thus, one of the underlying purposes of the TRIPS Agreement is to establish a functioning multilateral rule of law in this respect.

Given the extensive scope and demanding nature of its commitments, implementation of the TRIPS Agreement at the national level has gone as well as could be expected. The WTO has successfully incorporated and handled an extensive new legal system, different in nature in some important respects from that of the GATT. The operation of the dispute settlement system in this area has gone smoothly. While the balance found in the TRIPS Agreement has been criticized from both sides, it remains very much the key set of rights and obligations, and the point of reference for discussions, in intellectual property relations between countries.

Implementation

Implementation by developed countries by 1996 went relatively smoothly (with a few delays). For developing countries, a great deal was done even before 2000, their deadline. However, in a significant proportion of these countries there were still gaps in 2000, especially in some of the less familiar areas of intellectual property (e.g. plant variety protection and integrated circuits) or, in a few cases, due to political difficulties, especially in the patent area. These gaps have now largely been filled. There is, however, a handful of very small countries which still have much to do. LDCs have until 2006 (2016 for pharmaceuticals), with the possibility of an extension.

The TRIPS Council has organized a process of notification and systematic review of implementing legislation on a country-by-country basis. In addition to promoting transparency, this has been an important incentive to implementation and also acted as a dispute forestalling mechanism.

Dispute settlement

The application of the WTO dispute settlement mechanism in the area of intellectual property was bound to be a challenge. It represented the first time that public international law in the area of intellectual property would be subject to a functioning multilateral dispute settlement mechanism and, since the TRIPS Agreement incorporates by reference much of the pre-existing multilateral law in the area of intellectual property, long-standing provisions of treaties might have to be interpreted, often for the first time. Further, it would be important that the WTO trade-based system should show itself capable of the adaptations necessary to handle disputes in the intellectual property area.

So far, the operation of the WTO dispute settlement system in the TRIPS area has gone smoothly. Twenty-five complaints relating to some 20 separate matters have been lodged under the system in the TRIPS area. Panel reports and, where they have been appealed, Appellate Body reports have been adopted in seven cases. In two additional cases, those relating to the EC system for the protection of GIs for agricultural products and foodstuffs, panel reports have been recently circulated. Nine cases have been settled bilaterally. As regards the rest, consultations are still pending or the cases have become inactive. Panel and Appellate Body reports have contributed not only to resolving the disputes in question but also to clarifying some important provisions of the TRIPS Agreement. In most cases, the recommendations in adopted reports and the results of bilateral settlements appear to have been implemented by the Members concerned. In two cases, **US-Copyright Act** and **US-Havana Club**, implementation is still pending.

Most TRIPS complaints have been between developed countries, with seven of the 25 directed at developing country respondents, of which two involved the establishment of panels. While this concentration on complaints involving developed country practices was not unexpected prior to the 2000 deadline for implementation by developing countries, we have not seen, so far, any large-scale recourse to dispute settlement against developing countries after this date. In fact, since that time, there have only been two complaints filed concerning developing country implementation, both in 2000 and both settled bilaterally. The preference has been to address developing country implementation problems through the review process, informal bilateral discussion and the provision of technical assistance.

To date, there have been no case of a Member obtaining authority to retaliate in response to the failure of another Member to comply with its TRIPS obligations. There has been only one instance of authorized cross-retaliation so far under the whole WTO dispute settlement system. This involved TRIPS, but in the sense of enabling a developing country to use withdrawal of its TRIPS obligations as a means of putting pressure on a developed country Member to comply with its GATT obligations.¹⁵

¹⁵ This was the authority given to Ecuador not to apply certain obligations on intellectual property matters relating to the protection of performers, producers of sound recordings, broadcasting organizations, industrial designs and geographical indications, in response to a failure of the European Communities to bring its banana regime into compliance with its GATT obligations.

Developments in the Agreement

Instruments have been agreed regarding the interpretation and application of the substantive provisions of the Agreement in one area, that of TRIPS and Public Health. The Doha Declaration on the TRIPS Agreement and Public Health contains important understandings on how the Agreement should be interpreted and applied. As called for by the Doha Declaration, Members adopted in August 2003 a waiver Decision providing additional flexibility, so as to enable countries with insufficient domestic manufacturing capacity to make effective use of compulsory licensing.

The TRIPS Council has not yet established a multilateral system of notification and registration of geographical indications for wines, as called for by Article 23.4. This is under negotiation in the Doha Round (where the mandate also covers spirits).

Other important issues under discussion but without substantive agreement as yet include:

- review of Article 27.3(b);
- relation between the TRIPS Agreement and the Convention on Biological Diversity;
- protection of traditional knowledge and folklore;
- extension of the higher level of protection of geographical indications to products other than wines and spirits.

As regards the applicability of non-violation and situation complaints in the TRIPS area, the moratorium in the TRIPS Agreement has been successively prolonged, now to the WTO Ministerial Conference to be held in Hong Kong in December 2005.

Cooperation with WIPO and other IGOs

A cooperation agreement between the World Intellectual Property Organization (WIPO) and WTO, as called for by the TRIPS Agreement, came into effect in 1996, including in regard to notifications and technical cooperation. The two organizations have excellent relations and work in a mutually supportive way. The WTO also cooperates with other intergovernmental organizations, including the World Health Organization (WHO), International Union for Protection of Varieties of Plants (UPOV), Food and Agriculture Organization (FAO), World Customs Organization (WCO), Convention on Biological Diversity (CBD) on TRIPS matters.

Technical assistance

A great deal of TRIPS-related technical assistance has been made available, mostly by WIPO, other IGOs and bilaterally. The WTO Secretariat has also made a significant contribution. The TRIPS Council monitors these activities.

Transfer of technologies to least-developed countries

The TRIPS Council established in 2003 a procedure for the systematic monitoring of compliance by developed countries with the obligation in Article 66.2 to provide incentives to promote the transfer to technology to LDCs.

The balance in the TRIPS Agreement

While it is generally recognized that the TRIPS Agreement provides considerable flexibility to enable Members to fine tune the balance in the intellectual property system in the light of domestic needs and circumstances, there has been a great deal of discussion in the WTO, other IGOs, NGOs and academia about whether this is sufficient. This is perhaps inevitable to some degree given the nature of the issue, but has perhaps been particularly intense in the light of the HIV/AIDS crisis and the growth of anti-globalization sentiments in certain quarters.

Over the last decade the balance struck in the TRIPS Agreement has been criticized from both sides:

On the one hand, it has not been accepted by all developed countries as necessarily providing for adequate and effective protection of their intellectual property and there has been a continuing effort in some such quarters to get trading partners to provide enhanced protection in important respects. While the TRIPS Agreement makes it clear that Members are not obliged to implement more extensive protection, it does not prevent them from doing so. Quite a number have agreed with their partners to go down this road in the context of bilateral and regional trade agreements, which are becoming increasingly widespread.

On the other hand, there have been proposals to improve the balance in the Agreement from the perspective of developing countries. Each of the three major IP

initiatives that have been taken up in the WTO over the last decade reflect in some measure this type of concern – TRIPS and public health (where some clarification and modification was agreed), biotechnology/biodiversity/traditional knowledge and geographical indications (GIs).

WTO dispute settlement

The WTO dispute settlement system has been widely acclaimed as one of the most important components of the WTO. It offers a process of binding adjudication where all WTO Members can litigate their differences in a relatively timely and efficient manner. The system has gained the confidence of all WTO Members, both developed and developing, and over 55 different Members, both developed and developing, have litigated cases under the system.

The institutional machinery of the new system has been put in place and runs relatively smoothly – including the creation of the Dispute Settlement Body, the Appellate Body and Appellate Body Secretariat, and the Dispute Settlement Registry.

The system has proved itself capable of processing a large number of cases, including many simultaneously. Over 120 panels have been established and 60 appeals processed in the first ten years. Up to twenty panels have operated simultaneously in the system, and up to four appeals have been before the Appellate Body at one time. Despite this large volume of litigation, panels have generally been able to provide their final reports to parties within nine months, and the Appellate Body has generally been able to complete appeals within three months, as envisaged by the Dispute Settlement Understanding (DSU).

Thanks to strict adherence by participants in the system (panellists, experts, Appellate Body members, Secretariat staff) to the Member-adopted Rules of Conduct, the process has been conducted with impartiality and independence. The integrity of the system has never been compromised nor challenged, even when Members may have disagreed with the decisions or jurisprudence emanating from the system.

In respect of all 83 panel reports and 56 appellate reports adopted to date, the losing party has never failed to commit itself to implementing the rulings and recommendations set forth. With a few exceptions, the overall compliance record by Members has been remarkably good.

Challenges

The complexity and costs of litigation under the system have proven higher than anticipated. This may have made the system less accessible to certain developing countries. Although the overall compliance record has been good, in at least 15 cases retaliation has been authorized due to lack of compliance and several cases are still awaiting compliance by the losing party. Public understanding of the system has not been adequate, which may have led to more criticism of the system by the public at large than is warranted.

Ten years of WTO dispute settlement proceedings

The Dispute Settlement Mechanism, set up in 1995, is often cited as one of the major achievements of the multilateral rules-based system. Although Members may point to specific improvements that could be made to the dispute settlement mechanism, they generally consider that the system has functioned well.

The WTO dispute settlement system offers a process of binding adjudication where all WTO sovereign Members are equal in a rules-based system. In itself the existence of a binding and automatic dispute settlement mechanism for sovereign states in the WTO is an achievement. The number of cases brought before the dispute settlement mechanism has continued to increase. Between 1 January 1995 and 31 December 2004, 324 complaints have been filed with the Dispute Settlement Body (DSB), of which 159 have resulted in panels.

Users of the dispute settlement system

Among the ten biggest users of the dispute settlement system at least half are developing countries. Panel reports have been circulated in one-third of cases, and 75% of the panel reports have been appealed. Approximately two-thirds of the disputes are brought to the DSB by industrialized countries, and one-third by developing countries. The main users of the WTO dispute settlement mechanism, are in order of importance: the USA, the EC, Canada, Brazil, India, Mexico, Japan, Korea, Thailand and Argentina/Chile.

The United States has brought 80 complaints and has been respondent in 88; the EC has brought 68 complaints and been respondent in 51; Canada has been involved in 26 cases

as complainant and 13 as respondent; and Japan has been complainant in 12 cases and respondent in 14. Approximately 17% of the cases have occurred between the two largest users, the United States and the EC.

Among developing countries, the largest users continue to be Brazil (22 cases as complainant and 12 as respondent), India (16 cases as complainant and 17 as respondent), and Argentina (9 and 15 cases, respectively, as complainant and respondent).

Least-developed countries

The Least-developed Countries (LDCs) have, in general, not used the dispute settlement mechanism although a number have participated as third parties in disputes¹⁶; in addition, Bangladesh was the first LDC to request consultations under the mechanism in January 2004.¹⁷ It is an achievement to have available such a mechanism where small countries have an automatic right to initiate dispute proceedings against any powerful Members that it considers to be acting contrary to its WTO obligation.

The costs of the WTO dispute settlement proceedings can however act as a deterrent for developing countries' limited capacities. Assistance is being provided to LDCs that do wish to use the mechanism, notably through the Advisory Centre on WTO Law (ACWL). The ACWL was formed in October 2001 to help developing, and especially LDC Members, to make more effective use of the WTO's dispute settlement mechanism; all countries designated by the United Nations as least developed that are Members of the WTO are entitled to its services for a modest fee.

Types of disputes brought to the WTO

The DSU now allows for Members to challenge several measures and to file complaints under several WTO agreements in a single dispute proceeding. This allows Members to address all or several aspects of larger disputes and as such facilitate a more comprehensive settlement of disputes. On the other hand, such cases tend to impose an enormous workload on developing and developed WTO Members.

The main areas of complaint¹⁸ have been: GATT 1994 (230 requests of which 89 have been on national treatment, 80 on MFN treatment and 71 on quantitative restrictions)¹⁹, subsidies (57), agriculture (52) and anti-dumping (54). In fact more than 50% of the disputes concern trade remedies disputes.

Number of panel and Appellate Body reports circulated

Of the cases that go through WTO dispute settlement procedures, a large number tend to be resolved through bilateral consultations between the Members. For those cases that go beyond consultations to formal panels the majority go to the appeal stage.

The DSU also favours the grouping of states and this has allowed several WTO Members to join in and coordinate and collaborate to challenge together measures of other WTO Members considered WTO inconsistent. For instance on numerous occasions the EC and the US have initiated disputes jointly with other Members. This has allowed less experienced Members to develop expertise and benefit from the collaboration with co-complainants during the proceedings. Eighty-three panel reports and 56 appellate reports have been adopted by the DSB.

Implementation and compliance

Members have, in general, implemented the recommendations and rulings made by panels and by the Appellate Body in the "reasonable period of time" determined under Article 21.3 of the DSU. This is an achievement and a success; the WTO Members believe in the WTO dispute settlement system and respect it.

It is disappointing that compliance is sometimes slow to come and very difficult to induce through sanctions. In cases where Members have failed to agree through consultations on implementation of the DSB's recommendations and rulings, recourse to the dispute settlement procedures under the compliance review procedure of the Dispute Settlement Understanding (Art. 21.5 of the DSU) has been sought.

It is an achievement, especially for weaker Members, to be able to rely on a dispute settlement system which prohibits any form of unilateral action by Members, as only the DSB is entitled to reach the conclusion that a Member's measure (or an implementing measure) is WTO inconsistent. In this sense, the procedures of the DSU now regulate and limit the exercise of sanctions and countervailing measures of all WTO Members.

However, in a few cases under the DSU, compliance by Members has been contested and has resulted in authorization by the DSB to suspend concessions and obligations against the

¹⁶ Least-developed countries that have participated in disputes as third parties include Bangladesh, Benin, Chad, Madagascar, Malawi, Senegal and Tanzania.

¹⁷ Bangladesh requested consultations with India on 28 January 2004 regarding the latter's imposition of anti-dumping duties on imports of lead acid batteries from Bangladesh (WTO document WT/DS306/1, 2 February 2004); in February 2004, the EC requested to join these consultations (WTO document WT/DS306/2, 16 February 2004).

¹⁸ Based on 315 cases (as at 30 September 2004).

¹⁹ There is some double counting as some of the cases brought under Article III of the GATT 1994 are also brought under Article I.

non-complying Member (authorization to the winning Member to exercise countermeasures against the losing Member). The cases that have resulted in such an authorization since the formation of the WTO are:

EC ban on meat and meat products (complaints by the United States and Canada) *EC-Hormones*

EC banana regime (complaints by the United States and Ecuador) *EC-Bananas III*

Brazil export financing for aircraft (complaint by Canada) *Brazil-Aircraft*

United States Foreign Sales Corporations (FSCs) (complaint by the EC) *US-FSC*

Canada export credits and loan guarantees for aircraft (complaint by Brazil)

Canada-Aircraft Credits and Guarantees

United States 1916 Anti-Dumping Act (complaint by the EC) *US-1916 ACT*

United States Offset Act (Byrd Amendment) (complaints by Brazil, Canada, Chile, EC, India, Japan, Korea and Mexico) *US-Offset Act (Byrd Amendment)*

In the *EC-Bananas III* dispute, Ecuador decided not to retaliate, because of a change in the EC banana import regime. In the case of the *US-1916 Act*, an arbitration decision was circulated on 24 February 2004 although the EC has not as yet requested authorization to suspend concessions and obligations.²⁰ In the case of the *US-FSC* dispute, the EC suspended concessions and obligations on 1 March 2004 on a number of products imported from the United States. In November 2004 the US adopted an implementation act which according to the US would be compatible with its WTO obligations. In November 2004, the EC had also initiated the compliance review procedure of the Dispute Settlement Understanding (Art. 21.5 of the DSU) alleging that aspects of the US Implementation package did not comply with the WTO Agreement. In January 2005 the EC Council announced its intention to remove its increased tariffs. WTO countermeasures and sanctions may however have very detrimental effects on economic actors not involved in the specific disputes and partners.

Finally one should note the novelty and impact of the possibility offered by the DSU for WTO Members to use cross-retaliation, that is to impose counter-measures in other sectors or under other agreements. In the famous *EC – Bananas III* dispute, Ecuador was authorized by the DSB to use cross-retaliation against imports from the EC but the dispute was resolved amicably without the need to resort to the use of countermeasures.

The Dispute Settlement Understanding exercise

The DSU negotiations have confirmed Members' overall sense that the system has worked well. In this respect, the Consultative Board's²¹ main recommendation of "Do no harm" very much echoes the sentiment expressed by many Members in these negotiations. While this is of course a very positive assessment of the DSU as it stands, it also makes it difficult to agree on any change, even when such changes could genuinely lead to improvements or clarifications.

Aside from some significant but quite technical issues such as the grant of a remand authority to the Appellate Body, some issues stand out, in particular access to the system for developing countries and the difficulties in inducing compliance in some cases.

Finally, on the issue of increased transparency and access to the proceedings by civil society (through amicus curiae briefs or open hearings), which the Consultative Board highlights as an area for potential improvement, no visible progress has been made so far in the negotiations. This is an issue which perhaps affects the external visibility and image of the organization, more than the functioning of the dispute settlement system itself.

²⁰ WTO document WT/DS136/ARB, 24 February 2004. The United States notified the Secretariat that it was working continuously with the United States Congress to enact legislation and would confer with the EC and Japan to reach a mutually satisfactory resolution of the matter (WTO document, WT/DS/136/14/Add.26, 7 May 2004). In a subsequent notification, the United States notified the Secretariat that it had urged the U.S. House of Representatives to support legislation to repeal the 1916 Act at the earliest opportunity (WTO document WT/DS136/14/Add.28, 9 July 2004).

²¹ WTO Director-General's Consultative Board report "The Future of the WTO", 7 January, 2005.

The WTO Appellate Body

The establishment of a standing Appellate Body was one of the most important changes to the GATT/WTO dispute settlement system, resulting from the 1986-1993 Uruguay Round. The Appellate Body consists of seven persons, retained on a part-time basis, and hears appeals from decisions by WTO Panels.²² Within the design of the improved dispute settlement procedures, the creation of the right to appeal against first-instance panel reports was intended to balance the greater "automaticity" in the panel proceedings, in particular the quasi-automatic adoption of panel reports by the Dispute Settlement Body (the "DSB"). In addition, the Appellate Body, as a standing, quasi-judicial dispute settlement organ, is entrusted with ensuring uniformity and coherence in the case law, so as to further the goal of security and predictability enshrined in the *Understanding on Rules and Procedures Governing the Settlement of Disputes* (the "DSU").

²² Over the course of the past ten years, fourteen individuals – thirteen men and one woman – have served or continue to serve on the Appellate Body.

The right to appellate review in an international dispute settlement mechanism was, at the time of the conclusion of the Uruguay Round, a relative novelty. At that time, very few international dispute settlement mechanisms provided for the possibility to appeal from decisions of first-instance organs. Ten years later, there is arguably a trend – in a number of regional integration agreements and other international dispute settlement fora – to provide for – or at least to consider – the possibility of appeal.²³ In this context, the experience of the Appellate Body, and its contribution to the functioning WTO system, are oftentimes referred to as a guiding example.

In its ten years of existence, the Appellate Body has issued 64 reports and, as of 31 January 2005, was seized with four pending appeals.²⁴ This body of work, both in its entirety as well as broken down into annual average figures, is much higher than that of most international tribunals or quasi-judicial bodies, some of which have been in existence significantly longer than the Appellate Body. This active recourse to Appellate Body procedures demonstrates, *inter alia*, the high level of confidence that WTO Members have placed, and continue to place, in the Appellate Body.

Since 1995, the Appellate Body's case-load has covered a wide and impressive array of subject areas, including agriculture, sanitary and phytosanitary measures, textiles, technical barriers to trade, anti-dumping and countervailing duties, safeguards, domestic and export subsidies, trade in services, and intellectual property rights. In addition, the Appellate Body has clarified many provisions of the DSU related to the conduct of panel and Appellate Body proceedings; in so doing, the Appellate Body has addressed issues such as standing and legal interest, terms of reference of panels, due process requirements, and rights of third parties. For a dispute settlement institution in existence only ten years, this is an impressive and varied body of legal findings. Moreover, as the recent Report by the Consultative Board to the Director-General, *The Future of the WTO*, noted, "[t]here is no doubt that this jurisprudence will have an effect on general international law broader than the borderlines of the WTO system".²⁵ Indeed, some regional (trade) dispute settlement fora refer to Appellate Body findings in their own decision-making.

The percentage of panel reports appealed has fluctuated over the years, but has averaged at about 70 per cent and so far has never gone below 50 per cent. Over the last two years, the percentage of panel reports appealed has shown an increasing trend and stood at 75 per cent for 2004. Again, this relatively high figure would appear to indicate the WTO Members' confidence in the Appellate Body, in its role to provide high-quality review of panel reports, and to ensure uniformity and coherence, as well as security and predictability, in the WTO dispute settlement system.

Participants in proceedings

As of the end of January 2005, 30 WTO Members²⁶ – that is, more than one fifth of the WTO membership²⁷ – have appeared as a main party in proceedings before the Appellate Body since its establishment in 1995. Twenty-two of these 30 Members have acted as appellant, other appellant, and appellee. Furthermore, 22 of these 30 WTO Members are developing-country Members; in other words, almost 75 per cent of the WTO Members that have appeared before the Appellate Body as either appellant, other appellant, or appellee are developing-country Members.

If we include those Members that have appeared as third participants, the total number of WTO Members that have participated in proceedings before the Appellate Body, either as appellant, other appellant, appellee, or third participant, rises to 67, that is, almost half of the entire WTO membership!²⁸ Fifty-nine of these 67 WTO Members (or 88 per cent) are developing countries.

Thus a very significant proportion of the WTO Membership has availed itself of the possibility to participate in proceedings before the Appellate Body. Such a high rate of participation arguably signals high interest on the part of the WTO Members in dispute settlement and, in particular, appellate proceedings. One may also argue that, in the light of the significant level of participation, proceedings before the Appellate Body have much contributed to the internal transparency and legitimacy of dispute settlement proceedings within the WTO Membership.

The Appellate Body has, over the past ten years, strictly adhered to the time limits for appellate proceedings, as set forth in the DSU. According to Article 17.5 of the DSU, appellate proceedings shall not exceed 90 days from the date of the filing of the notice of appeal. Over the past ten years, the Appellate Body has worked diligently to ensure circulation of its reports within this specified time limit and was successful in doing so in all but four cases.

This strict adherence to a relatively tight deadline – unusual for an appellate (quasi-) tribunal – is most certainly a noteworthy achievement, given that many appeals involve

²³Examples include MERCOSUR, the current Free Trade Area of the Americas negotiations, and the International Centre for the Settlement of Investment Disputes

²⁴Eight of these 64 reports resulted from appellate proceedings in compliance proceedings pursuant to Article 21.5 of the DSU.

²⁵Report by the Consultative Board to the Director-General, *The Future of the WTO*, p. 51.

²⁶The European Communities is counted as one WTO Member, not as the sum of its Member States who are also WTO Members in their own right.

²⁷As of January 2005, the WTO counted 148 Members.

²⁸If the European Communities is counted not as one Member, but rather as 25 Members, the total number of WTO Members that have appeared before the Appellate Body rises to 91, that is, more than 60 per cent of the entire WTO membership.

numerous and complex questions of law, and that in a high proportion of appeals a “cross-appeal” was filed. It must also be kept in mind that the Appellate Body, at various points over the past ten years, has had to deal with up to four appeals simultaneously, and that a portion of the 90-day period has generally been set aside for translation of the Report into all three WTO official languages. Moreover, as evidenced by the respect for the Appellate Body’s work, the time constraints under which the Appellate Body has to operate have not affected the quality of its legal analysis.

The Appellate Body has been making its decisions by consensus

Rule 3.2 of the *Working Procedures* stipulates that the Appellate Body and its divisions “shall make every effort to take their decisions by consensus”. Where no consensus is reached, the matter is to be decided by a majority vote. Moreover, individual Appellate Body members may express individual opinions, albeit anonymously, pursuant to Article 17.11 of the DSU.

Despite the high number of appeals decided, and despite the oftentimes difficult legal questions raised by these cases, the Appellate Body has, in all but one instance, taken its decisions by consensus. In that one instance, a division member expressed an anonymous concurrent opinion. This broad consensus underpinning the findings of the Appellate Body is a remarkable achievement. After all, many appeals involve complex questions, and the seven Appellate Body members originate from different legal traditions and have diverse professional backgrounds. This high degree of consensus behind the Appellate Body’s findings provides the WTO system with clear pronouncements on the legal issues raised on appeal, and adds to the security and predictability of the international trading system, as envisaged by the DSU.

Unlike panels that adopt their working procedures on a case-by-case basis, the Appellate Body has permanent *Working Procedures*. Pursuant to Article 17.9 of the DSU, these *Working Procedures* shall be drawn up by the Appellate Body itself, in consultation with the Chairman of the DSB and the Director-General. The *Working Procedures* address issues such as duties and responsibilities of Appellate Body members as well as the details of the conduct of appellate proceedings.

The experience of the Appellate Body with its *Working Procedures* has been overwhelmingly positive. The already impressive case-load of the Appellate Body over the past ten years has not revealed any major shortcomings or gaps in the *Working Procedures*. The Appellate Body modified the *Working Procedures* on several occasions; the two most recent changes, in 2003 and 2004 respectively, concerned issues such as the participation of third participants in the oral hearings, amendments to notices of appeal, the timing of the oral hearing, clerical changes to written submissions, and the requirements for filing an “other” appeal. The modifications do not fundamentally change the original version of the *Working Procedures*, but rather reflect a natural and on-going adjustment process in the light of the rich and varied experience generated by the Appellate Body’s work.

Over the past ten years, the Appellate Body has earned the respect of WTO Members, as well as of impartial observers in the broader trading community and academia, for the quality of the legal analysis in its reports, as well as for its undisputed and unflinching impartiality and professionalism. This is undoubtedly due, in a large measure, to the fact that leading legal minds have been appointed to serve on the Appellate Body, assisted by a dedicated Appellate Body Secretariat.

Acceptance of Appellate Body findings

WTO Members have shown a very high degree of acceptance of Appellate Body findings. That is not to say that all WTO Members have at all times promptly implemented the recommendations and rulings of the DSB made at the recommendation of the Appellate Body, or that individual Members who have lost appeals have not criticized certain results from time to time. However, no WTO Member has hitherto failed to agree, or failed to express its intention, to bring its measures into conformity in the light of recommendations and rulings of the DSB made at the recommendation of the Appellate Body. Similarly, in the current DSU review process, no WTO Member has suggested that the Appellate Body should discontinue its work, or indeed change its procedures in any fundamental way. Rather, on the contrary, as already mentioned, there are those who consider modelling other dispute settlement mechanisms after the WTO dispute settlement system including the Appellate Body – witness for instance the draft agreement for the establishment of a Free Trade Area of the Americas.

Equally, in the broader trade policy community, as well as in academia, Appellate Body reports are generally appreciated for the high-quality legal analysis and are considered important contributions to maintaining the intellectual coherence and predictability of the

global trading system. That is not to say that individual reports or findings are not intensely discussed and occasionally criticized. Indeed, to an important extent, discussions and criticisms by impartial commentators – those not constrained by affiliations with particular interest groups – are a positive sign that reflects the relevance of the work of the Appellate Body for the global trading system as a whole. At the same time, the recent Report by the Consultative Board to the Director-General, "The Future of the WTO", noted, "[i]t is not always clear that some of the harshest critics of WTO jurisprudence, many of whom have advocacy roles related to a variety of special interests, have the best interests of the overall WTO system in mind."²⁹

Despite the many challenges facing a (quasi)-judicial institution at the outset of its existence within an organization of almost universal membership, the Appellate Body has, over the first ten years of its existence, created an impressive, high-quality body of case law, thereby contributing to the functioning, security and predictability of the multilateral trading system.

Rules

The areas dealt with under Rules include subsidies, safeguards and anti-dumping. Rules have been a crucial part of the multilateral system since its first implementation under the GATT.

Work over the last decade has included:

- Monitoring and assisting in the smooth implementation by Members, and especially new and developing Members, of their obligations under the Uruguay Round agreements relating to Rules, including:
 - notifications of new or amended trade remedy legislation and measures
 - multilateral reviews of trade remedy legislations and measures
 - technical assistance

This has been an important achievement of the WTO because the present system is much more efficient in monitoring and to some extent influencing Members' implementation policies than was the old GATT.

- Effective operation of the dispute settlement mechanism in the Rules area: helping Members resolve differences concerning the understanding and application of the Uruguay Round agreements in this area. The WTO dispute settlement system has been the most important achievement of the WTO in particular in the Rules area where its contribution to clarifying and interpreting the texts (often deliberately ambiguous) cannot be underestimated
- Conduct of technical assistance, assisting particularly new and developing Members in understanding their rights and obligations under the Uruguay Round Agreements in the Rules area –
 - hands-on assistance in drafting legal instruments necessary to implement the Agreements
 - assistance in establishing and making operational national mechanisms to enable domestic authorities to exercise rights under the Agreements

The nature of technical assistance provided by the WTO in the Rules areas has changed remarkably over the past ten years: it is now very hands-on and generally recognized by the recipients as the most competent and professional compared to all other sources of technical assistance.

- Launching and moving forward negotiations in the Rules area – to clarify and improve aspects of certain of the Uruguay Round agreements, in the area of fisheries subsidies, with potential benefits for trade and sustainable development. WTO dispute settlement cannot resolve all problems encountered by Members in the implementation and application of the Rules agreements. This is why it is very important to have the Rules negotiations as an integral part of the Doha Round (which was not so obvious in the preparation process).

Challenges

Failure to achieve the full degree of transparency in the subsidies area envisioned by the Subsidies and Countervailing Measures (SCM) Agreement, due primarily to the unwillingness of Members to be forthcoming in terms of the completeness and thoroughness of their subsidy notifications.

²⁹Report by the Consultative Board to the Director-General, "The Future of the WTO", p. 55.

The Trade Policy Review Mechanism (TPRM) has shown solid progress during the first ten years of the WTO but the performance on Regional Trade Agreements (RTAs) has been less than stellar, although there is now a real possibility of improvement.

Trade policy reviews

The TPRM was provisionally established in the GATT in 1989, following the Mid-Term Review of the Uruguay Round, and became a permanent instrument of the WTO with the signing of the Final Act in Marrakesh. The objectives of the Mechanism are laid out in Annex 3 to the WTO Agreement:

“to contribute to improved adherence by all Members to rules, disciplines and commitments made under the Multilateral Trade Agreements and, where applicable, the Plurilateral Trade Agreements, and hence to the smoother functioning of the multilateral trading system, by achieving greater transparency in, and understanding of, the trade policies of Members”.

Reviews have gone from being a “burden” to being “demand-driven”. Initially, the larger Members thought their policies already well-known and sufficiently often discussed, e.g. in the General Council; as such, putting together the needed information for a review was felt to be almost a distraction from more important work, not really worth the effort. The smaller, especially lesser-developed, Members saw reviews, by and large, as being beyond their resource capabilities. Now, a significant number of Members request reviews and/or accept any delay in the normal scheduling of reviews with little grace, such that the Secretariat’s resources are no longer sufficient to the need expressed by Members for reviews. Essentially, the reasons for this change in attitude are:

the Secretariat reports, although comprehensive, have become more focused and analytic, with the Member’s report as a complementary, rather than competing, document. In consequence, the Member under review learns more about its own measures, the Membership gets a more complete picture of the Member’s policies, options and challenges and the potential for discussion has improved; the Secretariat has become more efficient in collecting information for the reports, reducing the demands on the authorities; and for the lesser-developed Members the review preparations have taken on much more of a capacity-building and technical-assistance dimension. As a result, the Member learns more about the economics of the WTO and in this context looks increasingly to the Secretariat for an audit of its policies.

Nevertheless, there is still a long way to go. In particular, the discussion among Members during a review remains weak. Also, for the lesser-developed, the linkages to the WTO’s technical assistance programme should be improved, as should the “tie-in” with the Integrated Framework. Further, attempts could be made to place more emphasis on the “follow-up” of reviews, bring the results to the national press, NGO and academic community, and seeking, together with the authorities, a broader understanding of the implications of trade and related policies, e.g. on competition, investment, the environment, health.

Regional trade agreements

The Committee on Regional Trade Agreements (CRTA) was established in February 1996 to facilitate the work of Members in coming to findings on the WTO conformity of RTAs. It has not worked: since its inception the CRTA has failed to adopt a report. The reasons are various but essentially the adoption of a report is a matter of agreement on terms such as “substantially all trade” in GATT Article XXIV. This is only the most obvious of the stumbling blocks.

The WTO is thus without effective surveillance of RTAs. In the meantime their number has grown and they present a risk to the multilateral system.

The risk is increasingly well recognized. In the DDA it would appear that Members are ready to take the first steps towards addressing the situation. Members are moving towards an agreement that would significantly improve transparency with respect to RTAs – concurrently revitalizing the work of the CRTA: it is envisaged that future consideration of RTAs will be based on reports by the Secretariat. It is hoped that this will have both a “learning effect”, with Members coming to a pragmatic recognition that, for example, “substantially all trade” really means “all trade” if the risk of net trade diversion is

to be minimized and the whole system is to benefit – and a “moral suasion” effect – with RTA members then unilaterally moving to improve their RTAs to the benefit of the system.

Work in the DDA also offers some hope for progress on systemic issues, although it is still too early to know the direction and scope of such progress.

Trade and environment

The WTO Committee on Trade and Environment was created with the establishment of the WTO itself. The Committee was given a fairly broad remit that allowed it to explore virtually all aspects of the trade and environment relationship. While the CTE has often fallen victim to high expectations, it has today succeeded in establishing itself as an indispensable forum on the trade and environment policy interface. The reasons for this are as follows.

In being the only standing committee that is dedicated to inter-governmental dialogue on trade and environment, the CTE has no parallels in other fora. Neither in the Commission on Sustainable Development, the United Nations Environment Program, nor in MEAs, is there a permanent platform for trade and environment discussions. Furthermore, in MEAs, multilateral environmental policy with a bearing on trade is only addressed on a issue-by-issue basis, in the MEA under which the specific issue falls. The CTE has the flexibility to address absolutely any issue relevant to trade and environment, with an ability to shift from a discussion on trade and biodiversity or climate change to one on environmental requirements and market access in the same meeting.

While very useful policy direction has been given to the trade and environment debate by UNEP’s Governing Council, the CTE is not only a political body, but also a working group. In the CTE, WTO Members can, and have, gone down to the very details of those subjects that make up the trade and environment debate. The CTE’s 1996 *Report to the WTO’s Singapore Ministerial Conference* reflected the result of the first multilateral debate that the international community was able to have in this important area of policy interface.

For many, the CTE has disappointed because, as they have argued, it has often settled for the lowest common denominator on which the international community could agree. Those who make these claims point to the failure of the CTE to recommend any changes to the rules of the multilateral trading system.

Because the WTO operates by consensus, this has meant that all issues addressed by the CTE have had to be addressed to the satisfaction of all. However, the mere existence of the CTE – more specifically, its permanent or standing nature – has ensured engagement by the international community as a whole. In the CTE, the international community finds itself obligated to discuss the impact of trade policy on the environment, and of environmental policy on trade. Under the Doha Development Agenda, the CTE has been working on identifying the situations in which the removal of trade distortions and restrictions would benefit trade, environment and development – could lead to “win-win-win” situations – notably in agriculture, energy, fisheries and forestry sectors.

Moreover, while the CTE has not recommended any changes to the rules of the multilateral trading system, its work did lead to the first ever set of “environment” negotiations in the history of the GATT/WTO. A number of trade and environment issues are now key components of the Doha Round.

Ensuring an efficient allocation of resources on a global scale

In 1992, the principal recommendation of the Rio Earth Summit to the multilateral trading system had been to complete the Uruguay Round. Ten years later, the World Summit on Sustainable Development called on the WTO to complete the Doha Round. These recommendations have been premised on two very important notions: one, that trade liberalization leads to a more efficient allocation of resources; and, two, that trade liberalization has the capacity to generate the income growth that developing countries need to protect their environment. In the words of Gro Harlem Brundtland, it can combat the “pollution of poverty.” As the World Commission on Environment and Development had stated in 1987, “poverty reduces people’s capacity to use resources in a sustainable manner,” intensifying pressure on the environment. In contributing to lifting developing and least-developed countries out of poverty, and allocating resources – natural and otherwise – more efficiently worldwide, the Doha Round is likely to deliver important benefits for the environment.

Affirming the importance of multilateral environmental cooperation

Much discussion at the international level has taken place on the role of trade policy in addressing transboundary and global environmental problems. In 1992, Principle 12 of the Rio Earth Summit affirmed that:

“Trade policy measures for environmental purposes should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade. Unilateral actions to deal with environmental challenges outside the jurisdiction of the importing country should be avoided. Environmental problems should, as far as possible, be based on an international consensus.”

Consistently with Principle 12, the WTO succeeded in 1996 in affirming the importance of multilateral cooperation in the environmental sphere. More specifically, the WTO’s Committee on Trade and Environment stated that: “the WTO endorses and supports multilateral solutions based on international cooperation and consensus as the best and most effective way for governments to tackle environmental problems of a transboundary or global nature.” In addition, the WTO went as far as to acknowledge that while trade restrictions are not the only, nor necessarily the most effective, policy instrument to use in multilateral environmental agreements, in certain cases they *can play* an important role. The endorsement by the WTO of multilateral solutions to environmental problems represented an important achievement for the international community, in that the WTO supported international cooperation for the pursuit of international environmental goals.

In addition, as part of the environmental package of the Doha Round, governments have agreed to launch new negotiations on the relationship between WTO rules and MEAs to ensure their mutual supportiveness. Regardless of what the outcome of these negotiations will be, they have already succeeded in putting the spotlight on the need for coherence and consistency between different bodies of international law. In so doing, they have led, and are leading every day, to much greater coordination between the trade and environmental communities. Whereas trade fora were the exclusive preserve of trade officials, and environmental the exclusive preserve of environmental officials only a decade ago, today it is possible to see environmental officials in WTO meetings, and trade officials in MEAs. It is only through more effective national and international coordination within and between governments and institutions, that real mutual supportiveness between different bodies of law can be achieved.

One of the explicit ways in which the WTO has lent its support for multilateral solutions to global environmental problems was witnessed in the *Shrimp/Turtle* case. In a dispute that pitted the United States against four Asian nations – India, Thailand, Pakistan and Malaysia, on a trade measure enacted by the US with the aim of sea turtle conservation, the WTO recommended that the US pursue a cooperative, multilateral, environmental approach. Consistently with Principle 12 of the Rio Declaration, the Appellate Body wrote that the conservation of highly migratory species of sea turtles demanded “concerted and cooperative efforts on the part of the many countries whose waters are traversed in the course of recurrent sea turtle migrations.”

It was as a result of this ruling that a Memorandum of Understanding on the Conservation and Management of Marine Turtles and their Habitats of the Indian Ocean and South-East Asia has now been negotiated under the auspices of the *Convention on the Conservation of Migratory Species*. The MoU, which is a non-binding agreement, puts in place a framework through which states of the Indian Ocean and South-East Asian region, as well as other concerned states, can work together to conserve and replenish depleted marine turtle populations for which they share responsibility. This objective is achieved through the collective implementation of a Conservation and Management Plan.

“Green protectionism”

The main objective of the WTO is to ensure an open, equitable and non-discriminatory multilateral trading system. In other words, a level playing field for all. In pursuing this objective over the past ten years, the WTO has not limited its scrutiny to tariffs, but has also looked at non-tariff barriers to trade. In the area of product regulations, the WTO and, in particular, the Agreement on Technical Barriers to Trade have enshrined a certain set of principles that must be reflected upon in the enactment of any product regulation. Prime amongst these is that of non-discrimination, which calls on countries not to discriminate in the application of their standards – environmental or otherwise – between the products they import and the ones that they themselves produce, or between the products that they import from different trading partners.

These rules have had important implications for environmental regulations, which represent not just an achievement for multilateral trade, but an achievement for environmental policy too. Take a situation in which a government enforces an environmental standard on imported products, but not on the like products that it itself produces. Such a situation would not only harm trade by subjecting imported goods to higher standards, but would also hurt the environment. Or take another situation in which a government enforces an environmental standard on imported products that it imports from one of its trading partners, but not on like products imported from other destinations. Once again, such a lack of consistency in the enforcement of an environmental standard would help neither trade nor the environment. Thus, in requiring governments to observe the principle of non-discrimination in the preparation and application of product regulations over the past ten years, the WTO has contributed to a more consistent application of environmental policies. In so doing, it has weeded out protectionist measures hiding under the guise of environmental preservation.

The *Gasoline dispute*, between the United States, Brazil and Venezuela sent an important message to regulators: because environmental damage does not depend on the nationality of the polluter, environmental policies must not discriminate. In this dispute, the Appellate Body found that the US had held the gasoline that it imported from Brazil and Venezuela to a higher standard under its Clean Air Act, than the one that it domestically produced. It therefore called for stricter observance of the principle of non-discrimination. Following this dispute, the US amended its regulation to ensure a more consistent application of its air quality standards. A triumph for trade, but also triumph for the environment.

Fish stock depletion

WTO Members recognized very early on in the Committee on Trade and Environment that one of the principal ways in which the WTO could contribute to environmental protection, would be through the removal of environmentally harmful trade restrictions and distortions. The CTE's many years of work on this issue succeeded in the launch of fisheries subsidies negotiations in the Doha Round – an issue of pressing concern to the environmental community. In the fisheries sector it has been widely recognized that cost-reducing, or revenue-enhancing, subsidies have increased fishing, in particular in open access waters. According to the FAO, 69% world's major fish stocks are either already fully exploited, over-fished, depleted, or recovering from depletion. Moreover, according to WWF, subsidies represent 20% of fishing industry revenue, and flow to fleets whose aggregate size and power is already as much as 250 percent over capacity. This has led to situation in which too many fishermen are chasing after too few fish.

In its deliberations in this area, the WTO has found that many of the subsidies in question take forms that are not easy to detect, such as subsidies for vessel construction, or free access to ports. WTO negotiations aimed at restricting environmentally harmful fishing subsidies are now underway to address these distortions.

Government procurement

The plurilateral Agreement on Government Procurement was negotiated in the Uruguay Round. These negotiations achieved a ten-fold expansion of coverage over an earlier agreement under the General Agreement on Tariffs and Trade (GATT), extending international competition to include national and local government entities whose collective purchases are worth several hundred billion dollars each year. The new agreement also extends coverage to services (including construction services), procurement at the sub-central level (for example, states, provinces, departments and prefectures), and procurement by public utilities. The present agreement took effect on 1 January 1996.

Implementation of the agreement has gone smoothly, with the following developments:

- Membership has considerably expanded to cover 36 WTO Members (23 in 1995). Nine Members are in the process of negotiating accession.
- Parties are engaged in a major renegotiation to update the rules, further expand coverage and eliminate discriminatory provisions, which they aim to conclude by the beginning of 2006.

Multilateral Working Group on Transparency in Government Procurement

- The Working Group, established at the Singapore Ministerial Conference in 1996, examined existing national and international experience with respect to transparency in government procurement and assessed elements of a possible multilateral agreement in this area.

- Although no agreement was reached on possible modalities for negotiations on this issue and it was subsequently dropped from the negotiating agenda of the Doha Round, the Working Group's work and related technical assistance activities have contributed to enhanced understanding of this issue in the framework of the WTO and to the work of other bodies working on related issues (i.e., the Committee on Government Procurement and the Working Party on GATS Rules).

Competition policy

The Working Group on the Interaction between Trade and Competition Policy, established at the Singapore Ministerial Conference, systematically examined the links between trade and competition policy and the potential contribution of closer multilateral cooperation in this area.

Although no agreement was reached on possible modalities for negotiations and the issue was subsequently dropped from the negotiating agenda of the Doha Round, the Working Group's work and related technical assistance activities have contributed to enhanced international understanding on competition issues. An estimated 90 to 100 WTO Member countries have now adopted competition laws, and a growing number of countries are participating in bilateral or regional cooperation arrangements.

Coherence

Globalization has increased the need for closer cooperation between the multilateral institutions with key roles in the formulation and implementation of different elements of the framework for global economic policy, in particular the International Monetary Fund (IMF), the World Bank and the World Trade Organization. Each of these organizations has a mandate for such cooperation in the agreements under which they have been established.

Starting from its establishment the WTO has made considerable progress in developing regular contacts and working relationships with the IMF, World Bank, UNCTAD and other multilateral organizations involved in global economic, trade and development policies.

The WTO and these institutions have signed agreements among themselves, for mutual cooperation and regular consultation, which identify mechanisms designed to foster greater coherence in global economic policy-making.

Trade and finance

Most WTO Members have now eliminated trade-restrictive measures they maintained under the WTO agreements covering balance-of-payments (Articles XII and XVIII:B of GATT 1994, the Understanding on the Balance-of-Payments provisions of the GATT 1994, Article XII of the GATS) and the Agreement on Trade-Related Investment Measures (TRIMs). These provisions nonetheless provide flexibility for Members to use the measures again on a temporary basis, as necessary and subject to certain conditions, but without undermining the market access commitments on which the success of the rules-based trading system rests.

Trade facilitation

Negotiations on trade facilitation were foreseen in the Doha Development Agenda launched at the Doha Ministerial Conference in 2001, and were formally launched by the TNC in October 2004 when the Negotiating Group on Trade Facilitation was established. The Group's mandate is as follows:

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.³⁰ 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.

³⁰ 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.

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.³¹
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.
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.

Textiles

On 1 January 2005, the WTO Agreement on Textiles and Clothing (ATC) expired. The completion of the implementation of the ten-year transition period ended the special and discriminatory regime that had lasted for more than 40 years. With the full and timely implementation of the ATC, trade in textile and clothing products is now governed by the normal GATT/WTO rules and disciplines. The ATC was part of the broader package of the outcomes from the Uruguay Round. It represented a very delicate balance together with the other legal results from the Uruguay Round. The ATC was considered by several WTO Members, in particular the exporting developing Members, as one of the most important results of the last Round. The timely and full implementation of the ATC stands as one of the salutary achievements of the past ten years in the WTO. Completion of implementation institutionally strengthened the multilateral trading system.

As a result of the expiry of the ATC, all the bilateral quotas maintained under it have been eliminated, and consequently, the elimination of the cost of protection. The elimination of protection costs will be beneficial for the global economy in welfare

³¹ 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.

and efficiency gains, increased market access opportunities, and consumer welfare. Developed and developing Members stand to gain, particularly the latter because of their significant comparative advantages in the sector.

In the short-term, however, adjustment costs are likely to result from the abolition of quotas for some Members. The issue of adjustment costs poses challenges for the trading system, particularly for further liberalization. This issue of post-ATC Adjustment-Related Issues was introduced on the agenda of the CTG and of the Sub-Committee on LDCs. It is being discussed by the membership. Several useful ideas and approaches have emerged in the on-going discussions. In 2004, the WTO Secretariat organized five regional workshops to address the issue of "Post-ATC Adjustment-Related Issues", and to prepare the membership for ATC expiry, and to contribute to a better understanding by all Members of the achievements arising from ATC implementation, the benefits for the global economy, but also the challenge of adjustment. Systemically, the issue of adjustment costs has been raised at the General Council meetings on coherence by the Director-General. At this forum, the Bretton Woods Institutions, with the WTO, are exploring and identifying ways to address, *inter alia*, liberalization-related adjustment challenges.

ATC implementation and expiry yielded systemically important lessons for implementation in other WTO areas. These lessons are being carefully studied and will further strengthen the trading system. For instance, the Textiles Monitoring Body (TMB), a semi-judicial body, created by the ATC, significantly contributed to full ATC implementation. It consistently applied stringent standards in reviewing disputes between Members, under the ATC, particularly to those disputes related to transitional safeguard measures. Its observations, findings and jurisprudence hold lessons of vital importance for the future.

Cotton

In the preparatory process for the Fifth WTO Ministerial Conference in Cancún (Mexico), Benin, Burkina Faso, Chad and Mali, with broad support, presented a sectoral Initiative on cotton. They argued that the subsidies provided by certain WTO Members to their cotton growers distorted trade and impeded the benefits of an open, competitive and non-discriminatory rules-based multilateral trading system. The Sectoral Initiative on Cotton made evident the necessity for adjustment within the trading system for appropriate responses in those areas where trade and development issues intersect.

WTO Members responded to the challenge. They engaged intensively on the trade and development issues arising from the Sectoral Initiative on Cotton. Consultations continued after the Cancún Ministerial. As a result of the consultations, Members agreed to distinguish between the trade and the development aspects of the Initiative, to treat them appropriately, but with the overall objective of achieving complementarity on the two aspects. The WTO Secretariat organized an African Regional Workshop on Cotton, in Cotonou, from the 23rd to 24th March 2004. The final agreed "Outcomes" from the Workshop were key in the cotton-related decisions agreed by WTO Members in the 2004 July Package. Those "Outcomes" now constitute the basis for the partnership by the trade and the development communities in the follow-up and implementation of the development assistance aspects of the cotton issue in the Doha Work Programme. At the same time, as agreed by Members in the July Package, the Trade Aspects of Cotton will be addressed ambitiously, expeditiously and specifically, within the agriculture negotiations.

Technical cooperation and training

With the establishment of the WTO, Trade Related Technical Assistance Activities (TRTA) greatly expanded in scope and increased in quantity, reflecting the increasing participation of developing countries and LDCs in the work of WTO, and the central place of development issues therein. The Doha Development Agenda (DDA) has made TRTA a core function of the WTO.

Achievements in the first ten years:

- Expansion in scope and increase in the number of TRTA (see graph annexed).
- Consistent increase in numbers in all regions with special attention to Africa and LDCs. In 2004, 36% of the activities were for Africa.
- The annual budget for TRTA for 2004 is CHF 30 million, 6 million of which is from the regular budget, the rest from voluntary contributions (see graph).
- The DDA Global Trust Fund (GTF) in 2002 was intended to enhance financial stability and to wean donors from the habit of earmarking funds for their preferred projects.

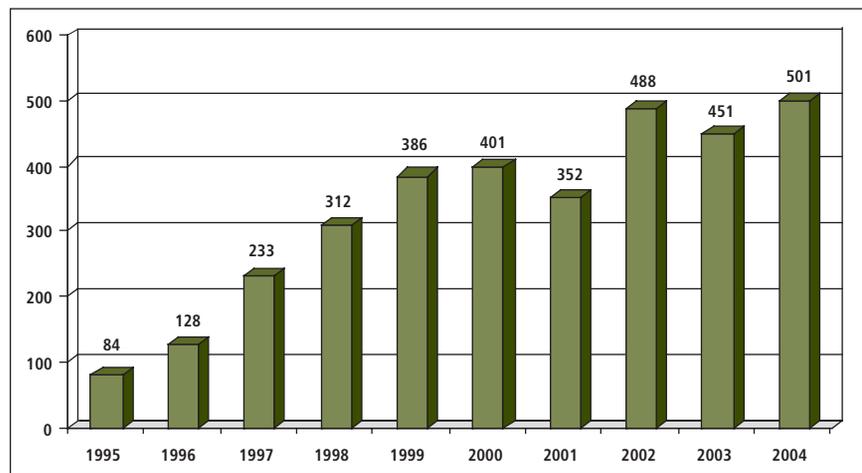
- Monitoring and evaluation (ME) has been functioning as from 2001
- In the ten years of WTO, the number of trade policy courses carried out is one-third of the number done in the almost 50 years of the GATT. As a complement, a series of courses, of a shorter duration have been organized.
- Regional trade policy courses (TPCs) are now offered as well.
- The WTO's TRTA is contained in the annual technical assistance plan ("Plan"), approved by Members, which also serves as the basis for seeking the resources necessary for its implementation.
- The Plan, articulated around a number of distinct products; puts a premium on quality rather than quantity; it emphasizes the objectives to be achieved for each type of product; it puts a premium on partnerships and collaboration with other IGOs and it introduces considerable flexibility to enhance responsiveness. It is carried out by ITTC and operational divisions. Outside consultants are used, but rarely; the Members have a clear preference for WTO staff as resource persons.
- Efforts are made to avoid duplication. The donors have created, through a collaboration between the OECD and the WTO, a dedicated data base of TRTA.
- Partnerships represent a significant proportion of the regional activities in the Plan, and ways are being sought constantly to enhance this collaboration, both to exploit synergies, and to take account of comparative advantage. This includes a significant programme of partnerships with academic institutions in the regions.
- Collaboration with other international organizations. A total of 28 MoUs currently exist, but ad hoc cooperation is also relevant. By way of illustration, the MoU with UNIDO is geared towards addressing supply-side constraints. Another arrangement, with IADB/INTAL comes largely in support of TRTA at regional level.
- The activities encompassed in the programme "Partnerships for Training and Capacity-Building: an integrated approach" jointly developed with the Economic Research and Statistical Division, is an important step in the sustainability of TA.
- Other innovations include guidance on needs assessment, increased focus on LDCs, outreach to non-governmental sectors, especially parliamentarians, e-training, and higher-level instruction aimed at officials already having been through the basic training.
- Three important programmes run jointly with other IGOs:
 - JITAP for African countries, carried out in partnership with UNCTAD and ITC;
 - Integrated Framework (IF) for LDCs , in cooperation with those two plus the World Bank, UNDP and IMF;
 - The Standards and Trade Development Facility (STDF), launched in 2002 as a joint initiative of the FAO, OIE, World Bank, WHO and WTO to assist developing countries enhance their capacity to meet international SPS standards.
- An important innovation in the decade has been distance learning and electronic tools. Since 1995, the public and Members-only WTO websites have been greatly improved.
 - 130 Reference Centres have been established in 87 countries, Members and non-Members of the WTO.
 - The distance learning page of the public WTO web-site gives access to computer-based training modules that are available for self-training to anyone interested, either through CD-ROM or through e-training.
 - A software (the Toolkit for Negotiators) has been designed to assist negotiators in multilateral, regional and bilateral negotiations and provides an integrated set of tools dealing with textual and quantitative data bases.

Challenges

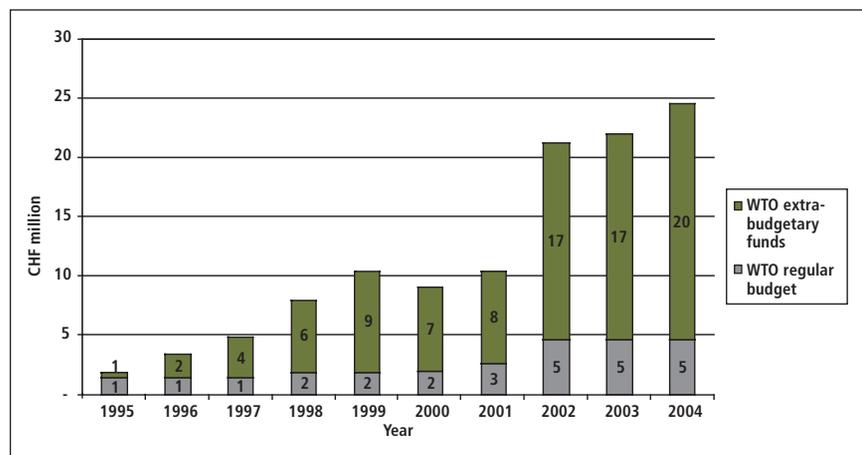
- WTO regular budget for TA has remained constant over time (See graphs further down), while demand for TA activities has continued to rise.
- With so many providers of TRTA, there is overlap. There is a tendency among beneficiaries to chop and change agreed arrangements for activities, which causes disruption and impedes implementation of the Plan.
- There are problems of absorption capacity, especially among the smaller beneficiaries.

- The need to operate a selection of participants even for short activities. At the present time selection takes place only for the 3-month TPC, and specialised courses in Geneva.
- A meaningful and constant Training of Trainers programme is indispensable, provided sufficient attention and, above all, financial means are made available.
- In relation to the objective of avoiding duplication, the OCDE/WTO Database TRTA is for the moment not prospective, and so not of much help in planning TRTA and fostering coherence.
- The sustainability of capacity-building continues to be impeded by the usual government practice of high turn-over of trained officials, Reference Centre Co-ordinators, etc.
- Internet connection costs are sometimes high, in particular in LDCs (although a remedy is being tried through a global provider).
- The challenge we are now facing is to further integrate IT-based solutions in WTO training and technical cooperation activities.
- There is a need to prioritise, but who should be mainly responsible for that? It is generally accepted that in a demand-driven context, the main responsibility lies with the beneficiaries.

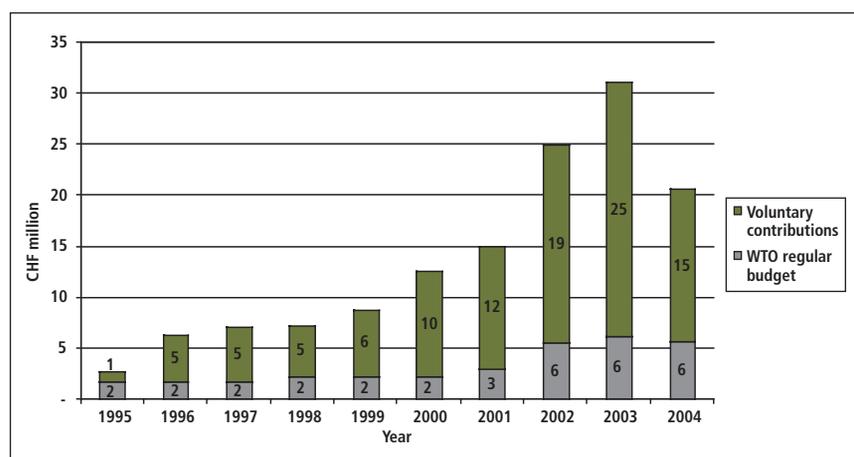
Number of TRTA activities



WTO technical assistance – expenditure



WTO technical assistance – resources



Development

This area of WTO activity is focused on policy issues relating to the participation of developing countries, including the least-developed among them, in the multilateral trading system. The work of the Secretariat in this area is carried out under the aegis of the Committee on Trade and Development in regular session, and its Sub-Committee on least-developed countries, as well as its dedicated sessions on small economies and its special sessions on special and differential treatment, and the Working Group on Trade and Transfer of Technology.

Progress in this area over the past ten years has been marked by the following:

1994 – April – MARRAKESH Declaration

Ministers adopt the Declaration which states that “the results of the Uruguay Round negotiations embody provisions conferring differential and more favourable treatment for developing countries, including special attention to the particular situation of least-developed countries. Ministers recognize the importance of the implementation of these provisions for the least-developed countries and declare their intention to continue to assist and facilitate the expansion of their trade and investment opportunities.”

By adopting the above Declaration, WTO Members acknowledged the diversity of the WTO’s membership. They recognized that much assistance would need to be given to developing and least-developed countries. Ten years after the entry into force of the WTO, issues related to special and differential treatment provisions and LDC concerns and issues remain at the top of the WTO’s activities and negotiating agenda.

1995 – Establishment of the Sub-committee on Least-Developed Countries and strengthening of the mandate of the Committee on Trade and Development

The Sub-Committee on LDCs is open to all Members of the WTO, developed and developing alike, and provides an important forum for discussing and debating the trade concerns of the 32 LDC Members of the WTO.

The mandate of the Committee on Trade and Development established in 1964 to keep under continuous review Part IV of the GATT, was strengthened in 1995 with the Committee being designated as the focal point for all the work on developmental issues in the WTO and for development related activities in other multilateral agencies.

1996 – First Ministerial Conference – Singapore

Ministers adopted the Comprehensive and Integrated WTO Plan of Action for the Least-Developed Countries. They agreed to organize a meeting with UNCTAD and the International Trade Centre as soon as possible in 1997, with the participation of aid agencies, multilateral financial institutions and least-developed countries, to assist LDCs build trade capacity and integrate trade issues into their overall national development strategies. The Action Plan also urged Members to improve market access for LDCs.

Plans to establish an Integrated Framework of technical assistance for LDCs were agreed in Singapore, thereby launching what has turned into a major development assistance programme for the 50 least-developed countries (see below).

1997 – High-Level Meeting For LDCs – Geneva

In 1997, the WTO convened a High Level Meeting on Integrated Initiatives for Least-Developed Countries' Trade development (HLM). On the agenda were issues related to strengthening the trade capacities of LDCs, including supply-side capacities and improved market access for their products and services. At the HLM, the Integrated Framework for Least-Developed Countries was launched by six multilateral organizations: the IMF, the International Trade Centre, UNCTAD, UNDP, the World Bank and the WTO. The HLM also encouraged Members to take market access measures in favour of LDCs.

The main objectives of the IF (as restructured in 2000) are to mainstream trade into LDCs' national development plans such as the Poverty Reduction Strategy Papers and to coordinate the delivery of trade-related technical assistance and capacity-building. It combines efforts of the LDCs with those of the six IF core agencies and other development partners, including the donor community. Some 37 LDCs have expressed an interest in the IF and 28 of them are currently at various stages of the IF process.

Increasingly, the IF model is recognized as a viable model for fostering trade development in LDCs. Since the HLM, many substantial market access measures in favour of LDCs have been undertaken (see below).

1999 – Geneva Week

The first Geneva Week event for WTO non-resident Members and Observers was held from 1 to 5 November 1999. The Geneva Week programme is now entering its sixth year and has proved to be a very valuable opportunity for officials from governments which do not have offices in Geneva to be able to familiarize themselves with the activities of the WTO and more importantly keeps them abreast of the ongoing negotiations. At present, there are 23 WTO Members – many of them small islands or least-developed countries – without representation in Geneva. Another nine countries without missions are Observers to the WTO and in the process of acceding to the WTO.

2001 – Fourth Ministerial Conference – Doha, Qatar

Ministers adopt the Doha Development Agenda and agree to a review of the provisions for special and differential treatment so as to strengthen them and make them more precise, effective and operational. They also agreed to start a Work Programme for Small Economies and to establish a Working Group on Trade and Transfer of Technology.

The new round of negotiations places development at the heart of the Doha Development Agenda and has raised the hope of many developing countries, and in particular that of the LDCs, that their concerns would be addressed in the course of a multilateral negotiation.

WTO Members committed themselves to review all special and differential treatment provisions in paragraph 44 of the DDA and in paragraph 35 agreed 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. Paragraph 37 of the Doha Ministerial Declaration established a Working Group to examine 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 paragraph 42 of the Doha Declaration, Members committed themselves to provide duty-free and quota-free market access for products originating in LDCs. As many as 34 WTO Members and Observers (counting the European Communities as one) have so far undertaken measures to improve market access conditions. In paragraph 43 of the Doha Ministerial Declaration, Ministers endorsed the Integrated Framework for least-developed countries as a viable model for LDCs' trade development.

2002 – February – Members agree on a WTO Work Programme For LDCs

Members agreed to a work programme for the LDCs designed to assist them with their integration into the multilateral trading system. Members also adopted the Guidelines for the Accession of LDCs. The Guidelines encourage Members to exercise restraint when seeking concessions and commitments from LDCs and allow LDCs greater flexibility in implementing various WTO agreements.

2002 – February – Committee On Trade And Development In Special Session Established

The Committee on Trade and Development in Special Session was set up to carry out the work programme on special and differential treatment, in pursuance of paragraph 44 of the Doha Declaration. A very large number of Agreement-specific proposals were made by developing countries which, along with the cross-cutting issues, were taken up for

consideration in the Special Session. By the Cancún Ministerial Conference, Members had been able to agree in principle to 28 Agreement-specific proposals.

2003 – Fifth Ministerial Conference – Cancún, Mexico

Ministers approved WTO Membership for Cambodia and Nepal, the first two least-developed countries to join the WTO. Another nine LDCs (one third of all acceding governments) are in different stages of the accession process. Members failed to adopt the package of Agreement-specific proposals negotiated in the General Council in the run-up to Cancún.

2004 – The July Decision – Geneva

The Decision reached on 1 August 2004 commits Members to fulfilling the development dimension of the Doha Development Agenda and sets out a roadmap for further pursuing the review of special and differential treatment.

Development issues are at the core of “the July Decision”. Special consideration was given to the negotiations on addressing the specific trade and development-related concerns of developing countries. There was also a strong emphasis on addressing capacity constraints.

A deadline of July 2005 was set for the Special Session to complete its review of all the outstanding Agreement-specific proposals and to report to the General Council with clear recommendations for a decision. The Special Session was also instructed to address all other outstanding work, including on the cross-cutting issues, the monitoring mechanism and the incorporation of special and differential treatment into the architecture of WTO rules. Furthermore, all WTO bodies to which proposals in Category II had been referred, were also asked to expeditiously complete the consideration of those proposals and report with clear recommendations for a decision no later than July 2005.

With the July Decision, Members agreed that in the ongoing market access negotiations on Agriculture and NAMA, special attention should be paid to the specific trade and development needs of developing countries, including issues of food security, rural development, preferences, commodities and net food imports. The Decision reiterates the need to address trade-related issues of interest to small, vulnerable economies.

The July Decision also launched negotiations on Trade Facilitation. The modalities for these negotiations seek to protect the interest of LDCs and provide flexibility in undertaking commitments with separate provisions. In regard to LDCs, the General Council confirmed that nothing in the July Decision would in any way detract from the special provisions for LDCs already agreed to by Members.

Economic research

The most significant achievement in research at the WTO over the last ten years is the establishment of the World Trade Report in 2003. This flagship publication is receiving growing attention and is generally regarded as a quality contribution to trade policy debates. The WTR is authored primarily by research staff with cooperation from interested members of other divisions. Typically, the WTR contains a review of salient developments and trends in world trade, three essays on topical trade policy issues and a longer study on a core theme.

Since 1995, we have also established three additional series of publications: special studies, discussion papers, and working papers (electronic only).³² Most of these studies are authored by research staff, but also with contributions from staff in other divisions.

In partnership with Cambridge University Press we launched a multi-disciplinary professional journal, the *World Trade Review*, which is published three times a year. The Director of Research is an *ex officio* member of the Editorial Board and the other members of the Board are internationally renowned economists, lawyers and political scientists. The Journal has contributed to a higher profile for the WTO Secretariat in professional trade policy circles. The Journal is refereed through the usual peer process for professional journals and maintains rigorous academic standards. From our perspective, this is very important, particularly because editorial policy is independent of the WTO Secretariat – our representation on the Board does not entail veto power over what is published, so analytical rigour is our shield.

In close cooperation with the Institute for Training and Technical Cooperation, the research staff have been building working relationships with the academic community in developing countries, with a view to strengthening home-grown trade-related analysis to support decision-makers in developing countries. Part of these efforts are focused on joint teaching of government officials by developing country scholars and the Secretariat on the regional trade policy courses. This aspect of our partnership with the academic community is

³² Special Studies are substantial papers that explore particular policy issues of topical interest to the WTO. Discussion papers are shorter analyses that seek to do the same thing. Working papers are only published on the website and are work-in-progress. Some of these papers are more technical in nature and may be less accessible to a wide non-specialist audience.

managed by ITTC and enjoys wide participation from the rest of the Secretariat (cf. section on technical co-operation and training). On the research side, we also work with ITTC and funding from the Doha Development Agenda Global Trust Fund (DDAGTF) to promote trade-related research of relevance to the WTO which is disseminated to interested developing country governments. We have been engaged in or are planning joint research with partner developing country academic institutions and individuals from various developing countries in most regions (as well in some cases with other international institutions) on a variety of topics, including standards, regionalism, data development, decision-making processes on WTO matters, and second-hand clothing markets in Africa.

DDAGTF funds have also been used to establish the WTO Phd. Programme. Under this programme, up to 12 students per year from developing countries registered for doctoral studies on trade-related issues can spend up to six months in the Secretariat working on their theses. Qualifying students must have already made progress in their theses and be recommended by their home universities. Individuals in the Secretariat provide mentoring support. This programme seeks to strengthen trade-related research capacity in developing countries and to identify individuals who may later work with us as teaching and research partners.

Challenges

The standing of the WTO Secretariat as a legitimate and important source of analysis of trade policy issues has yet to be accepted in some quarters. Wider appreciation is needed of the reasons why the WTO should have independent analytical capacity and the freedom to tackle complex and sometimes contentious issues from an analytical perspective. Members are right to object to work that interferes with sensitive negotiations but not to stifle discussion and analysis that contributes to clearer and more informed thinking on issues that must be addressed in the trading system. Denial of freedom for the Secretariat to make this contribution weakens the standing of the WTO as an institution and the effectiveness of international cooperation in trade policy. It also yields the field to other institutions and individuals that do not always contribute positively to constructive engagement.

Trade statistics

Trade policy data

The WTO should be the authoritative source in the area of trade policy data. Good progress has been made in this direction over the last decade, but much remains to be done. The Integrated Data Base (IDB), in its present form, was established following the decision of the General Council in 1997 that all WTO Members would submit import statistics and tariff information at the most detailed level to the WTO Secretariat on an annual basis. The Consolidated Tariff Schedules (CTS) database was established in 1998 on the basis of a decision by the Committee on Market Access. The CTS contains WTO Members' bound tariffs and it includes also supplementary commitments in agriculture (domestic support, export subsidies and tariff quota information).

The Division has developed a range of software tools, including the Internet Analysis Facility and File Transfer Facility to allow WTO Members to access and analyse IDB/CTS data. WTO information on market access conditions and trade linked at the most detailed level included in the IDB/CTS databases is a unique and authoritative source of information that has substantially improved the capacity of the WTO Secretariat, WTO Members, acceding countries and authorized international organisations to carry out trade policy analysis. Data can be accessed through the Internet or via CD-ROMs.

To address existing limitations in terms of coverage and access to IDB/CTS (see below), the Secretariat has jointly established the Common Analytical Market Access Database (CAMAD), in cooperation with the ITC and UNCTAD. This new database is being built up using the core market access information from IDB/CTS, supplemented with information from the International Trade Center (ITC) and UNCTAD, such as for countries not included in the IDB, preferential duties, and *ad valorem* equivalents. This information will be a major input for the WTO's regular research work. Among the objectives of CAMAD are:

- Achievement of universal data coverage in terms of countries, duties (including preferences), and *ad valorem* equivalents;
- Reduced duplication of resources in the production and dissemination of market access data among international organizations;

- Improved data quality and coherence, with the reduction and elimination of inconsistencies among different sources. This will ensure that the different stakeholders involved in trade policy work will use the same verified and consistent data;
- Provision to trade policy researchers worldwide of a relevant derived dataset (in compliance with WTO, ITC and UNCTAD dissemination policies), which will result in a better understanding of trade policy options, particularly for developing countries.

International trade statistics

As with trade policy data, the WTO is also expected to be an authoritative source in the area of international trade statistics. The statistics team provides WTO Members and the general public with up-to-date and high-quality trade statistics through an annual publication, the International Trade Statistics report, and through several user friendly-tools such as CD-ROMs or interactive online databases on the Internet.

The Secretariat convenes the Inter-Agency Task Force on International Merchandise Trade Statistics and participates actively in the Inter-Agency Task Force on Statistics of International Trade in Services. The latter addresses the lack of information on trade in services which is an important issue in the context of GATS. Both these bodies are established under the aegis of the United Nations Statistical Commission.

Cooperation with other international organisations has increased over the years, resulting in a more efficient allocation of resources for data collection and the dissemination of merchandise trade statistics among international organizations.

In the case of statistics on trade in services, a new Manual on Statistics on International Trade in Services (MSITS) has been established. This was a major endeavour by the international agencies involved in statistics on trade in services, and is particularly useful for the statistical monitoring of the General Agreement on Trade in Services (GATS). Most developed countries now compile and publish statistics on international trade in services according to international standards defined in the MSITS. But clear, internationally-agreed compilation guidelines for the implementation of MSITS in developing countries still need to be worked out.

Challenges

On the trade policy front, IDB country coverage is limited, as a number of countries do not comply with their notification obligations (due, in some cases, to a lack of resources or the inadequate capacity of statistical systems).

Data coverage in the IDB is also limited, where information is lacking on applied preferential duties and *ad valorem* equivalents of non-*ad valorem* duties. These problems reflect the narrowness of Members' notification requirements.

Information contained in the IDB/CTS is restricted to authorized users (WTO Members, acceding countries that supply data for the IDB and some international organizations). Therefore, many trade policy analysts cannot make use of this information for the benefit of developing countries.

These restricted dissemination policies, together with limitations on notification requirements, have led other organizations to collect and process their own data on market access conditions, resulting in a duplication of work and resources by international organizations, not to mention the implications of this situation for the WTO's standing in matters of data. The recent CAMAD initiative is an attempt to address some of these difficulties, but it will not solve all problems, and in any case CAMAD is going to need more solid support if the initiative is to flourish.

WTO library

The Library in the past ten years has focused on providing more access to documents and quality information for users, both inside and outside the Library space. An online database has been established for the collection, replacing the card catalogue. The Library will soon be opening its catalogue to outside users over the Internet. This, along with the development of web pages for the Library, will help Members and academics collaborating on WTO issues.

In addition, considerable legal material was acquired to supplement the existing economics-based collection and to cover new domains of work of the WTO. An Archives Section containing the complete collection of GATT/WTO documents from 1946 was opened in order to facilitate access to this important part of the institutional memory.

Cooperation with other intergovernmental organizations

The mandate of the WTO when it was established in 1995 included a commitment to cooperation with trade-related international organizations:

Article V.1 of the Marrakesh Agreement Establishing the World Trade Organization states "The General Council shall make appropriate arrangements for effective cooperation with other intergovernmental organizations that have responsibilities related to those of the WTO." Article III.5 states "With a view to achieving greater coherence in global economic policy-making, the WTO shall cooperate, as appropriate, with the International Monetary Fund and with the International Bank for Reconstruction and Development and its affiliated agencies."

During its first ten years of existence the WTO has advanced significantly its cooperation and collaboration with other intergovernmental organizations. Relations were established immediately with the United Nations through an exchange of letters in September 1995 signed by the WTO Director-General and UN Secretary-General. In the following two years, formal cooperation agreements were concluded with the International Monetary Fund and World Bank. Relations have also been established with many other international and regional bodies involved with trade-related subjects and, through these ties, the WTO is working to ensure the resources and expertise of the international community remain focused, coordinated and relevant to the most pressing global needs. Cooperation includes reciprocal participation at meetings, information-sharing, joint research and collaboration between secretariats.

In its efforts to advance the development dimension of trade, the WTO has developed close ties with the United Nations Conference on Trade and Development (UNCTAD), particularly in the areas of capacity-building and trade-related technical assistance to developing countries and least-developed countries. Other intergovernmental organizations that cooperate with the WTO on the development dimension include *inter alia* the United Nations Development Programme, International Trade Centre, International Monetary Fund and World Bank. The WTO has also concluded memoranda of understanding with a range of international and regional institutions for joint activities, collaboration and delivery of technical assistance.

Relations with civil society

The WTO is one of a small number of intergovernmental organizations whose founding document refers explicitly to relations with non-governmental organizations

Article V.2 of the Marrakesh Agreement Establishing the World Trade Organization states "The General Council may make appropriate arrangements for consultation and cooperation with non-governmental organizations concerned with matters related to those of the WTO." Relations with non-governmental organizations were further elaborated in a set of guidelines adopted by the General Council in July 1996 (WT/L/162). The guidelines *inter alia* "...recognize the role NGOs can play to increase the awareness of the public in respect of WTO activities...".

It is noteworthy too that WTO Members moved immediately in 1996 to agree guidelines on relations with NGOs and they committed in the same decision to improve transparency and develop communication with civil society groups. The WTO has made significant progress in the areas of external communications and strengthening of relations with civil society. Progress has been achieved in a manner consistent with the intergovernmental character of the WTO and consistent also with the widely held view among Members that primary responsibility for communicating the business of the organization rests with Members themselves.

The Director-General, his deputies and other Secretariat staff meet routinely with NGO representatives – both in Geneva and in other venues. Members of civil society and NGO representatives are also in almost daily contact with External Relations Division and, in addition,

Secretariat officials participate often in major meetings where trade-related subjects of interest to civil society are discussed. As well, briefings on WTO meetings are organized regularly for Geneva-based NGO representatives and NGOs are also invited to attend issue-specific symposia. In the latter regard, the WTO's annual public symposium is now a major event on the international calendar and provides an extremely useful platform for dialogue among all stakeholders of the multilateral trading system.

Under procedures agreed by the General Council, NGOs are able to attend WTO ministerial conferences and be present at plenary sessions of the Conference. In contrast

to the 235 participants representing 108 NGOs who attended the first WTO Ministerial Conference in Singapore in 1996, there were 1578 participants representing 795 NGOs at the 2003 fifth Ministerial Conference in Cancún, Mexico – a near seven-fold increase. In further response to the growing public interest in the multilateral trading system in recent years and the expanding role of civil society in international processes, NGOs are now invited to WTO informally to present policy research and analysis directly to WTO Members; NGO position papers are compiled and circulated to WTO Members on a monthly basis; and WTO electronic news-bulletins are circulated to NGOs every fortnight.

In 2002, the General Council decided to expedite the de-restriction of documents. This move has generated a flood of easily accessible documentation – much of it available almost simultaneously with its delivery to Members – and means WTO negotiations can now be followed through first-hand sources. Taken together with the introductory and explanatory material now on the WTO website, WTO's work programme is now remarkably transparent.

Since Seattle in 1999, WTO has completed many programmes of outreach activities for parliamentarians and civil society. In 2003 and 2004, activities included regional workshops for parliamentarians in Africa, Caribbean, Latin America, Pacific and Asia and similar workshops for civil society representatives in English-speaking and French-speaking Africa. In all outreach activities, the objectives were essentially similar: to foster greater public understanding of and interest in the WTO; to inform parliamentarians/civil society representatives on the operations of the multilateral trading system and key issues on the international trade agenda; and to encourage an exchange of views on trade-related and development related issues. The outreach activities have been welcomed by WTO Members and further activities are planned in 2005. In addition to these activities, other aspects of WTO's current drive to engage with parliamentarians includes attendance at seminars and workshops and participation in various parliamentary dialogues on trade.

Public and media information

The establishment of the WTO in 1995 generated tremendous interest in the new organization among members of the media, in political circles, among academics and in the general public.

The role and influence of the organization was the subject of great speculation due in part to the creation of a much more effective system of dispute settlement and to the fact that the WTO's mandate in international trade extended beyond the goods treaties covered by its predecessor the GATT and into the realms of trade in services, agriculture, textiles and the protection of intellectual property.

Great effort has been made from the onset, to ensure that the public is informed in the most transparent manner possible of the activities and objectives of the WTO. Through daily press briefings, the internet, dozens of publications and lectures for students and the public, information professionals in the WTO Secretariat have disseminated information across the world.

The result over the first ten years of the WTO has been enhanced understanding by media and the public worldwide of the true role and the important benefits of international trade for their economies, and a better appreciation of the contribution the WTO has made to global economic growth and development.

Media relations

WTO press officers work with journalists on every continent, making news information available directly and through the internet. Special information sessions for journalists from developing countries are organized on a regular basis, to assist developing country journalists in their efforts at following the work of the WTO.

The WTO holds daily media briefings on new developments and has organized thousands of news conferences on special events, often using the internet to extend the reach of these sessions to journalists around the world. The work of explaining the complex process for trade negotiations, especially since the launch of the Doha Development Agenda in 2001, has proved to be very effective in demystifying both the process and the sometimes abstruse subject matter of the negotiations – with now 148 Members participating, dealing with over 60 existing agreements, negotiating thousands of pages of new proposals, all of which require explanation and background information in order to be understood by media and the public.

The five WTO ministerial conferences have attracted thousands of journalists who have reported on events unfolding at the biannual meetings. These occasions have been used to provide intensive briefings for journalists on the work of the ministers as well as background

sessions on general WTO matters. Detailed information kits are produced and distributed to journalists attending these meetings.

WTO website

The WTO website has grown from an electronic brochure of several hundred pages in 1996 to a full WTO portal of tens of thousands of pages, databases etc which in the past year attracted over 8 million visitors. The most recent survey of the website's users confirms it has become an invaluable tool for students, academics, legal and other trade specialists, businesses involved in trade, and NGOs and that it is an important source of general information for the public. Visitors to the website download millions of pages of legal texts, information brochures, news releases every month. The increasing use of webcasting for events such as ministerial conferences, major news conferences and training sessions has further expanded the effectiveness of the website in reaching media and the public worldwide.

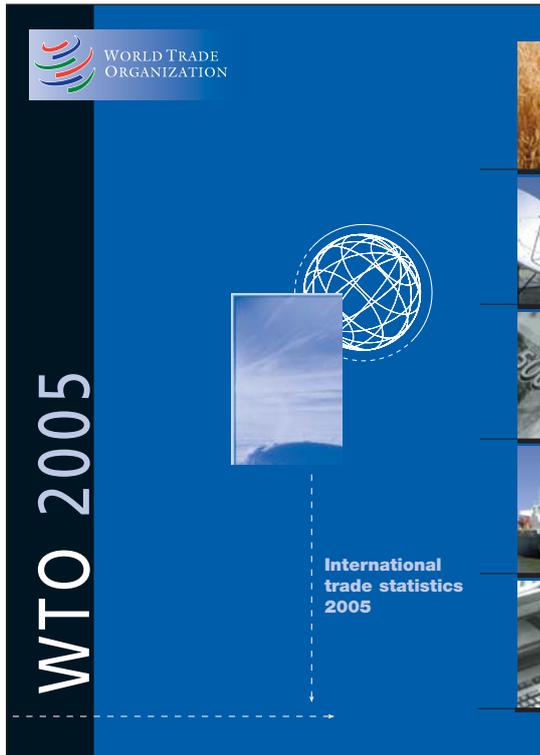
WTO publications

The WTO has published nearly 2,000 titles in English, French and Spanish versions since 1995. The list includes legal texts, reports on dispute settlements and other specialized materials which are used by academics, trade officials and trade experts around the world. A second focus of the publications program has been the production of Guides and Handbooks which explain for the layman or trade specialists specific aspects of the organization's work. These have become basic teaching and working tools for ministries, universities, NGOs and businesses. The WTO's information publications, such as "Understanding the WTO" have become standards for anyone seeking an introduction to the WTO. In addition to print versions of its publications the WTO makes most of them available as free downloads on its website. This includes the WTO Annual Report and the WTO World Trade Report – over 120,000 copies of each of these reports was downloaded from the WTO website in the past year.

Public information sessions and visits

The WTO's headquarters in Geneva, the Centre William Rappard, is visited by thousands of students, business people and other groups every year, who attend organized information sessions where they are able to have exchanges with WTO officials on current issues and specialized trade topics. About 50,000 visitors have attended such sessions since 1995.

WTO PUBLICATIONS



INTERNATIONAL TRADE STATISTICS 2005

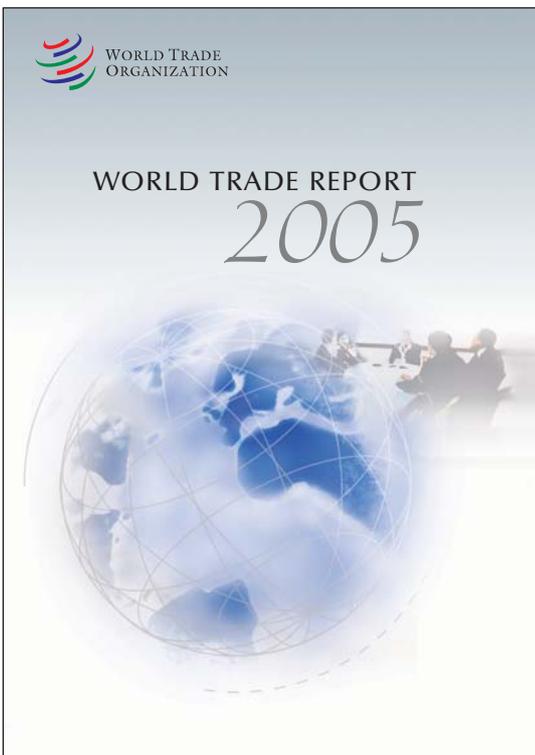
This report provides comprehensive, statistics on trade in merchandise and commercial services for an assessment of world trade flows by country, region and main product groups or service categories.

Major trade developments are summarized and discussed in the first part of the report in the Overview. Detailed trade statistics are provided in Appendix tables.

November 2005

ISBN 92-870-3313-7

Price: CHF 50



WORLD TRADE REPORT 2005

The World Trade Report is the most recent addition to the Annual Series and focuses on specific trade policy issues of current interest. The core topic addressed in the 2005 Report is the relationship between standards and trade. The Report also contains three shorter essays on the use of quantitative economic analysis in WTO dispute settlement proceedings, trade in air transport services, and offshoring services. The Report also reviews trends in international trade.

July 2005

ISBN 92-870-3310-2

Price: CHF 60

TO ORDER PLEASE CONTACT:

WTO Publications, 154, rue de Lausanne, 1211 Geneva 21, Switzerland

Tel: (41 22) 739 52 08 Fax: (41 22) 739 57 92 Email: publications@wto.org

Order through our On-line bookshop at www.wto.org

10th Anniversary 1995-2005

WORLD TRADE ORGANIZATION



September 2003 – Vicente Fox, President of Mexico, at the Fifth Ministerial, Cancún.



April 1994 – US Trade Representative Mickey Kantor Signs the Final Act of the Uruguay Round at Marrakesh.



December 1993 – Peter Sutherland, Chairman of the Trade Negotiations Committee, closes the Uruguay Round Negotiations.



May 1998 – World leaders gather at the Second Ministerial Conference, Geneva, for the 50th anniversary of the GATT-WTO trading system.



May 1998 – Nelson Mandela, South African President, at the Second Ministerial Conference, Geneva.