



2007 Trade Policy Agenda
and
2006 Annual Report
of the President of the United States
on the Trade Agreements Program

Foreword

The 2007 Trade Policy Agenda and 2006 Annual Report of the President of the United States on the Trade Agreements Program are submitted to the Congress pursuant to Section 163 of the Trade Act of 1974, as amended (19 U.S.C. 2213). Chapter II and Annex II of this document meet the requirements on the World Trade Organization in accordance with Sections 122 and 124 of the Uruguay Round Agreements Act. In addition, the report also includes an annex listing trade agreements entered into by the United States since 1984.

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

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LIST OF FREQUENTLY USED ACRONYMS

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

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

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ANNEX I

ANNEX II

ANNEX III

THE PRESIDENT'S TRADE POLICY AGENDA

I. The President's 2007 Trade Policy Agenda

I. A Commitment to Sustaining U.S. Prosperity and Promoting Development Through Trade

In 2006, the Bush Administration built on its solid record of opening markets and creating economic opportunities for U.S. manufacturers, service providers, farmers, ranchers, and consumers. Under President Bush's leadership, the United States also continued to set the standard for all nations seeking to spur development and alleviate poverty by increasing trade flows.

In 2007, the Administration will continue to make strides in its multilateral, bilateral and regional trade liberalization efforts and to work with Congress, industry and public interest groups, as well as the American people, on a bold, growth-oriented agenda. Free and fair trade is a crucial component of President Bush's economic and foreign policy. The benefits of expanded trade are clear. Economists across the intellectual political spectrum have long agreed that trade is a vital tool for achieving economic growth. And with economic growth and development, individual well being and political freedom can flourish.

Since World War II, industrialized countries have lowered their average tariff on industrial goods from 40 percent to four percent. The results have been impressive. In the period of roughly 1950 to 2005, global exports grew from \$58 billion to \$13 trillion.

According to the Peter G. Peterson Institute for International Economics, U.S. annual income increased by \$1 trillion from 1945 to the present due to increased trade liberalization. Trade liberalization in the last ten years has helped raise U.S. GDP by nearly 40 percent and boosted job growth by over 13 percent.

It is no coincidence that the United States, which is one of the most open markets in the world, also has among the strongest economies and highest living standards in the world. From wages to productivity to innovation, the United States leads. Americans' prosperity increased while the United States helped bring the economic benefits of trade to more and more countries, demonstrating that trade expands the economic pie for all.

The Bush Administration's trade agenda is focused on sustaining this prosperity in the near term and making sure economic opportunities will multiply for generations to come. The current and future economic health of the United States will depend in large part on the success it has in reaching the billions of consumers – 95 percent of the world's people – who live outside the U.S. borders.

The Administration's trade agenda also reflects President Bush's vision that the free and fair flow of commerce creates economic opportunity and hope for all people and promotes democratic governance and peace around the world. Development and trade are inextricably linked.

World Bank economists estimate that tens of millions of people could be lifted out of poverty in the next decade if nations agree to full multilateral trade liberalization. The Bank also estimates that per capita real income grew three times faster for developing countries that lowered trade barriers more (5.0 percent per year) than other developing countries (1.4 percent per year) in the 1990s. In addition, a widely-cited study by White and Anderson of the Institute of Development Studies, University of Sussex, UK, concludes income gains for the poor are proportionately stronger than other income groups among countries that are opting for trade liberalization.

Trade, more than economic aid, offers millions of people in developing countries a chance for better lives. The 2005 Blair Commission Report on Africa, for example, estimates that increasing Sub-Saharan African countries' share of global trade by just one percentage point – from two to three percent – could

boost export revenues for people in those countries by \$70 billion. This is three times the amount of foreign aid that developed countries provide in an average year. Just as important, the United States and its trading partners need to encourage more trade among developing countries. It is estimated that 70 percent of duties developing countries pay are paid to other developing countries. These tariffs discourage the trade of other developing countries.

For over 60 years, trade has bolstered America's economic strength and security and helped spur development and cooperation around the world. More than ever, the economic health of all nations, particularly developing nations, depends on increasing trade flows. Accordingly, the Bush Administration moved with enthusiastic determination to open markets in 2006.

II. 2006 in Review

The World Trade Organization and the Doha Development Agenda

Throughout 2006, the United States led efforts to conclude a multilateral agreement to liberalize trade in agricultural goods, industrial and consumer products and services through the World Trade Organization's Doha Development Round. The WTO is at the foundation of an increasingly large portion of global trade and President Bush regards the Doha Round as an historic opportunity to tackle poverty and its accompanying ills and to create a more prosperous future for all nations. As 2007 begins, the Administration is pursuing a breakthrough that will enable WTO Members to complete the Doha Round negotiations as soon as possible.

After a long impasse, the United States jump started the Doha Round negotiations in October 2005 with an ambitious offer in agriculture, which included offering to make significant tariff cuts and to eliminate export subsidies, and to allow for major disciplines on trade-distorting domestic support. The United States challenged all WTO Members to embrace a robust, comprehensive multilateral agreement at the WTO Ministerial meeting in Hong Kong in December 2005 and pushed its trading partners to match the proposal. At that meeting, many WTO Members were either unwilling or unable to commit to meaningful reductions in tariffs on agricultural products and industrial goods and to reductions on barriers to trade in services.

The United States pursued every opportunity available in 2006 to break the apparent deadlock in the Doha Round, but to no avail. Major WTO Members continued to resist matching U.S. ambitions and the formal talks were suspended in July 2006.

Nevertheless, the President made it clear he was determined to get WTO Members back to the table as soon as possible. In a series of meetings with trade ministers around the world at which a number of trade matters were discussed, the U.S. officials affirmed the President's deep and enthusiastic commitment to an ambitious and balanced final outcome for Doha.

These gatherings provided a chance to have "quiet, what-if conversations," – small, private meetings where top trade officials could speak candidly and work creatively. In these meetings, the United States made it clear that half measures – measures that would not create meaningful new trade flows - would fall short of the development goals WTO Members embraced at the outset of the Round over five years ago. Proposals on agricultural market access that were riddled with loopholes and exclusions, or proposals that allow more advanced developing countries to continue to impose high barriers to industrial goods and services, will not produce the new trade flows needed to lift people out of poverty or create new economic opportunities.

The United States has argued that a watered-down multilateral agreement would simply lock in place many of the current barriers to trade for another ten years or more. The United States has also made it

clear that an agreement must be balanced and comprehensive and offer U.S. farmers, ranchers, businesses and consumers more economic opportunities in exchange for the concessions the United States would make, including reductions in agricultural subsidies, tariffs and other barriers. We could not and would not take to our Congress for approval an unbalanced agreement that did not provide any new opportunities for U.S. exporters. The United States was willing to walk away from the table in the past and will do so in the future if the agreement lacks balance and falls short of the development goals of Doha. At the same time, the Administration remains determined to seize this historic opportunity for a comprehensive multilateral agreement.

While 2007 began without the breakthrough the United States has been struggling to achieve, from the efforts over the last several years a consensus has emerged that a comprehensive multilateral agreement has the potential to deliver significant benefits to all nations, particularly developing nations. Also, many countries now recognize that the United States, Europe and major industrial WTO Members cannot conclude that agreement by themselves. The fact is that emerging trade powers such as Brazil, India, and China, and major industrialized countries all have a stake in the global trading system and each country must contribute to keeping the system growing and dynamic and bring creative thinking and political courage to this effort.

In the meantime, U.S. commitment to the strong multilateral trading system was evident throughout 2006, as the Administration made historic progress in bringing additional countries into the WTO.

In May, after nearly a decade of work, the United States and Vietnam concluded a bilateral market access agreement that opened Vietnam's market to U.S. products and was essential to Vietnam's accession to the WTO. Later in the year, Congress approved the granting of Permanent Normal Trade Relations and Vietnam formally joined the WTO on January 11, 2007.

Vietnam's historic transformation to a member of the rules-based trading system will benefit its people and its trading partners. The accession agreement means U.S. producers of all varieties of goods and providers of a broad range of services will enjoy increased transparency and enhanced access to one of the fastest-growing markets in the world.

The United States also successfully completed bilateral market accession agreements with Ukraine in March and with Russia in November as part of these countries' WTO accession negotiations. These agreements will help the United States ensure enforcement of intellectual property rights and improve market access for American farmers and ranchers. Multilateral negotiations will continue on the broader implementation of WTO rules and the establishment of limits on agricultural supports and subsidies. Ukraine, Russia and the United States will benefit from the participation of these countries in the global trading system when these negotiations are complete. The Office of the United States Trade Representative (USTR) looks forward to continuing to work with other countries seeking WTO Membership.

Free Trade Agreements with Nations Around the World

In 2006, the Administration made significant progress on its bilateral and regional market-opening efforts. These initiatives complement U.S. multilateral efforts.

In February, the United States launched negotiations on the Korea-United States Free Trade Agreement (KORUS FTA). When completed, the KORUS FTA will have significant economic, political, and strategic benefits for both countries. It will be the most commercially-significant FTA the United States has completed in 15 years. For 2006, two-way goods and services trade between the U.S. and Korea is valued at \$95 billion and should grow once an FTA is concluded. The KORUS FTA will also further

deepen our 50-year-old economic and strategic relationship with the Republic of Korea. In addition, as the United States' first FTA negotiation with a North Asian partner, conclusion of this agreement would underscore the U.S. commitment to deepening and strengthening trade ties with the many dynamic and fast-growing countries of Asia.

In 2006, negotiators from the United States and the Republic of Korea engaged in five rounds of negotiations and made significant progress on a wide range of issues. As 2007 begins, the United States is eager to work through each side's priorities and sensitivities in order to achieve a balanced, comprehensive agreement that benefits the people of both countries.

In March 2006, the United States and Malaysia launched FTA talks and held three rounds of negotiations during the year, making solid progress on a range of issues. Malaysia is the United States' tenth largest goods trading partner with two-way trade in goods amounting to nearly \$50 billion in 2006, and it has been at the forefront of the economic dynamism transforming Asia in recent years. The removal of trade and investment barriers between the United States and Malaysia would improve market access, enhance competitiveness and increase prosperity for both countries and strengthen the relationship with a key player in Southeast Asia.

The United States also continued its efforts to expand and improve trade ties with countries in the Western Hemisphere. The Dominican Republic-Central American Free Trade Agreement (CAFTA) entered into force with El Salvador, Guatemala, Honduras and Nicaragua in 2006. The Administration has continued to work with Costa Rica and the Dominican Republic to complete their respective implementations. Only a few decades ago, many of the CAFTA countries were plagued by stubborn poverty and political violence. With CAFTA, the United States is working with its neighbors to ensure that market-oriented economic reform and political stability will take hold.

The United States also signed free trade agreements with Peru in April and Colombia in November, and concluded FTA negotiations with Panama in December. Through the first 11 months of 2006, U.S. goods exports to Peru were estimated at an annualized total of \$2.9 billion, and to Colombia of \$6.7 billion. Colombia is currently the largest market for U.S. agricultural exports in South America. The implementation of the trade promotion agreements with Peru, Colombia and Panama can be expected to boost U.S. exports.

Significantly, these FTAs have leveled the playing field for the United States. For years, many countries in the Western Hemisphere have enjoyed duty-free access to the U.S. market. Now, the United States will have duty-free access for nearly all U.S. products exported to these growing markets.

In addition, the United States reached agreements with Peru, Colombia, and Panama on important product-specific issues related to sanitary and phytosanitary measures and technical standards. These agreements provide for the recognition of the equivalence of U.S. regulatory systems and for an approach to BSE and other animal disease-related rules in these Western Hemisphere markets that is consistent with international standards.

These agreements with countries in South America will build on economic reforms underway in this region and promote the development of economic opportunities outside of the cultivation and distribution of illegal drugs. This move away from illegal drugs will help reduce the crime and violence associated with this activity and stems the flow of narcotics to the United States.

The agreement with Panama contains important provisions on trade security which will facilitate secure and reliable transportation for the goods from all over the world that pass through the Panama Canal.

U.S. trade and security objectives also converged in Administration efforts in the Middle East in 2006, with the entry into force of the FTA with Bahrain and congressional approval of the FTA with Oman. These agreements build on free trade agreements concluded earlier with Israel, Jordan and Morocco. They are complemented by Trade and Investment Framework Agreements (TIFAs) and Bilateral Investment Treaties (BITs), which create mechanisms for identifying and resolving differences in emerging trading relationships and building blocks for broadly improved trade relationships throughout the Middle East.

These initiatives represent more than new market opportunities for U.S. citizens. They are tangible manifestations of President Bush's core belief that nations engaged in trade reject isolationism, seek to resolve political conflicts peacefully and embrace the rule of law. This is at the heart of President Bush's proposed Middle East Free Trade Area (MEFTA) initiative and consistent with the recommendations of the 9-11 Commission, which included using trade expansion to help stem political extremism in the region.

Other Bilateral Efforts

In addition to historic accession efforts with regard to Vietnam, Russia and Ukraine, as well as FTAs, the United States succeeded in several other efforts to strengthen bilateral trade relationships in 2006.

In the Western Hemisphere, the United States and Canada concluded an agreement to end over two decades of friction over trade in softwood lumber. The agreement, which was announced in April and went into effect in October, will help bring stability for lumber producers and consumers in both countries.

Elsewhere around the world, the United States continued to strengthen its trade and investment relationships with many countries through a series of TIFAs.

The United States signed TIFAs with Rwanda in July and Mauritius in September. These agreements will help advance the Administration's goal of helping countries in Sub-Saharan Africa to participate more effectively in the global market and to use trade to grow their economies and reduce poverty.

The United States also signed a TIFA with Cambodia in July, with the Association of Southeast Asian Nations (ASEAN) nations in August, and with Lebanon in December.

In March, June and December, senior U.S. trade officials met with Indian government representatives as part of the U.S.-India Trade Policy Forum. TIFA meetings were also held with Pakistan and Sri Lanka. The United States concluded a Memorandum of Understanding (MOU) with Indonesia under the auspices of the U.S.-Indonesia TIFA in September to combat illegal textile transshipment and an additional further MOU in November to combat illegal logging. In August, the United States signed an MOU with the Philippines that will help safeguard and promote legitimate textile trade between the two countries, while stopping illegal textile transshipments.

The United States is taking steps to further strengthen and deepen trade and economic ties with Japan, including urging Japan to accelerate economic regulatory reform and working with Japan to strengthen IPR protection and enforcement in the region.

The United States continued its economic engagement with China as well in 2006 as that nation completes its implementation of its WTO commitments. U.S. exports to China grew at an average annual rate of 24 percent in the last five years. Meanwhile, a quarter of a trillion dollars in foreign direct

investment from countries around the world in the last 20 years has helped lift at least 400 million people out of poverty in China.

Monitoring and Compliance

In 2006, the United States continued to insist that its trading partners honor their WTO and bilateral commitments, using a range of formal and informal options to monitor and enforce compliance with trade agreements.

Cases

We have not hesitated to bring cases when our trading partners refuse to live up to their commitments. With respect to U.S. rights under the WTO, in January, USTR requested additional consultations with the European Union over subsidies to aerospace giant Airbus and in March with Canada over its countervailing duty proceedings on U.S. corn exports.

In many cases, the WTO vindicated the United States' rights. In November, the WTO ruled against the European Union's barriers to U.S. agricultural products made with biotechnology. In December, the WTO concluded that a lack of uniformity in Europe's customs procedures violated WTO rules.

China

The United States also vigilantly monitored China's compliance with its trade commitments. In January, as the United States was about to initiate a WTO action, China ended duties it had imposed on U.S.-made kraft linerboard, a widely used component in cardboard boxes. In March, the United States joined with Canada and the European Union and requested WTO consultations with China regarding Chinese rules that impose local content requirements in the auto sector and unfairly discriminate against imported auto parts.

In April, the United States concluded a successful meeting of the Joint Commission on Commerce and Trade (JCCT), which resulted in China making several commitments relating to IPR protection and enforcement as well as commitments that included opening its market to U.S. medical devices and preloading patented software on computers.

In the summer, USTR filled the newly created position of Chief Counsel for China Trade Enforcement and made changes in the internal organization of the agency to augment the focus on IPR enforcement, not only in China but also in other countries.

In December, as China completed its five-year transition to WTO membership, USTR issued a report detailing the progress – and the backsliding – that country has made on its commitments under the rules-based trading system.

In December, administration officials also held the first meeting with Chinese officials under the high-level Strategic Economic Dialogue (SED), which the Bush Administration initiated this year. Through this dialogue, attended by multiple cabinet-level officials on both sides, the Administration reinforced expectations articulated in February's Top-to-Bottom review of U.S.-China trade relations. The SED is providing a useful framework for understanding and supporting, at a broader level, key bilateral problem-solving efforts, such as the JCCT process and other bilateral dialogues.

In addition to formal WTO action with regard to China's practices, the United States undertook additional actions to monitor China's trade activities and to ensure China honors its WTO and bilateral obligations. In the Top-to-Bottom review of the trade relationship with China, the Administration noted that China has

made progress since its WTO accession in 2001, but stressed the need for improvements in China meeting its WTO obligations in a number of areas, notably the enforcement of intellectual property rights. That review concluded that the bilateral trade relationship lacked “equity, balance or durability” and signaled that China and the United States have entered into a more mature relationship as trading partners. That relationship will require candid dialogue over differences and the use of all the tools the United States has at its disposal, including WTO dispute settlement consultations, to resolve differences.

The United States has also used its active TIFA and other dialogues with its trading partners to address a wide array of market access barriers faced by U.S. manufacturers, services suppliers, and farmers. These dialogues provided the United States the opportunity to closely and regularly monitor implementation of bilateral and multilateral commitments by trade partners and fora to seek to address issues, both small and large.

Legislative Reform

The United States further demonstrated its commitment to the global trading system by taking the steps necessary to come into compliance with three WTO rulings. In February, Congress repealed the Byrd amendment (which paid anti-dumping duties directly to U.S. parties instead of going to the U.S. Treasury). In April, Congress repealed the remaining provisions of export subsidies for multinational corporations known as the extra-territorial income exclusion. In August, Congress terminated export subsidies for cotton producers. The Administration also undertook a review of trade preference programs aimed at spurring trade and development opportunities for developing countries covered by the U.S. Generalized System of Preferences (GSP). In close consultation with the Administration, Congress extended the GSP program for two years. The legislation reauthorizes the program for all beneficiaries, but includes new statutory thresholds that identify products that have succeeded in becoming globally competitive and thus no longer warrant duty-free benefits. The legislation also includes new reforms which help focus benefits on the poorest developing countries. Finally, extensions of the Andean Trade Preferences Act and key provisions of amendments to the African Growth and Opportunity Act became law.

III. Advancing the Trade Agenda in 2007 and Beyond

The Administration is committed to sustaining momentum for trade liberalization and stemming the growth of economic isolationism and protectionism both domestically and abroad. The United States’ vigorous leadership is vital to its own prosperity and the economic health of the global trading community.

The pace of change in today’s world can stir anxiety and uncertainty. Even though the average unemployment rate for 2006 was just 4.6 percent, American workers worry about trade competition and whether their children will enjoy long-term prosperity and opportunities. These concerns about trade are due, in part, to the fact that the benefits of trade are diffuse but the dislocations it can cause are more concentrated. Critics of trade choose to ignore the clear benefits of trade while stoking fear and disillusionment and often misrepresenting trade’s effect on the economy.

Trade critics often suggest that open trade policies are responsible for persistent U.S. trade deficits, while in fact those deficits are attributable to many factors, principally macroeconomic conditions. If some of the major U.S. trading partners were growing at rates close to ours, consumers in those countries would likely buy more U.S. goods and services, or goods from other countries that now rely heavily on the U.S. market, and the U.S. trade deficit would be smaller. In addition, the fact that Americans save a smaller percentage of their income than do citizens of some of the United States’ major trading partners, such as China, also contributes to the trade deficit. Also, an increase in petroleum prices contributed significantly

to the size and growth of the deficit in 2006. Finally, the monetary and fiscal policies of other countries can affect trade balances.

Second, according to the President's Council of Economic Advisers, trade is one of many factors affecting overall employment – and a relatively minor factor at that. On average over the decade from 1995 to 2005, the economy eliminated roughly 15 million jobs per year, but created 17 million. This happened for a variety of reasons, from changes in consumer preferences to productivity gains to technological innovations, and even natural disasters. Moreover, during roughly the same time period, trade and overseas relocation accounted for no more than three percent of annual job losses in layoffs of 50 or more workers.

It is noteworthy that some of the periods of highest unemployment have also been times when the United States was running small trade deficits or even surpluses. Trade policy works to expand U.S. exports and export opportunities, including by enforcing agreements with U.S. trading partners to ensure they live up to their commitments. The trade deficit is largely a function of macroeconomic factors rather than trade policy. Import restrictions in response to the trade deficit may have little impact on the overall deficit but would reduce U.S. incomes and living standards. In fact, American farmers, ranchers, manufacturers and service companies might ultimately export less of what they produce if the United States withdraws from its efforts to advance multilateral, bilateral and regional market openings.

Third, the United States has benefited from opening its market to direct foreign investment from other countries. In 2005, the stock of foreign direct investment in the United States was \$1.5 trillion, and United States affiliates of foreign-owned firms supported over 5 million jobs. Similarly, U.S. investment abroad generates additional exports and better paying U.S. jobs.

As the world becomes more interconnected, the United States must continue to adapt quickly to new challenges and seize new opportunities. When trade does cause dislocations, government must assist the individuals and communities affected but in a way that does not harm the vast majority of Americans who benefit from open markets.

If the United States allows the proponents of economic isolationism and protectionism to prevail and the United States starts sitting on the sidelines of trade, it will be a loss for the United States as a nation and to the detriment of the entire global economy and the hundreds of millions of people whose lives could be improved through the flow of goods, services and ideas.

The Administration will work closely with leaders of both parties in both Houses of Congress to secure an extension of Trade Promotion Authority so that the United States can continue to open new markets across the globe for American farmers, ranchers, workers, and service providers. As other countries negotiate and close trade agreements, the United States cannot be left behind without forfeiting the economic growth that expanding trade generates. All Presidents need Trade Promotion Authority to obtain the bilateral, sectoral, regional, and multilateral deals that benefit the American economy.

Many Avenues for Expanding Trade

A comprehensive multilateral agreement offers the best chance for expanded trade and development opportunities around the world but bilateral and regional trade liberalization can also provide significant benefits. In 2007, the Office of the U.S. Trade Representative will continue to explore ways of advancing economic integration in the Western Hemisphere and expanded trans-Atlantic trade initiatives as well as FTAs with countries that are ready to embrace comprehensive, state-of-the-art trade liberalization.

Asia

The United States continues to deepen its trans-Pacific economic ties through APEC, which President Bush has called the “premier forum in the Asia-Pacific region for addressing economic growth, cooperation, trade and investment.” When the 14th summit of APEC Economic Leaders convened in November 2006 in Vietnam, the United States gained agreement with the 21 APEC economies to further promote regional economic integration, with establishment of a Free Trade Area of the Asia-Pacific as a long-term prospect.

For example, the U.S.-ASEAN TIFA could help further deepen U.S. commercial ties with this region and support ASEAN integration. In 2006, the ASEAN TIFA created a work plan to help with the development of an ASEAN Single Window to facilitate customs clearance; a framework agreement on sanitary and phytosanitary standards to promote trade in tropical fruits; and support for the development of harmonized standards for pharmaceutical registration and approval to speed the introduction of innovative medicines to markets and patients in ASEAN countries. In 2007, the Administration will consider additional work to strengthen U.S.-ASEAN relations and promote ASEAN integration.

In a parallel effort, the United States will work to expand its bilateral cooperation with Japan and other major trading countries in the region in specific issue areas, such as the protection of intellectual property, to set a higher bar for the rest of the Asia-Pacific region.

The Middle East

The Administration will also continue to engage with Middle Eastern countries through the President’s MEFTA initiative. In addition to negotiating high standard FTAs with countries in the region, we will engage vigorously with TIFAs, promote WTO accessions and explore negotiating Bilateral Investment Treaties (BITs) where appropriate.

Sectoral Efforts

Another way we engage our trading partners is through functional or sectoral initiatives that address changes in the global marketplace, such as the 2005 agreement the United States negotiated with the European Union, Japan, Korea, and Taiwan that applies zero tariffs on multi-chip integrated circuits, a new type of semi-conductor.

Through the multilateral process over the years, WTO Members have come together on important sectoral issues such as curtailing the use of subsidies that lead to over fishing, expanding market access for environmental technologies, enhancing trade capacity building and protecting intellectual property rights. The United States and its trading partners will continue to explore ways of improving the sector-specific regulations and processes that govern global trade.

Services

The United States pursues services trade liberalization through WTO negotiations, bilateral free trade agreements, and other regional venues. Services liberalization is a “win/win” proposition for both developed and developing countries. It provides developing countries the essential infrastructure of modern economies and global economic growth and development. Services trade accounts for nearly one-third of total U.S. exports, and, by one estimate, total elimination of global barriers to trade in services would raise U.S. annual income by over \$460 billion, or \$6,830 per family of four. Services trade is an area where continued multilateral cooperation could yield many benefits.

Investment

Another area that merits continued attention is international investment. The Administration will continue to push for the removal of barriers to U.S. investment through free trade agreement negotiations, ongoing Bilateral Investment Treaty negotiations with Pakistan, and through TIFAs and exploratory BIT discussions with Gabon, Rwanda, Saudi Arabia and other countries. These initiatives will help increase economic efficiency and real incomes in the United States and expand exports of goods and services abroad. While the United States must review security considerations in foreign investment, this country must continue to welcome the confidence of investors from around the world.

Trade Capacity Building

The United States and other WTO Members will continue to work together in trade capacity building (TCB) efforts, which not only provide technical assistance, but also help facilitate the creation of the legal, administrative, and physical infrastructure that developing countries need to fully participate in the global marketplace. TCB is an integral part of a number of trade agreements and programs, including AGOA and free trade agreements like CAFTA-DR, Peru, and Colombia. As the largest single donor, the United States is proud to lead these TCB efforts and has pledged to double U.S. aid-for-trade contributions to \$2.7 billion annually by 2010.

Another historic Bush Administration initiative is the Millennium Challenge Corporation (MCC), which has signed compacts that include nearly \$1 billion in trade-related assistance in 2005 and 2006. This financial support, principally for infrastructure, was committed to eight qualifying countries in Africa, Latin America, the Caucasus and Asia/Pacific during the MCC's first two years of operations. USTR is a member of the MCC Board of Directors and encourages MCC funding that helps countries take advantage of global trade opportunities.

Bilateral Paths to Trade

The United States and its trading partners have benefited greatly from Trade Promotion Authority legislation, which was enacted in 2002. The Administration has negotiated high-quality, comprehensive free trade agreements with countries in every corner of the world, which have created commercial opportunities for people in the United States and our trading partners and has advanced U.S. security by promoting engagement and cooperation among nations.

Beginning with the Jordan FTA in 2001, the U.S. Congress has approved free trade agreements with 13 countries since this Administration took office. Implementation is pending on three of the agreements Congress has approved and negotiations of another three have been concluded and await congressional approval.

The significance of such agreements is illustrated by the fact that U.S. exports to the 10 countries with which we implemented FTAs between 2001 and 2006 grew twice as fast as U.S. exports to the rest of world during the same period. The United States generated an \$11 billion goods trade surplus with these 10 FTA partners in 2005, with total goods exports of \$42.3 billion, compared to total imports of \$30.4 billion.

Here are some highlights of increased trade with some of our FTA partners that have been implemented in the last five years.

Jordan: Since the entry into force of the U.S.-Jordan FTA in 2001, U.S. exports to Jordan have risen by 92 percent. Auto exports alone jumped by over 2,000 percent, to over \$100 million, in 2005. In the agricultural sector, corn exports rose from \$1 million in 2001 to \$41 million in 2006.

Singapore: The United States ran a \$5.5 billion trade surplus with Singapore in 2005, and enjoyed a 23 percent increase in Singaporean foreign direct investment in the United States, totaling \$2.4 billion in 2005 (latest figures available). Building on an already healthy trade relationship, U.S. exports to Singapore have risen by over \$7 billion (42 percent) since entry into force of the FTA in 2004 through 2006 annualized. The biggest dollar gains were in sectors where U.S. exporters already had a foothold, such as gas turbines (exports rose from \$814 million to \$1.6 billion), aircraft parts (increase from \$635 million to \$1.1 billion), and in certain organic chemicals namely, carboxylic acid (exports were up over 4,700 percent to over \$250 million).

Chile: Since entry into force of the U.S.-Chile FTA, exports to Chile from the United States rose by over 151 percent, from \$2.7 billion in 2003 to \$6.8 billion in 2006 (annualized to end of the year). Among the notable increases in U.S. exports were petroleum oils (other than crude). In that sector, U.S. exports reached \$1 billion in 2006, a nearly 2000 percent increase. Motor vehicles for the transport of goods exports also increased significantly, reaching over \$300 million in 2006, a 440 percent increase over exports in 2003. It is worth noting that, while U.S. exports to Chile constituted 25 percent of the Chilean import market in 1995, that share consistently dropped in the years after as other trading partners, including the European Union, Mexico and Canada, all negotiated FTAs with Chile before the United States. U.S. import share reached a low of 14.5 percent in 2003. With the entry into force of the FTA, U.S. import share in Chile has begun to climb again, reaching 15.1 percent in 2004 and 15.8 percent in 2005.

Australia: Since our FTA went into effect in 2005, the United States has significantly strengthened and diversified its exports to Australia. Imports by Australia of U.S. goods rose by \$3.5 billion in the first two years after entry into force of the U.S.-Australia FTA to \$17.7 billion – a 25 percent increase, contributing to a goods trade surplus of nearly \$10 billion in 2006. Particularly significant gains were seen in U.S. exports to Australia of gas turbines (48 percent increase since 2004); and yachts and other pleasure boats (up 49 percent since 2004). Total U.S. agricultural exports to Australia were at a record of roughly \$520 million in 2006. Exports of pork reached \$41 million and exports of fresh fruit reached roughly \$50 million in 2006.

Success of U.S. Free Trade Agreements

Agreements in force with U.S. trading partners continue to stimulate economic growth. While the countries with which the United States has agreements in force account for only 7.2 percent of world GDP, excluding the United States, they account for fully 42 percent of U.S. exports to the world. In countries and regions throughout the world, the United States is opening markets for U.S. exporters, creating economic growth and development opportunities for U.S. FTA partners, obtaining welfare gains for U.S. consumers, and enhancing the leadership role of the United States in the global economy.

The Gold Standard

More important than the number of free trade agreements is the fact that U.S. FTAs represent the gold standard for how to spur free trade, investment and economic reform. U.S. FTAs are comprehensive and go beyond elimination of tariffs on goods and the free flow of services and address other aspects of 21st century economic relationships, such as investment, intellectual property rights, government procurement, transparency, and non-tariffs barriers resulting from the tax and regulatory systems of our trading partners.

Labor

Free trade agreements concluded under TPA have helped raise labor standards. They have been an impetus for significant labor law reform by U.S. trading partners with respect to core labor standards, most recently historic reforms in Oman and Bahrain providing trade union organizing and collective bargaining rights. All recent U.S. FTAs contain provisions requiring U.S. trading partners to strive to ensure that internationally recognized labor rights and the principles of the International Labor Organization are protected in their labor laws and that labor laws are effectively enforced. In addition, the United States has gone beyond the text of the agreements and has worked with U.S. trading partners, notably in Central America, to assist them in building the institutional and legal infrastructure to monitor and enforce these rights.

Environment

U.S. FTAs have also advanced the United States' effort to highlight how trade can promote environmental protection. For example, agreements with Peru, Colombia, and Panama included special mechanisms to provide the public with opportunities to present their views on failures to effectively enforce environmental laws. Additionally, the agreements with both Peru and Colombia include groundbreaking provisions on protecting biodiversity.

With recently-concluded FTAs, the Administration is now working on implementation of key environmental provisions. A new independent Environmental Secretariat has been established for the CAFTA-DR countries to receive submissions from civil society related to enforcement of environmental laws. The Administration has committed to providing \$18.5 million to start up environmental cooperation projects with CAFTA-DR partners in 2007; projects range from raising environmental standards to improving capacity to enforcing environmental laws and implementing relevant international conservation agreements, such as CITES – the Convention on International Trade in Endangered Species.

Free Trade Agreements in 2007 and Beyond

In 2007, USTR will work closely with Congress as we seek approval of FTAs with Peru, Colombia and Panama. These FTAs will level the playing field and allow U.S. citizens to seek new economic opportunities in these growing markets. These agreements will also make permanent the access these countries have had to the U.S. market through one-way preference programs and help sustain their growth and market-oriented reforms.

In addition, we also expect to work toward the completion and to seek congressional approval of FTAs with the Republic of Korea and Malaysia. These agreements will advance the United States' long-term goal of locking in economic reforms in Asia as countries there continue to develop their economies.

With regard to Peru, Colombia, and Panama, as well as other pending and future agreements, the Administration is committed to working with the Congressional leadership on both sides of the aisle to address labor and environmental issues in a manner that will ensure strong bipartisan support.

The Administration will continue working toward the goal of concluding FTAs with other countries across the globe.

Enforcement

The United States has always made it clear that the rules of global trade must be fair and, once agreed to, must be fully implemented. The success of the rules-based global trading system depends on the trust and confidence of public officials, private sector stakeholders and the public at large.

The Administration has and will continue to use the variety of tools available to address trade barriers, including pursuing formal dispute settlement when dialogue and negotiation fail. The United States has brought over 70 dispute settlement cases at the WTO – from high fructose corn syrup to apples to auto parts to steel to biotechnology – and brought the first cases against China in the WTO.

In the area of intellectual property, the President's trade policy will continue to recognize the fundamental role of American creativity and innovation in sustaining the nation's economic strength. Faced with the burgeoning global problem of counterfeiting and piracy, the Administration will work with other countries to strengthen IPR protection and enforcement. In addition to our ongoing efforts with China, USTR will also devote considerable energy to ensuring that Russia improves its IPR regime, building on the commitments negotiated bilaterally with Russia as that country moves into the multilateral phase of negotiations for its accession to the WTO.

The "Special 301" process is an essential element in the ability of the United States to engage these and other trading partners, and the Administration will be intensifying its efforts in constructive engagement with the trading partners listed in the annual Special 301 report with the goal of helping these trading partners to achieve stronger IPR regimes.

In February of this year, the United States sought WTO consultations with China with regard to that country's continued use of prohibited export and import substitution subsidies.

Working with Congress

Bipartisanship and cooperation between the executive and legislative branches of government have been the hallmark of U.S. trade policy. Going back to the Franklin D. Roosevelt Administration, lawmakers and Presidents have worked together to reverse the economic isolationism that helped precipitate the calamity of global war and economic depression in the 1930s and 1940s.

The last two decades alone provide many examples of both parties and the legislative and executive branches working together to advance trade policy. The 1988 Omnibus Trade and Competitiveness Act was approved with a Republican President and a Democratic Congress. Permanent Normal Trade Relations for China was approved by a Democratic president working with a Republican Congress. Other examples of how the political parties can work together on trade include enactment of the African Growth and Opportunity Act (AGOA), other trade preference programs for developing countries, and the FTAs approved over the last five years.

The Bush Administration will continue to listen to and consult with Members of Congress on a market-opening and enforcement agenda that benefits all Americans, helps people in developing countries, and projects the unity and leadership of the United States in the global marketplace. Congressional leaders from both parties should find common ground in keeping the United States engaged and leading in the global economy.

The Congressional leadership of both parties understands that isolationism and protectionism invite peril for American citizens and the global economy. The Bush Administration will work closely with lawmakers to prevent the United States from retreating from its obligations in the global economy and to

guarantee that the United States will continue to benefit from participation in the global trading system well into the future.

Conclusion

This year presents an opportunity to make historic strides in trade policy. From the Doha Development Round, to entering into FTAs that provide commercially significant market opportunities for U.S. exports, to updating trade preference programs, to creating new models for trade with countries at various stages of economic development, the United States must continue to lead.

The pace and impact of change in today's interconnected global marketplace present the United States and other nations with many new opportunities and challenges. Increased trade liberalization and a strong rules-based trading system offer the best vehicles to increase global economic prosperity, combat poverty, and encourage transparency and the rule of law amongst trading partners. The benefits outpace the perceived challenges. The necessity of opening the world to free and fair trade is imperative to the development and growth of all countries and peoples. For generations, America has opened its markets and increased its exports of goods and services to the world. America's embrace of competition, the rule of law, and innovation have spurred its tremendous economic growth and prosperity. In the face of growing competition and increased globalization, the United States must embrace and advance the free and fair trade principals that have led to so much economic success. This remains a guiding imperative in U.S. trade policy as we pursue an exciting agenda for 2007 and beyond.

Susan C. Schwab
United States Trade Representative
March 1, 2007

**THE PRESIDENT'S 2006
ANNUAL REPORT ON THE
TRADE AGREEMENTS
PROGRAM**

II. THE WORLD TRADE ORGANIZATION

A. Introduction

At the core of U.S. trade policy is a steadfast support of the rules-based multilateral trading system. Working through the World Trade Organization (WTO), the United States remains in a leadership role in securing the reduction of trade barriers in order to expand global economic opportunity, raise standards of living and reduce poverty. This chapter outlines the work of the WTO since the Sixth Ministerial Conference, held December 2005 in Hong Kong China, and the work ahead in 2007 -- including on the multilateral trade negotiations launched at Doha, Qatar in November 2001, known as the Doha Development Agenda (DDA or Doha Round). This chapter will detail the work under the DDA and provide a review of the implementation and enforcement of the WTO Agreement. It covers the critical accession negotiations to expand the WTO's membership to include new members seeking to reform their economies and join the rules-based system. This year marked agreement on the historic entry of Vietnam into the WTO.

The DDA is the ninth successive round of multilateral trade negotiations to be carried out since the end of World War II. The DDA negotiations remain, along with the day-to-day implementation of the rules governing world trade, a U.S. priority that reflects the imperative of continued multilateral trade liberalization as part of the foundation that ensures stability and growth in a dynamic world economy. The WTO Agreement provides the foundation for U.S. bilateral and regional agreements.

Throughout 2006, the United States worked to advance the Doha trade negotiations and the implementation of the WTO Agreement. The July suspension of the DDA negotiations triggered intensive U.S. efforts over the second half of the year to engage informally with key trading partners and explore ideas that might allow Members to break the deadlock which emerged in agriculture. While the impasse remained, as the new year began there were some signs of progress along with strengthened commitments from other WTO Members toward a revival of the Doha negotiations. We expect 2007 to be another year of challenge as the United States continues to press other Members to join in working towards a successful outcome that opens markets, creates new economic opportunities, and increases trade flows among all WTO Members in agriculture, industrial goods and services. Ambitious results emerging from the DDA will carry the potential for a significant contribution to global development.

B. The Doha Development Agenda under the Trade Negotiations Committee

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

The Trade Negotiations Committee (TNC), established at the WTO's Fourth Ministerial Conference in Doha, oversees the agenda and negotiations in cooperation with the WTO General Council. The WTO Director-General serves as Chairman of the TNC, and works closely with the Chairman of the General Council, Ambassador Eirik Glenne of Norway. Through formal and informal processes, the Chairman of the General Council, along with WTO Director-General Pascal Lamy, plays a central role in advancing progress on the DDA. (Annex II identifies the various negotiating groups and special bodies responsible for the negotiations, some of which are the responsibility of the WTO General Council.)

Negotiations under the TNC began in 2006 against the backdrop of the modest progress posted at the Hong Kong WTO Ministerial Conference in December 2005, including: agreement on a date of 2013 for full elimination of agricultural export subsidies; agreement on how to proceed in the core market access areas of services and non-agricultural market access (NAMA); and a roadmap for moving ahead in trade facilitation and work in all areas of the negotiations. In addition, there was significant activity important to the poorest members: an understanding of the work needed on cotton as part of the larger agricultural negotiations; a decision on duty-free, quota-free (DFQF) market access for the least-developed country (LDC) Members; and creation of a new WTO framework in which to discuss and prioritize aid for trade.

Expectations for the December 2005 Hong Kong Ministerial had been scaled back considerably in the preceding weeks, as the ambition of the bold U.S. agricultural proposal tabled in October 2005 remained unanswered in the run-up to Hong Kong. However, Ministers at Hong Kong set a series of deadlines across the negotiations, including April 30 as the date for Members to reach agreement on modalities -- the key variables that would define the depth of tariff cutting and the extent of so-called “flexibilities” in agriculture and NAMA, and set the stage for schedules and texts to be put on the table over the ensuing months in order to start the final stage of negotiations. Despite substantial activity, particularly at the Ministerial level, progress was elusive.

In January 2006, key partners reached an informal agreement that a solution would require all to move in concert. Throughout discussions during the first half of the year the agriculture market access offers on the table remained substantially unchanged from before Hong Kong – *i.e.*, modest tariff cuts combined with generous and vague flexibilities, which operated to undermine market liberalization.

The United States was pressed to scale back ambition from its view that a successful Doha outcome must provide concrete market access gains, particularly in agriculture. At the same time, there were also demands by other Members for the United States to offer more cuts in its overall domestic support, even though the bold U.S. agriculture proposal made before Hong Kong (which offered a 60 percent cut in the most distorting U.S. programs and offered real changes in U.S. farm programs) had not attracted proposals of similar ambition from other key trading partners.

The NAMA negotiations featured U.S. efforts to press a stepped-up agenda for technical work, in order to bring clarity and focus to the potential results that would emerge from the tariff-cutting formula under consideration. Tariff-cutting formula simulations on ten developed and developing country Members demonstrated the effects of various formula coefficients on applied tariffs. Only results that bring cuts in applied tariffs will generate changes to the cost of doing business, new trading opportunities and meaningful new trade flows. The simulation work also reaffirmed the importance of sectoral initiatives to achieving meaningful new market liberalization.

In the services negotiations, Members presented 20 collective requests in February, injecting significant new energy into those negotiations. The United States co-sponsored 13 requests and was a recipient in another 7 requests by other WTO Members. However, with negotiators in agriculture and NAMA making little headway, the overall pace of other negotiations, including services, was affected. The April deadline that had been set in Hong Kong for establishing modalities was missed, and at the May 1 meeting of the TNC, Director-General Lamy laid out an intensive Chair-led process using specific-issue reference papers to try to build texts in agriculture and in NAMA by the end of June, when high-level meetings would be held in Geneva.

Work in May and June was anchored in Geneva, and negotiations often went round-the-clock. The United States was still being pressed by its key trading partners -- the EU in particular -- to scale back severely ambition in agriculture market access. Both the G-33 and the NAMA-11 (the groups of developing country Members opposed to market opening in agriculture and NAMA, respectively) pressed hard for sweeping exemptions on opening their markets. Led by Indonesia, the G-33 tabled a paper

demanding exemption of at least 20 percent of their tariff lines as “Special Products” – a provision that would effectively shield 98 percent of their current agricultural trade. Led by South Africa, India and Brazil, the NAMA-11 reiterated their demand for a difference of at least 25 points between the formula coefficients for developed and developing country Members – when a spread of considerably less would effectively yield no new access in most developing country markets. Throughout these negotiations, the U.S. litmus test for success was unchanged – there must be market access results that bring meaningful new trade flows.

More than 60 Trade Ministers gathered in Geneva for the June 28 - July 1 meetings, and discussions focused on breaking the logjam on the core issues on developing modalities in agriculture and NAMA. The Geneva gathering featured numerous bilateral and small group meetings as the week progressed, including ministerial-level “Green Room” consultations among a cross section of key Members that were conducted by the WTO Director-General. The week’s discussions served to highlight the wide gap that existed on the fundamental questions about the overall Doha outcome, and the meetings ended in an impasse.

Two weeks after G-8 Leaders reaffirmed their commitment to Doha at the St. Petersburg Summit, Director-General Lamy continued his consultations. It became apparent that differences in agriculture were too big to be bridged in the short term, and talks broke down. As Chairman of the TNC, Director-General Lamy recommended to the General Council on July 27 that the only course of action available was to suspend the negotiations across the Doha Round as a whole.

Despite this setback, the United States reaffirmed its commitment to the WTO and the DDA in the ensuing weeks and pledged to continue to work to ensure that the global trading system remains strong and dynamic. In an August letter to all of her WTO counterparts, U.S. Trade Representative Schwab stressed that the deadlock was more profound than simply finding a potential “landing zone” or offering a few more percentage points as incremental concessions. Rather, she emphasized the issue is whether WTO Members would deliver on the core Doha market access mandate and continue the decades-long global commitment to achieve progressive and meaningful trade liberalization.

Less than a week after suspension of the negotiations, the United States started work toward reviving the negotiations, holding an initial consultation with Brazil that began what developed into an intensive series of “quiet conversations” throughout the remainder of 2006. The ensuing months saw meetings with, among others, China, the ASEAN countries and the G-20, as the United States explored others’ views on how to put the Doha Round on a path towards a successful outcome that opens markets, and creates new trade flows. During the Fall of 2006, U.S. senior officials held quiet meetings around the globe to work bilaterally with their counterparts in key trading nations to explore options and scenarios, test “what-ifs” – and, most critically, rebuild the working relationships upon which all negotiations depend.

Though there was little movement on substance, by November the sense was growing that some momentum was starting to build through such informal engagement. At the November 16 informal meeting of the TNC, Director-General Lamy advised Members that he believed it was time to begin to “multilateralize” and enhance the informal consultative processes that had been taking place among various delegations and extend it across the full spectrum of areas on the negotiating agenda – but leaving it up to each negotiating group Chair to determine how and when to do this. He emphasized that he was not proposing to resume full-fledged negotiations at this point. Two days later, APEC Leaders meeting in Hanoi, Viet Nam, issued a statement citing their determination to resume the talks as early as possible and their readiness to break the deadlock by moving beyond their current positions in order to build an overall package covering market access for agriculture, industrial goods and services, as well as rules and trade facilitation.

Prospects for 2007

The negotiations under the DDA begin the year with the appearance of new signs that Members are ready to come to grips with the issue of how to deliver on the core Doha market access mandate, not only in agriculture but also in industrial goods and services. The United States will continue to work with other WTO Members in pursuit of a successful conclusion to the DDA that opens new markets and creates meaningful new trade flows. The challenge in 2007 will continue to be how to translate the expressions of political will into concrete and specific details that will enable WTO Members to complete the work begun at Doha.

1. Committee on Agriculture, Special Session

Status

Negotiations in the Special Session of the Committee on Agriculture are conducted under the mandate agreed at the Fourth WTO Ministerial Conference in Doha, Qatar that calls for “substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support.” This mandate, calling for ambitious results in three areas (so-called “pillars”), was augmented with specific provisions for agriculture in the framework agreed by the General Council on August 1, 2004, and at the Hong Kong Ministerial Conference in December 2005.

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

Major Issues in 2006

The United States has long advocated fundamental reform of all trade-distorting measures by all WTO Members. In 2002, the United States made specific proposals to phase-out all tariffs, trade-distorting domestic support, and export subsidies in the Doha negotiations. The United States submitted a comprehensive and ambitious proposal in October 2005, consistent with the 2002 U.S. proposal and the 2004 WTO framework, calling for the elimination over 15 years of tariffs and trade-distorting domestic support in two phases, with substantial reductions in the first phase. Pursuant to this proposal and the agreed framework, higher tariffs and Members with higher subsidy levels would be subject to deeper cuts phased-in over a five-year period for developed country Members, with developing country Members making lesser cuts and having more time to implement those cuts. In the second five-year phase (to commence five years after the conclusion of the first phase), all tariffs and trade-distorting domestic support would be eliminated. Under the U.S. proposal, export subsidies would be eliminated within the first phase of reform, with parallel commitments undertaken on export state trading enterprises, export credits and food aid programs.

While numbers and formulas for making the cuts were on the table, the differences between Members were too large to be resolved at the Hong Kong Ministerial Conference. Substantive discussions on agriculture at Hong Kong focused on export subsidies, where Members agreed to an end date for export subsidies in 2013, with the further commitment that the substantial part of the elimination would be completed by 2010. Members further narrowed some of their key differences in other areas, including a

commitment to a sectoral negotiation on cotton where trade-distorting domestic support for cotton would be cut deeper and more quickly than for other commodities (with the actual numbers subject to negotiation) and a commitment that developed country Members would eliminate tariffs on cotton exports from the least-developed country Members.

Negotiations in 2006 focused on specifying how far and how fast tariffs and trade-distorting domestic support would be reduced, and how to phase in the elimination of export subsidies. Major differences existed among Members. For example, the United States called for substantial market opening through deep tariff cuts and large tariff-rate quotas for sensitive products that would avoid deep tariff cuts, while other Members preferred limited action. Of particular difficulty was reaching agreement on treatment of import sensitive products in developed country Members, and provisions for import of sensitive products and products with special relationships to food security, rural development and rural livelihoods in developing country Members. In addition, negotiations focused on the depth of cuts for trade-distorting domestic support, with subsidy programs in the United States and the EU attracting particular attention. Despite intensive negotiations and additional special negotiating sessions among WTO Members, agreement was not reached, and in July, WTO Director-General Lamy formally suspended the negotiations. For the remainder of the year, negotiators met informally to explore ideas and potential scenarios that could lead to breaking the impasse and putting the negotiations on a path to a result consistent with the Doha mandate.

Prospects for 2007

In 2007, the United States will continue the informal work with key trading partners begun in 2006 to try to identify approaches for reviving the negotiations in a manner that would deliver on the Doha mandate. In these discussions, the United States will work to achieve a high level of ambition in all three pillars: market access, export competition and trade-distorting domestic support. U.S. objectives for agriculture reform will continue to focus on the principles of greater harmonization across WTO Members, substantial overall reforms and specific commitments of interest in key developed and developing country Member markets.

2. Council for Trade in Services, Special Session

Status

The Special Session of the Council for Trade in Services (CTS-SS) was formed in 2000, pursuant to the Uruguay Round mandate to undertake new multi-sectoral services negotiations. The Doha Declaration of November 2001, recognizing the work already undertaken in the services negotiations, directed Members to conduct negotiations with a view to promoting the economic growth of all trading partners, and set deadlines for initial market access requests and offers. These negotiations for new General Agreement on Trade in Services (GATS) commitments are one of the core market access pillars of the Doha Round, along with agriculture and non-agricultural goods.

The Hong Kong Ministerial Declaration called for the negotiations to proceed to conclusion with a view to promoting the economic growth of all trading partners, with due respect for the right of Members to regulate. The Hong Kong Declaration provided a framework for intensifying the negotiations, with the goal of expanding the sectoral and modal coverage of commitments and improving their quality.

The work of the CTS-SS was interrupted by the suspension of DDA negotiations in July.

The Four Modes of Trading Services in the GATS	
Mode of Supply	Description
Mode 1 (Cross-border supply)	Services supplied from one country to another (e.g., through an international telephone call or e-mail).
Mode 2 (Consumption abroad)	Consumers or firms making use of a service in another country (e.g., tourism).
Mode 3 (Commercial presence)	A foreign company setting up operations to provide services in another country (e.g., foreign bank opening branches in a country).
Mode 4 (Presence of natural persons)	Individuals traveling from their own country to supply services temporarily in another (e.g., consultants).

Major Issues in 2006

During the first half of 2006, the United States continued to press Members for a high level of ambition for services liberalization, particularly in key sectors such as financial, telecommunication, computer, energy, distribution, express delivery, and audiovisual services. The United States was very active in the newly launched “plurilateral process,” through which Members joined together to develop collective market access requests for 20 sectors and issues of particular interest. The United States joined in co-sponsoring 13 of these requests in the following areas: architectural, engineering and integrated engineering services; audiovisual services; computer and related services; construction and related engineering services; distribution services; private education services; energy services; environmental services; financial services; legal services; Mode 3 (commercial presence); postal/courier services including express delivery; and telecommunications services.

In parallel with the plurilateral process, the United States continued to engage actively in bilateral negotiations to encourage Members to come forward with ambitious revised offers by July 31, 2006. With the suspension of the DDA negotiations, however, this deadline was missed.

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

Regarding development in general, the United States has consistently supported flexibility for the LDC Members, while noting that trade liberalization in services is important to sustainable economic development. Access to cutting-edge technology, management knowledge and investment through liberalized services markets is critical for developing countries. The Internet, express delivery, cellular communication, and other services are growth accelerators that create new industries and transform traditional ones -- reducing production costs, enhancing productivity gains, facilitating product distribution, and providing the major source of jobs in the global economy today and for decades to come.

Prospects for 2007

Despite the suspension of formal negotiations, the United States continues to pursue aggressively its critical market access objectives, including opening up foreign markets to our world-class service providers by getting Members to remove equity limitations, quantitative restrictions and other barriers to

trade in services. A substantial amount of work is underway in the Council for Trade in Services -- see Section G -- and the United States will continue to seek a high level of ambition.

3. Negotiating Group on Non-Agricultural Market Access

Status

At the Hong Kong Ministerial Conference in December 2005, Members agreed to lock in the progress that had been made in the Non-Agricultural Market Access (NAMA) negotiations since the July 2004 Framework Agreement. Members reaffirmed the goal of reducing or eliminating tariff peaks, high tariffs and tariff escalation. Members also agreed that further liberalization of tariffs should be achieved through a harmonizing (Swiss) tariff cutting formula which would cut the highest tariffs the most, the exact structure and details to be negotiated. The United States seeks significant new competitive opportunities for U.S. businesses in the NAMA negotiations through cuts in applied tariff rates and the reduction of non-tariff barriers.

The Hong Kong Ministerial text also recognized the work that has been done on moving forward discussions on sectoral initiatives and noted that the discussions had gained momentum. Members have been pursuing sectoral discussions in a variety of global industry sectors that represent key economic building blocks and sectors of interest to both developed and developing Members. Up until the time of the Round's suspension in July 2006, the discussions increasingly involved a mixture of developed and developing country Members from every trading region.

Through the Hong Kong Ministerial text, the Members also provided a boost to the important efforts to reduce or eliminate non-tariff barriers (NTBs) by recognizing the work accomplished to date and calling for introduction of detailed negotiating proposals early in 2006. This recognition set the stage for the United States and other governments to address the variety of NTBs that impede market access, either on an industry-wide basis (e.g., labeling issues in textiles, apparel, footwear and travel goods), across a variety of industries (e.g., barriers faced on exports of remanufactured goods), or in the case of a specific product in a single market. These barriers are often as damaging and more trade-distorting than tariff barriers.

Tariff Profiles		
Simple Average Tariffs as reported by the World Trade Organization.		
<u>Markets</u>	<u>WTO Maximum Tariffs</u>	<u>2005 Applied Tariffs</u>
United States	3.9	3.9
EU	4	4
Argentina	31.8	10.4
Brazil	30.8	11
China	9.1	9
Egypt	27.7	12.5
India	34.3	19.5
Philippines	23.4	5.6
South Africa	15.8	9.9

The NAMA Chairman's text, tabled in June 2006, links the Hong Kong Ministerial text with Members' positions in the NAMA Negotiating Group in an attempt to make obvious for Members "the gaps" in which there is no agreement. This Chairman's text, as an outgrowth of the Hong Kong text, provides Members with a solid platform to negotiate the specifics on NAMA. The outcome of these negotiations is crucial for trade in industrial goods, which accounts for over 75 percent of total global trade in goods and more than 90 percent of total U.S. goods exports. In 2004, U.S. exports of industrial goods grew to \$735 billion – almost 11 times the level of U.S. agricultural exports. This figure is up 11 percent from 2004 and up 87 percent from 1994. The Doha Round provides an opportunity to lower tariffs in key markets like India and Egypt, which still retain ceiling tariff rates as high as 150 percent. Likewise, gains from tariff rate reductions made as a result of the Doha Round will accrue to developing country Members, which currently pay over 70 percent of duties collected to other developing countries.

Major Issues in 2006

In 2006, Members focused on a number of substantive elements of the July 2004 Framework Agreement (the Framework) including: (1) a sectoral component; (2) work on non-tariff barriers; and (3) the flexibilities to be provided for least-developed country Members, poor and revenue-strapped Members just above the LDC level, and other developing country Members. Members attempted to make progress on these issues before resuming intensive discussions on the elements of a tariff-cutting formula and specifics on the level of ambition to be achieved by developed and developing country Members. Final consensus on these issues proved elusive.

The key U.S. NAMA objective is to achieve an ambitious outcome that results in significant real market access in key markets, including both developed and developing country Member markets. The United States therefore supports a combination of cuts applying a Swiss formula with dual coefficients¹ and sectoral initiatives to achieve most effectively the objectives laid out in the Doha mandate to reduce or eliminate tariff peaks, high tariffs and tariff escalation, particularly on products of export interest to developing country Members. The United States also believes that all the elements of the Framework must be considered in tandem. There is an inextricable link between discussions on the formula and on the sectors, as well as flexibilities.

Based on the Framework, discussions on formula options intensified beginning in June 2006. Unfortunately, these discussions did not culminate in an agreement beyond what was already embedded in the Hong Kong Ministerial text and the NAMA Negotiating Group Chairman's June 2006 text.

Further progress was made on sectoral initiative discussions throughout the first half of 2006. U.S. efforts to inform other Members of the benefits of approaching sectoral liberalization using the "critical mass" concept bore fruit as an increasing number of developing country Members began to attend informal sector-specific discussions during NAMA Negotiating Group meetings in Geneva. Critical mass is defined as the level of Member participation (based on the share of world trade) needed to support a sectoral agreement to reduce or eliminate tariffs. Members have formally and informally proposed several sectors that are being considered for such agreements.

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

Chemicals; electronics/electrical products; fish and fish products; forest products; healthcare products (pharmaceuticals and medical equipment); autos and related parts; bicycles and related parts; gems and jewelry; sports equipment; textiles, clothing and footwear; and environmental goods.

Flexibility, or special and differential treatment for developing country Members, including "less than full reciprocity," was a primary area of discussion in 2006, with a number of specific and general approaches under consideration. Decisions on this element will be integrally linked to the outcome of negotiations on the formula and sectoral agreements. Several developing country Members continue to raise their concerns with the potential erosion of preferences or loss of government revenue due to tariff cuts. Small, vulnerable economies as well as Members that recently joined the WTO also raised concerns regarding their contributions to a final outcome.

Non-tariff barriers remain an integral and equally important component of the NAMA negotiations. In line with the Hong Kong Ministerial Declaration, WTO Members continued to consider how NTBs could be addressed horizontally (i.e., across all sectors), vertically (i.e., pertaining to a single sector) and

¹ Members are negotiating the coefficients to be used in the Swiss formula to determine the depth of tariff cuts for developed country Members and the depth of the tariff cuts for developing country Members.

through a bilateral request/offer process. In 2006, the United States tabled a draft text for a proposed agreement to facilitate and harmonize labeling requirements for textiles, clothing, and footwear and travel goods (TN/MA/W/18/Add.12). The United States also tabled bilateral requests of other WTO Members on a variety of NTB issues. In addition, the United States continued to work to build support for NTB proposals tabled in 2005 on automobiles and remanufactured products.

Prospects for 2007

In 2007, work will focus first on negotiating the final details of the Swiss formula and coefficients to be employed, seeking commitments from key trading Members to participate in specific sectors, determining the appropriate balance of flexibilities to be provided to developing country Members and advancing negotiations on identified NTBs. The United States continues to seek an ambitious approach that will deliver real market access in key developed and developing country Member markets, while supporting elements of flexibility for developing country Members. The United States remains committed to the view that true development gains can best be achieved through further real market liberalization by both developed and developing Members.

4. Negotiating Group on Rules

Status

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

At the Hong Kong Ministerial Conference in December 2005, Ministers directed the Negotiating Group on Rules (the Rules Group) to intensify and accelerate the negotiating process in all areas of its mandate, on the basis of detailed textual proposals, and to complete the process of analyzing proposals as soon as possible. On fisheries subsidies, Ministers acknowledged broad agreement on stronger rules, including a prohibition of the most harmful subsidies contributing to overcapacity and overfishing, and appropriate effective special and differential treatment for developing country Members. Ministers also directed the Rules Chairman to prepare consolidated texts of the Antidumping and SCM Agreements, taking account of progress in other areas of the negotiations. While the Rules Group intensified its work in early 2006, in accordance with the Hong Kong Declaration, the Rules Chairman did not issue consolidated texts of proposals for changes to the Antidumping and SCM Agreements in 2006, given the suspension of work in the Doha negotiations in July 2006.

Since the Rules Group began its work in 2002, Members have submitted over 200 formal papers and over 140 elaborated informal proposals to the Group.² In 2004, the Group began a process of in-depth discussions of proposals in informal session to deepen the understanding of the very technical issues raised by the proposals in these papers. In 2005, the Rules Chairman began holding a series of plurilateral consultations with smaller groups of interested Members, in order to have more intensive and focused technical discussions on elaborated proposals. In 2005, the Chairman also established a Technical Group

² Both sets of Rules papers are publicly available on the WTO website: the formal papers may be found using the “TN/RL/W” document prefix, and the elaborated informal proposals may be found using the “TN/RL/GEN” prefix.

as part of the Rules Group's work to examine in detail issues relating to antidumping questionnaires and verification outlines, with a view to seeking to reduce costs in antidumping investigations. In accordance with the Hong Kong Declaration, in 2006 the Rules Group increasingly focused its work on analysis of detailed textual proposals containing suggestions for specific changes to the Antidumping and SCM Agreements.

The Doha Declaration also directed the Rules Group to "clarif[y] and improv[e] disciplines and procedures" governing Regional Trade Agreements (RTAs) under the existing WTO provisions. To that end, in July 2006, the Rules Group approved a draft decision for the provisional application of a "Transparency Mechanism for Regional Trade Agreements." In addition, the Rules Group has explored the establishment of further standards governing the relationship of RTAs to the global trading system.

Major Issues in 2006

Under the Chairmanship of Ambassador Guillermo Valles Galmés of Uruguay, the Rules Group intensified its work in the first half of 2006, until work on the Doha negotiations was suspended in July 2006. In late 2006, the Chairman resumed technical consultations, primarily on fisheries subsidies issues.

The Rules Group has based its work primarily on the written submissions from Members, organizing its work in the following categories: (1) antidumping (often including similar issues relating to countervailing duty remedies); (2) subsidies, including fisheries subsidies; and (3) regional trade agreements. In addition to the Rules plenary sessions, Chairman Valles held a number of plurilateral consultations in the first half of 2006 with smaller groups of interested Members, in order to have intensive technical discussions focusing on elaborated proposals by Members calling for specific textual changes to the Antidumping and SCM Agreements.

Given the Doha mandate that the basic concepts and principles underlying the Antidumping and SCM Agreements must be preserved, the United States outlined in a 2002 submission the basic concepts and principles of the trade remedy rules, and identified four core principles to guide U.S. proposals for the Rules Group. The principles set out below continued to guide the United States' work in the Rules Group in 2006:

- Negotiations must maintain the strength and effectiveness of the trade remedy laws and complement a fully effective dispute settlement system which enjoys the confidence of all Members.
- Trade remedy laws must operate in an open and transparent manner, and transparency and due process obligations should be further enhanced as part of these negotiations.
- Disciplines must be enhanced to address more effectively underlying trade-distorting practices.
- It is essential that WTO dispute settlement panels and the Appellate Body, in interpreting obligations related to trade remedy laws, follow the appropriate standard of review and not impose on Members obligations that are not contained in the Agreements.

Antidumping and Countervailing Duty Remedies: In accordance with the principles noted above, the United States submitted nine textual proposals to the Rules Group in 2006 on antidumping (AD) and countervailing duty (CVD) issues. The United States submitted proposals to: address circumvention of AD/CVD measures; clarify the injury causation standard in AD/CVD investigations; clarify the rules governing use of "facts available" by AD authorities; and improve access to AD/CVD remedies for producers of perishable seasonal agricultural products. In addition, in an effort to improve transparency and due process, the United States submitted proposals to require disclosure of calculations by AD/CVD

authorities; increase access by parties to reviews under Article 9.3 of the Antidumping Agreement; mandate AD/CVD preliminary determinations; improve procedures for AD/CVD verifications; and clarify exchange rates to be used in AD/CVD margin calculations. These U.S. proposals were discussed in detail as part of the Chairman's plurilateral consultations in 2006.

A group calling itself the "Friends of Antidumping Negotiations" (FANs) has also been active in the Rules Group, generally seeking to impose limitations on the use of antidumping remedies. The FANs group consists of Brazil, Chile, Colombia, Costa Rica, Hong Kong China, Israel, Japan, Korea, Mexico, Norway, Singapore, Switzerland, Chinese Taipei, Thailand, and Turkey. In the earlier stages of the Rules Group negotiations, there were numerous proposals submitted by the FANs as a group. As the discussions have become more technical and detailed, many of the FANs have submitted elaborated proposals individually or with a few co-sponsors, but there were no submissions by the FANs as a group in 2006. Among the FANs, Brazil, Chile, Chinese Taipei, Hong Kong China, Japan, Mexico, Norway, Switzerland and Thailand each submitted or co-sponsored elaborated proposals on AD issues in 2006.

Besides the United States and members of the FANs, the other WTO Members submitting elaborated proposals on AD issues in 2006 were Canada, Egypt, the EU, India, Kenya, and South Africa; Jamaica submitted a formal paper with comments on other Members' proposals.

In 2006, the United States continued to be a leading contributor to the technical discussions aimed at deepening the understanding of Members of the issues raised in the Rules Group, drawing upon extensive U.S. experience and expertise as both a user of trade remedies and as a country whose exporters are often subject to other Members' use of trade remedies. In addition to presenting its own submissions, the United States has been actively engaged in addressing the submissions from other Members, carefully scrutinizing and vigorously questioning the technical merits of the issues they have raised, as well as seeking to ensure that the Doha mandate for the Rules Group is fulfilled.

Subsidies/CVD: In 2006, the United States, Australia, Brazil, Canada, Chinese Taipei, and the EU submitted elaborated proposals on subsidies issues. In addition, India, Egypt, Kenya, and Pakistan jointly submitted one elaborated proposal. Most notably, the United States submitted an elaborated proposal suggesting the expansion of the prohibited category of subsidies. Currently, only two types of subsidies are prohibited by the SCM Agreement: export subsidies and import-substitution subsidies. However, serious market and trade distortions can also result from other types of subsidies. Therefore, the United States proposed that Members consider expanding the current prohibition to include other subsidy types, such as those listed in the now-lapsed "dark amber" category of subsidies, as well as other forms of egregious government intervention. In addition to proposing the expansion of the prohibited category, the paper made a significant new proposal to address the United States' increasing concerns with foreign state-owned and state-controlled enterprises. The paper proposed that there be a requirement that Members notify the WTO Committee on Subsidies and Countervailing Measures of any intended provision of equity capital as well as other transparency measures for all government-controlled companies, such that Members can be assured of a consistently commercial, arm's-length relationship between the government-owner and the state-owned enterprise. In 2006, the United States also followed up on a series of previous papers with proposed text regarding certain subsidy calculation issues.

Fisheries Subsidies: At the Hong Kong Ministerial Conference in 2005, the United States was instrumental in securing greater focus on the issue among Members and heightened public awareness of our efforts among a variety of constituencies.

The Hong Kong Ministerial Declaration acknowledges the environmental dimension of the fisheries subsidies negotiations and notes Members' broad agreement that improved disciplines should include a prohibition of certain forms of subsidies that contribute to overcapacity and overfishing.

Following the Hong Kong Ministerial, the discussions in the Rules Group moved into a text-based phase. New Zealand, the United States, Brazil, the EU, Argentina, Japan, Korea, and Chinese Taipei all introduced text proposals in significant areas of the negotiations. Chairman Valles then established a process for plurilateral consultations among key Members, including the United States.

With support from the United States, New Zealand presented an ambitious framework proposal based on a broad prohibition of fisheries subsidies, with appropriate exceptions. The United States submitted a proposal on several technical issues designed to complement New Zealand's efforts. Specifically, the United States proposed text for a carefully tailored exception for vessel capacity reduction programs, as well as text addressing the use of fisheries expertise in the implementation of the agreement.

In addition, Brazil presented a comprehensive proposal that was also premised on a broad prohibition, but with significant special and differential treatment for developing country Members. Also within the context of a broad prohibition, Argentina introduced a proposal on special and differential treatment that was more limited in scope than Brazil's. The Rules Group also discussed textual proposals from other Members (one from the EU and one from Japan, Korea and Chinese Taipei) that reflected a lower level of ambition -- a prohibition limited to certain forms of capacity-enhancing subsidies, combined with significant categories of subsidies that would be permitted.

Regional Trade Agreements: The discussions on regional trade agreements in the Rules Group have focused on ways in which the WTO rules governing customs unions and free trade agreements, and economic integration agreements for services, might be clarified and improved. The discussions have followed two tracks -- transparency and systemic (or substantive) issues.

In July 2006, the Rules Group agreed on a set of provisional procedures, called the "Transparency Mechanism for Regional Trade Agreements" (WT/L/671), to improve the transparency of RTAs. The General Council approved this provisional Transparency Mechanism in December, making its terms applicable to future reviews of RTAs. The Transparency Mechanism shifts the process of fact-gathering and reporting on RTAs from individual Members to the Secretariat, which should lead to greater uniformity in the quantity and quality of the information provided. The Transparency Mechanism applies to all RTAs, including those between developing country Members notified under the Enabling Clause. Finally, in order to address the backlog of examinations in the Committee on Regional Trade Agreements, the Rules Group agreed that information on, as well as the text of, each notified RTA would be available on the WTO website.

Although the focus in 2006 was on the Transparency Mechanism, there were some discussions on systemic issues as well. Work here has centered on such issues as the GATT Article XXIV requirement

Friends of Fish

- Friends of Fish include: the United States, Argentina, Australia, Chile, Ecuador, Iceland, New Zealand and Peru; Brazil is playing a constructive bridging role.
- Seek stronger rules to address significant global overcapacity and depletion of many significant fish stocks.
- Favor a broad prohibition of fisheries subsidies, with appropriate exceptions for government support that does not promote overcapacity and overfishing.
- Win-Win-Win for WTO: stronger rules on fisheries subsidies good for trade, the environment and sustainable development.

that RTAs eliminate tariffs and “other restrictive regulations of commerce” on “substantially all the trade” between parties (and the analogous provisions for the GATS). Some developing country Members have proposed introducing flexibilities for RTAs involving both developed country and developing country Members. No formal papers on systemic issues were submitted by Members during 2006, but the EU, Japan, Korea and others have suggested various changes to current standards. The United States supported the provisional adoption of the Transparency Mechanism, and has been an active participant in the RTA discussions on systemic issues within the Group.

Prospects for 2007

In early 2007, it can be expected that the Chairman will continue technical consultations, focusing primarily on subsidies and fisheries subsidies issues, and that work in the Rules Technical Group will also continue. The Chairman likely will also continue to work towards building a consolidated negotiating text that can serve as the basis for the final negotiations.

The United States will continue to pursue an aggressive affirmative agenda, based on the core principles summarized above, and building upon the U.S. proposals submitted thus far with respect to, *inter alia*, preserving the effectiveness of the trade remedy rules; improving transparency and due process in trade remedy proceedings; strengthening the existing subsidies rules; and strengthening WTO disciplines on harmful subsidies to fisheries. Concerning fisheries subsidies, the United States will continue to press for an ambitious outcome, including a broad-based prohibition of the most harmful subsidies and improved transparency and accountability in the sector.

On RTAs, following the provisional adoption of the Transparency Mechanism in December 2006, the Rules Group will turn its focus in 2007 to systemic issues, on which the United States will continue to advocate strong substantive standards for RTAs that support and advance the multilateral trading system.

5. Negotiating Group on Trade Facilitation

Status

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

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

One of the outcomes of the December 2005 Hong Kong Ministerial Conference was endorsement of a consensus-based report that had been transmitted to the Trade Negotiations Committee by the Trade Facilitation Negotiating Group (TFNG). The report included a matrix of the specific proposals submitted by Members that, along with some specific recommendations for proceeding, set the course for the work of the TFNG in 2006.

Major Issues in 2006

The TFNG's work in 2006 continued to have as its hallmark a broad-based and constructive participation by Members of all levels of development -- a positive negotiating environment that is seen as offering "win-win" opportunities for all. Of particular note was continued emergence within the TFNG of leadership from Members representing significant emerging markets, including India, the Philippines, Egypt, and China which, working closely with the United States and others, has helped to steer the negotiations forward in a practical, problem-solving manner. At the same time, the "Colorado Group" continued to provide leadership in advancing the Trade Facilitation negotiations. This group, consisting of the United States, Australia, Canada, Chile, Colombia, Costa Rica, EU, Hong Kong China, Hungary, Japan, Korea, Morocco, New Zealand, Norway, Paraguay, Singapore, and Switzerland, has long played an important role on this issue.

For many developing country Members, results from the negotiations that bring improved transparency and an enhanced rules-based approach to border regimes will be an important element of broader ongoing domestic strategies to increase economic output and attract greater investment. There is also a growing understanding that such an outcome would squarely address one of the factors holding back increased regional integration and south-south trade. Most Members see these negotiations as bringing particular benefits to the ability of small and medium-sized businesses to participate in the global trading system.

The modalities for conducting the trade facilitation negotiations, set forth as part of the August 1, 2004 General Council decision launching the negotiations, include the following: Negotiations shall aim to clarify and improve relevant aspects of Articles V, VIII and X of the GATT 1994 with a view to further expediting the movement, release and clearance of goods, including goods in transit. Negotiations shall also aim at enhancing technical assistance and support for capacity building in this area. The negotiations shall further aim at provisions for effective cooperation between customs or any other appropriate authorities on trade facilitation and customs compliance issues.

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

During 2006, the TFNG stepped up its work on addressing the challenge of implementing the results of the negotiations that will face many developing country Members. There was a strengthened focus on methods for developing country Members to undertake assessments of their individual situations regarding capacity and progress toward implementing the proposals submitted. In conjunction with this work, there has been intensified work on issues related to technical assistance, such as a potential role for a future Committee. Informally, it is already apparent that many of the developing country Members have implemented -- or are taking steps to do so -- a number of the concrete measures proposed as new WTO commitments. At the same time, it is also clear that a number of developing country Members openly recognize that they have an "offensive" interest in seeking implementation by their neighbors of any future new commitments in this area. This realization has led to broad developed and developing country Member alliances on some of the proposals. A similar dynamic emerged toward taking up how to address "special and differential" treatment as part of the negotiating outcome, with concrete and creative proposals emerging out of informal joint cooperative work by various developed and developing country Members.

As the recent Free Trade Agreements (FTAs) undertaken by the United States have been implemented, there has been a positive synergy with the WTO negotiations on Trade Facilitation. With partners as diverse as Chile, Singapore, Australia, Morocco, and Bahrain, each FTA negotiated by the United States has included a separate, stand-alone chapter that contains significant commitments on customs administration. Each of our current and future FTA partners has become an important partner and

champion in Geneva for moving the negotiations ahead and toward a rules-based approach to Trade Facilitation.

The proposals submitted by Members for specific new and strengthened WTO commitments submitted thus far to the Trade Facilitation negotiations generally reflect measures that would capture forward-looking practices that would bring improved efficiency, transparency and certainty to border regimes, while diminishing opportunities for corruption. Notably, the submission of many of these proposals, as well as their initial discussions within the negotiating group, has featured alliances not traditionally seen at the WTO. Examples include a U.S. joint proposal with Uganda (calling for elimination of consularization formalities and fees), and a joint proposal with India (proposing a cooperation mechanism for customs facilitation and compliance).

As 2006 progressed, the work of the TFNG was aimed at a progressive move of the negotiations towards entering a text-based negotiating phase. Members exhibited a consensus view that a draft text for negotiations should emerge in a “bottom up” Member-driven process, rather than for the chair to issue a text. In April, the United States was the first Member to submit a draft text proposal to the TFNG, along with Uganda, pertaining to its joint proposal for a commitment to eliminate consularization fees and formalities as requirements for importation. The submission of draft texts and the gradual shift by the TFNG toward the next final phase of negotiations involving the negotiation over textual provisions was beginning to gather momentum when negotiations were suspended in July.

Prospects for 2007

The formal resumption of negotiations under the Doha Development Agenda will likely bring a continuation of the TFNG’s advancement toward a “focused drafting mode,” in a process aimed at achieving a timely conclusion of text-based negotiations. As negotiations toward new and strengthened disciplines move forward, it will remain important that work proceeds in a methodical and practical manner on the issue of how all Members can meet the challenge of implementing the results of the negotiations -- including with regard to the issues of special & differential treatment and technical assistance. It is possible that some further specific proposals may be submitted, but it is likely that much of the work will involve the consideration of the proposals listed below as part of a process leading to refinement and, ultimately, articulation of some into an agreed text.

MEASURES PROPOSED³ BY WTO MEMBERS TO IMPROVE AND CLARIFY GATT ARTICLES V, VIII AND X

A. Publication and Availability of Information

- Publication of Trade Regulations
- Publication of Penalty Provisions
- Internet Publication
 - (a) of elements set out in Article X of GATT 1994
 - (b) of specified information setting forth procedural sequence and other requirements for importing goods
 - Notification of Trade Regulations
 - Establishment of Enquiry Points/SNFP/Information Centres
 - Other Measures to Enhance the Availability of Information

³ As set out in the report of the Negotiating Group on Trade Facilitation to the Trade Negotiations Committee (TN/TF/3; November 21, 2005), endorsed by the Ministers at the December 2005 Hong Kong Ministerial and included in Annex E of the Hong Kong Ministerial Declaration.

- B. Time Periods between Publication and Implementation
 - Interval between Publication and Entry into Force
- C. Consultation and Comments on New and Amended Rules
 - Prior Consultation and Commenting on New and Amended Rules
 - Information on Policy Objectives Sought
- D. Advance Rulings
 - Provision of Advance Rulings
- E. Appeal Procedures
 - Right of Appeal
 - Release of Goods in Event of Appeal
- F. Other Measures to Enhance Impartiality and Non-Discrimination
 - Uniform Administration of Trade Regulations
 - Maintenance and Reinforcement of Integrity and Ethical Conduct Among Officials
 - Establishment of a Code of Conduct
 - Computerized System to Reduce/Eliminate Discretion
 - System of Penalties
 - Technical Assistance to Create/Build up Capacities to Prevent and Control Customs Offences
 - Appointment of Staff for Education and Training
 - Coordination and Control Mechanisms
- G. Fees and Charges Connected with Importation and Exportation
 - General Disciplines on Fees and Charges Imposed on or in Connection with Importation and Exportation
 - Specific Parameters for Fees/Charges
 - Publication/Notification of Fees/Charges
 - Prohibition of Collection of Unpublished Fees and Charges
 - Periodic Review of Fees/Charges
 - Automated Payment
 - Reduction/Minimization of the Number and Diversity of Fees/Charges
- H. Formalities Connected with Importation and Exportation
 - Disciplines on Formalities/Procedures and Data/Documentation Requirements Connected with Importation and Exportation
 - Non-discrimination
 - Periodic Review of Formalities and Requirements
 - Reduction/Limitation of Formalities and Documentation Requirements
 - Use of International Standards
 - Uniform Customs Code
 - Acceptance of Commercially Available Information and of Copies
 - Automation
 - Single Window/One-time Submission
 - Elimination of Pre-Shipment Inspection
 - Phasing out Mandatory Use of Customs Brokers
- I. Consularization
 - Prohibition of Consular Transaction Requirement

J. Border Agency Cooperation

- Coordination of Activities and Requirement of all Border Agencies

K. Release and Clearance of Goods

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

L. Tariff Classification

- Objective Criteria for Tariff Classification

M. Matters Related to Goods Transit

- Strengthened Non-discrimination
- Disciplines on Fees and Charges
- Publication of Fees and Charges and Prohibition of Unpublished ones
- Periodic Review of Fees and Charges
- More effective Disciplines on Charges for Transit
- Periodic Exchange Between Neighbouring Authorities
- Disciplines on Transit Formalities and Documentation Requirements
 - (a) Periodic Review
 - (b) Reduction/Simplification
 - (c) Harmonization/Standardization
 - (d) Promotion of Regional Transit Arrangements
 - (e) Simplified and Preferential Clearance for Certain Goods
 - (f) Limitation of Inspections and Controls
 - (g) Sealing
 - (h) Cooperation and Coordination on Document Requirements
 - (i) Monitoring
 - (j) Bonded Transport Regime/Guarantees
- Improved Coordination and Cooperation
 - (a) Among Authorities
 - (b) Between Authorities and the Private Sector

6. Committee on Trade and Environment, Special Session

Status

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

- (i) the relationship between existing WTO rules and specific trade obligations (STOs) set out in Multilateral Environmental Agreements (MEAs) (with the negotiations limited to the applicability of existing WTO rules among parties to such MEAs and without prejudice to the WTO rights of Members that are not parties to the MEAs in question);
- (ii) procedures for regular information exchange between MEA secretariats and relevant WTO committees, and the criteria for granting observer status; and
- (iii) the reduction or, as appropriate, elimination of tariff and non-tariff barriers to trade in environmental goods and services.

Major Issues in 2006

In 2006, the CTE-SS had two formal meetings and six informal meetings, including several information sessions, which focused primarily on the Doha Declaration sub-paragraph 31(iii) negotiating mandate. Members continued to intensify their discussions on environmental goods in 2006, seeking to clarify the scope of the mandate. Nine Members, including the United States, have put forward lists of environmental goods, which have been discussed in detail. The U.S. list, submitted in July 2005, proposed coverage of 155 products. The products included in Members' lists (such as air pollution filters and solar panels) have been compiled in the WTO Secretariat's *Synthesis of Submissions on Environmental Goods*.⁴ Also in 2006, discussions continued surrounding the EU's "alternative" approach to multilateral tariff-cutting negotiations, described as the national "Environmental Project Approach." There continues to be, at this stage, a divergence of views as to how the work should proceed in the CTE-SS, and how the CTE-SS should interface with the Non-Agriculture Market Access Negotiating Group and the Council on Trade in Services in Special Session, where environmental goods and services market access are also under discussion.

Concerning the sub-paragraph 31(i) mandate on MEA Specific Trade Obligations and WTO Rules, a large majority of Members, including the United States, continued to note their interest in further experience-based discussions and to resist premature consideration of potential results in the negotiations. However, the EU proposed a draft Ministerial Decision in this negotiating area (TN/TE/W/68), which outlines a set of principles that they believe should govern the WTO-MEA relationship. Many Members, including the United States, rejected the proposal, saying, *inter alia*, that it goes far beyond the sub-paragraph 31(i) mandate. There was little active discussion of the sub-paragraph 31(ii) mandate on information exchange and observer status, although Members are generally supportive of identifying additional means to enhance information exchange between MEA secretariats and WTO bodies. On observer status, Members were able to agree on a separate decision to allow certain MEA secretariats to be invited on an *ad hoc* basis to attend CTE-SS meetings. With respect to a more permanent status, a number of delegations continue to express the view that the issue of criteria for observership is dependent on an outcome in more general ongoing General Council and TNC deliberations.

Prospects for 2007

In 2007, the CTE-SS is expected to move toward fulfillment of all aspects of the mandate under Paragraph 31 of the Doha Declaration, taking into account progress made in related negotiating groups. Under sub-paragraph 31(i), Members are expected to wrap-up their discussions of national experiences in negotiation and implementation of STOs set out in MEAs, including drawing any lessons that might be learned from such experiences. The United States continues to view this experience-based exchange as

⁴ This publication is contained in document TN/TE/W/63, which is available on the WTO website, www.wto.org.

the best way to explore the relationship between WTO rules and STOs contained in MEAs and believes that these experiences should form the basis for an outcome in the negotiations. Discussions under sub-paragraph 31(ii) are likely to become more concrete in the coming year, as many Members feel that this is an area ripe for progress. Several Members have also noted their interest in exploring linkages between sub-paragraphs 31(i) and (ii), in light of the view that enhanced cooperation between the WTO and MEA secretariats could contribute to improving both international and national coordination, and could further contribute to a mutually supportive relationship between the trade and environment regimes. Finally, the CTE-SS will remain the forum for discussing the importance of liberalization in both environmental goods and services in order to secure concrete benefits associated with access to state-of-the-art environmental technologies that promote sustainable development. The United States will continue to show leadership in advancing a robust outcome in the negotiations, one that opens markets for environmental goods and services, and supports Members' environmental and development policies.

7. Dispute Settlement Body, Special Session

Status

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

Major Issues in 2006

The DSB-SS met four times during 2006 in an effort to implement the Doha mandate. In previous phases of the review of the DSU, Members had engaged in a general discussion of the issues. Following that general discussion, Members tabled proposals to clarify or improve the DSU. Members then reviewed each proposal submitted and requested explanations and posed questions to the Member(s) making the proposal. Members also had an opportunity to discuss each issue raised by the various proposals.

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

In addition, the United States, joined by Chile, submitted a proposal to help improve the effectiveness of the WTO dispute settlement system in resolving trade disputes among Members. The joint proposal contained specifications aimed at giving parties to a dispute more control over the process and greater

flexibility to settle disputes. Under the present dispute settlement system, parties are encouraged to resolve their disputes, but do not always have all the tools with which to do so.

Prospects for 2007

In 2007, Members will continue to work to complete the review of the DSU. Members will be meeting several times over the course of 2007.

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

Status

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

Major Issues in 2006

During 2006, the TRIPS Council's Special Session continued its negotiations on implementation of Article 23.4 of the TRIPS Agreement, working to facilitate protection of certain GIs. There was no shift, during the course of the year, in currently-held positions among the Members, nor any movement towards bridging sharp differences between competing proposals. Key positions are reflected in a 2005 WTO Secretariat document (TN/IP/W/12) which contains a side-by-side presentation of the three proposals before the Special Session. In a July 2006 report to the TNC (TN/IP/16), the Chairman of the TRIPS Council Special Session highlighted, in particular, ongoing divergences with respect to participation in the multilateral register system (whether the system would apply to all Members or only to those opting to participate in it) and legal effects of the system (the extent to which legal effects at the domestic level determine the effect of registration of a geographical indication for a wine or spirit in the system). The Chairman also noted that further work would be required with respect to considering the costs and administrative burdens of a multilateral register system, particularly for developing country Members.

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

The EU together with a number of other Members continued to support their alternative proposal for a binding, multilateral system for the registration and protection of GIs for wines and spirits. The current EU position is reflected in a June 2005 document in the form of draft legal text that combines two

proposals: the multilateral GI register for wines and spirits and an amendment to the TRIPS Agreement to extend Article 23-level GI protection to products beyond wines and spirits. The effect of this proposal is to expand the scope of the negotiations to all GI products and to propose that any GI notified to the EU's proposed register would be automatically protected as a GI throughout the world with very few permissible grounds for objection. At the international level, Members would have eighteen months in which to object to the registration of particular notified GIs that they believed were not entitled to protection within their own territory. If no objections were made, each notified GI would be registered and all Members would be required to provide protection as required under Article 23. If an objection were made, the notifying Member and the Member objecting would negotiate a solution, but the GI would have to be protected by all Members that had not objected. In addition, although certain limited objections to the registered GI would be available in domestic judicial proceedings, the notified GI would be presumed valid against a competing rightholder, including a prior rightholder. Essentially, in both cases in which an objection were made at the international or domestic levels, the system proposed by the EU could, as a practical matter, enable one Member to mandate GI protection in another Member simply by notifying that GI to the system. Such a proposal would negatively affect pre-existing trademark rights, as well as investments in generic food terms, and would directly contradict the principle of territoriality with respect to intellectual property.

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

Prospects for 2007

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

9. Committee on Trade and Development, Special Session

Status

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

As part of the S&D review, developing country Members have submitted 88 proposals to augment existing S&D provisions in WTO agreements. Following intensive negotiations in 2002 and 2003, the CTD-SS agreed *ad referendum* on a nearly a third of those proposals for consideration at the Fifth Ministerial Conference in Cancun, Mexico in 2003. Due to the breakdown of the DDA negotiations, these proposals were not adopted at Cancun. Since Cancun, WTO Members have taken no action to

adopt them, and in November 2005 the Africa Group submitted a paper to the CTD-SS repudiating the agreed texts of these proposals. In 2004 and early 2005, focus of the CTD-SS shifted to discussions on new approaches to address the mandate more effectively, and reflected a desire to find a more productive approach than that associated with the specific proposals that individual Members or groups tabled. Despite extensive discussions, Members were unable to reach agreement on an alternative framework for approaching the mandate of the CTD-SS.

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

Major Issues in 2006

Following Hong Kong, the CTD-SS conducted a thorough “accounting” of the remaining agreement-specific proposals. Though the number of proposals had been reduced considerably since their introduction in 2002 and 2003, divergences among Members’ positions on the remaining proposals were quite wide. Early in the year, CTD-SS Chairman Gafoor conducted a survey of the proposals which had been referred to other negotiating groups or Committees due to their technical complexity. The responses by other Chairpersons to his survey indicated that Members had not been able to make much headway on those proposals in those other bodies, due in part to the wide divergence of views on the issues, as well as to a lack of engagement by the original proponents. CTD-SS Chairman Gafoor reported that the Chairpersons of the other bodies highlighted that proponents need to take the lead and engage with other Members and, thereafter if necessary, to redraft their proposals.

With respect to the remaining proposals still under consideration in the CTD-SS, Chairman Gafoor’s “accounting” showed that -- due to the work completed by the CTD-SS over the years and to other developments, including the expiry of the Agreement on Textiles and Clothing -- the number of outstanding proposals had been reduced considerably. However, the remaining proposals were clearly those on which the divergences among Members’ views were the greatest. Without prejudging outcomes or setting expectations on the number of, or the shape of, any outcome, Members agreed to consider a handful of proposals. These proposals covered issues relating to the scope for action relating to government subsidies, balance-of-payments adjustment and infant industry protection under Article XVIII (two proposals); access to WTO waivers for non-LDC developing country Members; transition periods under the SPS Agreement; and allocation of Import Licenses to developing country Members. No consensus on these proposals emerged during the discussions in 2006.

The Hong Kong Declaration directs the CTD-SS to “resume work on all other outstanding issues, including the cross-cutting issues, the Monitoring Mechanism and the architecture of WTO rules.” In 2006, Chairman Gafoor conducted formal and informal discussions on these concepts, including those related to increasing Members’ understanding of the utilization and effectiveness of S&D through monitoring and evaluation. These discussions reflected a desire on the part of some Members to find a more productive approach than that associated with continuing to revisit the Agreement-specific proposals tabled by individual Members or groups. Still, other developing country Members are concerned that any type of work other than the Agreement-specific proposals would address the sensitive issue of differentiation of treatment among developing country Members on the application of particular S&D provisions (also referred to as “graduation” of the more advanced developing country from S&D treatment). Here again, no consensus on these concepts emerged in 2006.

Prospects for 2007

In 2007, work will continue on the remaining S&D proposals and on the underlying issues inherent in them. As in 2006, much of the practical work on S&D in 2007 is likely to take place in the other Negotiating Groups, for example the Negotiating Groups on Agriculture, Non-Agricultural Market Access, Services, and Trade Facilitation. However, it is also likely that discussions will continue in the CTD-SS toward a mechanism to monitor implementation of S&D provisions and other cross-cutting issues.

C. Work Programs Established in the Doha Development Agenda

1. Working Group on Trade, Debt and Finance

Status

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

Major Issues in 2006

The WGTDF held two formal meetings in 2006. The first meeting addressed papers provided by the African, Caribbean and Pacific (ACP) Group and Argentina. For the second meeting, the agenda included all written papers provided by Members since the establishment of the WGTDF. Topics covered in these papers included linkages between trade and finance, linkages between trade and debt, the WGTDF's mandate and the WTO's competence and mandate in relation to the linkages between trade, debt and finance.

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

Prospects for 2007

In 2007, the WGTDF will continue to examine the relationship between trade, debt and finance, and any possible recommendations on steps that might be taken within the mandate and competence of the WTO to enhance the capacity of the multilateral trading system to contribute to a durable solution to the problem of external indebtedness of developing and LDC Members.

2. Working Group on Trade and Transfer of Technology

Status

During the 2001 Doha Ministerial Conference, WTO Ministers agreed to an "examination... of the relationship between trade and transfer of technology, and of any possible recommendations on steps that might be taken within the mandate of the WTO to increase flows of technology to developing countries."

In fulfillment of that mandate, the TNC established the Working Group on Trade and Transfer of Technology (WGTTT), under the auspices of the General Council, asking it to report on its progress to the 2003 Ministerial Conference at Cancun. The WGTTT met four times in 2006, continuing its Doha Ministerial mandate to examine the relationship between trade and the transfer of technology. During the 2005 Hong Kong Ministerial Conference, WTO Ministers recognized “the relevance of the relationship between trade and transfer of technology” and further agreed that, “building on the work carried out to date, this work shall continue on the basis of the mandate contained in paragraph 37 of the Doha Ministerial Declaration.” Members have not reached consensus on any recommendations.

Major Issues in 2006

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

In 2003, a group of developing country Members, led by India and Pakistan, circulated a paper entitled “Possible Recommendations on Steps that Might be Taken within the Mandate of the WTO to Increase Flows of Technology to Developing Countries.” The United States and several other Members have objected to much of the analysis in this paper, which suggested that some WTO agreements were hindering the transfer of technology. In particular, the United States and other Members expressed the strong view that effective intellectual property rights protections under the TRIPS Agreement promote the transfer of technology by private firms, rather than hindering such transfer, as the paper suggested.

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

In October 2005, India, Pakistan and the Philippines submitted a new paper, also entitled “Steps that Might be Taken within the Mandate of the WTO to Increase Flows of Technology to Developing Countries.” This paper was the focus of much of the WGTTT’s discussion in 2006. The submission focused on: expanding technical assistance under the TRIPS Agreement; encouraging multinational firms to perform science and technology development work in developing countries; discouraging use of allegedly restrictive business practices by technology owners; and enhancing mobility of scientists and technicians under the GATS Agreement. Although this paper raises some of the same concerns as previous submissions, the United States and other Members expressed appreciation for the pragmatic tone, and viewed it as a good basis for further discussions. The United States and other developed country Members noted the extent to which the technical assistance issues raised in this paper may already be addressed under the existing programs.

Prospects for 2007

As of this writing, no WGTTT meetings have been scheduled in 2007. It is expected that the group will continue its examination of issues raised in the October 2005 India/Pakistan/Philippines paper.

3. Work Programme on Electronic Commerce

Status

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

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

Major Issues in 2006

The Work Programme on Electronic Commerce remains an item in the Doha mandate. There have been no follow-up dedicated discussions since the meeting in November 2005 during which Members examined two issues raised by the United States – the trade treatment of electronically delivered software and the customs duties moratorium on electronically transmitted products. No sessions of the Work Programme were held in 2006.

Prospects for 2007

The United States remains committed to advancing meaningful trade policies that promote the growth of electronic commerce. Indeed, the focus of work in all negotiating groups has been to advance market openings in key information technology product and service sectors. Market access for these products and services will further encourage the expansion of electronic commerce. The United States continues to support extending the current practice of not imposing customs duties on electronic transmissions and is in the process of examining ways to make the moratorium permanent and binding in the future. Furthermore, the United States will work to focus Members' attention on the growing importance of maintaining a liberal trade environment for electronically-delivered software. Depending on progress in the overall Doha Round, more sessions of the Work Programme are expected in 2007 to work toward those objectives.

D. General Council Activities

Status

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

Only the Ministerial Conference and the General Council have the authority to adopt authoritative interpretations of the WTO Agreements, submit amendments to the Agreements for consideration by Members, and grant waivers of obligations. The General Council or the Ministerial Conference must approve the terms for all accessions to the WTO. Technically, meetings of both the Dispute Settlement

Body (DSB) and the Trade Policy Review Body (TPRB) are meetings of the General Council convened for the purpose of discharging the responsibilities of the DSB and TPRB, respectively.

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

The General Council uses both formal and informal processes to conduct the business of the WTO. Informal groupings, which generally include the United States, play an important role in consensus-building. Throughout 2006, the Chairman of the General Council conducted extensive informal consultations, with both the Heads of Delegation of the entire WTO Membership and a wide variety of smaller groupings. These consultations were convened with a view towards making progress on the core issues in the DDA, as well as towards resolving outstanding issues on the General Council's agenda. The intensive work conducted in informal meetings at the Ministerial level in the months leading up to the July General Council meeting, however, was not sufficient to break the impasse in the DDA negotiations. The Chairman of the TNC therefore recommended to the General Council that work be suspended across the Doha Round as a whole in order to enable the serious reflection that Members needed to do.

Major Issues in 2006

Ambassador Eirik Glenne of Norway served as Chairman of the General Council in 2006. In addition to work on the DDA, activities of the General Council in 2006 included:

Accessions: Capping over 11 years of work, the General Council approved the terms of accession for Vietnam in November 2006. (See section on Accessions.) The General Council also approved a request by Tonga to extend the time-limit for acceptance of its protocol of accession.

Aid for Trade: The General Council adopted the Report of the Task Force on Aid for Trade, but not the recommendations. It decided to monitor follow-up work and take the recommendations as a work in progress. (See section on Aid for Trade.)

Transparency Mechanism for RTAs: The General Council adopted provisionally an agreement on a new "Transparency Mechanism for Regional Trade Agreements" which will provide for greater uniformity in the quantity and quality of the information provided for review by Members in the Committee on Regional Trade Agreements (CRTA) and the Committee on Trade and Development (CTD); the Transparency Mechanism applies to all RTAs, including those between developing country Members notified under the Enabling Clause. (See section on Negotiating Group on Rules).

China Transitional Review Mechanism: In December, the General Council concluded its fifth annual review of China's implementation of the commitments that China made in its Protocol of Accession. The United States and other members commented on China's progress as a WTO Member, while also raising

concerns in areas such as intellectual property rights enforcement and urged China to make further progress toward the institutionalization of market mechanisms, fairness, transparency, and predictability in its trade regime

Bananas: Several banana-producing Latin American country Members registered complaints regarding the effect of enlargement and tariffication of quotas under the EU banana regime. Under Article XXVIII, a WTO Member that considers it has a “substantial interest” that is not being recognized by the relevant Member may refer the matter to the General Council for a formal determination. The General Council considered these complaints over the course of 2006, but the issue remains unresolved.

Improving Transparency of Unilateral Preference Programs: The General Council approved a draft decision proposed by Brazil and India inviting the CTD to review the transparency of preferential agreements notified under paragraph 2 of the Enabling Clause. Under the decision, the CTD is to “consider transparency” of such programs and report back to the General Council in 6 months.

Waivers of Obligations: The General Council adopted waiver extension requests for the Kimberley process certification scheme for rough diamonds, Canada’s Caribbean, and Cuba. It also adopted the waivers for the Harmonized System 2002 and 2007 changes to WTO schedules of tariff concessions. Annex II contains a detailed list of Article IX waivers currently in force.

Derestriction of GATT Documents: The General Council approved a decision in July to allow all remaining restricted GATT documents to move into the public domain.

Prospects for 2007

The General Council is expected to be more active in 2007, as Members work to break the impasse in the DDA and move the negotiations into their next phase. In addition to its management of the WTO and oversight of implementation of the WTO Agreements, the General Council will continue to monitor closely work on the DDA.

E. Council for Trade in Goods

Status

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

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

Major Issues in 2006

In 2006, the CTG held four formal meetings, in March, May, July, and November. As the central oversight body in the WTO for all agreements related to trade in goods, the CTG devoted its attention primarily to providing formal approval of decisions and recommendations proposed by its subsidiary

bodies. The CTG also served as a forum for airing initial complaints regarding actions that individual Members had taken with respect to the operation of goods-related WTO Agreements. Many of these complaints were resolved through consultation. In addition, five major issues were debated extensively in the CTG in 2006:

Waivers: The CTG approved several requests for waivers, including those related to the implementation of the Harmonized Tariff System and renegotiation of tariff schedules. In addition, the CTG took up waiver requests for which discussions are continuing: the United States' request concerning the African Growth and Opportunity Act (AGOA), Caribbean Basin Economic Recovery Act (CBERA) and Andean Trade Promotion Act (ATPA) and the EU's request for an extension of its ACP banana tariff rate quota.

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

China Transitional Review: On November 20, the CTG conducted the fifth annual Transitional Review Mechanism (TRM) of China, as mandated by the Protocol on the Accession of the People's Republic of China to the WTO. China supplied the CTG with information, answered questions that Members posed, and reviewed the TRM reports of CTG subsidiary bodies. (See Chapter III Section F on China for a more detailed discussion of China's implementation of WTO commitments).

Textiles: The CTG met several times to review a proposal by small exporting Members to find ways to assist them with post-Agreement on Textiles and Clothing (ATC) adjustment problems. These Members argued that the elimination of quotas will result in a disastrous loss of market share from small suppliers to the large exporters such as China and India. They asked that the CTG study this adjustment issue with a view to adopting proposals to ease the transition. These proposals were blocked by the large exporting Members, such as China and India. They argued that 40 years of textile restraints were long enough and it was necessary for this sector to return to normal trade rules. China and India contended that any attempt to ease the transition to a quota-free environment would perpetuate the distortions which had characterized this sector for so long.

Prospects for 2007

The CTG will continue to be the focal point for discussing agreements in the WTO dealing with trade in goods. Post-ATC adjustment, TRIMS Article 9 review and the three outstanding waiver requests will be prominent issues on the agenda. In early 2007, the United States will submit revised requests for waivers concerning AGOA, CBERA and ATPA that will reflect the changes in these programs contained in recent U.S. legislation (H.R. 6111) that was signed into law by President Bush on December 20, 2006.

1. Committee on Agriculture

Status

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

The Agriculture Agreement represents a major step forward in bringing agriculture more fully under WTO disciplines. The Agreement establishes disciplines in three critical areas affecting trade in agriculture. First, the Agreement places limits on the use of export subsidies. Products that had not benefited from export subsidies in the past are banned from receiving them in the future. Where Members had provided export subsidies in the past, the future use of export subsidies was capped and reduced. Second, the Agreement set agricultural trade on a more predictable basis by requiring the conversion of non-tariff barriers, such as quotas and import bans, into simple tariffs (a process referred to as “tariffication”) with all agricultural tariffs “bound” and made subject to reduction commitments. Third, the Agreement calls for reduction commitments on trade-distorting domestic supports, while preserving criteria-based “green box” policies that can provide support to agriculture in a manner that minimizes distortions to trade.

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

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

Major Issues in 2006

The Agriculture Committee held three formal meetings in January, May and October 2006 to review progress on the implementation of commitments negotiated in the Uruguay Round. At those meetings, Members undertook reviews based on notifications by Members in the areas of market access, domestic support, export subsidies, export prohibitions and restrictions, and general matters relevant to the implementation of commitments.

In total, 54 notifications were subject to review during 2006. The United States participated actively in the review process and raised specific issues concerning the operation of Members’ agricultural policies. The Committee proved to be an effective forum for raising issues relevant to the implementation of Members’ commitments. For example, the United States used the review process to raise concerns about the EU’s reform of its wine program. The United States also raised concerns about Thailand’s tariff rate quota (TRQ) administration for soybean, corn and dry milk products. In addition, the United States used the review process to raise concerns following the EU enlargement to include Bulgaria and Romania.

The United States raised questions concerning elements of domestic support programs used by Canada, the EU, Switzerland, and Tunisia; identified restrictive import licensing and TRQ quota administration practices by Canada, Japan and Thailand; and raised concerns about the use of export subsidies by Canada.

During 2006, the Agriculture Committee addressed a number of other agricultural implementation-related issues, such as: (1) development of internationally-agreed disciplines to govern the provision of export credits, export credit guarantees, or insurance programs pursuant to Article 10.2 of the Agriculture Agreement, taking into account the effect of such disciplines on NFIDCs; (2) review of Members’ notifications on TRQs in accordance with the General Council’s decision regarding the administration of TRQ regimes in a transparent, equitable, and non-discriminatory manner; (3) annual monitoring of the Marrakesh NFIDC decision on food aid; and (4) annual consultations, under Article 18.5 of the

Agriculture Agreement, concerning Members' participation in the normal growth of world trade in agricultural products within the framework of commitments on export subsidies.

During 2006, no Members were added to the list of WTO NFIDCs. This current list comprises the following developing country Members of the WTO: Barbados, Botswana, Côte d'Ivoire, Cuba, Dominica, Dominican Republic, Egypt, Gabon, Honduras, Jamaica, Jordan, Kenya, Mauritius, Mongolia, Morocco, Namibia, Pakistan, Peru, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Senegal, Sri Lanka, Trinidad and Tobago, Tunisia, and Venezuela.

Also during 2006 the Committee conducted the fifth annual Transitional Review Mechanism for China, which is required as part of that country's Protocol of Accession.

Prospects for 2007

The United States will continue to make full use of the Agriculture Committee to ensure transparency through timely notification by Members and to enhance enforcement of Uruguay Round commitments as they relate to export subsidies, market access, domestic support or any other trade-distorting practices by WTO Members. In addition, the Committee will continue to monitor and analyze the impact of the possible negative effects of the reform process on least-developed and NFIDCs in accordance with the Agriculture Agreement.

2. Committee on Market Access

Status

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

Major Issues in 2006

The MA Committee held five formal meetings and five informal meetings in 2006 to discuss the following topics: (1) the ongoing review of WTO tariff schedules to accommodate updates to the Harmonized Tariff System (HTS) tariff nomenclature; (2) the WTO Integrated Data Base; (3) finalizing consolidated schedules of WTO tariff concessions in current HTS nomenclature; (4) reviewing the status of notifications on quantitative restrictions and reverse notifications of non-tariff measures; and (5) implementation issues related to "substantial interest." The Committee also conducted its fifth annual Transitional Review of China's implementation of its WTO accession commitments.

Updates to the HTS nomenclature: The MA Committee examines issues related to the transposition and renegotiation of the schedules of certain Members that adopted the HTS in the years following its introduction on January 1, 1988. Since then, the HTS nomenclature has been modified twice, in 1996 and 2002, and a third modification is scheduled for 2007. Using agreed examination procedures, Members have the right to object to any proposed nomenclature change affecting bound tariff items on grounds that the new nomenclature (as well as any increase in tariff levels for an item above existing bindings) represents a modification of the tariff concession. Members may pursue unresolved objections under GATT 1994 Article XXVIII. The majority of Members have completed the process of implementing HTS 1996 changes, but Argentina, Israel, Panama, and South Africa continue to require waivers.

In 2005, the MA Committee agreed to new procedures using the Consolidated Schedule of Tariff Concessions (CTS) database and assistance from the Secretariat for the introduction into Members' schedules and verification of the 373 amendments that took effect on January 1, 2002 (HTS 2002). Work on this conversion to HTS 2002, which is essential to laying the technical groundwork for analyzing tariff implications of the DDA negotiations, continued throughout 2006. In addition, at its meeting of April 4, 2006, the Committee agreed that the WTO Secretariat would elaborate procedures to incorporate changes in the Harmonized System to be introduced on January 1, 2007 (HTS 2007).

Integrated Data Base (IDB): The MA Committee addressed issues concerning the IDB, which is updated annually with information on the tariffs, trade data and non-tariff measures maintained by WTO Members. Members are required to provide this information as a result of a General Council Decision adopted in July 1997. The United States continues to take an active role in pressing for a more relevant database structure with the aim of improving the trade and tariff data supplied by WTO Members. As a result, participation has continued to improve. As of December 2006, 128 Members have provided IDB submissions. In 2006, the Committee granted requests from six intergovernmental organizations and NGOs for access to the IDB and CTS databases.

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

China Transitional Review: In October 2006, the MA Committee conducted its fifth annual review of China's implementation of its WTO commitments on market access. The United States, with support from other WTO Members, raised questions and concerns regarding China's implementation in the areas of trading rights, export restrictions, tariff-rate quota administration, and value-added tax administration.

Prospects for 2007

The ongoing work program of the MA Committee, while highly technical, will ensure that all WTO Members' schedules are up-to-date and available in electronic spreadsheet format. The Committee will continue to explore technical assistance needs related to data submissions, and to review Members' amended schedules based on the HTS 2002 revision as the Secretariat generates HTS 2002 schedules for all Members. The successful completion of conversion to HTS 2002 will be a tremendous step forward in technical preparation for the DDA negotiations and implementation of results.

3. Committee on the Application of Sanitary and Phytosanitary Measures

Status

The Agreement on the Application of Sanitary and Phytosanitary Measures (the SPS Agreement) establishes rules and procedures that ensure that WTO Members' SPS measures address human, animal and plant health concerns, do not arbitrarily or unjustifiably discriminate between Members' agricultural and food products, are not disguised restrictions on trade, and are not more trade restrictive than

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necessary. SPS measures protect against risks associated with plant or animal borne pests and diseases as well as additives, contaminants, toxins and disease-causing organisms in foods, beverages, and feedstuffs.

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

The Committee on the Application of Sanitary and Phytosanitary Measures (the SPS Committee) is a forum for consultation on Members' existing and proposed SPS measures, the implementation and administration of the SPS Agreement, technical assistance, and the activities of the international standard setting bodies recognized in the SPS Agreement. These international standard setting bodies are: for food, the Codex Alimentarius Commission; for animal health, the World Organization for Animal Health (OIE); and for plant health, the International Plant Protection Convention (IPPC). The SPS Committee also discusses specific provisions of the SPS Agreement, including: transparency in Members' development and application of SPS measures (Article 7); equivalence (Article 4); regionalization (Article 6); technical assistance (Article 9); and special and differential treatment (Article 10). Based on discussions in the SPS Committee as well as bilateral discussions between Members, there is a consensus that prevailing SPS issues and concerns generally stem from the failure of Members to implement fully existing obligations under the SPS Agreement, and that the current text of the SPS Agreement does not need to be changed. With this view in mind, the Committee has undertaken focused discussions on various articles of the SPS Agreement. These discussions have provided Members the opportunity to share experiences regarding implementation of SPS measures and to develop procedures to assist Members in meeting specific SPS obligations.

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

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

Major Issues in 2006

In 2006, the SPS Committee met on four occasions. Three regular meetings were held in March, June and October. The continuation of the October 2005 meeting was held in on February 1-2, 2006. Members have increasingly utilized SPS Committee meetings to raise concerns regarding new and existing SPS measures of other Members. For example, in 2006, the United States raised concerns with measures imposed by India on products of biotechnology, Indonesia on horticultural goods, Thailand on new entry requirements for food products, Japan on implementation of new maximum residue levels for pesticides, veterinary drugs and feed additives, the EU on poultry, and Australia on apple imports. In addition, Members treat Committee meetings as a forum for exchanging views and experiences regarding the implementation of various provisions of the SPS Agreement, such as transparency, regionalization and equivalence. Members also provide information to the SPS Committee on efforts to declare areas of their country free from specified pests and diseases. The United States views these steps as positive developments, as they demonstrate a growing familiarity with the provisions of the SPS Agreement and

increasing recognition of the value of the SPS Committee as a venue to discuss SPS-related trade issues among Members.

With assistance from the United States and other donors, representatives from most of the 34 Members from the Americas attended each Committee meeting in 2003, 2004, 2005, and 2006. This attendance has significantly expanded capital-based and Geneva-based participation in Committee meetings. In addition, immediately prior to each SPS Committee meeting, these representatives have met to exchange views on issues on the agenda.

*BSE - TSE*⁵: The SPS Committee devoted considerable time to discussing Members' measures restricting trade as a result of incidents of animal diseases, including trade in beef and beef products due to BSE-related concerns. U.S. beef and other bovine-related exports were severely restricted by several Members after the detection of a single imported cow in Washington State in 2003 infected with the disease and two additional cases in 2005 in Texas, and 2006 in Alabama. At each of the meetings, the United States updated Members with regard to its BSE surveillance program that indicates BSE prevalence in the United States is extremely low. The United States encouraged all Members who have BSE-related measures in place that unjustifiably restrict trade in U.S. beef and beef products, to remove them based on the available scientific evidence clearly demonstrating the safety of U.S. beef and cattle. Other Members joined the United States by noting concerns that many Members' restrictions did not appear to be based on the international standard established by the OIE and that no scientific justification was provided by Members banning imports of beef and beef products. The United States expects that BSE will continue to be an issue raised in the SPS Committee.

Avian Influenza: During the 2006 SPS Committee meetings, several WTO Members reported on their efforts to control and eradicate avian influenza (AI) and the resulting restrictions on trade in poultry. Members expressed concerns with the restrictions implemented by certain other Members on trade in poultry that either did not appear to be based on the international standards established by the OIE or did not appear to adhere to the regionalization provisions of the SPS Agreement.

Notifications: The SPS notification process is becoming increasingly important for trade, and has also provided a means for Members to report on determinations of equivalence and special and differential treatment. In 2006, the United States and other Members expressed concern about the failure of some Members to notify SPS measures which could have significant effects on trade. The United States made 276 SPS notifications to the WTO Secretariat in 2006, and submitted comments on 77 SPS measures notified by 24 Members.

Regionalization: The SPS Committee held informal meetings on regionalization in advance of each formal Committee meeting in 2006. Regionalization can be an effective means to reduce restrictions on trade due to animal and/or plant health concerns. In many cases, country-wide import prohibitions can be reduced to state- or county-wide prohibitions, depending on the characteristics of the pest or disease at issue as well as other factors. Some Members expressed concerns with the time Members require to make regionalization decisions and to publish the appropriate regulations, and are seeking to establish timeframes for decision-making. Due to the unique circumstances of the pest or disease in question, environmental factors, the SPS infrastructure, and other significant issues, the United States believes the OIE and IPPC Commissions are the appropriate bodies to consider the need and utility of timeframes. The United States is working with Members on both sides of the timeframe issue to develop a consensus approach to the regionalization debate in the Committee. The SPS Committee will continue to discuss this issue.

⁵ Bovine Spongiform Encephalopathy and Transmissible Spongiform Encephalopathy.

Review of the Agreement: Paragraph 3.4 of the Decision on Implementation-Related Issues and Concerns adopted at the Fourth Session of the Ministerial Conference directs the SPS Committee to review the operation and implementation of the SPS Agreement at least once every four years. During the course of the third review in 2006, the SPS Committee held informal meetings in advance of the formal Committee meetings. The United States identified transparency and special and differential treatment as priority issues for the review. With regard to the Committee's implementation of the SPS Agreement's transparency provisions, the United States, along with Australia and New Zealand, recommended that the Committee's principal tasks should be to focus on strengthening developing country Members' enquiry points; addressing a number of issues that have been raised previously by specific Members; and reviewing the Secretariat's handbook on transparency to assess better what progress Members have made in meeting their transparency obligations. Regarding implementation of special and differential treatment, the United States aimed to focus the Committee's work by highlighting a number of sound recommendations and initiatives by developing country Members that could improve the effectiveness of technical assistance and serve as examples of successful regional and bilateral programs. The 2006 efforts of the WTO Secretariat were also critical to the Committee's work on special and differential treatment through the continued provision of opportunities for Members to attend various technical seminars, including the March 31, 2006, workshop in Geneva held to facilitate communication between donor and recipient countries.

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

Prospects for 2007

The SPS Committee will hold three meetings in 2007, and informal sessions are anticipated in advance of each formal meeting. The Committee has a standing agenda for meetings that can be amended to accommodate new or special issues. The SPS Committee will continue to monitor Members' implementation activities and the discussion of specific trade concerns will continue to be an important part of the Committee's activities. The Committee will also continue to serve as an important venue for Members to exchange information on SPS-related issues, including BSE, AI, food safety measures and technical assistance.

The United States anticipates that the SPS Committee will also focus on furthering priorities identified in the third review, such as the implementation of transparency, regionalization and the provision of technical assistance under special and differential treatment. Finally, the Committee will continue to monitor the use and development of international standards, guidelines and recommendations by Codex, OIE and IPPC. The SPS Committee will also prepare for and conduct the sixth review of China's implementation of the SPS Agreement.

4. Committee on Trade-Related Investment Measures

Status

The Agreement on Trade-Related Investment Measures (the TRIMS Agreement), which entered into force with the establishment of the WTO in 1995, prohibits investment measures that are inconsistent with national treatment obligations under Article III:4 of the GATT 1994 and reinforces the prohibitions on quantitative restrictions set out in Article XI:1 of the GATT 1994. The TRIMS Agreement requires

the elimination of certain measures imposing requirements on, or linking advantages to, certain actions of foreign investors, such as measures that require, or provide benefits for, the incorporation of local inputs in manufacturing processes (“local content requirements”) or measures that restrict a firm’s imports to an amount related to the quantity of its exports or of its foreign exchange earnings (“trade balancing requirements”). The Agreement includes an illustrative list of measures that are inconsistent with Articles III:4 and XI:1 of the GATT 1994.

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

Major Issues in 2006

The TRIMS Committee held three formal meetings during 2006, in May, June and October. TRIMS issues were also discussed during several meetings of the CTG.

As part of the review of special and differential treatment provisions, the TRIMS Committee continued to consider several TRIMS-related proposals submitted by a group of Members from Africa. These proposals were revised and re-submitted at the June TRIMS Committee meeting.

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

In response to these proposals, the United States argued that any TRIMS imposed for balance-of-payments purposes must follow existing WTO rules on balance-of-payments safeguards. The United States also argued that it would not be appropriate to adopt fixed time periods for maintaining TRIMS in response to balance-of-payments crises given the varying nature of such crises and that, given the lack of requests for TRIMS extensions from LDC Members to date, it was not clear that a policy of automatically granting requests for longer TRIMS transition periods was warranted. The TRIMS Committee is expected to continue these discussions in 2007.

With respect to the outstanding issues related to the TRIMS Agreement, Brazil and India continued to seek permission for developing country Members to use TRIMS prohibited by the TRIMS Agreement, if such measures are deemed to be useful in promoting development. The United States and other developed country Members argued that renegotiation of the TRIMS Agreement was not within the Doha mandate. In addition, the United States argued that TRIMS were an inefficient means of promoting development and could prove to be counterproductive.

Pursuant to paragraph 18 of the Protocol on the Accession of the People’s Republic of China to the WTO, the TRIMS Committee conducted its fifth annual review in 2006 of China’s implementation of the TRIMS Agreement and related provisions of the Protocol. The United States’ main objectives in this review were to obtain information and clarification regarding China’s WTO compliance efforts and to convey to China, in a multilateral setting, the concerns that it has regarding Chinese practices and/or regulatory measures that may not be in accordance with China’s WTO commitments. During the October meeting of the TRIMS Committee, U.S. questions focused on China’s foreign investment policies, and, in

particular, rules governing the automotive and steel sectors, information on new investment restrictions under consideration, new mergers and acquisition regulations, and the new Foreign Investment Catalogue. U.S. agencies are analyzing China's policies and its responses to U.S. questions in an effort to decide whether and how to pursue these issues during future meetings of the CTG or the TRIMS Committee.

Prospects for 2007

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

5. Committee on Subsidies and Countervailing Measures⁶

Status

The Agreement on Subsidies and Countervailing Measures (the SCM Agreement) provides rules and disciplines for the use of government subsidies and the application of remedies – through either WTO dispute settlement or countervailing duty (CVD) action – to address subsidized trade that causes harmful commercial effects. The SCM Agreement nominally divides subsidy practices into three classes: prohibited (red light) subsidies; permitted yet actionable (yellow light) subsidies; and permitted non-actionable (green light) subsidies.⁷

Export subsidies and import substitution subsidies are prohibited. All other subsidies are permitted, but are actionable (through CVD or WTO dispute settlement actions) if they are (i) “specific”, i.e., limited to a firm, industry or group thereof within the territory of a WTO Member and (ii) found to cause adverse trade effects, such as material injury to a domestic industry or serious prejudice to the trade interests of another Member. With the expiration of the Agreement's provisions on green light subsidies, at present, the only non-actionable subsidies are those which are not specific, as defined above.

Major Issues in 2006

The Committee on Subsidies and Countervailing Measures (the SCM Committee) held two formal meetings in 2006, in April and October. In addition to its routine activities of reviewing and clarifying the consistency of Members' domestic laws, regulations and actions with the SCM Agreement's requirements, Committee Members, including the United States, continued to accord special attention to the general matter of subsidy notifications made to and considered by the Committee. During the fall meeting, the Committee undertook its fifth transitional review with respect to China's implementation of the Agreement. Other issues addressed in the course of the year included: the examination of the export

⁶ For further information, see also the Joint Report of the United States Trade Representative and the U.S. Department of Commerce, *Subsidies Enforcement Annual Report to the Congress*, February 2007.

⁷ Prior to 2000, Article 8 of the SCM Agreement provided that certain limited kinds of government assistance granted for industrial research and development (R&D), regional development, or environmental compliance purposes would be treated as non-actionable subsidies. In addition, Article 6.1 of the SCM Agreement provided that certain other subsidies (e.g., subsidies to cover a firm's operating losses), referred to as dark amber subsidies, could be presumed to cause serious prejudice. If such subsidies were challenged on the basis of these dark amber provisions in a WTO dispute settlement proceeding, the subsidizing government would have the burden of showing that serious prejudice had *not* resulted from the subsidy. However, as explained in our 1999 report, these provisions expired on January 1, 2000 because a consensus could not be reached among Members on whether to extend or the terms by which these provisions might be extended beyond their five-year period of provisional application.

subsidy program extension requests of certain developing country Members, the updating of the methodology for Annex VII (b) of the Agreement and consideration of an appointment to the Permanent Group of Experts. Further information on these various activities is provided below.

Review and Discussion of Notifications: Throughout the year, Members submitted notifications of: (1) new or amended CVD legislation and regulations; (2) CVD investigations initiated and decisions taken; and (3) measures which meet the definition of a subsidy and which are specific to certain recipients within the territory of the notifying Member. Notifications of CVD legislation and actions, as well as subsidy notifications, were reviewed and discussed by the Committee at both of its meetings.

In reviewing notified CVD legislation and subsidies, Committee procedures provide for the exchange in advance of written questions and answers in order to clarify the operation of the notified measures and their relationship to the obligations of the Agreement. To date, 86 Members of the WTO (counting the 27 member states of the European Union as one) have notified that they currently have CVD legislation in place, or have notified that they have no such legislation; 35 Members have not, as yet, made a notification. In 2006, the Committee reviewed the notifications of CVD laws and regulations of the Former Yugoslav Republic of Macedonia, China, Mexico, and Israel.⁸

As for CVD measures, four Members notified CVD actions taken during the latter half of 2005, and four Members notified actions taken in the first half of 2006. Specifically, the SCM Committee reviewed actions taken by Canada, the EU, Japan, Mexico, and the United States. In 2006, 23 subsidy notifications covering the 2004/2005 reporting period were reviewed. The Committee also continued its examination of new and full notifications and updating notifications for earlier time periods. Notably, China submitted its first subsidy notification in 2006 (see *China Transitional Review* below). Unfortunately, numerous Members have never made a subsidy notification to the WTO, although many are lesser developed country Members.

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

Following increasing pressure from the United States and other WTO members, China finally submitted its long-overdue subsidies notification to the WTO's Subsidies Committee in April 2006. Although the notification is lengthy, with over 70 subsidy programs reported, it is also notably incomplete, as it failed to notify any subsidies provided by China's state-owned banks or by provincial and local government authorities. In addition, while China notified several subsidies that appear to be prohibited, it did so without making any commitment to withdraw them, and it failed to notify other subsidies that appear to be prohibited. The United States has devoted significant time and resources to monitoring and analyzing China's subsidy practices, and these efforts helped to identify significant omissions in China's subsidy notification. In accordance with SCM Committee procedures, the United States submitted extensive written questions and comments on China's subsidies notification in July 2006, as did several other Members, including the EU, Japan, Canada, Mexico, Australia, and Turkey. China has not yet responded to these submissions. During the annual transitional review before the SCM Committee, held in October 2006, the United States reiterated its concerns about China's subsidies notifications and urged China to withdraw its prohibited subsidies immediately (see *People's Republic of China*, under *Bilateral and Regional Negotiations* below for further details).

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

Extension of the transition period for the phase out of export subsidies: Under the SCM Agreement, most developing country Members were obligated to eliminate their export subsidies by December 31, 2002. Article 27.4 of the SCM Agreement allows for an extension of this deadline provided certain conditions are met. If the SCM Committee grants an extension, annual consultations with the Committee must be held to determine the necessity of maintaining the subsidies.⁹ If the Committee does not affirmatively sanction a continuation, the export subsidies must be phased out within two years.

To address the concerns of certain small developing country Members, a special procedure within the context of Article 27.4 of the SCM Agreement was adopted at the Fourth Ministerial Conference under which countries whose share of world exports was not more than 0.10 percent and whose Gross National Income was not greater than \$20 billion could be granted a limited extension for particular types of export subsidy programs subject to rigorous transparency and standstill provisions. Members meeting all the qualifications for the agreed-upon special procedures were eligible for a five-year extension of the transition period, in addition to the two years referred to under Article 27.4. Antigua and Barbuda, Barbados, Belize, Costa Rica, Dominica, Dominican Republic, El Salvador, Fiji, Grenada, Guatemala, Jamaica, Jordan, Mauritius, Panama, Papua New Guinea, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, and Uruguay have made yearly requests since 2001 under these special procedures.¹⁰ These requests were approved by the SCM Committee in 2002, 2003, 2004, and 2005.

Extension requests were again made in 2006 by all of the Members listed above. These requests required, *inter alia*, a detailed examination of whether the applicable standstill and transparency requirements had been met. In total, the SCM Committee conducted a detailed review of more than 40 export subsidy programs. At the end of the process, all of the requests under the special procedures were granted. Throughout the review and approval process, the United States took a leadership role in ensuring close adherence to all of the preconditions necessary for continuation of the extensions.

Additionally, in early 2006, some of the Members currently benefiting from the extension under the special procedures proposed a further 10-year extension until 2018.¹¹ Under the proposal, only those programs previously granted an extension would be eligible under the same conditions currently in place. Members have exchanged written questions and answers and have engaged in informal consultations regarding the proposal. The SCM Committee's review of the proposal will continue into 2007.

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

⁹ Any extension granted by the SCM Committee would only preclude a WTO dispute settlement case from being brought against the export subsidies at issue. A Member's ability to bring a CVD action under its national laws would not be affected.

¹⁰ Bolivia, Honduras, Kenya, and Sri Lanka are all listed in Annex VII of the SCM Agreement and thus, may continue to provide export subsidies until their "graduation". Therefore, these Members have only reserved their rights under the special procedures in the event they graduate during the five-year extension period contemplated by the special procedures. Because these Members are only reserving their rights at this time, the SCM Committee did need to make any decisions as to whether their particular programs qualify under the special procedures.

¹¹ The Members proposing the extension were: Antigua and Barbuda, Belize, Barbados, Dominica, Dominican Republic, El Salvador, Fiji, Grenada, Jamaica, Mauritius, Papua New Guinea, St. Kitts and Nevis, St. Lucia, and St. Vincent and the Grenadines.

GNP under \$1,000 per annum and are specifically listed in Annex VII(b).¹² A country automatically “graduates” from Annex VII(b) status when its per capita GNP rises above the \$1,000 threshold. When a Member crosses this threshold it becomes subject to the subsidy disciplines of other developing country Members.

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

In 2001, the Chairman of the SCM Committee, in conjunction with the WTO Secretariat, developed an alternative approach to calculate the \$1,000 threshold in constant 1990 dollars. At the Fourth Ministerial Conference, decisions were made which led to the adoption of this methodology. The WTO Secretariat updated these calculations in 2006.¹³

Permanent Group of Experts: Article 24 of the SCM Agreement directs the Committee to establish a Permanent Group of Experts (PGE) “composed of five independent persons, highly qualified in the fields of subsidies and trade relations.” The Agreement articulates three possible roles for the PGE: (i) to provide, at the request of a dispute settlement panel, a binding ruling on whether a particular practice brought before that panel constitutes a prohibited subsidy, within the meaning of Article 3 of the SCM Agreement; (ii) to provide, at the request of the Committee, an advisory opinion on the existence and nature of any subsidy; and (iii) to provide, at the request of a Member, a “confidential” advisory opinion on the nature of any subsidy proposed to be introduced or currently maintained by that Member. To date, the PGE has not yet been called upon to perform any of the aforementioned duties. Article 24 further provides for the Committee to elect the experts to the PGE, with one of the five experts being replaced every year. In the beginning of 2006, the members of the Permanent Group of Experts were: Professor Okan Aktan (Turkey); Mr. Yuji Iwasawa (Japan); Mr. Asger Petersen (Denmark); and Mr. Terence P. Stewart (United States). Mr. Hyung-Jin Kim’s (Korea) term expired in the spring of 2005 and Mr. Stewart’s term expired in 2006. The Committee has been unable to reach a consensus as to their replacements.

Prospects for 2007

In 2007, the United States will continue to devote special attention to the subsidy notifications submitted to and considered by the SCM Committee. The United States will particularly focus on China’s subsidy notification and the Transitional Review Mechanism to ensure that China meets its obligations under its Protocol of Accession and the SCM Agreement. As noted above, in 2007 the Committee will be considering the additional export subsidy extension request by certain small exporter developing country Members. Finally, the United States is prepared to take a leadership role in addressing any technical questions or developing country issues that the SCM Committee may be asked to consider in the context of issues that may arise within the Rules Negotiating Group.

¹² Members identified in Annex VII(b) are: Bolivia, Cameroon, Congo, Cote d’Ivoire, Dominican Republic, Egypt, Ghana, Guatemala, Guyana, India, Indonesia, Kenya, Morocco, Nicaragua, Nigeria, Pakistan, Philippines, Senegal, Sri Lanka, and Zimbabwe. In recognition of the technical error made in the final compilation of this list and pursuant to a General Council decision, Honduras was formally added to Annex VII(b) on January 20, 2001.

¹³ See G/SCM/110/Add.2.

6. Committee on Customs Valuation

Status

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

Major Issues in 2006

The Valuation Agreement is administered by the Committee on Customs Valuation (the Customs Valuation Committee), which held two formal meetings in 2006. The Agreement established a Technical Committee on Customs Valuation under the auspices of the World Customs Organization (WCO) with a view to ensuring, at the technical level, uniformity in interpretation and application of the Valuation Agreement. The Technical Committee also held two meetings in 2006.

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

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

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

Because the Valuation Agreement precludes the use of arbitrary customs valuation methodologies, an additional positive result is to diminish one of the incentives for customs officials to engage in corrupt activities. However, some developing country Members may still be using valuation databases or other practices as a means to apply minimum or arbitrary values to imported goods. Therefore, as part of an overall strategic approach to advancing trade facilitation within the WTO, the United States has taken an aggressive role on matters related to customs valuation during the past decade.

While many developing country Members undertook timely implementation of the Agreement, the Customs Valuation Committee continued throughout 2006 to address various individual Member requests

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

An important part of the Customs Valuation Committee's work is the examination of implementing legislation. As of October 2006, 73 Members had notified their national legislation on customs valuation. During 2006, the Committee concluded the examinations of the legislations of India and Mexico, and continued its examination of the legislation of Thailand. Members also discussed a complaint by Panama challenging certain customs measures applied by Colombia to imports of goods from Panama and other Members.

Working with information provided by U.S. exporters, the United States played a leadership role in these examinations, submitting in some cases a series of questions as well as suggestions toward improved implementation, particularly with regard to China, India and Mexico. The examinations of China and Thailand will continue into 2007.

In 2006, the Customs Valuation Committee concluded China's Fifth Transitional Review in accordance with the Protocol of Accession of the People's Republic of China to the WTO. During 2006, the United States continued to seek clarifications about China's customs-related regulatory measures and legislation. The United States has been concerned about the implementation of these measures by China's customs personnel. The U.S. delegation continued to urge China to work to establish uniformity in the administration of its customs valuation regime and its adherence to WTO customs valuation rules.

The Customs Valuation Committee's work throughout 2006 continued to reflect a cooperative focus among all Members toward practical methods to address the specific problems of individual Members. As part of its problem-solving approach, the Committee continued to take an active role in exploring how best to ensure effective technical assistance, including with regard to meeting post-implementation needs of developing country Members.

Prospects for 2007

The Customs Valuation Committee's work in 2007 will include reviewing the relevant implementing legislation and regulations notified by Members, along with addressing any further requests by other Members concerning implementation deadlines. The Committee will monitor progress by Members with regard to their respective work programs that were included in the decisions granting transitional reservations or extensions of time for implementation. In this regard, the Committee will continue to provide a forum for sustained focus on issues arising from practices of all Members that have implemented the Valuation Agreement, to ensure that such Members' customs valuation regimes do not utilize arbitrary or fictitious values such as through the use of minimum import prices. Finally, the Committee will continue to address technical assistance issues as a matter of high priority.

7. Committee on Rules of Origin

Status

The objective of the Agreement on Rules of Origin (the ROO Agreement) is to increase transparency, predictability and consistency in both the preparation and application of rules of origin. The ROO

Agreement provides important disciplines for conducting preferential and non-preferential origin regimes, such as the obligation to provide binding origin rulings upon request to traders within 150 days of that request. In addition to setting forth disciplines related to the administration of rules of origin, the ROO Agreement provides for a work program leading to the multilateral harmonization of rules of origin used for non-preferential trade. The Harmonization Work Programme (HWP) is more complex than initially envisioned under the Agreement, which originally provided for the work to be completed within three years after its commencement in July 1995. This work program continued throughout 2006 and will continue into 2007.

The ROO Agreement is administered by the Committee on Rules of Origin (the ROO Committee), which met formally once in 2006, and held informal consultations throughout the year. The Committee also serves as a forum to exchange views on notifications by Members concerning their national rules of origin, along with those relevant judicial decisions and administrative rulings of general application. The ROO Agreement also established a Technical Committee on Rules of Origin with the World Customs Organization to assist in the HWP.

Major Issues in 2006

As of the end of 2006, 78 Members notified the WTO concerning non-preferential rules of origin. In these notifications, 36 Members notified that they had non-preferential rules of origin and 42 Members notified that they did not have a non-preferential rule of origin regime. Forty-five Members have not notified non-preferential rules of origin.

Eighty-five Members have notified the WTO concerning preferential rules of origin, of which 81 notified their preferential rules of origin and four notified that they did not have preferential rules of origin. Thirty-nine Members have not notified preferential rules of origin.

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

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

The ROO Agreement has provided a means for addressing and resolving many problems facing U.S. exporters pertaining to origin regimes, and the ROO Committee has been active in its review of the Agreement's implementation. The ongoing HWP leading to the multilateral harmonization of non-preferential product-specific rules of origin has attracted a great deal of attention and resources. Significant progress has been made toward completion of this effort, despite the large volume and magnitude of complex issues which must be addressed for hundreds of specific products.

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

In addition to the October 2006 formal meeting, the ROO Committee conducted numerous informal consultations and working party sessions related to the HWP negotiations. The Committee's work in 2006 proceeded in response to the August 1, 2005 General Council extension of the deadline for completion of work on the 94 core policy issues by July 31, 2006. The General Council also agreed that following resolution of the core policy issues, the Committee would complete its remaining work on the HWP by December 31, 2006.

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

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

The ROO Committee continued to make progress in reducing the number of issues that remained outstanding under the HWP, and is proceeding on a track toward achieving consensus on product-specific rules of origin for more than 5,000 tariff lines. In 2006, the Committee focused on 94 unresolved issues identified as "core policy issues." Many of these issues are particularly significant due to their broad application across important product sectors, including fish, beef and beef products, dairy products, sugar, industrial and automotive goods, semiconductors and electronics, and steel. Specific origin questions among these "core policy issues" include, for example, how to determine the origin of fish caught in an Exclusive Economic Zone, or whether refinement, fractionation and hydrogenation substantially transform oil and fat products to a degree appropriate to confer country of origin. A cross-cutting unresolved "core policy issue" continues to arise from the absence of common understanding among Members concerning the scope of the Agreement's prospective obligation, upon completion of the harmonization and implementation of the results, for Members to "apply rules of origin equally for all purposes."

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

Prospects for 2007

Further progress in the HWP will remain contingent on achieving appropriate resolution of the "core policy issues" and to reaching a consensus on the scope of the prospective obligation to apply equally for all purposes the harmonized non-preferential rules of origin. In accordance with a decision taken by the General Council in July 2006, work will continue on addressing these issues in 2007, through informal consultations as well as bilateral and small-group meetings. The General Council, at its meeting in July 2006, extended the deadline for completion of work on the 94 core policy issues to July 31, 2007. The General Council also agreed that following resolution of these core policy issues, the ROO Committee would complete its remaining technical work by December 31, 2007.

8. Committee on Technical Barriers to Trade

Status

The Agreement on Technical Barriers to Trade (the TBT Agreement) establishes rules and procedures regarding the development, adoption and application of voluntary product standards, mandatory technical regulations and the procedures (such as testing or certification) used to determine whether a particular product meets such standards or regulations. The TBT Agreement's aim is to prevent the use of technical requirements as unnecessary barriers to trade.

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

The Committee on Technical Barriers to Trade (the TBT Committee)¹⁴ serves as a forum for consultation on issues associated with the implementation and administration of the TBT Agreement. This purpose includes discussions and/or presentations concerning specific standards, technical regulations and conformity assessment procedures proposed or maintained by a Member that are creating adverse trade consequences and/or are perceived to be violations of the Agreement. It also includes an exchange of information on Member government practices related to implementation of the TBT Agreement and relevant international developments.

Transparency and Availability of WTO/TBT Documents: A key benefit to the public resulting from the TBT Agreement is the ability to obtain information on proposed standards, technical regulations and

U.S. Inquiry Point

National Center for Standards and Certification Information (NCSCI)
National Institute of Standards and Technology (NIST)
100 Bureau Drive Gaithersburg, MD 20899-2100
Telephone: (301) 975-4040
Fax: (301) 926-1559
email: ncsci@nist.gov
website: <http://www.nist.gov/ncsci>

NIST offers a free web-based service, "Notify U.S.," that provides U.S. export stakeholders with the opportunity to review and comment on proposed foreign technical regulations that can affect them. By registering at "Notify U.S.," U.S. users receive, via e-mail, notifications of changes to foreign regulations for a specific industry sector and/or country. To register on-line, visit URL: <http://www.nist.gov/notifyus>.

¹⁴ Participation in the Committee is open to all WTO Members. Certain non-WTO Member governments also participate, in accordance with guidance agreed on by the General Council. Representatives of a number of international intergovernmental organizations were invited to attend meetings of the Committee as observers: the International Monetary Fund (IMF), the United Nations Conference on Trade and Development (UNCTAD); the International Trade Center (ITC); the International Organization for Standardization (ISO); the International Electrotechnical Commission (IEC); the Food and Agriculture Organization (FAO); the World Health Organization (WHO); the FAO/WHO Codex Alimentarius Commission; the International Office of Epizootics (OIE); the Organization for Economic Cooperation and Development (OECD); the UN Economic Commission for Europe (UN/ECE); and the World Bank. The International Organization of Legal Metrology (OIML), the United Nations Industrial Development Organization (UNIDO), the Latin American Integration Association (ALADI), the European Free Trade Association (EFTA) and the African, Caribbean and Pacific Group of States (ACP) have been granted observer status on an *ad hoc* basis, pending final agreement by the General Council on the application of the guidelines for observer status for international intergovernmental organizations in the WTO.

conformity assessment procedures, and to provide written comments for consideration on those proposals before they are finalized. Members are also required to establish a central contact point, known as an inquiry point, that is responsible for responding to requests for information on technical requirements or making the appropriate referral.

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

A number of documents relating to the work of the TBT Committee are available to the public directly from the WTO website: www.wto.org. TBT Committee documents are indicated by the symbols, "G/TBT/...". Notifications by Members of proposed technical regulations and conformity assessment procedures which are available for comment are issued as: *G/TBT/N* (the "N" stands for "notification")/*USA* (which in this case stands for the United States of America; three letter symbols will be used to designate the WTO Member originating the notification)/*X* (where "x" will indicate the numerical sequence for that Member).¹⁵ Parties in the United States interested in submitting comments to foreign governments on their proposals should send them through the U.S. inquiry point at the address above. Minutes of the TBT Committee meetings are issued as "G/TBT/M/..." (followed by a number). Submissions by Members (*e.g.*, statements, informational documents, proposals, etc.) and other working documents of the Committee are issued as "G/TBT/W/..." (followed by a number). Decisions and recommendations adopted by the TBT Committee are contained in *G/TBT/1/Rev.8*. As a general rule, written information that the United States provides to the TBT Committee is submitted on an "unrestricted" basis and is available to the public on the WTO website. The WTO Secretariat has expanded the information it provides on its "technical barriers to trade" website which is available to the public, including summaries of meetings, agendas, workshops, technical assistance, and key documents.

With the implementation of the Marrakesh Agreement establishing the WTO, *all* Members assumed responsibility for compliance with the TBT Agreement. Although a form of the TBT Agreement had existed as a result of the Tokyo Round, the expansion of its applicability to all Members as a result of the Uruguay Round negotiations was significant and resulted in new obligations for many Members. The TBT Agreement has secured the right for interested parties in the United States to have information on proposed standards, technical regulations and conformity assessment procedures being developed by other Members. It provides an opportunity for interested parties to influence the development of such measures by taking advantage of the opportunity to provide written comments on drafts. Among other things, this opportunity helps to prevent the establishment of technical barriers to trade. The TBT Agreement has functioned well in this regard, although discussions on how to improve the operation of the provisions on transparency are ongoing. Other disciplines and obligations, such as the prohibition of discrimination and the call for measures not to be more trade restrictive than necessary to fulfill legitimate regulatory objectives, have been useful in evaluating potential trade barriers and in seeking ways to address them. Committee monitoring and oversight has served an important role. The TBT Committee has served as a constructive forum for discussing and resolving issues, and this has perhaps alleviated the

¹⁵ Before 2000, the numbering of notifications of proposed technical regulations and conformity assessment procedures read: "G/TBT/Notif./..." (followed by a number).

need for more dispute settlement undertakings. Since its inception, an increasing number of Members have used the Committee to highlight trade problems, including a number of developing country members. To date, there has been only one WTO dispute concerning the rights and obligations under the TBT Agreement (Peru's challenge of the EU's trade description of sardines).

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

Major Issues in 2006

The TBT Committee met three times in 2006 (March (G/TBT/M/38), June (G/TBT/M/39) and November (G/TBT/M/40). At each of these meetings, Members made statements informing the Committee of measures they had taken to ensure the implementation and administration of the TBT Agreement and used Committee meetings to raise concerns about specific technical regulations or conformity assessment procedures that affected, or had the potential to affect, trade adversely and were perceived to create unnecessary barriers to trade. The number of specific trade concerns brought to the attention of the TBT Committee set a record in 2006 with some 25 different concerns raised with regard to Members' implementation and administration of the agreement. An increasing number of issues related to environmental regulations and proposals (e.g., the EU's "Registration, Evaluation, Authorization and Restriction of Chemicals (REACH)" and "Energy Using Product (EuP) Directive", and China's "Pollution Control of Electronic Information Products" (aka China RoHS)) drew significant attention.

In follow-up to the Third Triennial Review under Article 15.4 (G/TBT/13), and with a view to improving Members' implementation of Articles 5-9 of the TBT Agreement and promoting a better understanding of Members' conformity assessment systems, the TBT Committee held a Workshop on the "Different Approaches to Conformity Assessment" on March 16-17, 2006.

At its March 2006 meeting, the TBT Committee completed the Eleventh Annual Review of the Implementation and Operation of the TBT Agreement (G/TBT/18) and the Eleventh Annual Review of the Code of Good Practice for the Preparation, Adoption and Application of Standards. This work was based on the following background documents: a list of standardizing bodies that have accepted the Code in 2005 (G/TBT/CS/1/Add.10), a list of standardizing bodies that have accepted the Code since January 1, 1995 (G/TBT/CS/2/Rev.12), and the Eleventh edition of the WTO TBT Standards Code Directory prepared by the ISO/IEC Information Centre.

At the November 2006 meeting (G/TBT/19), the TBT Committee completed the Fourth Triennial Review following a work program agreed to in November 2004 and on the basis of various Members' submissions. The report provides an overview of the Committee's work after eleven years of TBT Agreement implementation and sets out an agenda for the future. The Review addressed: implementation and administration of the Agreement; good regulatory practice; conformity assessment procedures; transparency; technical assistance; and special and differential treatment.

At the November meeting, the TBT Committee also completed the Fifth Annual Transitional Review mandated in the Protocol of Accession of the People's Republic of China. The United States (G/TBT/W/271), Japan (G/TBT/W/270), and the EU (G/TBT/W/272) submitted written comments and questions. China's submission is contained in G/TBT/W/274. The Committee's report of the Review is contained in G/TBT/20.

During the 2006 meetings of the TBT Committee, representatives of the Codex, IEC, ISO, ITC, OECD, OIML, UNCTAD and UNIDO (observers to the Committee) updated the Committee on their activities relevant to the work of the TBT Committee, including on technical assistance.

Prospects for 2007

The TBT Committee will continue to monitor implementation of the TBT Agreement by Members. The number of specific trade concerns raised in the Committee appears to be increasing. Follow-up on issues raised in past reviews, including the Fourth Triennial Review, will continue. Discussion of new issues will be driven by Member statements and submissions. In 2007, U.S. priorities are likely to continue to focus on good regulatory practice, transparency and technical assistance. Also in 2007, the TBT Committee is likely to hold one of its regular meetings of people responsible for information exchange (inquiry points and notifications) in Geneva.

9. Committee on Antidumping Practices

Status

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

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

The Working Group on Implementation (the Working Group) is an active body which focuses on practical issues and concerns relating to implementation. Based on papers submitted by Members on specific topics for discussion, the activities of the Working Group permit Members to develop a better understanding of the similarities and differences in their policies and practices for implementing the provisions of the Antidumping Agreement. Where possible, the Working Group endeavors to develop draft recommendations on the topics it discusses, which it forwards to the Antidumping Committee for consideration. It has drawn a high level of participation by Members and, in particular, by capital-based experts and officials of antidumping administering authorities, many of whom are eager to obtain insight and information from their peers. To date, the Antidumping Committee has adopted Working Group recommendations on: (1) pre-initiation notifications under Article 5.5 of the Antidumping Agreement; (2) the periods used for data collection in investigations of dumped imports and of injury caused or threatened to be caused by such imports; (3) extensions of time to supply information; (4) the timeframe to be used in calculating the volume of dumped imports for making the determination under Article 5.8 of the Antidumping Agreement as to whether the volume of such imports is negligible; and (5) guidelines for the improvement of annual reviews under Article 18.6 of the Antidumping Agreement.

Since the inception of the Working Group, the United States has submitted papers on most topics, and has been an active participant at all meetings. Implementation concerns and questions stemming both from a Member's own administrative experience and from observing the practices of other Members are equally addressed. While not a negotiating forum in either a technical or formal sense, the Working Group serves

an important role in promoting improved understanding of the Antidumping Agreement's provisions and exploring options for improving practices among antidumping administrators.

At Marrakesh in 1994, Ministers adopted a Decision on Anticircumvention directing the Antidumping Committee to develop rules to address the problem of circumvention of antidumping measures. In 1997, the Antidumping Committee agreed upon a framework for discussing this important topic and established the Informal Group on Anticircumvention (the Informal Group). Under this framework, the Informal Group has discussed: (1) what constitutes circumvention; (2) what is being done by Members confronted with what they consider to be circumvention; and (3) to what extent circumvention can be dealt with under existing WTO rules and what other options may be deemed necessary.

Major Issues in 2006

In 2006, the Antidumping Committee held meetings on April 27 (continued on July 18) and October 25-26. At its meetings, the Antidumping Committee focused on implementation of the Antidumping Agreement, in particular, by continuing its review of Members' antidumping legislation. The Committee also reviewed reports required of Members that provide information as to preliminary and final antidumping measures and actions taken in each case over the preceding six months.

The following is a list of the more significant activities that the Antidumping Committee, the Working Group and the Informal Group undertook in 2006:

Notification and Review of Antidumping Legislation: To date, 68 Members have notified that they currently have antidumping legislation in place and 28 Members have notified that they maintain no such legislation. In 2006, the Antidumping Committee reviewed notifications of new or amended antidumping legislation submitted by the European Union, Israel, Mexico, and New Zealand. Members, including the United States, were active in formulating written questions and in making follow-up inquiries at Antidumping Committee meetings.

Notification and Review of Antidumping Actions: In 2006, 24 Members notified that they had taken antidumping actions during the latter half of 2005, whereas 23 Members did so with respect to the first half of 2006. (By comparison, 30 Members notified that they had not taken any antidumping actions during the latter half of 2005, and 24 Members notified that they had taken no actions in the first half of 2006). These actions, as well as outstanding antidumping measures currently maintained by Members, were identified in semi-annual reports submitted for the Antidumping Committee's review and discussion (the annual reports for the second half of 2005 were issued as "G/ADP/N/139/..." and the annual reports for the first half of 2006 were issued as "G/ADP/N/145/...".)

At its April and October 2006 meetings, the Committee reviewed Members' notifications of preliminary and final actions pursuant to Article 16.4 of the Antidumping Agreement. Following consultations held by the Committee Chairperson, at the October 2006 meeting the Committee adopted a revised minimum information format for preliminary and final antidumping actions (G/ADP/2/Rev.1) in an effort to improve Members' compliance with this notification obligation.

China Transitional Review: At the October 2006 meeting, the Antidumping Committee undertook, pursuant to the Protocol on the Accession of the People's Republic of China, its fifth annual Transitional Review with respect to China's implementation of the Antidumping Agreement. Several Members, including the United States, presented written and oral questions to China with respect to China's antidumping laws and practices, and the United States also presented a statement at the meeting addressing both substantive and procedural concerns with respect to China's practices. China orally provided information in response to the U.S. statement and the other comments and questions at the meeting.

Working Group on Implementation: The Working Group held meetings in April and October 2006. Beginning in 2003, the Working Group has held discussions on four agreed-upon topics: (1) export prices to third countries vs. constructed value under Article 2.2 of the Antidumping Agreement; (2) foreign exchange fluctuations under Article 2.4.1; (3) conduct of verifications under Article 6.7; and (4) judicial, arbitral or administrative reviews under Article 13. The discussions in the Working Group on these topics have focused on submissions by Members describing their own practices. In 2006, the Working Group discussed new papers submitted by two Members on the conduct of verifications. In addition, the Working Group discussed a draft recommendation prepared by the WTO Secretariat on the conduct of verifications.

Informal Group on Anticircumvention: The Antidumping Committee's establishment of the Informal Group on Anticircumvention in 1997 marked an important step towards fulfilling the Decision of Ministers at Marrakesh to refer this matter to the Committee. In 2006, the Informal Group continued its useful discussions on the first three items of the agreed framework of: (1) what constitutes circumvention; (2) what is being done by Members confronted with what they consider to be circumvention; and (3) to what extent can circumvention be dealt with under the relevant WTO rules, and what other options may be deemed necessary.

Members have submitted papers and made presentations outlining scenarios based on factual situations that their investigating authorities face, and exchanged views on how their respective authorities might respond to such situations. Moreover, those Members, such as the United States, that have legislation intended to address circumvention, have responded to inquiries from other Members as to how such legislation operates and the manner in which certain issues may be treated. In 2006, the Informal Group met in April and October, but no new papers were submitted for consideration. A major reason for the lessened activity in the Informal Group in 2006 is that circumvention has become a significant issue under discussion in the WTO Negotiating Group on Rules, with the United States submitting several elaborated proposals in the Rules negotiations on this issue.

Prospects for 2007

Work will proceed in 2007 on the areas that the Antidumping Committee, the Working Group and the Informal Group addressed this past year. The Antidumping Committee will pursue its review of Members' notifications of antidumping legislation, and Members will continue to have the opportunity to submit additional questions concerning previously reviewed notifications. This ongoing review process in the Antidumping Committee is important for ensuring that Members' antidumping laws are properly drafted and implemented, thereby contributing to a well-functioning, rules-based trading system. As notifications of antidumping legislation are not restricted documents, U.S. exporters will continue to enjoy access to information about the antidumping laws of other Members that should assist them in better understanding the operation of such laws and in taking them into account in commercial planning.

The preparation by Members and review in the Antidumping Committee of semi-annual reports and reports of preliminary and final antidumping actions will also continue in 2007. The semi-annual reports are accessible to the general public from the WTO website, in keeping with the objectives of the Uruguay Round Agreements Act. (Information on accessing WTO notifications is included in Annex II). This transparency promotes improved public knowledge and appreciation of the trends in and focus of all WTO Members' antidumping actions.

Discussions in the Working Group on Implementation will continue to play an important role, as more Members enact antidumping laws and begin to apply them. There has been a sharp and widespread interest in clarifying the many complex provisions of the Antidumping Agreement. Tackling these issues in a serious manner will require the involvement of the Working Group, which is the forum best suited to

provide the necessary technical and administrative expertise. For these reasons, the United States will continue to rely upon the Working Group to learn in greater detail about other Members' administration of their antidumping laws, especially as that forum provides opportunities to discuss not only the laws as written, but also the operational practices that Members employ to implement them. Therefore, as Members continue to submit papers on the topics being considered and to participate actively in the discussions, the Group's utility should continue to grow. In 2007, the Working Group will continue its discussion of the four topics that it began discussing in the 2003 meeting: (1) export prices to third countries vs. constructed value under Article 2.2 of the Antidumping Agreement; (2) foreign exchange fluctuations under Article 2.4.1; (3) conduct of verifications under Article 6.7; and (4) judicial, arbitral or administrative reviews under Article 13. In particular, the Working Group will continue its discussion of the draft recommendation on the conduct of antidumping verifications. The Working Group may also consider adding new topics for discussion.

The work of the Informal Group on Anticircumvention will also continue in 2007 according to the framework for discussion on which Members agreed. Many Members, including the United States, recognize the importance of using the Informal Group to pursue the 1994 decision by Ministers, who expressed the desirability of achieving uniform rules in this area as soon as possible. However, given the focus on anticircumvention issues in the WTO Rules negotiations under the Doha Development Agenda, it is possible that, as in 2006, there may be little activity on this issue in the Informal Group in 2007.

10. Committee on Import Licensing

Status

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

Every other year, the Import Licensing Committee conducts an overall review of its activities. The Sixth Biennial Review took place at the October 2006 meeting. Since the accession of China to the WTO in December 2001, the Committee has also conducted an annual review of China's compliance with accession commitments in the area of import licensing as part of the Transitional Review Mechanism (TRM) provided for in China's Protocol of Accession. China's fifth review concerning its import licensing procedures was conducted at the October 2006 meeting of the Committee.

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

These obligations are intended to ensure that the use of import licensing procedures does not create additional barriers to trade beyond the policy measures implemented through licensing (the Import Licensing Agreement's provisions discipline licensing *procedures*, and do not directly address the WTO

consistency of the underlying measures). The notification requirements and the system of regular Committee reviews seek to increase the transparency and predictability of Members' licensing regimes.

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

Major Issues in 2006

At its meetings in June and October 2006, the Import Licensing Committee reviewed 67 submissions from 38 Members,¹⁶ including initial or revised notifications, completed questionnaires on procedures, and questions and replies to questions. This count represented a significant increase both in the number of notifications submitted to the Committee, and in the number of Members notifying. The Chairman reported that by the end of 2006, four additional Members, (Cambodia, Democratic Republic of the Congo, Israel, and Rwanda) had made initial notifications, and that only 20 of 124 Committee Members had never submitted a notification to the Committee.¹⁷ This number brings the percentage of Members with at least an initial notification to over 80 percent. Despite this progress, the Chairman and some Committee Members continued to express concern that even participating Members are not submitting notifications with the frequency required by the Import Licensing Agreement. The Committee Chairman reminded Members that notifications were required even if only to report that no import licensing system existed and that the WTO Secretariat was prepared to assist Members in developing their submissions. The United States submitted its updated replies to the Questionnaire on Import Licensing under Article 7.3 of the Import Licensing Agreement on April 25, 2006, and revised and expanded its submission of information on its import licensing procedures under Article 1.4 and Article 8.2, including updated information on the automatic import licensing program for certain steel products first notified in 2004.

The United States remained one of the most active members of the Import Licensing Committee, using the forum to gather information and to discuss import licensing measures applied to its trade by other Members. We continued to press Brazil to provide information on its quotas on and non-automatic licensing system for imports of certain lithium compounds, i.e., lithium carbonate and lithium hydroxide, noting that these measures appear to be part of a system of restrictions that had not been notified to the Committee. Brazil has refused to provide notification of these measures, claiming that the issue remains under review by the Brazilian Government. The United States presented further comments on Indonesia's non-automatic licensing system for selected textile products, noting that the system clearly restricted potential imports and appeared not to be consistent with WTO rules. Indonesia's responses to previous questions were not helpful, and the United States again pressed for removal of the system.

¹⁶ The Members making submissions were: Argentina; Armenia; Australia; Bangladesh; Barbados; Brazil; Chile; China; Colombia; Democratic Republic of the Congo; EU; Georgia; Grenada; Guatemala; Hong Kong China; India; Indonesia; Israel; Jamaica; Japan; Kyrgyz Republic; Macao China; Malawi; Malaysia; Mexico; Morocco; Peru; Qatar; Romania; Rwanda; Saint Lucia; Saudi Arabia; Tunisia; Turkey; Uganda; and the United States.

¹⁷ The EU and its member states are recorded by the Committee as a single Member for the purposes of submissions to the Committee. The Members that have never submitted a notification in this Committee are: Angola, Belize, Botswana, Central African Republic, Congo, Djibouti, Egypt, Guinea, Guinea Bissau, Kuwait, Lesotho, Mauritania, Mozambique, Myanmar, Nepal, St. Vincent & the Grenadines, Sierra Leone, Solomon Islands, Tanzania, and Thailand.

The United States also voiced concern that Argentina's new non-automatic procedures for certain footwear and toys establish a pre-release verification mechanism to monitor and control imports of such goods and to verify technical requirements, but does not appear to be either necessary or applied to similar domestic goods. While thanking Argentina for its notification of the measures, the United States noted that these requirements also appear to act as quantitative import restrictions, asked for further information and suggested their elimination. The United States provided additional questions to India on its licensing system, and requested that India respond by the next meeting of the Committee. The United States also requested that Malaysia submit an updated reply to the annual import licensing questionnaire to reflect its current import licensing regime, particularly concerning the import licensing requirements for motor vehicles, construction equipment and paper and wood products, and submitted specific questions for written response.

At its October meeting, the Committee conducted, pursuant to the Protocol on the Accession of the People's Republic of China, its fifth annual Transitional Review of China's implementation of its WTO accession commitments in the area of import licensing procedures. The United States and Australia pressed China once again for information on its licensing system for iron ore and other ferrous and non-ferrous metals. The United States noted that import licensing appears to be an important aspect of China's steel and iron industry development policy and practice, and sought information on China's policies regarding use of domestic and imported technology and equipment, restrictions on who can use import licenses and the use of similar measures on other steel-making inputs, such as ferrous alloys, ferrous scrap, zinc, nickel, aluminium, or titanium. Australia focused on iron and copper ore, noting similar concerns with the WTO consistency of China's practices, and pointing out that it had not yet received responses to previous questions posed. The representative from China stated that the system was not compulsory, that there were no specific rules related to import licensing procedures in place, that there were no particular rules for applying for licenses, and that the program was one of self-coordination within the metal industry in China. He continued that the government had not received any complaints about the program, and was working on the appropriate notification in order to submit it to the Committee. He stated that China would respond bilaterally to Australia's questions, but would not engage in a multilateral discussion of the measures.

Prospects for 2007

The administration of import licensing continues to be a significant topic of discussion in the context of the DDA, as well as in the day-to-day administration of current obligations. As tariffs are liberalized, it becomes more critical that Members use import licensing procedures properly, particularly in the administration of agricultural TRQs, and to ensure that licensing procedures do not, in themselves, restrict imports in a manner not consistent with WTO provisions. Licensing continues to be a factor in the application of safeguard measures, technical regulations and sanitary requirements applied to imports as well. The Import Licensing Committee also will continue to be the point of first contact in the WTO for Members with complaints or questions on the licensing regimes of other Members and as a forum for discussion and review. As demonstrated by the U.S. complaint against Turkey concerning its regulation of rice imports (DS334, discussed in section H of this Chapter), these discussions may be the introduction to further dispute settlement cases.

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

11. Committee on Safeguards

Status

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

The Safeguards Agreement incorporates into WTO rules many of the concepts embodied in U.S. safeguards law (section 201 of the Trade Act of 1974, as amended). The Safeguards Agreement requires all WTO Members to use transparent and objective procedures when taking safeguard actions to prevent or remedy serious injury to a domestic industry caused by increased imports.

Among its key provisions, the Safeguards Agreement: requires a transparent, public process for making injury determinations; sets out clearer definitions than GATT Article XIX of the criteria for injury determinations; requires that safeguard measures be steadily liberalized over their duration; establishes maximum periods for safeguard actions, and requires a review no later than the mid-term of any measure with a duration exceeding three years; allows safeguard actions to be taken for three years, without the requirement of compensation or the possibility of retaliation; and prohibits so-called “grey area” measures, such as voluntary restraint agreements and orderly marketing agreements, which had been utilized by countries to avoid GATT disciplines and which had adversely affected third-country markets.

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

Major Issues in 2006

During its two regular meetings in April and October 2006, the Safeguards Committee continued its review of Members’ laws, regulations and administrative procedures, based on notifications required under Article 12.6 of the Safeguards Agreement. The Committee reviewed new or amended legislative texts from Australia, China, Ecuador, and Mexico.

The Safeguards Committee reviewed Article 12.1(a) notifications, regarding the initiation of a safeguard investigatory process relating to serious injury or threat thereof and the reasons for it, from the following Members: Argentina on compact discs; Canada on tobacco products; Chile on dairy products; Indonesia on cast and rolled glass; Jordan on footwear; Panama on printed film in rolls; Philippines on sodium tripolyphosphates; Tunisia on bottles and on taps; Turkey on footwear, on salt, on vacuum cleaners, on steam smoothing irons, and on motorcycles.

The Safeguards Committee reviewed Article 12.1(b) notifications, regarding a finding of serious injury or threat thereof caused by increased imports, from the following Members: Philippines on sodium tripolyphosphates; and Turkey on vacuum cleaners, on steam smoothing irons, on salt, and on footwear.

The Safeguards Committee reviewed Article 12.1(c) notifications, regarding a decision to apply or extend a safeguard measure, from the following Members: Turkey on decisions to apply new safeguard measures on vacuum cleaners, on steam smoothing irons, on salt, and on footwear; Brazil on a decision to extend an existing safeguard measure on coconuts; and Chile on a decision to extend an existing safeguard measure on wheat flour.

The Safeguards Committee reviewed Article 12.4 notifications, regarding the application of a provisional safeguard measure, from the following Members: Philippines on sodium tripolyphosphates; and Turkey on motorcycles.

The Safeguards Committee received notifications from the following Members of the termination of a safeguard investigation with no safeguard measure imposed: Canada on bicycles and on tobacco products; the EU on strawberries; and Indonesia on cast and rolled glass and on lighters.

China Transitional Review: At the October 2006 meeting, the Safeguards Committee undertook, pursuant to the Protocol on the Accession of the People's Republic of China, its fifth annual Transitional Review with respect to China's implementation of the Safeguards Agreement. Given that China reported no new safeguards legislation or safeguards actions taken in the past year, the United States did not submit any questions, and the discussion was very brief.

Implementation: At the April 2006 meeting, the Safeguards Committee discussed various issues pertaining to Article 9.1 of the Safeguards Agreement, concerning the exclusion of developing country Members from the application of safeguard measures when certain criteria are met.

Prospects for 2007

The Safeguards Committee's work in 2007 will continue to focus on the review of safeguard actions that have been notified to the Committee and on the review of notifications of any new or amended safeguards legislation.

12. Working Party on State Trading Enterprises

Status

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

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

Major Issues in 2006

The WP-STE held two formal meetings in January and October 2006. Prior to the October meeting, the United States responded to questions from Australia and the EU concerning previous notifications of U.S. state trading enterprises. In 2006, the United States made a full and new notification of its STEs: the Commodity Credit Corporation, Isotopes Production and Distribution Program, Power Administrations, and Strategic Petroleum Reserve. Other Members submitting full and new notifications of their STEs in 2006 included: Argentina, Armenia, Australia, Czech Republic, Hong Kong China, Kenya, Macao China, Moldova, Romania, Thailand, and Tunisia. Of these Members, Australia, Thailand and Tunisia notified STEs under the definition contained in paragraph one of the Article XVII Understanding. All other Members submitting notifications indicating that they did not have STEs under the definition set out in the Understanding.

Prospects for 2007

The WP-STE is scheduled to meet in October 2007. As part of the agriculture negotiations in the WTO, the United States proposed specific disciplines on export agricultural STEs that would increase transparency, improve competition and tighten disciplines for these entities.

In 2007, the WP-STE will contribute to the ongoing discussion of these and other state trading issues through its review of new notifications and its examination of what further information could be submitted as part of the notification process to enhance transparency of STEs.

F. Council on Trade Related Aspects of Intellectual Property Rights

Status

The Agreement on Trade-Related Aspects of Intellectual Property Rights (the TRIPS Agreement) sets minimum standards of protection for copyrights and neighboring rights, trademarks, geographical indications (GIs), industrial designs, patents, integrated circuit layout designs, and undisclosed information. The TRIPS Agreement also establishes minimum standards for the enforcement of intellectual property rights through civil actions for infringement and, at least in regard to copyright piracy and trademark counterfeiting, in criminal actions and actions at the border. The TRIPS Agreement requires as well that, with very limited exceptions, WTO Members provide national and most-favored-nation treatment to the nationals of other Members with regard to the protection and enforcement of intellectual property rights. Disputes between Members regarding implementation of the TRIPS Agreement can be settled using the procedures of the WTO's Dispute Settlement Understanding.

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

The TRIPS Council monitors implementation of the TRIPS Agreement, provides a forum in which WTO Members can consult on intellectual property matters and carries out the specific responsibilities assigned to the Council in the TRIPS Agreement. The TRIPS Agreement is important to U.S. interests and has yielded significant benefits for U.S. industries and individuals, from those engaged in the pharmaceutical, agricultural chemical, and biotechnology industries to those producing motion pictures, sound recordings, software, books, magazines, and consumer goods.

Major Issues in 2006

In 2006, the TRIPS Council held three formal meetings, including “special negotiation sessions” on the establishment of a multilateral system for notification and registration of GIs for wines and spirits called for in Article 23.4 of the TRIPS Agreement (see separate discussion of this topic under section B of this Chapter, “Council for Trade-Related Intellectual Property Rights, Special Session”, and below). In addition to continuing its work reviewing the implementation of the Agreement, the TRIPS Council’s work in 2006 focused on TRIPS issues addressed in the Doha Ministerial Declaration and the Declaration on the TRIPS Agreement and Public Health. Some Members, including the United States, also sought to have the TRIPS Council examine issues related to the enforcement provisions of the TRIPS Agreement.

Review of Developing Country Members’ TRIPS Implementation: The TRIPS Council during 2006 continued to devote time to reviewing the TRIPS Agreement’s implementation by developing country Members and newly acceding Members, as well as to providing assistance to developing country Members so they can implement fully the Agreement. In particular, the TRIPS Council continued to urge developing country Members to respond to the questionnaires already answered by developed country Members regarding their protection of GIs and implementation of the TRIPS Agreement’s enforcement provisions, and to provide detailed information on their implementation of Article 27.3(b) of the Agreement. The United States continued to press for full implementation of the TRIPS Agreement by developing country Members and participated actively during the reviews of legislation by highlighting specific concerns regarding individual Member’s implementation of the Agreement’s obligations, particularly with regard to China’s efforts.

The Transitional Review Mechanism under Section 18 of the Protocol on the Accession of the People’s Republic of China has been an important means to raise concerns about China’s implementation of the TRIPS Agreement. This process has been instrumental in helping to understand the levels of protection of intellectual property rights in China, and provides a forum for addressing the concerns of U.S. interests in this process. The United States has been active in seeking answers to questions on a wide range of intellectual property matters and in raising concerns about enforcement of intellectual property rights. The United States also continued to seek satisfactory responses to a formal request submitted to China in October 2005 seeking additional enforcement-related information pursuant to Article 63.3 of the TRIPS Agreement.

During 2006, the TRIPS Council undertook reviews of the implementing legislation of Congo and Qatar, in addition to the above-referenced review of China.

Intellectual Property and Access to Medicines: The August 30, 2003 solution (the General Council Decision on “Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health”, in light of the statement read out by the General Council Chairman) continues to apply to each Member until the formal amendment to the TRIPS Agreement replacing its provisions takes effect for that Member. The amendment text adopted by the General Council in December 2005 and the statement by the Chair preserve all substantive aspects of the August 30, 2003 solution and do not alter the substance of the previously agreed solution. The United States was the first Member to submit its acceptance of the amendment to the WTO, and was joined during 2006 by Switzerland and El Salvador.

The amendment will enter into force, for those Members that have accepted it, upon its acceptance by two-thirds of the membership of the WTO. At its October 2006 meeting, the TRIPS Council reviewed implementation of the August 30, 2003 solution. Several members commented on the importance of the solution and reported on preparations to formally accept the amendment.

TRIPS-related WTO Dispute Settlement Cases: During 2006, the United States continued to monitor EU compliance with a 2005 ruling of the WTO Dispute Settlement Body (DSB) that the EU's regulation on food-related GIs is inconsistent with the EU's obligations under the TRIPS Agreement and the GATT 1994. The DSB ruled that the EU's GI regulation impermissibly discriminates against non-EU products and persons and also agreed with the United States that the regulation could not create broad exceptions to trademark rights that Members must provide under the TRIPS Agreement. The DSB recommended that the EU amend its GI regulation to come into compliance with its WTO obligations. The EU adopted an amended GI regulation in March 2006. The United States has raised certain questions and concerns with regard to the revised EU regulation and its compliance with the DSB findings and recommendations, and continues to monitor implementation in this dispute.

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

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

Throughout 2006, the United States and many like-minded Members maintained the position that the *demandeurs* had not established that the protection provided GIs for products other than wines and spirits was inadequate, and thus proposals for expanding GI protection were unwarranted. The United States and other Members noted that the administrative costs and burdens of proposals to expand protection would be considerable for those Members that did not have a longstanding statutory regime for the protection of GIs, that the benefits accruing to those few Members that had longstanding statutory regimes for the protection of GIs would represent a windfall, and other Members with few or no GIs would receive no counterbalancing benefits. While willing to continue the dialog in the TRIPS Council, the United States believes that discussion of the issues has been exhaustive and that no consensus has emerged with regard to extension of Article 23-level protection to products other than wines and spirits.

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

No further progress has been made on the Article 24.2 review of the application by Members of TRIPS provisions on GIs notwithstanding the continued presence of this topic on the TRIPS Council's agenda. There is continuing disagreement surrounding the methodology to be used in such a review, with the United States and other Members supporting a process that would focus on reviewing each article of the TRIPS Agreement covering GIs in light of the experience of Members. The United States also continued to urge developing country Members that have not yet provided information on their regimes for the protection of GIs (most of them have not) to do so.

Review of Article 27.3(b), Relationship Between TRIPS and the Convention on Biological Diversity, and Protection of Traditional Knowledge and Folklore: As called for in the TRIPS Agreement, the TRIPS Council initiated a review of TRIPS Article 27.3(b) (permitting Members to except from patentability plants and animals and biological processes for the production of plants and animals). Most developing country Members have chosen not to provide such information and have raised topics that fall outside the scope of Article 27.3(b).

The Doha Declaration directs the TRIPS Council, in pursuing its work program under the review of Article 27.3(b), to examine, *inter alia*, the relationship between the TRIPS Agreement and the Convention on Biological Diversity (CBD) and the protection of traditional knowledge and folklore. Consideration of this set of issues also continues to be guided by the direction of Ministers in the Hong Kong Declaration, that all implementation issues (including the relationship of the TRIPS Agreement and the CBD) should be the subject of consultations facilitated by the WTO Director-General. Furthermore, Ministers agreed that work would continue in the TRIPS Council on this issue.

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

The United States, with support from other Members, continues to maintain that there is no conflict between the TRIPS Agreement and the CBD, that an amendment to the TRIPS Agreement is neither necessary nor appropriate, and that shared objectives with respect to genetic resources and traditional knowledge (such as prior informed consent and effective access and benefit-sharing arrangements) can best be achieved through mechanisms outside of the patent system. The United States has also advocated for a discussion in the TRIPS Council that is fact-based and focused on national experiences in areas such as access and benefit-sharing and prior informed consent. While some Members continue to press for amending the TRIPS Agreement, the TRIPS Council's deliberations in 2006 generally tended toward constructive questioning and information-sharing on these matters. This approach has clarified a number of points of divergence and convergence, and has tracked more closely the debate suggested by the United States to discuss proposals based on whether or not they achieve the objectives purportedly sought, rather than presupposing any particular outcome.

Non-violation: The TRIPS Council agreed at its March 2006 meeting to keep under review the issue of non-violation nullification and impairment complaints in the context of the TRIPS Agreement. The original moratorium on non-violation nullification and impairment complaints related to the TRIPS Agreement was extended, at the Hong Kong Ministerial Conference, until the Seventh Ministerial Conference, which has not yet been scheduled. There was no substantive discussion or new submissions on this issue during the course of the TRIPS Council's 2006 meetings. The United States maintains that TRIPS is no different than other agreements where non-violation nullification and impairment claims are permitted, and that Article 26 of the Dispute Settlement Understanding and GATT decisions on non-

violation provide sufficient guidance to enable a panel or the Appellate Body to make appropriate determinations in such cases.

Further reviews of the TRIPS Agreement: Article 71.1 calls for a review of the TRIPS Agreement in light of experience gained in implementation, beginning in 2002. The TRIPS Council continues to consider how the review should best be conducted in light of the Council's other work. The Doha Ministerial Declaration directs that, in its work under this Article, the TRIPS Council is also to consider the relationship between intellectual property and the CBD, traditional knowledge, folklore, and other relevant new developments raised by Members pursuant to Article 71.1. In 2006, Members did not raise further issues under this Article.

Technical Cooperation and Capacity Building: As in each past year, the United States and other Members provided reports on their activities in connection with technical cooperation and capacity building (IP/C/W/476/Add.6).

Implementation of Article 66.2: Article 66.2 of the TRIPS Agreement requires developed country Members to provide incentives for enterprises and institutions in their territories to promote and encourage technology transfer to least-developed country Members in order to enable them to create a sound and viable technological base. This provision was reaffirmed in the Doha Decision on Implementation-related Issues and Concerns and the TRIPS Council was directed to put in place a mechanism for ensuring monitoring and full implementation of the obligation. Developed country Members are required to provide detailed reports every third year, with annual updates, on these incentives. In October 2006, the United States provided a detailed report on specific U.S. government institutions (e.g., the African Development Foundation and Agency for International Development) and incentives, as required.

Enforcement: At the October 2006 meeting of the TRIPS Council, the United States joined the EU, Japan and Switzerland in proposing that the Council examine the experience of Members in implementing the enforcement provision of the TRIPS Agreement. The United States noted that such a discussion would be particularly valuable in light of the growing global problems surrounding counterfeiting and piracy of intellectual property. A number of Members have resisted a substantive discussion of enforcement in the TRIPS Council.

Prospects for 2007

In 2007, the TRIPS Council will continue to focus on its built-in agenda and the additional mandates established in the Doha Declaration, including issues related to the extension of Article 23-level protection for GIs for products other than wines and spirits, on the relationship between the TRIPS Agreement and the CBD, and on traditional knowledge and folklore, as well as other relevant new developments.

U.S. objectives for 2007 continue to be to:

- resolve differences through consultations and use of dispute settlement procedures, where appropriate;
- continue its efforts to ensure that developing country Members fully implement the Agreement;
- continue to encourage a fact-based discussion within the TRIPS Council on the enforcement provisions of the TRIPS Agreement; and
- ensure that provisions of the TRIPS Agreement are not weakened.

G. Council for Trade in Services

Status

The General Agreement for Trade in Services (GATS) is the first multilateral, legally enforceable agreement covering trade in services, and investment in the services sector. It is designed to reduce or eliminate governmental measures that prevent services from being freely supplied across national borders or that discriminate against locally established services firms with foreign ownership. The GATS provides a legal framework for addressing barriers to trade and investment in services. It includes specific commitments by WTO Members to restrict their use of those barriers and provides a forum for further negotiations to open services markets around the world. These commitments are contained in Member schedules, similar to the Member schedules for tariffs.

The Council for Trade in Services (CTS) oversees implementation of the GATS and reports to the General Council. In addition, the CTS is responsible for a technical review of GATS Article XX.2 provisions; waivers from specific commitments pursuant to paragraphs 3 and 4 of Article IX of the Marrakesh Agreement Establishing the WTO; the transitional review mechanism under Section 18 of the Protocol on the Accession of the People's Republic of China; implementation of GATS Article VII; the MFN review; and notifications made to the General Council pursuant to GATS Article III.3, V.5, V.7, and VII.4.

The ongoing market access negotiations take place in the CTS Special Session, described earlier in this chapter. Other bodies that report to the CTS include: the Committee on Specific Commitments, the Committee on Trade in Financial Services, the Working Party on Domestic Regulation, and the Working Party on GATS Rules. The following section discusses work in the CTS regular session.

Major Issues in 2006

In 2006, the CTS met three times – in April, September and November. In the April meeting, the CTS decided to grant *ad hoc* observer status to the Universal Postal Union and to reopen the Fourth Protocol to the General Agreement on Trade in Services, relating to basic telecommunications, for acceptance by the Philippines. In June 2006, the CTS discussed the issue of modification of specific commitments pursuant to GATS Article XXI.

In September, the CTS held its first meeting dedicated to the second Review of Air Transport Services. In accordance with paragraph 5 of the Annex on Air Transport Services, the CTS is to review periodically, and at least every five years, developments in the air transport sector and the operation of the annex.

In November, as part of China's Transitional Review Mechanism, the CTS carried out its fifth annual review of China's implementation of its WTO services commitments. The United States, with support from other WTO Members, raised questions and concerns regarding China's implementation of certain commitments in the distribution, direct selling, express delivery, telecommunications, and construction services sectors, and emphasized the need for regulatory transparency.

The CTS received a number of notifications pursuant to GATS Article III.3 (transparency) and GATS Article V (economic integration). Albania, Macao China and Honduras made notifications under Article III.3. Notifications pursuant to GATS Article V were made by Mexico and Nicaragua; the European Communities and Chile; Thailand and New Zealand; United States and Morocco; Korea and Singapore; the United States and El Salvador; the United States, Honduras and Nicaragua; and the United States, El Salvador, Guatemala, Honduras, and Nicaragua.

In 2006, pursuant to Article XXI, affected Members reached agreement with the European Union (EU) on appropriate compensation for modifications to commitments that resulted from EU enlargement that the EU had notified under Article V of the GATS in 2004.

Prospects for 2007

The CTS will continue discussions pursuant to the Air Annex review and various notifications related to GATS implementation.

1. Committee on Trade in Financial Services

Status

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

Major Issues in 2006

The CTFS met three times in 2006 – in February, April and November. Brazil, Jamaica and the Philippines are the only remaining participants in the negotiations on the 1997 Financial Services Agreement that have not yet ratified their commitments from those negotiations and accepted the Fifth Protocol (which is necessary for these commitments to enter into effect under the GATS). Members continue to urge those three countries to take the necessary steps to accept the Fifth Protocol as quickly as possible. At the request of Members, the three countries provided some information on the status of their domestic ratification efforts.

In November 2006, as part of China's Transitional Review Mechanism, the CTFS carried out its fifth annual review of China's implementation of its WTO financial services commitments. The United States and other Members used that opportunity to raise questions and express concerns with China's implementation of certain commitments concerning insurance, banking and related services, securities, pensions, and financial information services.

The CTFS also provided a forum for discussion of other issues, including a report from China on developments in regulation of its banking sector.

Prospects for 2007

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

2. Working Party on Domestic Regulation

Status

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

In May 1999, the CTS established a new Working Party on Domestic Regulation (WPDR) which took on the work of the predecessor WPPS and its existing mandate. The WPDR is now charged with determining whether disciplines developed in connection with the accountancy sector or similar disciplines may be more generally applicable to other sectors. The Working Party shall report its recommendations to the CTS not later than the conclusion of the DDA services negotiations.

Major Issues in 2006

At the December 2005 Hong Kong Ministerial Conference, Ministers directed their negotiators to develop disciplines on domestic regulation pursuant to the mandate under Article VI:4 of the GATS before the end of the current round of negotiations, and called upon Members to develop texts for adoption. Consequently the pace of negotiations increased dramatically during the first half of 2006. Several Members submitted revised versions of earlier proposals, while others introduced new proposals for consideration. New proposals generally focused on special and differential treatment for developing country Members. Throughout early 2006, numerous formal and informal meetings, as well as extensive small group consultations were conducted with the goal of producing a draft negotiating text by the end of June 2006.

Members continued to devote considerable discussion to basic threshold issues, such as the appropriate level of ambition for disciplines applied on a horizontal basis to all services sectors, whether or not to submit any new disciplines to an operational “necessity test,” how to balance the goal of diminishing regulatory trade barriers with the fundamental right to regulate in order to achieve important domestic policy objectives, and how to address different levels of development.

The United States continued to take the position that horizontal or sector-specific application of any new disciplines should depend on the nature of the proposed disciplines, and that strong disciplines would not be feasible on a horizontal basis. For that reason, the United States’ priority in 2006 continued to be horizontal disciplines for regulatory transparency. The United States considers transparency disciplines to be appropriate for horizontal implementation because they involve universal principles that promote governmental accountability, rule of law and good governance. The United States also joined other Members in voicing strong caution about submitting domestic regulations to an operational “necessity test” and the possible implications for Members’ right to regulate.

Despite efforts by all Members, it was not possible to produce a draft consolidated negotiating text in June 2006. Significant differences remained on basic threshold issues, and the final product of 2006 was a document submitted by the WPDR’s Chair, a “negotiating tool” that was a compilation of proposals and issues raised in discussion. On July 11, 2006, the United States introduced a document outlining its position on the various elements of any future draft negotiating text.

At the end of July 2006, the DDA negotiations were temporarily suspended, including the negotiations of the WPDR. In late 2006, informal meetings and consultations took place on an *ad hoc* basis in preparation for a possible resumption of negotiations in 2007.

Prospects for 2007

The WPDR will likely continue to work in informal and *ad hoc* meetings and through consultations.

3. Working Party on GATS Rules

Status

The Working Party on GATS Rules (WPGR) continues to discuss the possibility of new disciplines on emergency safeguard measures, government procurement and subsidies in the context of the GATS. The WPGR held formal meetings in February, April and June of 2006 in accordance with the Doha Work Program resulting from the Hong Kong Ministerial Conference in December 2005. That Program called for Members to intensify their efforts to conclude the negotiations on rule-making under GATS Articles X, XIII, and XV.

Major Issues in 2006

Regarding emergency safeguard measures, Members continued discussion on the basis of an informal communication from a group of ASEAN Members as well as a note from the Secretariat that provided a summary of main views expressed in the WPGR since the last extension of the negotiations in March 2004. Issues touched upon in the discussion included: the purpose and effects of a safeguard mechanism in services; the definition of domestic industry; availability of appropriate statistics; the link to progressive liberalization; the use of safeguard-type entries in schedules; and relevant comparisons with rules in the area of goods. Members expressed divergent views on the various aspects raised in relation to emergency safeguard measures, and the United States continues to question the desirability and feasibility of any such measures.

On government procurement of services, delegations continued their discussion of an EU communication that addressed issues such as special and differential treatment, non-discrimination, thresholds, valuation of contracts, technical specification and qualification of suppliers, procurement methods, time periods, tender documentation, and contract award. In addition, Members exchanged views on an EU proposal for a legal text for an Annex to the GATS. Questions raised included the relationship to the plurilateral Government Procurement Agreement and MFN application. The United States continues to engage on this issue, but notes that the Government Procurement Agreement covers services.

With respect to subsidies, Members discussed a communication from Switzerland that provided information on its own domestic subsidy programs. Members also discussed the provisional definition of a subsidy, including a communication from Chile, Hong Kong China, Mexico, Peru, and Switzerland, as well as a note from the Secretariat that provided a synthesis of views on the issue. The WPGR asked the Chairperson to conduct consultations on obstacles to sharing information as called for under Article XV of the General Agreement on Trade in Services. The United States continues to work constructively to foster a productive exchange of information to develop a better understanding of services subsidies and their relationship to trade.

Prospects for 2007

Members will continue to explore possible avenues for concluding the negotiations on rule-making. Such negotiations will involve more focused discussions in all three areas, including technical and procedural questions relating to the operation and application of any possible emergency safeguard measures in services; proposals by Members concerning government procurement of services; and a productive information exchange on subsidies.

4. Committee on Specific Commitments

Status

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

Major Issues in 2006

In 2006, the CSC met in February, April, June, October, and December. The CSC addressed classification issues, scheduling issues, editorial conventions for the submission of revised offers, and the relationship between old and new commitments.

Classification: The CSC continued the previous year's discussion on energy services and began new discussions on classification issues related to: tourism and travel-related services; recreational, cultural and sporting services; and transport and logistics services. Some of the specific issues included a technical error in the Maritime Model Schedule (MMS); the extension of additional commitments as described in the MMS to private port operators; and the classification of certain distribution services. At the October meeting, Members arrived at a common understanding to the effect that dredging services, which are not explicitly mentioned in the CPC, are covered by CPC 5133.

Scheduling Issues: The CSC continued to address technical issues related to economic needs tests (ENTs). Several aspects of ENTs were discussed, including their specification and relationship with quantitative limitations under Article XVI. On the basis of a document submitted by the EU, Members discussed the scheduling of residency and domicile requirements. Upon request by Members, the Secretariat prepared a background Note providing an overview of the discussions concerning residency requirements that had taken place in the context of the development of the Accountancy Disciplines and the Scheduling Guidelines.

Editorial conventions: In June, the CSC took note of editorial conventions proposed by the Chairman with the objective of facilitating the preparation and submission of the second round of revised offers.

Relationship between old and new commitments: Discussions on the relationship between existing schedules and the new commitments resulting from the current negotiations commenced in April 2006. Discussions at the June and October meetings were conducted in informal mode, and the Chairman prepared an informal summary of the discussions following each of those meetings.

Prospects for 2007

Work will continue on technical issues and other issues that Members raise. The CSC will likely continue to examine classification issues pertaining to other service sectors.

H. Dispute Settlement Understanding

Status

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

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

Major Issues in 2006

The DSB met 22 times in 2006 to oversee disputes and to address responsibilities such as consulting on proposed amendments to the Appellate Body working procedures and approving additions to the roster of governmental and non-governmental panelists.

Roster of Governmental and Non-Governmental Panelists: Article 8 of the DSU makes it clear that panelists may be drawn from either the public or private sector and must be “well-qualified,” such as persons who have served on or presented a case to a panel, represented a government in the WTO or the GATT, served with the Secretariat, taught or published in the international trade field, or served as a senior trade policy official. Since 1985, the Secretariat has maintained a roster of non-governmental experts for GATT 1947 dispute settlement, which has been available for use by parties in selecting panelists. In 1995, the DSB agreed on procedures for renewing and maintaining the roster, and expanding it to include governmental experts. In response to a U.S. proposal, the DSB also adopted standards increasing and systematizing the information submitted by roster candidates. These modifications aid in evaluating candidates’ qualifications and encouraging the appointment of well-qualified candidates who have expertise in the subject matters of the Uruguay Round Agreements. In 2006, the DSB approved by consensus a number of additional names for the roster. The United States scrutinized the credentials of these candidates to assure the quality of the roster.

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

Rules of Conduct for the DSU: The DSB completed work on a code of ethical conduct for WTO dispute settlement and on December 3, 1996, adopted the Rules of Conduct for the Understanding on Rules and Procedures Governing the Settlement of Disputes. A copy of the Rules of Conduct was printed in the Annual Report for 1996 and is available on the WTO and USTR websites. There were no changes in these Rules in 2006.

The Rules of Conduct elaborate on the ethical standards built into the DSU to maintain the integrity, impartiality, and confidentiality of proceedings conducted under the DSU. The Rules of Conduct require all individuals called upon to participate in dispute settlement proceedings to disclose direct or indirect conflicts of interest prior to their involvement in the proceedings, and to conduct themselves during their involvement in the proceedings so as to avoid such conflicts.

The Rules of Conduct also provide parties to a dispute an opportunity to address potential material violations of these ethical standards. The coverage of the Rules of Conduct exceeds the goals established by Congress in section 123(c) of the URAA, which directed USTR to seek conflict of interest rules applicable to persons serving on panels and members of the Appellate Body. The Rules of Conduct cover not only panelists and Appellate Body members, but also: (1) arbitrators; (2) experts participating in the dispute settlement mechanism (e.g., the Permanent Group of Experts under the Agreement on Subsidies and Countervailing Measures (SCM Agreement)); (3) members of the WTO Secretariat assisting a panel or assisting in a formal arbitration proceeding; (4) the Chairman of the Textile Monitoring Body (“TMB”) and other members of the TMB Secretariat assisting the TMB in formulating recommendations, findings or observations under the Agreement on Textiles and Clothing; and (5) support staff of the Appellate Body.

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

Appellate Body: The DSU requires the DSB to appoint seven persons to serve on an Appellate Body, which is to be a standing body, with members serving four-year terms, except for three initial appointees determined by lot whose terms expired at the end of two years. At its first meeting on February 10, 1995, the DSB formally established the Appellate Body, and agreed to arrangements for selecting its members and staff. They also agreed that Appellate Body members would serve on a part-time basis, and sit periodically in Geneva. The original seven Appellate Body members, who took their oath on December 11, 1995, were: Mr. James Bacchus of the United States, Mr. Christopher Beeby of New Zealand, Professor Claus-Dieter Ehlermann of Germany, Dr. Said El-Naggar of Egypt, Justice Florentino Feliciano of the Philippines, Mr. Julio Lacarte-Muró of Uruguay, and Professor Mitsuo Matsushita of Japan. On June 25, 1997, it was determined by lot that the terms of Messrs. Ehlermann, Feliciano and Lacarte-Muró would expire in December 1997. The DSB agreed on the same date to reappoint them for a final term of four years commencing on 11 December 1997. On October 27, 1999 and November 3, 1999, the DSB agreed to renew the terms of Messrs. Bacchus and Beeby for a final term of four years, commencing on December 11, 1999, and to extend the terms of Dr. El-Naggar and Professor Matsushita until the end of March 2000. On April 7, 2000, the DSB agreed to appoint Mr. Georges Michel Abi-Saab of Egypt and Mr. A.V. Ganesan of India to a term of four years commencing on June 1, 2000. On May 25, 2000, the DSB agreed to the appointment of Professor Yasuhei Taniguchi of Japan to serve through December 10, 2003, the remainder of the term of Mr. Beeby, who passed away on March 19, 2000. On September 25, 2001, the DSB agreed to appoint Mr. Luiz Olavo Baptista of Brazil, Mr. John S. Lockhart of Australia and Mr. Giorgio Sacerdoti of Italy to a term of four years commencing on December 19, 2001. On November 7, 2003, the DSB agreed to appoint Professor Merit Janow of the United States to a term of four years commencing on December 11, 2003, to reappoint Professor Taniguchi for a final term of four years commencing on December 11, 2003, and to reappoint Mr. Abi-Saab and Mr. Ganesan for a final term of four years commencing on June 1, 2004. On September 27, 2005, the DSB agreed to reappoint Mr. Baptista, Mr. Lockhart and Mr. Sacerdoti for a final term of four years commencing on December 12, 2005. On July 31, 2006, the DSB agreed to the appointment of Mr. David Unterhalter of South Africa to serve through December 11, 2009, the remainder of the term of Mr. Lockhart, who passed away on January 13, 2006. The names and biographical data for the Appellate Body members during 2006 are included in Annex II of this report.

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

Muró, the first Chairperson, served until February 7, 1998; Mr. Beeby served as Chairperson from February 7, 1998 to February 6, 1999; Mr. El-Naggar served as Chairperson from February 7, 1999 to February 6, 2000; Mr. Feliciano served as Chairperson from February 7, 2000 to February 6, 2001; Mr. Ehlermann served as Chairperson from February 7, 2001 to December 10, 2001; Mr. Bacchus served as Chairperson from December 15, 2001 to December 10, 2003; Mr. Abi-Saab served as Chairperson from December 13, 2003 to December 12, 2004; Mr. Taniguchi served as Chairperson from December 17, 2004 to December 16, 2005; Mr. Ganesan served as Chairperson from December 17, 2005 to December 16, 2006; and Mr. Sacerdoti's term as Chairperson runs from December 17, 2006 to December 16, 2007.

In 2006, the Appellate Body issued six reports, all of which involved the United States as a party and are discussed in detail below.

Dispute Settlement Activity in 2006: During the DSB's first twelve years in operation, WTO Members filed 355 requests for consultations (22 in 1995, 42 in 1996, 46 in 1997, 44 in 1998, 31 in 1999, 30 in 2000, 27 in 2001, 37 in 2002, 26 in 2003, 19 in 2004, 11 in 2005, and 20 in 2006). During that period, the United States filed 73 complaints against other Members' measures and received 103 complaints on U.S. measures. Several of these complaints involved the same issues (4 U.S. complaints against others and 22 complaints against the United States). A number of disputes commenced in earlier years remained active in 2006. What follows is a description of those disputes in which the United States was either a complainant, defendant, or third party during the past year.

Prospects for 2007

While there were improvements to the multilateral trading system's dispute settlement system as a result of the Uruguay Round, there is still room for improvement. Accordingly, the United States has used the opportunity of the ongoing review to seek improvements in its operation, including greater transparency. In 2007, we expect that the DSB will continue to focus on the administration of the dispute settlement process in the context of individual disputes. Experience gained with the DSU will be incorporated into the U.S. litigation and negotiation strategy for enforcing U.S. WTO rights, as well as the U.S. position on DSU reform. Participants will continue to consider reform proposals in 2007.

a. Disputes Brought by the United States

In 2006, the United States continued to be one of the most active participants in the WTO dispute settlement process. This section includes brief summaries of dispute settlement activity in 2006 where the United States was a complainant. As demonstrated by these summaries, the WTO dispute settlement process has proven to be an effective tool in combating barriers to U.S. exports. Indeed, in a number of cases the United States has been able to achieve satisfactory outcomes by invoking the consultation provisions of the dispute settlement procedures, without recourse to formal panel proceedings.

Argentina—Patent and test data protection for pharmaceuticals and agricultural chemicals (DS171, 196)

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

Consultations were held on June 15, 1999, and again on July 27, 1999. On May 30, 2000, the United States expanded its claims in this dispute to include new concerns that have arisen as a result of Argentina's failure to implement fully its remaining TRIPS obligations that came due on January 1, 2000. These concerns include Argentina's failure to protect confidential test data submitted to government

regulatory authorities for pharmaceuticals and agricultural chemicals; its denial of certain exclusive rights for patents; its failure to provide such provisional measures as preliminary injunctions to prevent infringements of patent rights; and its exclusion of certain subject matter from patentability. Consultations continued until April 16, 2002, when the two sides agreed to settle eight of the ten issues in the dispute. Argentina and the United States notified a settlement of these issues to the DSB on May 31, 2002. The United States reserved its rights with respect to the remaining issues, and the dispute remains in the consultation phase with respect to these issues.

Brazil–Measures on minimum import prices (DS197)

The United States requested consultations with Brazil on May 31, 2000, regarding its customs valuation regime. U.S. exporters of textile products have reported that Brazil uses officially-established minimum reference prices both as a requirement to obtain import licenses and/or as a base requirement for importation. In practice, this system works to prohibit the importation of products with declared values below the established minimum prices. This practice appears inconsistent with Brazil's WTO obligations, including those under the Agreement on Customs Valuation. The United States participated as an interested third party in a dispute initiated by the EU regarding the same matter, and decided to pursue its own case as well. The United States held consultations with Brazil on July 18, 2000, and continues to monitor the situation.

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

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

China--Measures Affecting Imports of Automobile Parts (DS340)

On March 30, 2006, the United States requested consultations with China regarding China's treatment of motor vehicle parts, components, and accessories ("auto parts") imported from the United States. Although China's WTO commitments limit its tariffs on imported auto parts to rates that are significantly below China's tariffs on finished vehicles, China implemented regulations that impose a charge on imported auto parts equal to the tariff on complete automobiles, if the final assembled vehicle in which the parts are incorporated fails to meet certain local content requirements. The United States is concerned that these regulations impose a tax on U.S. auto parts beyond that allowed by WTO rules and result in discrimination against U.S. auto parts. These regulations appear inconsistent with several WTO provisions including Articles II and III of the GATT 1994 and Article 2 of the *Agreement on Trade-Related Investment Measures*, as well as specific commitments made by China in its WTO accession agreement. The EU (WT/DS/339) and Canada (WT/DS/442) also initiated disputes regarding the same matter. The EU, Canada, and the United States requested the establishment of a panel on September 28, 2006, and a single panel was established on October 26, 2006 to examine the complaints.

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

The United States and Canada challenged the EU ban on imports of meat from animals to which any of six hormones for growth promotional purposes had been administered. On July 2, 1996, the following panelists were selected, with the consent of the parties, to review the U.S. claims: Mr. Thomas Cottier, Chairman; Mr. Jun Yokota and Mr. Peter Palecka, Members. The panel found that the EU ban is inconsistent with the EU's obligations under the Agreement on the Application of Sanitary and Phytosanitary Measures (the SPS Agreement), and that the ban is not based on science, a risk assessment, or relevant international standards.

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

Because the EU did not comply with the recommendations and rulings of the DSB by May 13, 1999, the final date of its compliance period as set by arbitration, the United States sought WTO authorization to suspend concessions with respect to certain products of the EU, the value of which represents an estimate of the annual harm to U.S. exports resulting from the EU's failure to lift its ban on imports of U.S. meat. The EU exercised its right to request arbitration concerning the amount of the suspension. On July 12, 1999, the arbitrators determined the level of suspension to be \$116.8 million. On July 26, 1999, the DSB authorized the United States to suspend such concessions and the United States proceeded to impose 100 percent *ad valorem* duties on a list of EU products with an annual trade value of \$116.8 million. On May 26, 2000, USTR announced that it was considering changes to that list of EU products. While discussions with the EU to resolve this matter are continuing, no resolution has been achieved yet. On November 3, 2003, the EU notified the WTO of its plans to make permanent the ban on one hormone, oestradiol.

As discussed below (DS320), on November 8, 2004, the EU requested consultations with respect to “the United States’ continued suspension of concessions and other obligations under the covered agreements” in the EU – Hormones dispute.

European Union—Protection of trademarks and geographical indications for agricultural products and foodstuffs (DS174)

EU Regulation 2081/92, *inter alia*, discriminates against non-EU products and nationals with respect to the registration and protection of geographical indications for agricultural products and foodstuffs; it also protects geographical indications to the detriment of TRIPS-guaranteed trademark rights. The United States therefore considered this measure inconsistent with the EU's obligations under the TRIPS Agreement and the GATT 1994. The United States requested consultations regarding this matter on June 1, 1999, and, on April 4, 2003, requested consultations on the additional issue of the EU's national treatment obligations under the GATT 1994. Australia also requested consultations with respect to this measure. When consultations failed to resolve the dispute, the United States requested the establishment of a panel on August 18, 2003. A panel was established on October 2, 2003, to consider the complaints of the United States and Australia. On February 23, 2004, the Director-General composed the panel as follows: Mr. Miguel Rodriguez Mendoza, Chair, and Mr. Seung Wha Chang and Mr. Peter Kam-fai Cheung, Members. On April 20, 2005, the DSB adopted the panel report, which found that the EU's regulation on food-related geographical indications (GIs), EC Regulation 2081/92, is inconsistent with the EU's obligations under the TRIPS Agreement and the GATT 1994. This finding results from the long-standing U.S. complaint that the EU GI system discriminates against foreign products and persons – notably by requiring that EU trading partners adopt an “EU-style” system of GI protection – and provides insufficient protections to trademark owners. The WTO panel agreed that the EU's GI regulation

impermissibly discriminates against non-EU products and persons. The panel also agreed with the United States that Europe could not, consistent with WTO rules, deny U.S. trademark owners their rights; it found that, under the regulation, any exceptions to trademark rights for the use of registered GIs were narrow, and limited to the actual GI name as registered. The panel recommended that the EU amend its GI regulation to come into compliance with its WTO obligations. The EU, the United States, and Australia (which filed a parallel case) agreed that the EU would have until April 3, 2006, to implement the recommendations and rulings. On April 10, 2006, the EU announced that it had issued a new regulation, which came into force on March 31, 2006, that implements the DSB's recommendations and rulings. The United States is reviewing that regulation.

European Union—Provisional safeguard measure on imports of certain steel products (DS260)

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

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

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

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

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

- The Panel found that the EU adopted a *de facto*, across-the-board moratorium on the final approval of biotech products, starting in 1999 up through the time the panel was established in August 2003.
- The Panel found that the EU had presented no scientific or regulatory justification for the moratorium, and thus that the moratorium resulted in “undue delays” in violation of the EU's obligations under the SPS Agreement.
- The Panel identified specific, WTO-inconsistent “undue delays” with regard to 24 of the 27 pending product applications that were listed in the U.S. panel request.

- The Panel upheld the United States' claims that, in light of positive safety assessments issued by the EU's own scientists, the bans adopted by six EU member States on products approved in the EU prior to the moratorium were not supported by scientific evidence and were thus inconsistent with WTO rules.

The DSB adopted the panel report on November 21, 2006. At the meeting of the DSB held on December 19, 2006, the EU notified the DSB that the EU intends to implement the recommendations and rulings of the DSB in these disputes, and stated that it would need a reasonable period of time for implementation.

European Union–Selected customs matters (DS315)

On September 21, 2004, the United States requested consultations with the EU with respect to: (1) lack of uniformity in the administration by EU member states of EU customs laws and regulations and (2) lack of an EU forum for prompt review and correction of member state customs determinations. On September 29, 2004, the EU accepted the U.S. request for consultations, and consultations were subsequently held on November 16, 2004. The panel was established on March 21, 2005. On May 27, 2005, the Director-General composed the panel as follows: Mr. Nacer Benjelloun-Touimi, Chair, and Mr. Mateo Diego-Fernandez and Mr. Hanspeter Tschani, Members. On June 16, 2006, the panel circulated its report, in which it found a lack of uniform administration in certain specified instances and found no breach of the EU's obligations with respect to prompt review and correction of customs determinations. The United States and EU each appealed from different aspects of the panel report. Among other grounds for appeal, the United States challenged the panel's failure to treat the U.S. complaint as a complaint regarding the EU system of customs administration as a whole (as opposed to discrete instances of administration). In its report issued on November 13, 2006, the Appellate Body agreed that the panel had misread the U.S. complaint. The Appellate Body also agreed with the United States on certain other legal points and agreed with the EU that the panel had erred in finding non-uniform administration in two particular instances. Finally, the Appellate Body agreed with the panel's finding of no breach of the EU's obligation regarding prompt review and correction of customs administrative action.

The panel and Appellate Body reports were adopted at the December 11, 2006 meeting of the DSB. The reports as adopted included a finding that the EU is in breach of its obligation of uniform administration with respect to rules pertaining to the tariff classification of certain liquid crystal display monitors. At the same DSB meeting, the EU stated that subsequent actions had eliminated this breach.

European Union–Subsidies on large civil aircraft (DS316)

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

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

On October 17, 2005, the Deputy Director-General composed the panel as follows: Mr. Carlos Pérez del Castillo, Chair, and Mr. John Adank and Mr. Thinus Jacobsz, Members.

European Communities—Subsidies on large civil aircraft (WT/DS347)

On January 31, 2006, the United States requested a second set of consultations with the EU, as well as with Germany, France, the United Kingdom, and Spain, with respect to subsidies provided to Airbus, a manufacturer of large civil aircraft. The United States alleged that such subsidies violated various provisions of the SCM Agreement, as well as Articles III:4 and XVI:1 of the GATT 1994. On April 6, 2006, the United States filed a request for a panel. The Panel was established on May 9, 2006. The U.S. request challenges several types of EU subsidies that appear to be prohibited, or actionable, or both. On July 17, 2006, the Deputy Director-General composed the panel as follows: Mr. Tim Groser, Chair, and Mr. Mario Matus and Mr. Eduardo Pérez Motta, Members. At the request of the United States, the Panel suspended its work on October 9, 2006, in order to allow the DS316 panel to complete its work first.

Mexico—Definitive antidumping measures on beef and rice (DS295)

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

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

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

The one finding that the Appellate Body reversed went to the question of whether Mexico had properly applied "facts available" margins to U.S. exporters and producers it did not investigate, and the Appellate Body found on different grounds that Mexico had not acted properly in this respect. Accordingly, the bottom line did not change. The DSB adopted the panel and Appellate Body reports on December 20, 2005. On September 11, 2006, Mexico revoked the antidumping measure on rice, thereby implementing the DSB's recommendations and rulings with respect to that measure. In December 2006, Mexico amended the Foreign Trade Act to address the inconsistencies that the WTO had identified with respect to

the law. The United States is in the process of reviewing the amendments to determine whether they fully implement the WTO's findings.

Mexico–Tax measures on soft drinks and other beverages (DS308)

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

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

The United States requested the establishment of a panel on June 10, 2004, and the DSB established a panel on July 6, 2004. On August 18, 2004, the parties agreed to the composition of the panel as follows: Mr. Ronald Saborío Soto, Chair, and Mr. Edmond McGovern and Mr. David Walker, Members. On October 7, 2005, the panel circulated its report. The panel concluded that Mexico's beverage tax is inconsistent with Articles III:2 and III:4 of GATT 1994 and rejected Mexico's defense that the tax is justified as necessary to secure U.S. compliance with the North American Free Trade Agreement. The panel found that the beverage tax discriminates against U.S. sweeteners, including high-fructose corn syrup, by subjecting beverages made with any sweetener other than cane sugar to a 20 percent tax whereas beverages made with cane sugar are tax-exempt. On December 6, 2005, Mexico appealed the findings in the panel report, and on March 6, 2006, the Appellate Body issued its report. The Appellate Body rejected Mexico's appeal and affirmed that Mexico's tax is inconsistent with its WTO obligations. The DSB adopted the panel and Appellate Body's findings on March 24, 2006, and the United States and Mexico agreed on a reasonable period of time for Mexico to bring the tax into conformity with its WTO obligations of no later than January 1, 2007, or if Mexico's Congress enacted legislation to repeal the tax in December 2006, no later than January 31, 2007. On December 22, 2006, Mexico's Congress passed legislation repealing the tax and on December 28, 2006, Mexico published that legislation with an effective date of January 1, 2007.

Turkey–Measures affecting the importation of rice (DS334)

On November 2, 2005, the United States requested consultations regarding Turkey's import licensing system and domestic purchase requirement with respect to the importation of rice. By conditioning the issuance of import licenses to import at preferential tariff levels upon the purchase of domestic rice, not permitting imports at the bound rate, and implementing a *de facto* ban on rice imports during the Turkish rice harvest, Turkey appears to be acting inconsistently with several WTO agreements, including the Agreement on Trade-Related Investment Measures (TRIMS), the GATT 1994, the Agreement on Agriculture, and the Agreement on Import Licensing Procedures. Consultations were held on December 1, 2005. The United States requested the establishment of a panel on February 6, 2006, and the DSB established a panel on March 17, 2006. On July 31, 2006, the Director-General composed the panel as follows: Ms. Marie-Gabrielle Ineichen-Fleisch, Chair, Mr. Yoichi Suzuki and Mr. Johann Frederick Kirsten, Members.

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

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

b. Disputes Brought Against the United States

Section 124 of the URAA requires, *inter alia*, that the Annual Report on the WTO describe, for the preceding fiscal year of the WTO, each proceeding before a panel or the Appellate Body that was initiated during that fiscal year regarding Federal or State law, the status of the proceeding, and the matter at issue; and each report issued by a panel or the Appellate Body in a dispute settlement proceeding regarding Federal or State law. This section includes summaries of dispute settlement activity in 2006 in which the United States was a defendant.

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

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

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

In anticipation of a dispute over compliance, the United States and EU reached agreement in September 2000 on the procedures to review U.S. compliance with the WTO recommendations and rulings. Pursuant to a request approved by the WTO, the deadline for U.S. compliance was changed from October 1, 2000, as recommended by the panel, to November 1, 2000. The procedural agreement also outlined certain procedural steps to be taken after passage of U.S. legislation to replace the FSC. The essential feature of the agreement provided for sequencing of WTO procedures as follows: (1) a panel would determine the WTO-consistency of FSC replacement legislation (the parties retained the right to appeal); (2) only after the appeal process was exhausted would arbitration over the appropriate level of retaliation be conducted if the replacement legislation was found WTO-inconsistent. Pursuant to the procedural agreement, on November 17, the EU requested authority to impose countermeasures and suspend

concessions in the amount of \$4.043 billion. On November 27, the United States objected to this amount, thereby referring the matter to arbitration, which was then suspended pending a review of the legislation's WTO-consistency. On December 7, the EU requested establishment of a panel to review the legislation, and the panel was reestablished for this purpose on December 20, 2000. In a report circulated on August 20, 2001, the panel found that the FSC Repeal and Extraterritorial Income Exclusion Act of 2000 (ETI Act) does not bring the United States into conformity with its WTO obligations. The United States appealed the panel ruling on October 15, 2001. On January 14, 2002, the Appellate Body affirmed the findings of the panel. On January 29, 2002, the panel and Appellate Body reports were adopted, and the suspended arbitration to determine the amount of concessions was reactivated, with the original panelists serving as the arbitration panel pursuant to the procedural agreement. The arbitration panel circulated its report on August 30, 2002, and found that the EU was entitled to impose trade sanctions in the amount of \$4.043 billion. On May 7, 2003, the DSB granted the EU authorization to suspend concessions consistent with the decision of the arbitrator. On December 8, 2003, the Council of the EU adopted Council Regulation (EC) No. 2193/2003, which provided for the graduated imposition of sanctions. These sanctions took effect on March 1, 2004.

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

The United States appealed the report on November 14, 2005. The Appellate Body circulated its report on February 13, 2006, upholding the legal findings and conclusions of the panel. The DSB adopted the report on March 14, 2006. On May 17, 2006, the President signed legislation that repealed the grandfathering provisions. The transition provision expired by operation of law at the end of 2006.

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

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

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

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

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

United States–Section 211 Omnibus Appropriations Act (DS176)

Section 211 addresses the ability to register or enforce, without the consent of previous owners, trademarks or trade names associated with businesses confiscated without compensation by the Cuban government. The EU questioned the consistency of Section 211 with the TRIPS Agreement, and requested consultations on July 7, 1999. Consultations were held September 13 and December 13, 1999. On June 30, 2000, the EU requested a panel. A panel was established on September 26, 2000, and at the request of the EU the WTO Director-General composed the panel on October 26, 2000. The Director-General composed the panel as follows: Mr. Wade Armstrong, Chairman; Mr. François Dessemontet and Mr. Armand de Mestral, Members. The panel report was circulated on August 6, 2001, rejecting 13 of the EU's 14 claims and finding that, in most respects, section 211 is not inconsistent with the obligations of the United States under the TRIPS Agreement. The EU appealed the decision on October 4, 2001. The Appellate Body issued its report on January 2, 2002.

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

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

Japan alleged that the preliminary and final determinations of the U.S. Department of Commerce (Commerce) and the U.S. International Trade Commission (USITC) in their antidumping investigations of certain hot-rolled steel products from Japan, issued on November 25 and 30, 1998, February 12, 1999, April 28, 1999, and June 23, 1999, were erroneous and based on deficient procedures under the U.S. Tariff Act of 1930 and related regulations. Japan claimed that these procedures and regulations violate the GATT 1994, as well as the Antidumping Agreement and the Agreement Establishing the WTO. Consultations were held on January 13, 2000, and a panel was established on March 20, 2000. In May 2000, the Director-General composed the panel as follows: Mr. Harsha V. Singh, Chairman; Mr.

Yanyong Phuangrach and Ms. Lidia di Vico, Members. On February 28, 2001, the panel circulated its report, in which it rejected most of Japan's claims, but found that, *inter alia*, particular aspects of the antidumping duty calculation, as well as one aspect of the U.S. antidumping duty law, were inconsistent with the WTO Antidumping Agreement. On April 25, 2001, the United States filed a notice of appeal on certain issues in the panel report.

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

United States–Countervailing duty measures concerning certain products from the European Communities (DS212)

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

The WTO Director-General composed the panel on November 5, 2001, as follows: Mr. Gilles Gauthier, Chairman; Ms. Marie-Gabrielle Ineichen-Fleisch and Mr. Michael Mulgrew, Members.

On July 31, 2002, the panel circulated its final report. In a prior dispute concerning leaded bar from the United Kingdom, the EU successfully challenged the application of an earlier version of Commerce's methodology, known as "gamma." In this dispute, the panel found that Commerce's current "same person" methodology (as well as the continued application of the "gamma" methodology in several cases) was inconsistent with the SCM Agreement. The panel also found that section 771(5)(F) of the Tariff Act of 1930 – the "change of ownership" provision in the U.S. statute – was WTO-inconsistent. The United States appealed, and the Appellate Body issued its report on December 9, 2002. The Appellate Body reversed the panel with respect to section 771(5)(F), finding that it did not mandate WTO-inconsistent behavior. The Appellate Body affirmed the panel's findings that the "gamma" and "same person" methodologies are inconsistent with the SCM Agreement, although it modified the panel's reasoning.

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

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

On March 17, 2004, the EU requested consultations regarding Commerce's new change of ownership methodology. The EU contended that Commerce countervails the entire amount of unamortized subsidies, even if the price paid for the acquired firm was only \$1 less than the fair market value. With respect to Commerce's revised determinations, the EU complained about the three sunset reviews in which Commerce declined to address the privatization transactions in question on what essentially were "judicial economy" grounds. With respect to a fourth sunset review, the EU challenged the Commerce's analysis of the sale of shares to employees of the company in question. Consultations took place on May 24, 2004. A panel was established on September 27, 2004. The original three panelists agreed to serve on the compliance panel.

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

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

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

On December 21, 2000, Australia, Brazil, Chile, the EU, India, Indonesia, Japan, Korea, and Thailand requested consultations with the United States regarding the Continued Dumping and Subsidy Offset Act of 2000 (19 U.S.C. § 754), which amended Title VII of the Tariff Act of 1930 to transfer import duties collected under U.S. antidumping and countervailing duty orders from the U.S. Treasury to the companies that filed the antidumping and countervailing duty petitions. Consultations were held on February 6, 2001. On May 21, 2001, Canada and Mexico also requested consultations on the same matter, which were held on June 29, 2001. On July 12, 2001, the original nine complaining parties requested the establishment of a panel, which was established on August 23. On September 10, 2001, a panel was established at the request of Canada and Mexico, and all complaints were consolidated into one panel. The panel was composed of: Mr. Luzius Wasescha, Chair, and Mr. Maamoun Abdel-Fattah and Mr. William Falconer, Members.

The panel issued its report on September 2, 2002, finding against the United States on three of the five principal claims brought by the complaining parties. Specifically, the panel found that the CDSOA constitutes a specific action against dumping and subsidies and therefore is inconsistent with the WTO Antidumping and SCM Agreements as well as Article VI of the GATT 1994. The panel also found that the CDSOA distorts the standing determination conducted by Commerce and therefore is inconsistent with the standing provisions in the Antidumping and SCM Agreements. The United States prevailed against the complainants' claims under the Antidumping and SCM Agreements that the CDSOA distorts Commerce's consideration of price undertakings (agreements to settle antidumping and countervailing

duty investigations). The panel also rejected Mexico's actionable subsidy claim brought under the SCM Agreement. Finally, the panel rejected the complainants' claims under Article X:3 of the GATT, Article 15 of the Antidumping Agreement, and Articles 4.10 and 7.9 of the SCM Agreement. The United States appealed the panel's adverse findings on October 1, 2002.

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

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

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

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

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

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

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

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

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

United States–Calculation of dumping margins (DS239)

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

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

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

On May 3, 2002, Canada requested consultations with the United States regarding Commerce’s final countervailing duty determination concerning certain softwood lumber from Canada. Among other things, Canada challenged the evidence upon which the investigation was initiated, claimed that Commerce imposed countervailing duties against programs and policies that are not subsidies and are not “specific” within the meaning of the SCM Agreement, and that Commerce failed to conduct its investigation properly. Consultations were held on June 18, 2002, and a panel was established at Canada’s request on October 1, 2002.

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

On January 19, 2004, the Appellate Body issued a report finding in favor of the United States in all key respects. The Appellate Body reversed the panel’s unfavorable finding with respect to the rejection of Canadian prices as a benchmark; upheld the panel’s favorable finding that the provincial governments’

provision of low-cost timber to lumber producers constituted a “financial contribution” under the SCM Agreement; and reversed the panel’s unfavorable finding that Commerce should have conducted a “pass-through” analysis to determine whether subsidies granted to one lumber company were passed through to other lumber companies through the sale of subsidized lumber. The Appellate Body’s only finding against the United States was that Commerce should have conducted such a pass-through analysis with respect to the sale of logs from harvester/sawmills to unrelated sawmills.

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

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

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

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

On October 12, 2006, the United States and Canada informed the DSB, in accordance with Article 3.6 of the DSU, that they had reached a mutually agreed solution to this and other lumber disputes.

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

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

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

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

particular transactions compared. The panel also rejected Canada's claims on company-specific calculation issues. The one claim that the panel upheld was Canada's argument that Commerce's use of "zeroing" in comparing U.S. price to normal value was inconsistent with Article 2.4.2 of the Antidumping Agreement.

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

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

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

The DSB established an Article 21.5 panel on June 1, 2005. The panel was composed on June 3, 2005, consisting of the same members as the original panel. On August 26, 2005, the Director-General appointed Dr. Toufiq Ali to serve as replacement panel chairman for Mr. Singh, who had been appointed to serve as Deputy Director-General of the WTO. The panel report was circulated to WTO Members on April 3, 2006. The panel found that Commerce's establishment of the existence of dumping using transaction-to-transaction comparisons was not inconsistent with Articles 2.4 and 2.4.2 of the Antidumping Agreement and, therefore, rejected Canada's complaint.

Canada appealed. On August 15, 2006, the Appellate Body issued its report upholding Canada's appeal and reversing the panel's finding of no inconsistency with Articles 2.4 and 2.4.2 of the Antidumping Agreement. The panel and Appellate Body reports were adopted at the September 1, 2006 meeting of the DSB.

On October 12, 2006, the United States and Canada informed the DSB, in accordance with Article 3.6 of the DSU, that they had reached a mutually agreed solution to this and other lumber disputes. Consequently, Canada withdrew its request under Article 22.2 of the DSU and the United States withdrew its request under Article 22.6 of the DSU.

United States–Subsidies on upland cotton (DS267)

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

Agreement, the Agreement on Agriculture, and the GATT 1994. Consultations were held on December 3, 4 and 19 of 2002, and January 17, 2003.

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

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

- The panel found that the "Peace Clause" in the WTO Agreement on Agriculture did not apply to a number of U.S. measures, including (1) domestic support measures, and (2) export credit guarantees for "unscheduled commodities" and rice (a "scheduled commodity"). Therefore, Brazil could proceed with certain of its challenges.
- The panel found that export credit guarantees for "unscheduled commodities" (such as cotton and soybeans) and for rice are prohibited export subsidies. However, the panel also found that Brazil had not demonstrated that the guarantees for other "scheduled commodities" exceeded U.S. WTO reduction commitments and therefore breached the Peace Clause. Further, Brazil had not demonstrated that the programs threaten to lead to circumvention of U.S. WTO reduction commitments for other "scheduled commodities" and for "unscheduled commodities" not currently receiving guarantees.
- Some U.S. domestic support programs (i.e., marketing loan, counter-cyclical, market loss assistance, and so-called "Step 2 payments") were found to cause significant suppression of cotton prices in the world market in marketing years 1999-2002 causing serious prejudice to Brazil's interests. However, the panel found that other U.S. domestic support programs (i.e., production flexibility contract payments, direct payments, and crop insurance payments) did not cause serious prejudice to Brazil's interests because Brazil failed to show that these programs caused significant price suppression. The panel also found that Brazil failed to show that any U.S. program caused an increase in U.S. world market share for upland cotton constituting serious prejudice.
- The panel did not reach Brazil's claim that U.S. domestic support programs threatened to cause serious prejudice to Brazil's interests in marketing years 2003-2007. The panel also did not reach Brazil's claim that U.S. domestic support programs per se cause serious prejudice in those years.
- The panel also found that Brazil had failed to establish that FSC/ETI tax benefits for cotton exporters were prohibited export subsidies.
- Finally, the panel found that Step 2 payments to exporters of cotton are prohibited export subsidies, not protected by the Peace Clause, and Step 2 payments to domestic users are prohibited import substitution subsidies because they were only made for U.S. cotton.

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

The Appellate Body also rejected or declined to rule on most of Brazil's appeal issues.

On March 21, 2005, the DSB adopted the panel and Appellate Body reports and, on April 20, 2005, the United States advised the DSB that it intends to bring its measures into compliance.

On June 30, 2005, the United States announced certain administrative changes relating to its export credit guarantee programs. Further, on July 5, the United States proposed legislation relating to the export credit guarantee and Step 2 programs. On July 5, 2005, Brazil requested authorization to impose countermeasures and suspend concessions in the amount of \$3 billion. On July 14, 2005, the United States objected to the request, thereby referring the matter to arbitration. On August 17, 2005, the United States and Brazil agreed to suspend the arbitration. On October 6, 2005, Brazil made a separate request for authorization to impose countermeasures and suspend concessions in the amount of \$1.04 billion per year in connection with the “serious prejudice” findings. The United States objected to Brazil’s request on October 17, 2005, and that matter was also referred to arbitration. On November 21, 2005, the United States and Brazil agreed to suspend the arbitration.

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

On August 18, 2006, Brazil requested the establishment of an Article 21.5 panel. On September 28, 2006, the DSB established a panel to consider Brazil’s claims. On October 25, 2006, the Director-General composed the panel as follows: Mr. Eduardo Perez Motta, Chairman, and Mr. Mario Matus and Mr. Ho-Young Ahn, Members

United States–Sunset reviews of antidumping measures on oil country tubular goods from Argentina (DS268)

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

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

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

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

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

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

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

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

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

In its report circulated on November 15, 2005, the Article 21.5 panel rejected Canada’s claim that the USITC’s threat determination was not supported by evidence and analysis such that an objective and unbiased investigating authority could have made that determination. On January 13, 2006, Canada

appealed the panel report. On April 13, 2006, the Appellate Body issued its report in which it found that the panel had erred. However, the Appellate Body also found that, based on the panel's findings and the undisputed facts, it was unable to draw its own conclusion as to whether the USITC's threat determination was supported by the evidence and analysis. That is, the Appellate Body was unable to complete the panel's analysis. The panel and Appellate Body reports were adopted at the May 9, 2006 meeting of the DSB.

On October 12, 2006, the United States and Canada informed the DSB, in accordance with Article 3.6 of the DSU, that they had reached a mutually agreed solution to this and other lumber disputes. Consequently, Canada withdrew its request under Article 22.2 of the DSU and the United States withdrew its request under Article 22.6 of the DSU.

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

On January 21, 2003, Mexico requested consultations on an administrative review of a countervailing duty order on carbon steel plate in sheets from Mexico. Mexico alleges that Commerce used a WTO-inconsistent methodology – the “change-in-ownership” methodology – to determine the existence of countervailable benefits bestowed on a Mexican steel producer. Mexico alleges inconsistency with various articles of the SCM Agreement. Consultations were held April 2-4, 2003. Mexico requested the establishment of a panel on August 4, 2003, and the DSB established a panel on August 29, 2003.

United States–Anti-dumping measures on cement from Mexico (DS281)

On January 31, 2003, Mexico requested consultations regarding a variety of administrative determinations made in connection with the antidumping duty order on gray portland cement and cement clinker from Mexico, including seven administrative review determinations by Commerce, the sunset determinations of Commerce and the USITC, and the USITC's refusal to conduct a changed circumstances review. Mexico also referred to certain provisions and procedures contained in the Tariff Act of 1930, the regulations of Commerce and the USITC, and Commerce's Sunset Policy Bulletin, as well as the URAA Statement of Administrative Action. Mexico cited a host of concerns, including case-specific dumping calculation issues; Commerce's practice of zeroing; the analytical standards used by Commerce and the USITC in sunset reviews; the U.S. retrospective system of duty assessment, including the assessment of interest; and the assessment of duties in regional industry cases. Consultations were held April 2-4, 2003. Mexico requested the establishment of a panel on July 29, 2003, and the DSB established a panel on August 29, 2003. On September 3, 2004, the Director-General composed the panel as follows: Mr. Peter Palecka, Chair, and Mr. Martin Garcia and Mr. David Unterhalter, Members.

On January 13, 2006, Mexico requested that the panel suspend its proceedings until further notice. The panel agreed to this request. On March 6, 2006, Mexico and the United States entered into an agreement to promote bilateral trade in cement. This agreement also provides for resolution of the WTO dispute.

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

On February 18, 2003, Mexico requested consultations regarding several administrative determinations made in connection with the antidumping duty order on oil country tubular goods from Mexico, including the sunset review determinations of Commerce and the USITC. Mexico also challenged certain provisions and procedures contained in the Tariff Act of 1930, the regulations of Commerce and the USITC, and Commerce's Sunset Policy Bulletin, as well as the URAA Statement of Administrative Action. The focus of this case appeared to be on the analytical standards used by Commerce and the USITC in sunset reviews, although Mexico also challenged certain aspects of Commerce's antidumping methodology. Consultations were held April 2-4, 2003. Mexico requested the establishment of a panel on July 29, 2003, and the DSB established a panel on August 29, 2003. On February 11, 2003, the

following panelists were selected, with the consent of the parties, to review Mexico's claims: Mr. Christer Manhusen, Chair; Mr. Alistair James Stewart and Ms. Stephanie Sin Far Man, Members. On June 20, 2005, the panel circulated its report. The panel rejected Mexico's claim that certain aspects of the U.S. administrative review procedures are inconsistent with U.S. WTO obligations, as well as Mexico's claims regarding the USITC's laws and regulations regarding the determination of likelihood of injury and the likelihood determination itself. The panel did find that the Sunset Policy Bulletin and Commerce's likelihood determination itself were inconsistent with Article 11.3 of the Antidumping Agreement.

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

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

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

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

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

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

At the DSB meeting of April 21, 2006, the United States informed the DSB that the United States was now able to show that relevant U.S. law did not discriminate against foreign suppliers of remote gambling on horse racing, and thus that the United States was in compliance with the recommendations and rulings of the DSB in this dispute. On June 8, 2006, Antigua requested consultations with the United States regarding U.S. compliance with the DSB recommendations and rulings. The parties held consultations on June 26, 2006. On July 5, 2006, Antigua requested the DSB to establish a panel pursuant to Article 21.5 of the DSU, and a panel was established on July 19, 2006. The Chairperson of the original panel and one of the panelists were unavailable to serve. The parties agreed on their replacements, and the panel was

composed as follows: Mr. Lars Anell, Chairperson, and Mr. Mathias Francke and Mr. Virachai Plasai, Members.

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

On June 12, 2003, the EU requested consultations regarding the use of “zeroing” in the calculation of dumping margins. Consultations were held July 17, 2003. The EU requested further consultations on September 8, 2003. Consultations were held October 6, 2003. The EU requested the establishment of a panel on February 5, 2004, and the DSB established a panel on March 19, 2004. On October 27, 2004, the panel was composed as follows: Mr. Crawford Falconer, Chair, and Mr. Hans-Friedrich Beseler and Mr. William Davey, Members. The panel issued its report on October 31, 2005, finding that Commerce’s use of “zeroing” in antidumping investigations is inconsistent with U.S. obligations under the WTO, but rejecting the EU’s claims that zeroing in other phases of antidumping proceedings is also inconsistent. On January 17, 2006, the EU appealed the panel report. The Appellate Body issued its report on April 18, 2006. In its report, the Appellate Body upheld the panel’s finding that the U.S. “methodology” of zeroing in average-to-average comparisons in investigations is subject to challenge “as such” and that such methodology is inconsistent with the Antidumping Agreement. The Appellate Body also reversed the panel and found that the U.S. use of zeroing in certain assessment proceedings was also inconsistent with the Antidumping Agreement. The reasonable period of time for the United States to bring its measures into compliance expires on April 9, 2007.

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

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

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

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

The United States and Korea agreed that the reasonable period of time for implementation in this dispute would expire on March 8, 2006. On February 13, 2006, the USITC issued a revised determination under section 129 of the Uruguay Round Agreements Act. On March 14, 2006, the United States informed the DSB that it had complied with the DSB recommendations and rulings.

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

On April 8, 2004, Canada requested consultations regarding the USITC’s determination on hard red spring wheat. In its request, Canada alleged that the United States has violated Article VI:6(a) of the

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

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

On April 14, 2004, Canada requested consultations concerning what it termed "the failure of the United States Department of Commerce (Commerce) to complete expedited reviews of the countervailing duty order concerning certain softwood lumber products from Canada" and "the refusal and failure of Commerce to conduct company-specific administrative reviews of the same countervailing duty order." Canada alleged that the United States had acted inconsistently with several provisions of the SCM Agreement and with Article VI:3 of the GATT 1994. Consultations were held on June 8, 2004. On October 12, 2006, the United States and Canada informed the DSB, in accordance with Article 3.6 of the DSU, that they had reached a mutually agreed solution to this and other lumber disputes.

United States–Subsidies on large civil aircraft (DS317)

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

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

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

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

On November 5, 2004, the EU requested consultations with the United States with respect to the "facts available" provision of the U.S. dumping statute and Commerce's dumping order on Stainless Steel Bar from the United Kingdom. The EU claims that both the statutory provision on adverse facts available and Commerce's determination and order are inconsistent with various provisions of the Antidumping Agreement and the GATT 1994. Consultations were held on January 11, 2005 and May 20, 2005.

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

On November 8, 2004, the EU requested consultations with respect to “the United States’ continued suspension of concessions and other obligations under the covered agreements” in the EU – Hormones dispute. Consultations were held on December 16, 2004. The EU requested the establishment of a panel on January 13, 2005, and the panel was established on February 17, 2005. Australia, Canada, China, Mexico, and Chinese Taipei reserved their third-party rights. On June 6, 2005, the Director-General composed the panel as follows: Mr. Tae-yul Cho, Chairman, and Ms. Claudia Orozco and Mr. William Ehlers, Members. The panel, in a communication dated August 1, 2005, granted the parties’ request to open the substantive meetings with the parties to the public via a closed-circuit television broadcast. The panel’s meetings with third parties remain closed.

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

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

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

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

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

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

On January 5, 2005, Mexico requested consultations with respect to Commerce’s alleged use of “zeroing” in an antidumping investigation and three administrative reviews involving certain stainless steel products from Mexico. Mexico claims these alleged measures breach several provisions of the Antidumping Agreement, the GATT 1994 and the WTO Agreement. Consultations were held on February 4, 2005.

United States—Antidumping measure on shrimp from Ecuador (DS335)

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

United States—Measures Relating to Shrimp from Thailand (DS343)

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

United States—Final Anti-dumping Measures on Stainless Steel from Mexico (DS344)

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

United States—Customs Bond Directive for Merchandise Subject to Anti-Dumping/Countervailing Duties (DS345)

On April 24, 2006, India requested consultations with respect to the imposition by U.S. Customs and Border Protection of an additional bonding requirement on certain importers of shrimp subject to an antidumping duty order on frozen warmwater shrimp from India. India has alleged that these measures breach several provisions of the Antidumping Agreement and the GATT 1994. Consultations were held on July 31, 2006. India requested the establishment of a panel on October 26, 2006, and a panel was established on November 21, 2006.

United States—Anti-Dumping Administrative Review on Oil Country Tubular Goods from Argentina (DS346)

On June 20, 2006, Argentina requested consultations with the United States on its anti-dumping duty administrative review on oil country tubular goods with respect to Acindar Industria Argentina de Aceros S.A. (Acindar). Argentina claims that this review breaches several provision of the Antidumping Agreement. The request for consultations also includes Section 773(e)(2)(b)(iii) of the U.S. Tariff Act of 1930, which Argentina claims is also inconsistent with the Antidumping Agreement.

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

On October 2, 2006, the EU requested consultations with respect to Commerce’s alleged use of “zeroing” in four antidumping investigations, 35 administrative reviews, and one sunset review involving certain products from the EU, as well as Commerce’s alleged use of a “zeroing” methodology in determining the dumping margin in reviews. The EU claims these alleged measures breach several provisions of the Antidumping Agreement, the GATT 1994 and the WTO Agreement. Consultations were held on November 14, 2006.

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

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

I. Trade Policy Review Body

Status

The Trade Policy Review Body (TPRB) is the subsidiary body of the General Council, created by the Marrakesh Agreement Establishing the WTO, to administer the Trade Policy Review Mechanism (TPRM). The TPRM examines domestic trade policies of each Member on a schedule designed to cover the full WTO Membership on a frequency determined by trade volume. The express purpose of the review process is to strengthen Members’ observance of WTO provisions and contribute to the smoother functioning of the multilateral trading system. The review mechanism also acts as a valuable resource for improving the transparency of Members’ trade and investment regimes. A number of Members have remarked that the preparations for the review are helpful in improving their own trade policy formulation and coordination.

The Member under review works closely with the WTO Secretariat to provide relevant information for the process. The process starts with an independent report by the WTO Secretariat on the trade policies and practices of the Member under review. The Secretariat report is accompanied by another report prepared by the Member undergoing the review. Together these reports are discussed by the WTO Membership in a TPRB session. At this session, the Member under review discusses the reports and answers questions on its trade policies and practices. The current process reflects improvements made over the years to streamline the reviews, and to give the process broader coverage and greater flexibility. Reports cover the range of WTO agreements -- including those relating to goods, services, and intellectual property -- and are available to the public on the WTO’s website at www.wto.org. Documents are filed on the website’s Document Distribution Facility under the document symbol “WT/TPR.”

Major Issues in 2006

During 2006, the TPRB reviewed the trade regimes of Angola, Bangladesh, China, Chinese Taipei, Colombia, Congo, Djibouti, East African Community (Kenya, Tanzania, and Uganda), Hong Kong China, Iceland, Israel, Kyrgyz Republic, Malaysia, Nicaragua, Togo, United Arab Emirates, United

States, and Uruguay. This group included six least-developed country (LDC) Members and seven Members reviewed for the first time. From its inception in 1998 to the end of 2006, the TPRM has conducted 230 reviews, covering 130 out of the then 149 Members (counting the EU as twenty-five) and representing almost 97 percent of world trade.

Reviews in 2006 emphasized the macroeconomic and structural context for trade policies, including the effects of economic and trade reforms, transparency with respect to the formulation and implementation of trade policy and the current economic performance of Members under review. Another important issue has been the balance among multilateral, bilateral, regional, and unilateral trade policy initiatives. Closer attention has been given to the link between Members' trade policies and the implementation of the WTO Agreements, focusing on Members' participation in particular Agreements, the fulfillment of notification requirements, the implementation of TRIPS, the use of antidumping measures, government procurement, state-trading, the introduction by developing country Members of customs valuation methods, the adaptation of national legislation to WTO requirements, and technical assistance.

The TPRB's report to the Singapore Ministerial Conference recommended that Members pay greater attention to LDCs in the preparation of the TPRB timetable, and a 1999 appraisal of the operation of the TPRM also drew attention to this matter. Overall, 25 of the WTO's 32 least-developed country Members have been reviewed. For least-developed country Members, the reports represent the first comprehensive analysis of their commercial policies, laws and regulations from a WTO perspective and the results of these examinations have implications and uses outside the TPRM process. Trade Policy Reviews of LDC Members have increasingly performed a technical assistance function and have been useful in broadening the understanding of an LDC Member's trade policy structure. These reviews tend to enhance understanding of WTO Agreements, enabling better compliance and integration in the multilateral trading system. In some cases, the TPR has facilitated better interaction between government agencies. The TPRM's comprehensive coverage of trade policies also enables Members to identify shortcomings in specific areas where further technical assistance may be required.

Members up for review in 2007 include: Argentina, Australia, Bahrain, Canada, Central African Republic, Cameroon, Chad, Costa Rica, European Union, Gabon, India, Indonesia, Japan, Macao China, Organization of East Caribbean States (Antigua and Barbuda, Dominica, Grenada, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines), Panama, Peru, Thailand and Turkey. Central African Republic, Chad and Panama will undergo their first reviews. Two of these Members – Central African Republic and Chad – are LDCs.

Responding to these circumstances, the review process for an LDC Member now includes a multi-day seminar for its officials about the WTO and, in particular, the trade policy review exercise and the role of trade in economic policy. Such seminars were held in 2006 for the review process of the Central African Republic, Chad, Congo, Tanzania, and Uganda. Similar exercises were conducted in the preparation of the reviews of other Members, including Cameroon, Colombia, Gabon, Indonesia, Kenya and the Organization of East Caribbean States. The Secretariat Report for an LDC Member review includes a section on technical assistance needs and priorities with a view to feeding this into the Integrated Framework process. The seminars and the technical assistance involve close cooperation between LDC Members and the WTO Secretariat. This cooperation continues to respond more systematically to technical assistance needs of LDC Members.

Prospects for 2007

The TPRM will continue to be an important tool for monitoring Members' adherence to WTO commitments and an effective forum in which to encourage Members to meet their obligations and to adopt further trade liberalizing measures.

J. Other General Council Bodies/Activities

1. Committee on Trade and Environment

Status

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

Major Issues in 2006

In 2006, the CTE met twice, in July and December. In general, Members have been less active in meetings of the CTE, given the increased workload and intensified negotiating schedule of the CTE-SS. That said, the United States has continued its active role in CTE discussions, as discussed below.

- *Market Access under Doha Sub-Paragraph 32(i)*: Members considered how the CTE could move the discussion forward in a more structured way, and, more specifically, in the format of Members' experience sharing, particularly with respect to market access issues for developing country Members. Attention was also given to specific sectors, including illegal logging. The CTE received information regarding a successful Sub-regional Workshop on Environmental Requirements and Market Access for Electrical and Electronic Goods held in Thailand, as well as other work underway by the UN Conference on Trade and Development.
- *TRIPS and Environment under Doha Sub-Paragraph 32(ii)*: Discussions under this item continued to focus, as they had prior to the Doha Ministerial Conference, on whether there may be any inherent conflicts between the TRIPS Agreement and the Convention on Biological Diversity (CBD) with respect to genetic resources and traditional knowledge. Several suggestions for structuring of further discussions under this agenda item include studying the impacts, if any, of trade and intellectual property rights regimes on biodiversity and exploring funding for biodiversity protection and technology transfer.
- *Labeling for Environmental Purposes under Doha Sub-Paragraph 32(iii)*: Discussions under this agenda item continued to demonstrate a considerably lower level of interest. Most Members continued to question the rationale for singling out environmental labeling for special consideration separate from ongoing work in the Committee on Technical Barriers to Trade on labeling more generally.
- *Capacity Building and Environmental Reviews under Doha Paragraph 33*: Many developing country Members stressed the importance of benefiting from technical assistance related to negotiations in the WTO on trade and environment, particularly given the complexity of some of these issues. Members held discussions with respect to national environmental reviews, and the Secretariat informed the CTE of its trade and environment technical assistance activities undertaken in 2006 and planned for 2007.
- *Discussion of Environmental Effects of Negotiations under Doha Paragraph 51*: Discussions under this agenda item continued to focus on developments in other areas of negotiations, based on the updates from relevant WTO Divisions regarding the environment-related issues in the negotiations on Agriculture,

Market Access for Non-agricultural Products, WTO Rules, and Services (WT/CTE/GEN/8/Suppl.1, WT/CTE/GEN/9/Add.1, WT/CTE/GEN/10/Suppl.1 and WT/CTE/GEN/11/Suppl.1, respectively).

Prospects for 2007

It is expected that the CTE will continue to focus its attention on paragraphs 32, 33 and 51 of the Doha Declaration, and that these discussions may become more structured in 2007.

2. Committee on Trade and Development

Status

The Committee on Trade and Development (CTD) was established in 1965 to strengthen the GATT 1947's role in the economic development of less-developed GATT Contracting Parties. In the WTO, the CTD is a subsidiary body of the General Council. Since the Doha Development Round was launched, two additional sub-groups of the CTD have been established, a Subcommittee on Least Developed Countries (LDCs) and a Dedicated Session on Small Economies.

The CTD addresses trade issues of interest to Members with particular emphasis on issues related to the operation of the "Enabling Clause" (the 1979 Decision on Differential and More Favorable Treatment, Reciprocity and Fuller Participation of Developing Countries). In this context, the CTD focuses on the Generalized System of Preferences (GSP) programs, the Global System of Trade Preferences among developing country Members, and regional integration efforts among developing country Members. In addition, the CTD focuses on issues related to the fuller integration of all developing country Members into the trading system, technical cooperation and training, commodities, market access in products of interest to developing countries, and the special concerns of the LDCs, small, and landlocked economies.

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

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

Major Issues in 2006

Ambassador Faizel Ismail of South Africa served as Chairman of the CTD in 2006. Activities of the CTD and its subsidiary bodies in 2006 included:

Duty-Free, Quota-Free Market Access for LDCs Members: The work of the CTD in 2006 included reviews of papers submitted by the United States and Japan on steps each had taken to implement the Hong Kong decision to provide DFQF market access to the LDCs Members. The U.S. paper contains a summary of the U.S. domestic legal and consultative process for implementing the DFQF decision (WT/COMTD/W/149). During these reviews, the LDC Group argued that the appropriate forum for

discussion of the Hong Kong Decision was the CTD in Special Session and the relevant negotiating groups, such as Agriculture and Non-Agricultural Market Access.

Transparency of Preferential Trading Arrangements: In 2006, the CTD reviewed notifications by Members under the Enabling Clause concerning regional trade agreements (RTAs) and Generalized System of Preferences (GSP) programs. A central theme in discussions in the CTD over the course of 2006 was the need for greater transparency of recently-notified RTAs and GSP programs, including the China-ASEAN Framework Agreement on Comprehensive Economic Cooperation and the GSP program of the EU. In both cases, Members sought to obtain additional information on the terms of these arrangements from the parties in order to better understand how their own trade might be affected. The December General Council decision on a new transparency mechanism for RTAs, which shifts the process of fact-gathering and reporting on RTAs from individual Members to the Secretariat, is expected to improve the quantity and quality of information on the terms of RTAs under consideration by the CTD in the future. In December, the General Council also invited the CTD to review the transparency of GSP programs and other preferential agreements under its mandate in the coming year.

Trade-Related Technical Assistance and Training (TRTA): In 2006, the CTD conducted its yearly review of the WTO's technical cooperation and training activities. Discussion focused on a final report containing a strategic review of all WTO TRTA activities submitted by an independent steering group.

Other CTD Issues: The CTD considered presentations on a wide range of traditional and non-traditional issues in the trade and development nexus. These issues included commodity dependence and the growth of developing country participation in the global economy. Although the development aspects of the DDA were on the agenda of the July 6th meeting of the CTD, the impasse in those negotiations precluded an in-depth discussion. Still, several developing country Members presented statements on the importance of trade facilitation and market access opportunities to development.

Dedicated Session on Small Economies: Following on work of the CTD in the Dedicated Session (CTD-DS) in 2004 and 2005 to identify the unique characteristics and problems of Small Economies in the trading system, in 2006, the CTD-DS focused on the three proposals related to regional authorities submitted by the Small Economies in other WTO bodies. In these proposals, the Small Economies sought special recognition of the vital role that regional authorities play in supporting their efforts to undertake their WTO obligations in the areas of SPS, TRIPs and TBT. A broad group of Members supported these proposals as an example of how the WTO can support the efforts of small developing country Members to integrate further into the rules-based system. Subsequent to consideration of these proposals by the SPS Committee, the TBT Committee and the TRIPs Council over the year, the General Council agreed to specific recommendations from the CTD-DS on regional authorities in October.

LDC Subcommittee: The Subcommittee reviewed a progress report on the implementation of the recommendations for an enhanced Integrated Framework and a survey of market access conditions facing LDC Members.

Prospects for 2007

The CTD is expected to continue to monitor developments as they relate to issues of concern to developing country Members, including those related to technical assistance. Interest in market access is expected to continue. In this vein, the CTD will undertake its responsibility to review steps taken by Member, both developed and developing, to provide DFQF market access to the LDC Members. In addition, the CTD's examination of RTAs between developing country Members is likely to increase with the adoption of the new transparency mechanism.

3. Committee on Balance-of-Payments Restrictions

Status

The Uruguay Round Understanding on Balance-of-Payments (BOP) substantially strengthened GATT disciplines on BOP measures. Under the WTO, any Member imposing restrictions for balance-of-payments purposes must consult regularly with the BOP Committee to determine whether the use of such restrictions are necessary or desirable to address a Member's balance of payments difficulties. The BOP Committee works closely with the International Monetary Fund in conducting consultations. Full consultations involve examining a Member's trade restrictions and balance-of-payments situation, while simplified consultations provide for more general reviews. Full consultations are held when restrictive measures are introduced or modified, or at the request of a Member in view of improvements in the balance-of-payments.

Major Issues in 2006

During 2006, no Member imposed new balance-of-payments restrictions. The BOP Committee held one meeting during the year, in October, at which the fifth annual review under China's Transitional Review Mechanism took place. In light of China's balance-of-payments position, there was little discussion.

Prospects for 2007

In the spring of 2007, the Government of Bangladesh is expected to provide to the BOP Committee a time table for the elimination of Bangladesh's remaining restrictions applied for BOP reasons. Should other Members resort to new BOP measures, WTO rules require a thorough program of consultation with this Committee. We expect the BOP Committee to continue to ensure that BOP provisions are used as intended to address legitimate problems through the imposition of temporary, price-based measures.

4. Committee on Budget, Finance and Administration

Status

The Committee on Budget, Finance and Administration (the Budget Committee) is responsible for establishing and presenting the budget for the WTO Secretariat to the General Council for Members' approval. The Budget Committee meets throughout the year to address the financial requirements of the organization. The budget process in the WTO operates on a biennial basis. As is the practice in the WTO, decisions on budgetary issues are taken by consensus.

The United States is an active participant in the Budget Committee. The United States, as the Member with the largest share of world trade, makes the largest contribution to the WTO budget. The assessed contribution of each Member is based on the share of that Members' trade in goods, services, and intellectual property. For the 2007 budget, the U.S. assessed contribution is 14.852 per cent of the total budget assessment, or Swiss Francs (CHF) 26,802,882 (about \$22 million).

In December 2005, Members agreed on the biennial budget covering 2006 and 2007. As envisaged in the decision establishing biennial budgeting, the Secretariat proposed minor adjustments in the midterm review of the 2006-2007 budget to take into account unforeseen and uncontrollable developments in the form of somewhat larger than anticipated personnel costs. At the end of 2006, Members agreed on minor adjustments to the 2007 operating budget in the midterm review. Details required by Section 124 of the Uruguay Round Agreements Act on the WTO's consolidated budget for 2006 and 2007 are provided in Annex II.

Major Issues in 2006

- *WTO Facilities:* In July 2005, the General Council agreed to increase to Swiss Francs 60 million the authorized funding for construction of a new WTO Annex, to be financed through a 50-year interest-free loan from the Swiss authorities. The WTO Secretariat has outgrown the main WTO building and the new annex will replace temporary facilities that have been needed to house those staff and functions that do not fit in the main building. In 2006, the Director-General brought to Members' attention new alternative possibilities that have opened up that are closer to the main WTO building and could be more cost effective. He also proposed that Members consider building a new WTO headquarters that would be large enough to fulfill all of the WTO's needs under one roof. The Budget Committee will continue to examine these propositions in 2007.
- *Measures to Address Contributions in Arrears:* In May 2006, the General Council agreed to strengthened measures to address the problem of Members with contributions in arrears. These enhancements include limiting access to technical assistance and requiring the Chair of the General Council at each meeting of the General Council to read out a list of those Members that are more than one year in arrears, asking each of them to indicate when payment will be made. This decision is to be reviewed by 2008, if sufficient progress in the clearing of arrears is not seen.
- *Security Enhancement Program:* In December 2004, the General Council agreed to fund the Secretariat's proposed Security Enhancement Program. This multi-year plan is designed to meet the new realities of the post-9/11 world by, among other things, improving controls on the entrance of goods, vehicles and people to the WTO facilities as well as by improving the technology available to monitor the WTO's facilities and grounds. Implementation of the program will continue in 2007 and 2008-2009 bienniums.
- *Critical Review of the Structure of the WTO Secretariat:* The Director-General has been conducting a critical review of the structure of the WTO Secretariat with a view to streamlining it. Implementation of the reform plan is expected to result in future savings. However, in the short term, financial resources will be needed to bridge a liquidity gap. Therefore, in December 2005, the General Council agreed to a specific allotment of Swiss Francs 500,000 for 2005 and a further Swiss Francs 500,000 for 2006 to meet this need. Developments in 2006, made it impossible for the Director-General to complete the critical review. Therefore, it was agreed that the money allocated for restructuring in 2006 would be transferred to a Restructuring Operating Fund, to be used in 2007. Any funds left at the end of 2007, will be returned to the regular 2007 budget.

Prospects for 2007

The Budget Committee will continue to monitor the financial and budgetary situation of the WTO on an ongoing basis. The Budget Committee will prepare a proposal for the General Council on the biennial budget for 2008-2009 and will actively review the question of new facilities for the WTO. It will also be regularly consulted and kept informed of all aspects concerning the work by the Director-General in addressing the interim and future building needs of the WTO, as well as finalization and implementation of the restructuring plan and security enhancements.

5. Committee on Regional Trade Agreements

Status

The Committee on Regional Trade Agreements (the CRTA), a subsidiary body of the General Council, was established in early 1996 as a central body to oversee all regional agreements to which Members are party.

The CRTA is charged with conducting reviews of individual agreements, seeking ways to facilitate and improve the review process, implementing the biennial reporting requirements established in the Uruguay Round Agreements, and considering the systemic implications of such agreements and regional initiatives for the multilateral trading system. Prior to 1996, these reviews were typically conducted by a “working party” formed to review a specific agreement.

GATT Article XXIV is the principal provision governing Free Trade Areas (FTAs), Customs Unions (CUs), and interim agreements leading to an FTA or CU concerning goods. Additionally, the 1979 Decision on Differential and More Favorable Treatment, Reciprocity and Fuller Participation of Developing Countries, commonly known as the “Enabling Clause,” provides a basis for certain agreements between or among developing country Members, also concerning trade in goods. The Uruguay Round added three more provisions: the Understanding on the Interpretation of Article XXIV, which clarifies and enhances the requirements of Article XXIV of GATT 1994; and Articles V and Vbis of the General Agreement on Trade in Services (GATS), which govern services and labor markets economic integration agreements.

FTAs and CUs are authorized departures from the principle of MFN treatment, if certain requirements are met. With respect to goods, tariffs and other restrictions on trade must be eliminated on substantially all trade between the parties. In addition, duties and commercial measures applied to third countries upon the formation of an FTA or CU must not be higher or more restrictive than was the case before the agreement. If, in forming a CU, a Member exceeds its WTO bound rates, it must so notify the WTO in order to negotiate with other Members compensation in the form of market access concessions. Finally, while interim agreements leading to FTAs or CUs are permissible, transition periods to full FTAs or CUs should exceed ten years only in exceptional cases.

With respect to trade in services, the CU or FTA must have “substantial sectoral coverage” and prohibit or eliminate substantially all discrimination; in addition, the FTA or CU may not exclude *a priori* any mode of supply from the agreement. As with agreements on goods, barriers or restrictions to trade in services applicable to third parties upon formation of the FTA or CU may not be higher than was the case previously. Finally, a compensation requirement analogous to that in goods agreements exists for services agreements.

Major Issues in 2006

As of October 15, 2006, 366 RTAs have been notified to the GATT/WTO. Of the notified agreements, 214 are currently in force. Of the RTAs in force, 147 are GATT Article XXIV agreements; 22 are Enabling Clause agreements,¹⁸ and 45 are GATS Article V agreements.

¹⁸ Consistent with past practice, RTAs notified under the Enabling Clause continue to be reviewed in the Committee on Trade and Development.

During 2006, the CRTA held four sessions. At the January meeting, the CRTA agreed to concentrate on concluding the ongoing factual examination of 42 RTAs before beginning new examinations. The CRTA succeeded in completing the factual examination of 28 RTAs. As a result, the CRTA has a total of 158 agreements currently under examination, of which 120 are in the area of trade in goods and 38 in trade in services. Fourteen of those examinations have been suspended for lack of specific information or because they involve non-WTO Members, and the CRTA has not yet started the factual examination of 65 RTAs. For the remaining 79 RTAs, the factual examination has concluded, but there was a lack of consensus on the content of each report with respect to assessment of the RTA's WTO consistency. The CRTA also reviewed nine reports on the operation of agreements, submitted in accordance with the 2004 Schedule for Submission of Reports.

In January 2006, the CRTA concluded the factual examinations of the United States-Singapore FTA and the United States-Jordan FTA and considered the Biennial Report on the United States-Israel FTA. The CRTA also undertook the second round of review of the United States-Chile FTA, in which additional information was sought on issues such as TRQ fill rates, the length of transition periods, cooperation in the standards area, the safeguard mechanism, government procurement, and the intellectual property rights provisions. The United States responded to all questions, and the factual examination was completed in March 2006. In the October 2006 meeting, the CRTA adopted a new standard format for notifying RTAs to the WTO, to simplify and standardize the notification process.

Benefits of the new Provisional Transparency Mechanism:

- *Early Announcement:* Parties announce entering into RTA negotiations.
- *Preliminary Information:* Parties provide basic information on newly-signed RTAs – scope, website address, proposed date of entry into force, and contact point.
- *Factual Information:* The Secretariat will prepare an objective Factual Summary of each notified RTA, providing information on intra-party trade, as well as the market-opening, regulatory and sector-specific provisions.
- *Timetable for Review:* The Mechanism establishes a timetable for review, including an opportunity to ask questions of the parties and typically finishing within one year.
- *Public WTO database:* The WTO will establish a public website with basic information about RTAs under negotiation, as well as factual information on, and the text of, each notified RTA.

Prospects for 2007

In December 2006, the General Council approved a new set of provisional procedures, proposed by the Negotiating Group on Rules (discussed in section B of this chapter), to improve the transparency of RTAs. The new “Transparency Mechanism for Regional Trade Agreements” shifts the process of reporting on RTAs from individual Members to the Secretariat, which will now be responsible for producing a “Factual Summary” on each RTA. A written question and answer process will follow among the Members, and discussions of each RTA thereafter will normally be limited to one meeting. It is hoped that this new process will result in greater uniformity in the quantity and quality of the information provided while enabling the CRTA to function in a more efficient manner. For the 79 RTAs for which examinations have been concluded, the Transparency Mechanism provides that the Secretariat will prepare a brief summary of the key features of the agreement and make all the underlying documents publicly available.

6. Accessions to the World Trade Organization

Status

The year 2006 was a decisive turning point for a number of large countries seeking WTO Membership. After completing intensive bilateral and multilateral work with the United States and other WTO Members, Vietnam became the 150th WTO Member on January 11, 2007. In addition, Ukraine and Russia concluded bilateral market access agreements with the United States, substantially completing work to establish their market access commitments for trade in goods and services and facilitating renewed attention to multilateral negotiations in their respective Working Parties. Similarly, Ukraine and Kazakhstan moved decisively in their respective multilateral negotiations to address outstanding issues. Tonga, which had been expected to become a WTO Member in 2006, delayed its acceptance of the accession package approved at the 2005 Hong Kong Ministerial Conference. At the end of the year, there were twenty-nine applicants negotiating accession to the WTO, and about one-third of them were LDCs.¹⁹ Accession applicants are welcome in all formal WTO meetings as observers. There were no new requests for accession or observer status during 2006.²⁰

The Working Parties of Azerbaijan, Bhutan, Laos, Lebanon, Montenegro, Samoa, Serbia, Tajikistan, and Yemen met to review the trade regimes of the respective applicants, and all of these applicants have initiated market access negotiations. The Working Party meetings in 2006 for Kazakhstan, Russia, Ukraine, and Vietnam, had a different character, as these accessions were either nearing completion (Vietnam) or in an advanced stage where the draft Working Party report (WPR) text, including Protocol commitments, is under negotiation and domestic legislative implementation of WTO rules is underway.

Four of the twenty-nine applicants (Afghanistan, Bahamas, Libya, and Sao Tome and Principe) have not yet submitted initial descriptions of their trade regimes, the action necessary to activate their Working Parties and begin negotiations. Iran and Ethiopia submitted their trade regime descriptions at the end of 2006. The Working Parties of Andorra and Seychelles remained dormant, and Vanuatu continued to decline to accept the accession package approved by the Working Party in 2001. The Working Parties of Algeria, Belarus, Bosnia and Herzegovina, Cape Verde, Iraq, Sudan, and Uzbekistan did not meet in 2006. Iraq submitted responses to Members' questions on its Memorandum on the Foreign Trade Regime at the very end of 2006 and Cape Verde submitted revised market access offers seeking to move its accession negotiations to the final stage. Working Party meetings for Iraq and Cape Verde are likely during 2007. The chart included in Annex II reports the current status of each accession negotiation.

Background: Countries and separate customs territories seeking to join the WTO must negotiate the terms of their accession with current Members, as provided for in Article XII of the WTO Agreement. The accession process, with its emphasis on implementation of WTO provisions and the establishment of stable and predictable market access for goods and services, provides a proven framework for adoption of policies and practices that encourage trade and investment and promote growth and development.

The accession process strengthens the international trading system by ensuring that new Members understand and implement WTO rules from the outset. The process also offers current Members the opportunity to secure market access opportunities from acceding countries, to establish an appropriate

¹⁹ Accession Working Parties have been established for Afghanistan*, Algeria, Andorra, Azerbaijan, Bahamas, Belarus, Bhutan*, Bosnia and Herzegovina, Cape Verde*, Ethiopia*, Iran, Iraq, Kazakhstan, Laos*, Lebanon, Montenegro, Libya, Russia, Samoa*, Sao Tome and Principe*, Serbia, Seychelles, Sudan*, Tajikistan, Tonga, Uzbekistan, Ukraine, Vanuatu*, and Yemen* (The 10 countries marked with an asterisk are LDCs).

²⁰ Equatorial Guinea is the only WTO observer country that has not yet sought accession. The Holy See is a permanent observer, and will not apply for accession.

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

In a typical accession negotiation, an application is submitted to the WTO General Council, which establishes a “Working Party” composed of all interested WTO Members to review the applicant’s trade regime and to conduct the negotiations. At the conclusion of its work, the Working Party transmits the agreed results of the negotiations to the General Council. Accession negotiations involve a detailed review of the applicant’s entire trade regime by the Working Party and bilateral negotiations for market access of goods and services. Applicants are expected to undertake trade liberalizing specific commitments on market access for industrial and agricultural goods, as well as for services based on requests from Working Party Members, to make necessary legislative changes to implement WTO institutional and regulatory requirements, and to eliminate existing WTO-inconsistent measures. Most accession applicants take these actions on WTO rules prior to accession.²¹

The terms of accession developed with Working Party Members in bilateral and multilateral negotiations are recorded in an accession “protocol package” consisting of a Report of the Working Party and Protocol of Accession, consolidated schedules of specific commitments on market access for imported goods and services by foreign suppliers, and agriculture schedules that include commitments on export subsidies and domestic supports. The Working Party adopts the completed protocol package containing the negotiated terms of accession and transmits it with its recommendation for approval to the General Council or Ministerial Conference. After General Council approval, accession applicants normally submit the package to their domestic authorities for acceptance. Thirty days after the WTO receives the applicant’s instrument accepting the terms of accession the applicant becomes a WTO Member.

As a matter of course, the United States takes a leadership role in all aspects of the accessions, including bilateral, plurilateral and multilateral negotiations. The objective is to ensure that new Members fully implement WTO provisions and to encourage trade liberalization in developing and transforming economies, as well as to use the opportunities provided in these negotiations to expand market access for U.S. exports. The United States also provides a broad range of technical assistance to countries seeking accession to the WTO to help them meet the requirements and challenges presented, both by the negotiations and the process of implementing WTO provisions in their trade regimes. This assistance is provided through USAID and the Commercial Law Development Program (CLDP) of the U.S. Department of Commerce.

This assistance can include short-term technical expertise focused on specific issues, e.g., Customs, IPR, or TBT, and/or a WTO expert in residence in the acceding country or customs territory. A number of the WTO Members that have acceded since 1995 received technical assistance in their accession process from the United States, e.g., Armenia, Bulgaria, Estonia, Georgia, Jordan, Kyrgyz Republic, Latvia, Lithuania, Macedonia, Moldova, and Nepal. Most of these countries had U.S.-provided resident experts for some portion of the process.

Current accession applicants where the United States has provided a resident or other long-term WTO expert for the accession process include: Afghanistan, Algeria, Azerbaijan, Bosnia and Herzegovina, Cape Verde, Ethiopia, Iraq, Lebanon, Montenegro, Serbia, and Ukraine; in addition a U.S.-funded WTO expert resident in the Kyrgyz Republic provides resident WTO accession assistance to Kazakhstan and Tajikistan. In 2006, the United States also offered other forms of technical and expert support on WTO accession issues to Bosnia and Herzegovina, Lebanon, Russia, and Vietnam.

²¹ As outlined below, negotiations with LDC applicants are subject to the special procedures and guidelines of the 2002 Decision on the Accession of Least-Developed Countries (WT/L/508).

Major Issues in 2006

The year 2006 was dominated by the successful efforts of the larger applicant countries, Russia, Ukraine, Vietnam, and, to a lesser extent, Kazakhstan, to maintain the fast pace of work they had announced in 2005 and to make decisive progress on their accessions. All four moved aggressively to conclude bilateral market access negotiations, and Ukraine and Vietnam sharply accelerated efforts to enact legislation to implement the WTO in their respective domestic legal regimes. Members continued to place special emphasis on LDC accessions, and work on the negotiations of other accession applicants moved forward, but slowly as increased efforts to complete the Doha Development Agenda dominated work in the WTO during the first half of the year.

Vietnam: In an historic moment for Vietnam, for the United States, and for the rules-based global trading system of the WTO, Vietnam completed negotiations and had its accession package approved by the General Council at end of the 2006. With a growing trade presence and a population of 82 million, Vietnam was the last major trader in Asia to join the WTO. The terms of accession negotiated were comprehensive, reflecting significant U.S. participation in the process, with most of Vietnam's WTO commitments implemented upon accession. These commitments include wide-ranging economic reforms, expanded market access to foreign service providers, and substantial reduction in tariffs. Vietnam has already enacted more than 80 laws to implement WTO obligations, including to remove remaining restrictions on trading rights, import licensing, and intellectual property rights protection, and to provide for significant liberalization of market access for goods and services. On December 29, 2006, the President signed a proclamation terminating application of title IV of the Trade Act of 1974 (the Jackson-Vanik Amendment) to Vietnam and granting products of Vietnam permanent normal trade relations treatment. As a result, the United States was able to establish full WTO relations with Vietnam when it became the 150th WTO Member on January 11, 2007. This move marks the beginning of a new era in the political and economic relationship between the two countries, and promises expanding economic opportunities and cooperation.

Ukraine: Based on intensive work, Ukraine completed in 2006 bilateral market access agreements with the United States and all other interested WTO Members except Kyrgyz Republic. The bilateral agreement with the United States locked in broad reductions in tariff levels, including participation in the Information Technology Agreement, Chemical Harmonization, and most of the other sectoral agreements to which major WTO Members have agreed. U.S. service providers will benefit in particular from more liberal access in the areas of financial services, including opportunities for branching in banking and insurance, professional and distribution services, express delivery, and telecommunications, among others. Specific agreements were also concluded addressing outstanding or potential barriers to U.S. market access, including sanitary and phytosanitary measures affecting meat exports, import licensing of information technology products with encryption capability, phased reductions of export duties on scrap metal, and intellectual property protection, particularly the protection of undisclosed information for pharmaceuticals and agricultural chemicals (as required by the WTO).

Russia: The United States and Russia reached a bilateral market access agreement in November in the context of Russia's WTO accession. On tariffs, the bilateral agreement provided for phased reductions in tariffs, with particular emphasis on products of interest to U.S. exporters including eventual duty free entry of information technology products (as a result of joining the Information Technology Agreement), and harmonization of tariffs on chemical imports, including pharmaceuticals, at low rates of duty. Significant reductions in duties on leased aircraft will be implemented prior to Russia's WTO accession. Services commitments included more liberal access to the financial services sector, with eventual opportunities for branching in insurance, and commitments in audio visual, professional, distribution, express delivery, and telecommunication services, among others. In separate bilateral agreements, the United States and Russia addressed several specific measures impeding U.S. market access, e.g., sanitary and phytosanitary measures particularly covering poultry and meat exports, reductions in export duties on

ferrous metal scrap and copper cathodes, import licensing of information technology products with encryption capability, and intellectual property protection, particularly in the areas of enforcement and the protection of undisclosed information for pharmaceuticals and agricultural chemicals. Russia continued bilateral negotiations with the handful of Members, including Sri Lanka, Costa Rica, Guatemala, Georgia, and Moldova, with which it had not yet signed an agreement.

Kazakhstan: Kazakhstan accelerated its bilateral negotiations on market access for goods and services, completing agreements with a number of Members and initiating intensified bilateral contacts to conclude a market access agreement with the United States. At the November 2006 Working Party meeting, Kazakhstan outlined its legislative agenda to complete implementation of WTO provisions, and indicated that it was prepared to address the outstanding issues identified by Members and move forward on protocol commitments.

LDC Accessions: WTO Members continued to emphasize a need for accelerating the accession process of LDCs, and in making WTO accession more accessible to these applicants. Discussions continued in various WTO fora on how the WTO guidelines on LDC accessions, now four years old, are being implemented. The accession negotiations for LDC accession applicants are guided by the simplified and streamlined procedures developed for these countries at the end of 2002. Under these guidelines, the accession process becomes a tool for economic development, laying out a progressive action plan for implementation of WTO rules. The market access schedules and protocols of accession developed under these guidelines reflect the need to address realistically the difficulties faced by LDCs in achieving normal WTO accession objectives. Using the guidelines, WTO Members pledged to exercise restraint in seeking market access concessions, and to agree to transitional arrangements for implementation of WTO Agreements. The United States and other developed WTO Members have sought to support the transitional goals established in the accession process with LDCs with technical assistance to meet the benchmarks included in the protocol commitments. In this way, the accession process becomes a development tool and an opportunity to mainstream trade in their development programs, to build trade capacity, and to provide a better economic environment for investment and growth.

Cape Verde, which has LDC status through 2007, has substantially completed its market access negotiations and hopes to finalize its negotiations in the near term. Samoa also made strong efforts to resume negotiations, and move towards completion. Working Parties and market access negotiations also took place for Bhutan, Laos, and Yemen.

Prospects for 2007

Russia, Ukraine, and Kazakhstan have indicated that they would like to complete their work on WTO accession, if not become Members, prior to the end of the year. We would expect, at a minimum, to intensify our efforts with these countries, and possibly other applicants, as we continue to actively participate in all WTO accessions. Efforts to advance the accessions of LDCs will also continue. Among the LDCs, Cape Verde and Samoa have signaled their intentions to complete their accessions during 2007.

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

7. Aid for Trade

The Hong Kong Ministerial Declaration created a new WTO framework in which to discuss and prioritize Aid for Trade. Aid for Trade is an effort to connect the trade priorities of developing countries with trade

capacity building assistance -- to help those countries implement trade commitments. At Hong Kong, WTO Members agreed to create a task force to discuss the operationalization of Aid for Trade efforts and offer recommendations as to how to improve the efficacy and efficiency of these efforts amongst WTO Members and other international organizations.

In the context of the Hong Kong Declaration, the United States announced an intention to double its annual trade-related development assistance to \$2.7 billion by 2010, subject to developing countries prioritizing their trade needs in the context of national development programs.

Ministers at Hong Kong also agreed to pursue the enhancement of the Integrated Framework (IF) for trade-related technical assistance for least-developed countries (both WTO Members and non-Members), as a subset of Aid for Trade designed exclusively for that set of countries. The IF is a multi-organization (including the WTO, World Bank, IMF, UNCTAD, UNDP, and the International Trade Centre), multi-donor program that operates as a coordination mechanism for trade-related assistance to LDCs with the overall objective of integrating trade into national development plans. A separate Task Force was created to address the enhancement of the IF.

Both the Aid for Trade Task Force and IF Task Force met during the first three quarters of 2006 and submitted recommendations to the General Council in July 2006.

The General Council took note of the Aid for Trade IF recommendations at its October meeting and asked the Director-General to manage the follow-up to the report. Recommendations that require follow-up include working with the OECD to better capture technical assistance activities in its development assistance database, and agreeing on the modalities for an annual review of trade-related technical assistance activities -- both from the perspective of donor contributions and developing country prioritization of needs and results of activities undertaken.

The IF Task Force recommended the creation of an independent secretariat to manage the Integrated Framework, to intensify in-country support and coordination within LDC participants and for a scaling up of resources to support IF programs. Active discussions among donor countries, IF participating agencies and least development countries began in September 2006 on the implementation of the enhanced IF. The issues at hand have proved to be complex and will continue into 2007.

Prospects for 2007

Aid for Trade activities in 2007 will focus on follow-up of the Task Force recommendations, as outlined above, culminating in the first annual overview of Aid for Trade in the fall of 2007. Planning for the implementation of the enhanced Integrated Framework will continue during the first months of 2007.

K. Plurilateral Agreements

1. Committee on Trade in Civil Aircraft

Status

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

The Aircraft Agreement requires signatories to eliminate tariffs on civil aircraft, their engines, subassemblies and parts, and ground flight simulators and their components, and to provide these benefits on a nondiscriminatory basis to other signatories. In addition, the signatories have agreed provisionally to

provide duty-free treatment for ground maintenance simulators, although this item is not covered under the current agreement. The Aircraft Agreement also establishes various obligations aimed at fostering free market forces. For example, signatory governments pledge that they will base their purchasing decisions strictly on technical and commercial factors.

The Committee on Trade in Civil Aircraft (the Aircraft Committee), permanently established under the Aircraft Agreement, provides the signatories an opportunity to consult on the operation of the Aircraft Agreement, to propose amendments to the Agreement, and to resolve any disputes.

As of December 30, 2006, there were 30 signatories to the Aircraft Agreement: Bulgaria; Canada; the EU and the following EU Member states: Austria, Belgium, Denmark, Estonia, France, Germany, Greece, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Portugal, Spain, Sweden, and the United Kingdom; Egypt; Georgia; Japan; Macao China; Norway; Romania; Switzerland; Chinese Taipei; and the United States.

Major Issues in 2006

During 2006, the Aircraft Committee met on two occasions. The Aircraft Committee considered the status of the 1979 Agreement on Trade in Civil Aircraft under the WTO and enlargement of the European Union and Article 9 of the Aircraft Agreement. The Technical Sub-Committee of the Committee on Trade in Civil Aircraft and the Sub-Committee of the Committee on Trade in Civil Aircraft did not meet in 2006.

Prospects for 2007

The Aircraft Committee agreed to meet once, in the fall of 2007. The United States will continue to encourage observers,²² including Oman, Albania and Croatia, which committed to become signatories pursuant to their respective protocols of accession, and other WTO Members to become signatories to the Aircraft Agreement.

2. Committee on Government Procurement

Status

The WTO Government Procurement Agreement (GPA) is a “plurilateral” agreement included in Annex 4 to the WTO Agreement. As such, it is not part of the WTO’s single undertaking and its membership is limited to WTO Members that specifically signed the GPA in Marrakesh or that have subsequently acceded to the Agreement. Members are not required to join the GPA, but the United States strongly encourages all WTO Members to participate in this important agreement.

On December 8, 2006, the WTO Committee on Government Procurement (the GPA Committee) approved the addition of Romania and the Republic of Bulgaria to the GPA, effective on January 1, 2007, when they became Member States of the European Union. With the addition of these two Members, 40 Members are subject to the GPA: Canada; the EU and its 27 Member States (Austria, Belgium, Bulgaria, Czech Republic, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovak Republic,

²² As of December 31, 2006, 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, Saudi Arabia, Singapore, the Slovak Republic, Sri Lanka, Trinidad and Tobago, Tunisia, and Turkey. In addition, the Russian Federation, IMF and UNCTAD are also observers.

Slovenia, Spain, Sweden, and the United Kingdom); Hong Kong China; Iceland; Israel; Japan; the Republic of Korea; Liechtenstein; the Netherlands with respect to Aruba; Norway; Singapore; Switzerland; and the United States (collectively the GPA Parties).

Eight Members are in the process of acceding to the GPA: Albania, Chinese Taipei, Georgia, Jordan, Kyrgyz Republic, Moldova, Oman, and Panama. Seven additional Members have provisions in their respective Protocols of Accession to the WTO or Working Party reports regarding accession to the GPA: Armenia, China, Croatia, the Former Yugoslav Republic of Macedonia, Mongolia, Oman, and Saudi Arabia.

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

Major Issues in 2006

Article XXIV:7(b) of the GPA calls for further negotiations to improve the Agreement and to expand the procurement covered by the Parties under the GPA. During 2006, the GPA Committee held six meetings (in February, March, May, July, October, and December) during which Parties focused primarily on the revision of the GPA text. In December 2006, the GPA Committee reached provisional agreement on a substantial revision of the text. The revised text significantly improves the current GPA by:

- Making it more transparent and user friendly by clarifying obligations, removing ambiguities, and re-grouping related provisions into a single article, which will facilitate compliance by Parties;
- Re-ordering the provisions to correspond more closely to the order in which procurements are conducted;
- Incorporating new provisions to take into account developments in government procurement practices, for example, by reducing the tendering period for purchases of commercial goods and services, providing for the use of electronic auctions, and encouraging the use of electronic procurement;
- Expanding and clarifying transitional measures for developing countries (offsets, price preferences, phasing-in entities or sectors, higher thresholds) to facilitate their GPA accession; such measures will not be applied automatically, but tailored to the specific needs of a developing country applicant; and
- Providing for the development of arbitration procedures to resolve differences over the modification of the entities covered by the GPA.

Final agreement on the revision of the GPA requires a mutually satisfactory outcome in the market access negotiations among the GPA Parties to open up additional government procurement to international competition under the GPA. The GPA Parties aim to conclude these negotiations in the first half of 2007. When these negotiations are concluded, the Parties will give final approval to the revision of the GPA.

The new GPA text will be used as the basis for negotiations with countries in the process of acceding to the GPA. The revised GPA will be particularly useful for China as it prepares its initial GPA offer, which it agreed to table by the end of 2007.

With respect to the negotiations under GPA Article XXIV:7(c), which are aimed at expanding coverage among all Parties and eliminating discriminatory measures and practices, the United States, along with Canada, the European Union, Israel, Japan, Korea, Norway, Singapore, and Switzerland have submitted

initial offers. In addition, the United States and Japan have submitted revised offers. Other GPA Parties are expected to submit revised offers early in 2007.

Prospects for 2007

The GPA Committee has scheduled three meetings in the first half of 2007 with the aim of completing the revision of the GPA.

The Committee plans to hold informal plurilateral consultations with Jordan and Georgia as part of efforts to advance their respective accessions to the GPA. In 2007, the GPA Committee will also continue its review of the legislation of the Netherlands with respect to Aruba.

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

Status

The Information Technology Agreement (ITA) was concluded at the WTO's First Ministerial Conference at Singapore in December 1996. For original participants, the Agreement eliminated tariffs as of January 1, 2000 on a wide range of information technology products. As of October 2006, the ITA covers 69 Members and States or separate customs territories in the process of acceding to the WTO, representing approximately 97 percent of world trade in information technology products.²³ The Agreement covers a wide range of information technology products including computers and computer peripheral equipment, electronic components including semiconductors, computer software, telecommunications equipment, semiconductor manufacturing equipment and computer-based analytical instruments.

Major Issues in 2006

The WTO Committee on the Expansion of Trade in Information Technology Products held three meetings in 2006, two meetings in July and one in October, during which the Committee reviewed the implementation status of the Agreement. Work continued on the admission of new participants as well as classification divergences of ITA products. The Dominican Republic and Vietnam circulated schedules of commitments and the Committee approved their Membership in 2006. The Committee also continued its work on the Non-Tariff Measures (NTMs) Work Program as well as on drafting a list of conformity assessment procedures for the EMC/EMI pilot project. The Committee membership appointed a new Chairperson, Martin Pospisil of the Czech Republic, in 2006.

The Committee also started discussions on U.S. proposals to maintain duty-free treatment for technologically sophisticated versions of ITA products. The United States and Japan have expressed concerns about proposals by at least one ITA participant that would no longer provide or guarantee duty-free treatment for certain ITA products, such as set-top boxes with a communication function. The

²³ ITA participants are: Albania; Australia; Austria; Bahrain; Belgium; Bulgaria; Canada; China; Costa Rica; Croatia; Cyprus; Czech Republic; Dominican Republic; Denmark; Egypt; El Salvador; Estonia; European Communities (on behalf of 25 Member States); Finland; France; Georgia; Germany; Greece; Guatemala, Hong Kong, China; Honduras, Hungary; Iceland; India; Indonesia; Ireland; Israel; Italy; Japan; Jordan; Republic of Korea; Krygyz Republic; Latvia; Lithuania; Luxembourg; Macao, China; Malaysia; Malta; Mauritius; Moldova; Morocco; Netherlands; New Zealand; Nicaragua, Norway; Oman; Panama; Philippines; Poland; Portugal; Romania; Saudi Arabia; Singapore; Slovak Republic; Slovenia; Spain; Sweden; Switzerland (on the behalf of the customs union of Switzerland and Lichtenstein); Chinese Taipei; Thailand; Turkey; United Kingdom; Vietnam; and the United States.

United States, supported by other ITA participants, such as Japan, Singapore, Hong Kong China, Chinese Taipei, Malaysia, Canada, and the Philippines, proposed that the Committee conduct informal consultations with participants on such products, with the aim of reaching a consensus on how to ensure that duty-free treatment for such products will be maintained. Such consultations were scheduled for January 2007.

Prospects for 2007

2007 looks to be a busy year for the Committee. Global ICT (Information Communication and Technology) industry associations led a Workshop on Information Technology Products for the Committee in January 2007 to share their views on the benefits of the ITA, and to stress the importance of ensuring that the integrity of existing ITA commitments is maintained. Informal consultations with Members also took place in January on maintaining duty-free treatment for specific ITA products and will likely continue in March. A symposium to commemorate the tenth anniversary of the ITA is also planned for late March. Participants will discuss updating the ITA product list from HS1996 to HS2007 nomenclature and will also continue to work on reconciling divergent tariff classifications for ITA products. Participants also remain active in discussions on a potential sectoral initiative for electronics and electrical products in the Doha round

III. BILATERAL AND REGIONAL NEGOTIATIONS AND AGREEMENTS

A. Free Trade Agreements

1. Australia

The United States-Australia Free Trade Agreement (FTA) entered into force on January 1, 2005. Since then, U.S. exports of goods to Australia have increased by \$1.6 billion in 2005 and \$1.9 billion²⁴ in 2006. U.S. goods imports from Australia totaled \$8.1 billion²⁵ in 2006, a 10 percent increase from 2005. Australia is currently the 14th largest export market for U.S. goods. Two-way annual goods and services trade in 2005 was \$35.2 billion, an increase of approximately 88 percent since 1994. In 2005, the United States enjoyed a bilateral goods and services trade surplus of \$11.2 billion.

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

On agricultural products, the FTA provided expanded export opportunities for a range of U.S. agricultural goods, while responding to U.S. import sensitivities. Duties on all U.S. agricultural exports to Australia were eliminated immediately upon entry into force of the FTA. U.S. duties are maintained on Australian sugar and certain dairy products. In addition, for certain products imported from Australia, such as beef, dairy, cotton, peanuts and certain horticultural products, the FTA includes preferential tariff-rate quotas and price- and/or quantity-based safeguards.

U.S. exports of agricultural products to Australia totaled over \$500 million in 2006²⁶. Top U.S. agricultural exports included red meats, including pork, fresh and processed fruit and vegetables, pet food and tree nuts. The FTA also established a new forum for scientific cooperation between U.S. and Australian authorities, which has been meeting since 2005 to address specific bilateral animal and plant health matters based on science and with a view to facilitating trade.

Under the FTA, services suppliers enjoy the benefits of expanded commitments for access to Australia's market. U.S. financial service suppliers already had a significant presence in the Australian market through subsidiaries, joint ventures and branches, and Australia agreed to provide new access for life insurance companies through branching. In addition, Australia and the United States agreed to high standards for regulatory transparency, including procedures applying to licensing systems. U.S. exports of private commercial services to Australia were \$7.4 billion in 2005, while U.S. imports of such services were \$4.7 billion.

The FTA also established a secure, predictable legal framework for U.S. investors operating in Australia. All U.S. investment in new businesses is exempt from screening under Australia's Foreign Investment Review Board. Thresholds for acquisitions by U.S. investors in nearly all sectors were raised

²⁴ Annualized 11 month data

²⁵ Annualized 11 month data

²⁶ Annualized 11 month data

significantly, from A\$50 million to A\$800 million (to be adjusted annually), exempting the vast majority of transactions from screening. Australia also has locked in existing good practice regarding the review of acquisitions in the banking and insurance sectors. The FTA provides for government-to-government dispute settlement procedures to resolve investment-related disputes. The stock of U.S. foreign direct investment (FDI) in Australia in 2005 was \$113.4 billion, up 132 percent from 2003. U.S. FDI in Australia is concentrated largely in the non-bank holding companies, manufacturing, finance, mining, and banking sectors.

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

The FTA contains provisions relating to public health and pharmaceuticals, whereby the United States and Australia affirmed their commitment to several basic principles related to their shared objectives of facilitating high quality health care and improvements in public health. The FTA also requires that federal health care programs apply transparent procedures in listing new pharmaceuticals for reimbursement. In addition, the FTA established a Medicines Working Group to promote discussion and understanding of pharmaceutical issues. Australia has instituted procedures that have improved the transparency and accountability in the listing and pricing of pharmaceuticals under its Pharmaceutical Benefits Scheme, and companies have begun to take advantage of the independent review process for listing decisions that Australia established pursuant to the FTA.

Implementation of the provisions of the FTA has largely proceeded on track during 2006. Australia has made changes to a wide variety of laws to implement its commitments and has sought public comment on its draft legislation. U.S. industries were particularly interested in the implementation of Australia's FTA commitments with respect to copyright protection, and provided comments to the Australian government on its draft legislation. The amendments to the Australian Copyright Act are an important step forward in protection for copyright in Australia.

Australia committed in the FTA to undertake a review of its arrangements for the supply of blood fractionation services by January 1, 2007. Although this recently completed review recommended against opening the provision of blood fractionation services to foreign competition, pursuant to its commitment in the FTA, the Australian government has recommended that its states adopt the tendering process prescribed in the Government Procurement Chapter of the FTA for provision of these services.

2. Morocco

In April 2002, President Bush and King Mohammed VI agreed to pursue a Free Trade Agreement (FTA) between the United States and Morocco, and on June 15, 2004, the two countries signed an Agreement. The U.S. Congress subsequently ratified the Agreement, and in August 2005 President Bush signed the implementing legislation. The Moroccan Parliament passed the Agreement in early 2005 and the Agreement entered into force on January 1, 2006. The United States-Morocco FTA is a comprehensive

agreement and is an important part of the Administration's effort to promote more open and prosperous Middle Eastern societies. The FTA supports the significant economic and political reforms underway in Morocco, and creates improved commercial and market opportunities for U.S. exports to Morocco by reducing and eliminating trade barriers.

Since the FTA was implemented, the U.S. goods trade surplus with Morocco has increased to \$346 million²⁷ in 2006, an increase of \$267 million from \$79 million in 2005. U.S. goods exports to Morocco in 2006 were \$846 million²⁸, up 61.1 percent from the previous year. Corresponding U.S. imports from Morocco were \$499 million²⁹, up 12 percent.

In 2006, U.S. and Moroccan customs experts held meetings to discuss FTA implementation issues on the interpretation of rule of origin requirements. These discussions will continue along with discussions by the Agriculture Sub-Committee and a Joint Committee meeting, which will occur in the coming year.

3. Chile

The United States-Chile Free Trade Agreement, which took effect January 1, 2004, continues to fuel the growth in bilateral trade between the United States and Chile. In 2006, U.S. exports to Chile increased by 30.6 percent to \$6.8 billion³⁰, while imports increased by 49.1 percent to \$9.9 billion³¹.

The United States-Chile FTA eliminates tariffs and opens markets, reduces barriers for services, provides cutting-edge protection for intellectual property, ensures regulatory transparency, guarantees non-discrimination in the trade of digital products, commits the Parties to maintain competition laws that prohibit anti-competitive business conduct, and requires effective labor and environmental enforcement.

The Agreement provides for the creation of a number of specialized committees to resolve problems, exchange information and promote trade. The Ministers concluded that good progress was being made in establishing those groups and in other technical aspects of implementation. For example, the United States-Chile FTA Sanitary and Phytosanitary Committee is providing a forum to resolve several outstanding issues in order to allow U.S. agricultural exporters to benefit from FTA tariff reductions.

During 2006, the United States and Chile held a series of meetings on implementation of Chile's FTA obligations in the area of intellectual property, specifically data protection. Several reports from the pharmaceutical industry have indicated that safety and efficacy information submitted for the approval of pharmaceutical products may not be adequately protected from unfair competition in Chile. USTR initiated a Special 301 Out-of-Cycle Review (OCR) regarding Chile's protection of intellectual property. As a result Chile was elevated from a Watch List country to a Priority Watch List country. The United States will continue to work with the Chilean government in this area.

The FTA establishes a cooperative mechanism to promote respect for the principles embodied in the ILO Declaration on Fundamental Principles and Rights at Work, and compliance with ILO Convention 182 on the Worst Forms of Child Labor. The first Labor Affairs Council meeting under the FTA was held in Santiago on December 15-16, 2004. Activities that have been conducted since the Agreement went into effect include the exchange of information on U.S. experience with the application of information technology to judicial proceedings, U.S. methodologies for collecting and using labor data in policy-

²⁷ Annualized 11 month data
²⁸ Annualized 11 month data
²⁹ Annualized 11 month data
³⁰ Annualized 11 month data
³¹ Annualized 11 month data

making, and a training seminar for Chilean labor judges conducted by Department of Labor Administrative Law Judges in the context of the International Seminar on the Modernization of the Labor Justice system. This was held in Santiago in September of 2005.

In addition, the United States and Chile conducted the 3rd meeting of the Committee on Technical Barriers to Trade on June 9, 2006 in Geneva, Switzerland. Both delegations expressed the importance of continuing this dialogue and exchange of information aimed at implementing Technical Barriers to Trade, Chapter 7 of the Free Trade Agreement. The Environmental Affairs Council met in October 2006 to reinforce the importance of public participation in ensuring compliance with FTA obligations and in charting the progress of environmental cooperation activities.

The third meeting of the U.S. – Chile Free Trade Commission was held on January 24, 2007. At that time, the two countries will evaluate progress on implementation during 2006.

4. Singapore

The United States-Singapore Free Trade Agreement, the first comprehensive U.S. FTA with an Asian nation, has been in force since January 1, 2004. Since the FTA entered into force, exports from the United States to Singapore have increased 42 percent (through 2006³²), with steady growth in medical devices, electrical and non-electrical machinery and construction equipment exports, and significant increases in pharmaceutical exports.

U.S. foreign direct investment to Singapore has increased by 22 percent, also through 2005. Singapore is the United States' 11th largest trading partner, with two-way trade of goods and services totaling \$45 billion in 2005. U.S. exports are concentrated in machinery and electrical machinery; aircraft; optical and medical instruments; and plastics.

In March 2006, U.S. and Singaporean government officials met in Washington, D.C. for the second annual review of the FTA. The FTA's Joint Committee discussed implementation issues in areas such as telecommunications and media sectors, including ways to improve the transparency of rule-making in these areas. Singapore sought acceleration of certain tariff reductions under the FTA. In response, the U.S. Government sought public comments and is seeking advice on potential economic effects of such action from the International Trade Commission.

Implementation of the FTA remained on track in 2006. In accordance with its FTA commitments, Singapore enacted Phase II of its Competition Act in 2006. Phase III is expected to come into effect in 2007.

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

5. Jordan

In 2006, the United States and Jordan continued to benefit from their extensive economic partnership, including the United States-Jordan Free Trade Agreement (FTA), which went into effect in December 2001. While the FTA is a key part of the United States-Jordan economic relationship, it is just one component of close bilateral economic cooperation that began in earnest with joint efforts on Jordan's accession to the World Trade Organization (WTO) in 2000. U.S. efforts to support Jordan's rapid and successful WTO accession were followed on the bilateral front by the conclusion of the United States-

³² Annualized 11 month data

Jordan Trade and Investment Framework Agreement and a Bilateral Investment Treaty. Qualifying Industrial Zones (QIZs) are another important example of successful United States-Jordanian efforts to boost Jordan's economic growth and promote peace in the Middle East.

These measures have played a significant role in boosting United States-Jordanian economic ties. U.S. goods exports in 2006 were \$649 million³³, up 0.8 percent from the previous year. Corresponding U.S. imports from Jordan were \$1.4 billion³⁴, up 12.2 percent. While QIZ products continue to account for over 70 percent of Jordanian exports to the United States, FTA-related exports continue to increase steadily. In 2004, Jordanian goods exports to the United States under the FTA accounted for 2.0 percent of U.S. imports from Jordan. That amount grew to 18.0 percent in 2005 and 22 percent³⁵ in 2006. The growth in Jordan's FTA exports, which comprise a broader range of products than those exported by Jordanian QIZs, demonstrates the important role played by the FTA in helping Jordan diversify its economy.

In 2006, the United States and Jordan established a Labor Working Group and held senior level meetings to discuss Jordanian labor enforcement issues related to its FTA commitments in this area. U.S. and Jordanian experts also consulted on FTA implementation issues related to intellectual property. These discussions will continue between government officials, including a Joint Committee meeting, in the coming year.

6. Israel

The 1985 U.S.-Israel FTA, the first FTA signed by the United States, continues to serve as a foundation for the expanding trade and investment relationship between the United States and Israel. Israel is currently the United States' 20th largest goods trading partner with \$30.2 billion³⁶ in total two way goods trade during 2006, up 14 percent from 2005.

Trade in services with Israel (exports and imports) totaled \$5.1 billion in 2005 (latest data available). The FTA has helped foster significant investment between the two countries. The total stock of U.S. foreign direct investment (FDI) in Israel was \$7.9 billion in 2005 (latest data available), a 15.6 percent increase from 2004, and is primarily concentrated in the manufacturing and information sectors. Israel's FDI in the United States was \$4.4 billion in 2005 (latest data available), an increase of 12.7 percent from 2004. Israeli direct investment in the United States is focused in the banking, manufacturing and information sectors.

7. Central America and the Dominican Republic

On August 5, 2004, the United States signed the Dominican Republic – Central America – United States Free Trade Agreement (CAFTA-DR) with five Central American countries (Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua) and the Dominican Republic.

During 2006, the agreement entered into force for five of the CAFTA-DR Parties. The CAFTA-DR entered into force between the United States and El Salvador in March 2006, Honduras and Nicaragua in April 2006, and Guatemala in July 2006. CAFTA-DR has not entered into force for the Dominican Republic at the time of this writing. Costa Rica's legislature has not yet ratified the agreement.

³³ Annualized 11 month data

³⁴ Annualized 11 month data

³⁵ Annualized 11 month data

³⁶ Annualized 11 month data

The CAFTA-DR expands economic freedom and opportunity for the region and supports regional stability, democracy and economic development. The CAFTA-DR is the first FTA between the United States and a group of smaller developing economies. This regional trade agreement will contribute to the transformation of a region that was consumed by internal strife and border disputes just a decade ago. This historic agreement will create new economic opportunities by eliminating tariffs, opening markets, promoting transparency and establishing state-of-the-art rules for 21st century commerce. It will facilitate trade and investment among the countries and further regional integration. The CAFTA-DR will not ease U.S. immigration laws and regulations.

Central America and the Dominican Republic represent the second largest U.S. export market in Latin America, behind only Mexico. The CAFTA-DR nations covered by this agreement purchased \$19.7 billion³⁷ in U.S. exports in 2006. Combined total two-way trade in 2006 between the United States and the countries of Central America and the Dominican Republic was \$38.4 billion.³⁸

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

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

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

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

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

More than half of current U.S. farm exports to Central America and the Dominican Republic become duty-free immediately upon entry-into-force, including high quality cuts of beef, cotton, wheat, soybeans, key fruits and vegetables, processed food products and wine. Tariffs on most U.S. farm products will be phased out within 15 years. U.S. farm products that will benefit from improved market access include pork, beef, poultry, rice, fruits and vegetables, corn, processed products and dairy products.

Under existing tariff preference programs, the United States provides duty-free treatment to over 99 percent of Central American and Dominican Republic agricultural exports into the U.S. market. This access will be maintained under the agreement.

Duty-free access for other products will be phased in over time, with the exception of sugar, where liberalization is handled through a slowly expanding tariff-rate quota. Under the agreement, the Central

³⁷ Annualized 11 month data

³⁸ Annualized 11 month data

American countries and the Dominican Republic will accord substantial market access across their entire services regime, subject to very few exceptions, including telecommunications, express delivery and computer and related services. The agreement disciplines the use of dealer protection regimes, reducing significant barriers to distribution in the region. It maintains market openness and prohibits cross-subsidies for express delivery services. U.S. financial service suppliers will have non-discriminatory rights to establish subsidiaries, joint ventures or branches for banks and insurance companies. The Costa Rican insurance monopoly will be privatized in a phased approach to give U.S. insurance suppliers full access to the market by 2011. The agreement offers state of the art protections for digital products such as software, music, text and video. Protection for patents and trade secrets meets or exceeds obligations under WTO TRIPS.

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

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

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

Under the CAFTA-DR, the Parties recognize the importance of cooperation on environmental matters and in a parallel agreement, the CAFTA-DR Environmental Cooperation Agreement, have established a framework for environmental cooperation. In addition, the agreement establishes a framework for a labor cooperation mechanism, and promotes internationally recognized labor standards. CAFTA-DR includes unprecedented provisions that improve access to procedures that provide for fair, equitable and transparent proceedings in the administration of labor laws, protecting the rights of workers and employers – including American investors.

As part of the capacity-building effort, the U.S. Department of Labor is funding an \$8.75 million project to increase public awareness of labor laws, improve inspection systems and promote the use of alternative dispute resolution mechanisms in the CAFTA-DR countries. The Administration committed \$20 million in FY2005 for labor and environment initiatives in CAFTA-DR countries and also sought \$40 million in FY2006 for this purpose. For FY2006 the \$40 million was appropriated in the form of \$20 million in Economic Support Funds and \$20 million in Developmental Assistance (DA).

8. Bahrain

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

The United States-Bahrain FTA will generate export opportunities for the United States, creating jobs for U.S. farmers and workers, while supporting Bahrain's economic and political reforms and enhancing commercial relations with an economic leader in the Arabian Gulf. On the first day the Agreement took

effect, 100 percent of the two-way trade in industrial and consumer products began to flow without tariffs, and U.S. farmers have gained access to a new market for meats, fruits and vegetables, cereals, and dairy products. In addition, Bahrain opened its services market wider than any previous FTA partner, creating important new opportunities for U.S. financial service providers and companies that offer telecommunications, audiovisual, express delivery, distribution, healthcare, architecture and engineering services.

The U.S.-Bahrain FTA will also promote the President's policy of advancing economic reforms and liberalization in the Middle East and to establish a Middle East Free Trade Area (MEFTA) by 2013. The United States-Bahrain Bilateral Investment Treaty (BIT), which took effect in May 2001, covers investment issues between the two countries.

9. Panama

On December 19, 2006, the United States and Panama completed negotiations on a free trade agreement with the understanding that discussions would continue regarding labor. This comprehensive trade agreement will eliminate tariffs and other barriers to trade in goods and services, expand trade between the United States and Panama, and promote economic growth and opportunity.

The agreement will eliminate nearly 90 percent of Panama's tariffs on industrial goods immediately, with remaining tariffs phased out over 10 years. It will provide new economic opportunities for American workers, consumers, farmers and ranchers, manufacturers, and service providers, including significant opportunities to participate in the \$5.25 billion expansion plan for the Panama Canal, due to begin in 2008 and finish in 2014. Under the agreement, more than half of current U.S. farm exports to Panama will enter duty-free immediately, including high quality beef, mechanically de-boned chicken, frozen whole turkeys and turkey breast, pork variety meats, whey, soybeans and soybean meal, crude vegetable oils, cotton, wheat, barley, most fresh fruits, almonds and walnuts, many processed food products, distilled spirits, wine, and pet food. In addition, on December 20, 2006, the United States and Panama signed a far-reaching bilateral agreement addressing a number of sanitary and phytosanitary and technical standards issues.

The United States had a goods trade surplus with Panama of \$2.4 billion in 2006³⁹, and is Panama's largest trading partner. Total goods trade between the United States and Panama was \$3.1 billion in 2006⁴⁰. Panama is a growing market for U.S. products. U.S. goods exports to Panama increased 27 percent from 2005 to 2006⁴¹.

The stock of U.S. foreign direct investment (FDI) in Panama for 2005 was \$5.2 billion. U.S. FDI in Panama is concentrated largely in the finance and wholesale sectors.

10. United Arab Emirates

After consulting with Congress in September 2004, USTR announced on November 15, 2004, the United States' intent to negotiate a Free Trade Agreement (FTA) with the United Arab Emirates (UAE). Negotiations began in March 2005. Since mid-2006, the focus of negotiations has been on the provisions of the investment chapter. An FTA with the UAE would build on existing FTAs in the region to promote the President's Middle East Free Trade Area (MEFTA) initiative to advance economic reforms and openness in the Middle East and the Persian Gulf, and to establish a regional free trade area by 2013.

³⁹ Annualized 11 month data

⁴⁰ Annualized 11 month data

⁴¹ Annualized 11 month data

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

11. Oman

On November 15, 2004, the Administration formally notified Congress of its intent to negotiate a Free Trade Agreement (FTA) with Oman. After seven months of negotiations, the completed FTA was signed on January 19, 2006. The U.S. Congress enacted legislation approving and implementing the Agreement in September 2006, and the President signed the legislation on September 26, 2006. The Sultan of Oman promulgated a Royal Decree ratifying the Agreement in October 2006. The FTA is expected to enter into force in 2007.

The U.S.-Oman FTA will build on existing FTAs to promote the President's initiative to advance economic reforms and openness in the Middle East and the Persian Gulf and to establish a Middle East Free Trade Area (MEFTA) by 2013. Implementation of the obligations contained in the comprehensive Agreement will generate export opportunities for U.S. goods and service providers, solidify Oman's trade and investment liberalization, and strengthen intellectual property rights protection and enforcement.

12. Thailand

The U.S. government held the seventh round of Free Trade Agreement negotiations with Thailand in January 2006, but negotiations were put on hold when the Thai parliament was dissolved in February 2006. The negotiations were suspended in the wake of the military-led coup in September 2006. The United States is prepared to continue FTA negotiations with Thailand once democracy is restored and will continue to strongly urge Thailand to lift martial law, restore civil liberties and maintain its current timeline regarding constitutional reform and elections.

Thailand is currently the United States' 20th largest trading partner and 24rd largest export market, with \$31 billion in two-way trade in 2006⁴². Exports are concentrated in electrical and non-electrical machinery, medical instruments, precious stones and metals, and aircraft.

13. Republic of Korea

Free trade agreement negotiations were launched with Korea in February 2006. As the first FTA launched by the United States with a North Asian country, the United States-Korea FTA (KORUS FTA) will have significant economic, political and strategic benefits for both countries. For more details regarding the KORUS FTA, please see Chapter III.F.4.

14. Malaysia

The United States and Malaysia launched Free Trade Agreement negotiations in March 2006, and five rounds of negotiations have been held to date. Solid progress has been made so far, although some significant challenges remain. An FTA with Malaysia will encourage additional trade and investment, further deepening our already strong economic partnership – with more than \$50 billion in two-way trade and \$10 billion in foreign direct investment in 2005. The United States is the largest destination for Malaysian goods and is Malaysia's second-largest source of imports.

⁴² Annualized 11 month data

An FTA will reduce and eliminate trade barriers between the United States and Malaysia, increasing exports of manufactured goods and agricultural products. The FTA also will create opportunities in such sectors as telecommunications, financial services, energy, healthcare, professional and other service sectors. All of these are areas where Malaysia intends to further enhance its competitiveness. Malaysia's objectives for achieving this goal are outlined in its recently announced Ninth Economic Plan, which sets out a strategy for diversifying the economy, encouraging higher value-added exports, and further developing a knowledge-based and globally-competitive economy.

In addition to trade, an FTA will encourage greater liberalization of foreign investment between the United States and Malaysia. The United States already is the largest investor in Malaysia, and liberalization of Malaysia's investment regime will support the further development of the supply and processing chains between U.S. and Malaysian companies, supporting high-paying jobs in both countries. The FTA also will strengthen the framework necessary to further enhance trade and investment. While Malaysia already has taken some steps to strengthen its IPR and customs regimes, the United States will seek to include in this FTA provisions that bring Malaysia's intellectual property and customs regimes up to the standards set in other recent free trade agreements.

More broadly, the United States hopes this FTA will strengthen our cooperation with Malaysia in multilateral and regional fora, and reinforce a strong U.S.-ASEAN relationship, advancing our commercial and strategic interests in Asia. Malaysia is currently the United States' 10th largest trading partner. U.S. exports to Malaysia are concentrated in electrical and non-electrical machinery, medical instruments, aircraft and plastics.

15. Peru and Colombia

On November 18, 2003, the Office of the United States Trade Representative notified the Congress of the President's intent to initiate free trade agreement negotiations with Colombia, Peru and Ecuador, with Bolivia participating as an observer. Negotiations were launched on May 18, 2004, in Cartagena, Colombia.

On December 7, 2005, the United States and Peru announced the conclusion of negotiations on a comprehensive trade agreement. On April 12, 2006, the United States-Peru Trade Promotion Agreement (PTPA) was signed in Washington, D.C. by U.S. Trade Representative Portman and Alfredo Ferrero Diez Canseco, Peru's Minister of Foreign Trade and Tourism. Throughout the summer of 2006, both the Senate Finance Committee and the House Ways and Means Committee held hearings and mock mark-ups on the PTPA. Meanwhile, on June 28, 2006, the Peruvian Congress approved the PTPA by a vote of 79 to 14. The United States will continue working towards securing approval by the U.S. Congress.

On February 27, 2006, the United States and Colombia announced their work had concluded on a comprehensive trade agreement, similar to the one reached with Peru. On November 22, 2006, Deputy U.S. Trade Representative John Veroneau and Jorge Humberto Botero, Colombia's Minister of Trade, Industry and Tourism, signed the United States-Colombia Trade Promotion Agreement (CTPA) in Washington, D.C. The United States and Colombia will work towards securing approval of the CTPA by their respective legislatures.

The United States has a vested interest in the security, stabilization and success of the Andean region, and stands to gain substantially from establishing stronger political and economic ties with Peru and Colombia. The Peru and Colombia agreements will eliminate tariffs and unfair trade barriers for U.S. manufacturers, workers, farmers and investors, allowing U.S. products and services to compete more effectively with other countries in the region. Additionally, both agreements will aid in promoting economic growth and prosperity in Peru and Colombia by attracting new investment and more jobs.

More importantly, the agreements will support and enhance the democratic and free market reforms that Peru and Colombia have undertaken in recent years.

Peru and Colombia are growing export markets for U.S. goods in Latin America. Together, they represent a market of approximately 73 million consumers. U.S. total goods exports to Colombia nearly \$7 billion in 2006⁴³ and to Peru, nearly \$3 billion. Colombia is currently the largest market for U.S. agricultural exports in South America. Through the implementation of the trade promotion agreements with Peru and Colombia, U.S. exports can be expected to rise significantly. The American Farm Bureau Federation estimates that U.S. farm exports to Peru and Colombia will increase by almost \$1.5 billion per year after full implementation of these agreements.

Negotiations with Ecuador took place through March 2006, but no date has been set to continue the negotiations. Negotiations with Bolivia were not initiated.

16. North American Free Trade Agreement

a. Overview

On January 1, 1994, the North American Free Trade Agreement between the United States, Canada and Mexico (NAFTA) entered into force. NAFTA created the world's largest free trade area, which now links 439 million people producing \$15 trillion worth of goods and services. The dismantling of trade barriers and the opening of markets has led to economic growth and rising prosperity in all three countries. The closer economic relationship promoted by NAFTA also includes supplemental labor and environmental agreements. The NAFTA has dramatically improved our trade and economic relations with our neighbors. The net result of these efforts is more economic opportunity and growth, greater fairness in our trade relations, and better protection of worker rights and the environment in North America.

Trade between the United States and its NAFTA partners has soared since the Agreement entered into force. U.S. two-way trade with Canada and Mexico exceeds U.S. trade with the European Union and Japan combined. U.S. goods exports to NAFTA partners more than doubled between 1993 and 2005, from \$142 billion to \$331 billion, significantly higher than export growth of 77 percent for the rest of the world over the same period.

By dismantling barriers, NAFTA has led to increased trade and investment, growth in employment, and enhanced competitiveness. From 1994 to 2004, cumulative foreign direct investment in the NAFTA countries has increased by over \$1.8 trillion. Increased investment has brought more and better-paying jobs, as well as lower costs and more choices for consumers and producers.

b. Elements of NAFTA

i. Operation of the Agreement

The NAFTA's central oversight body is the NAFTA Free Trade Commission (FTC), chaired jointly by the U.S. Trade Representative, the Canadian Minister for International Trade, and the Mexican Secretary of Economy. The FTC is responsible for overseeing implementation and elaboration of the NAFTA and for dispute settlement.

⁴³ Annualized 11 month data

The FTC held its most recent annual meeting in March 2006, in Acapulco, Mexico. At the meeting, the FTC reaffirmed its commitment to NAFTA as the cornerstone for strengthening North American competitiveness. The FTC initiated work that will focus on sectors and the removal of specific impediments to the free flow of goods, services, and capital between the NAFTA partners.

ii. Rules of Origin

In 2006, following approval by the NAFTA Free Trade Commission, the Parties implemented changes to the NAFTA rules covering approximately \$15 billion in trilateral trade. The NAFTA Working Group on Rules of Origin is finalizing another set of changes to the rules of origin, which the Parties aim to implement in 2007. The next set of changes is expected to affect approximately \$50 billion in trilateral trade. This work demonstrates that NAFTA continues to provide benefits to businesses, consumers, workers, and farmers.

c. NAFTA and Labor

The North American Agreement on Labor Cooperation (NAALC), a supplemental agreement to the NAFTA, promotes effective enforcement of domestic labor laws and fosters transparency in their administration. The NAALC established a trinational Commission for Labor Cooperation, comprised of a Ministerial Council and an administrative Secretariat. In addition, each NAFTA Party has established a National Administrative Office (NAO) within its Labor Ministry to serve as a contact point with the other Parties and the Secretariat, to provide publicly available information to the Secretariat and the other Parties, and to provide for the submission and review of public communications on labor law matters. The NAOs also coordinate, together with the Secretariat, the Council's Cooperative Activities program.

Two new submissions under the NAALC on labor law matters in the NAFTA Parties were presented in 2006, one with the Mexican NAO concerning collective bargaining rights in the public sector in North Carolina and one with the U.S. NAO concerning freedom of association and occupational safety and health for mine workers in Mexico. Both are pending consideration by the respective NAOs. In 2006, the U.S. NAO also continued to review a submission filed in late 2005 concerning labor law matters in the Mexican state of Hidalgo.

In 2006, as part of its research program, the NAALC Secretariat released a report on workplace violence in North America.

d. NAFTA and the Environment

A further supplemental accord, the North American Agreement on Environmental Cooperation (NAAEC), seeks to ensure that trade liberalization and efforts to protect the environment are mutually supportive. The NAAEC created the Commission for Environmental Cooperation (CEC), which is composed of: (a) the Council, made up of the Environmental Ministers from the United States, Canada, and Mexico; (b) the Joint Public Advisory Committee, made up of five private citizens from each of the NAFTA Parties; and (c) the Secretariat, made up of professional staff, located in Montreal, Canada. At the 2006 Council Session in Washington, D.C., the Council reviewed the work undertaken in support of its three strategic pillars: Information for Decision-Making, Capacity Building, and Trade and Environment. Specific information on the CEC's activities can be found in Chapter IV.

In November 1993, Mexico and the United States agreed on arrangements to help border communities with environmental infrastructure projects, in furtherance of the goals of the NAFTA and the NAAEC. The Border Environment Cooperation Commission (BECC) and the North American Development Bank (NADBank) are working with more than 100 communities throughout the United States-Mexico border region to address their environmental infrastructure needs. In June of this year, the combined Board of

Directors for the NADBank and the BECC took steps to improve operations and to better serve the infrastructure needs of border communities. As of September 30, 2006, the NADBank had authorized \$810 million in loans and/or grant resources to partially finance 95 infrastructure projects certified by the BECC with an estimated cost of \$2.5 billion.

B. Regional Initiatives

1. Free Trade Area of the Americas (FTAA)

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

At the Mar del Plata Summit, twenty-nine leaders agreed to "continue to promote the established practices and activities in the FTAA process that provide transparency and encourage participation of civil society." During 2006, the FTAA process updated information on tariffs and trade flows prepared in the context of the FTAA Negotiating Group on Market Access, as agreed by Trade Ministers at their 1999 Ministerial meeting in Toronto, and disseminated that information to the public on the official FTAA website (www.ftaa-alca.org).

The twenty-nine leaders also agreed at Mar del Plata to instruct their representatives to the Tripartite Committee institutions to continue allocating the resources necessary to support the FTAA Administrative Secretariat. The Tripartite Committee institutions, along with the Government of Mexico, funded the Secretariat's operations during 2006.

Activities under the Hemispheric Cooperation Program (HCP), which is designed to assist countries in participating in the negotiations, preparing to implement the FTAA obligations, and adjusting to hemispheric integration, did not take place during 2006, pending resumption of the technical FTAA negotiations.

2. Enterprise for ASEAN Initiative

President Bush announced a major new initiative in October 2002, the Enterprise for ASEAN Initiative (EAI). The EAI is intended to strengthen U.S. trade and investment ties with ASEAN both as a region and bilaterally. With over \$168 billion in two-way goods trade in 2006, the 10-member ASEAN group, collectively, already is the United States' fifth-largest trading partner. With continued economic growth in the ASEAN countries and a collective population of around 500 million, the United States anticipates significant opportunities for U.S. companies. This initiative will help boost trade and investment.

Under the EAI, the United States offers the prospect of bilateral free trade agreements (FTAs) with ASEAN countries that are committed to the economic reforms and openness inherent in an FTA with the United States. Any potential FTA partner must be a WTO member and have a trade and investment framework agreement (TIFA) with the United States. Since the launch of the EAI, the United States

concluded an FTA with Singapore in 2003 and began FTA negotiations with Thailand in 2004 and with Malaysia in 2006. The United States has ongoing TIFA dialogues in place with Indonesia, the Philippines, and Brunei. In July 2006, the United States signed a TIFA with Cambodia. For ASEAN countries not involved in FTA negotiations, the United States is using the TIFAs to address bilateral trade issues, to seek ways to further deepen our trade and investment ties, and to coordinate on regional and multilateral trade issues.

U.S. and ASEAN officials have met annually since 2003 to discuss progress under the EAI. In November 2005, the United States and ASEAN countries took an additional step under the EAI and agreed to work together to conclude a region-wide United States - ASEAN Trade and Investment Framework Arrangement (TIFA). On August 25, 2006, the United States and ASEAN countries signed an Arrangement that will provide a basis for future dialogue on areas of mutual interest and a work plan, under which the United States and ASEAN have agreed to an initial work plan. This plan includes three projects related to trade facilitation: assistance with implementation of an ASEAN Single Window for customs clearance; contributions to development of an ASEAN harmonized pharmaceutical regulatory regime; and, development of a framework equivalency work plan on irradiation as a way to facilitate agricultural trade.

President Bush and ASEAN leaders in November 2005 issued their Joint Vision Statement on the ASEAN-U.S. Enhanced Partnership, which laid out a program to deepen U.S. – ASEAN ties. In August 2006, Secretary of State Rice and her ASEAN counterparts together signed a Plan of Action to implement the ASEAN-U.S. Enhanced Partnership in a way that is comprehensive, action-oriented, and forward-looking. The Plan of Action comprises political and security cooperation, economic cooperation, and social and development cooperation. The Plan of Action, along with the ASEAN – U.S. TIFA concluded under the EAI, provides a solid, mutually agreed basis upon which to strengthen U.S. relations with the ASEAN region.

3. Middle East Free Trade Area (MEFTA)

In May 2003, the President proposed the MEFTA initiative, a plan of graduated steps for Middle Eastern nations to increase trade and investment with the United States and others in the world economy. The first step is to work closely with peaceful nations that want to become members of the World Trade Organization (WTO) in order to expedite their accession. As these countries implement domestic reform agendas, institute the rule of law, protect property rights (including intellectual property), and create a foundation for openness and economic growth, the United States will take a series of graduated steps with countries in the region tailored to their level of development. The U.S. will expand and deepen economic ties through Trade and Investment Framework Agreements (TIFAs), Bilateral Investment Treaties (BITs), and comprehensive Free Trade Agreements (FTAs), and will enhance the Generalized System of Preferences (GSP) program for eligible countries.

USTR continued to make significant progress in implementing the MEFTA initiative in 2006. The United States - Morocco Free Trade Agreement (FTA) successfully entered into force on January 1, 2006 and the United States - Bahrain FTA entered into force on August 1, 2006. In addition, both houses of Congress passed FTA implementing legislation for an agreement with Oman. FTA negotiations with the United Arab Emirates continued in 2006. WTO implementation was the focus of the recently concluded Saudi Arabia accession (December 2005). The United States continues to actively support the WTO accession efforts of Lebanon, Algeria and Yemen. The United States also held Trade and Investment Framework (TIFA) discussions with other countries in the MEFTA initiative region in 2006 including Kuwait, and, in December 2006, signed a TIFA with Lebanon.

4. Asia-Pacific Economic Cooperation Forum

Overview

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

The United States worked closely with Vietnam, the APEC Chair in 2006, to lead APEC economies in pursuing an ambitious trade and investment liberalization agenda.

APEC helped to advance the World Trade Organization Doha Development Agenda (WTO/DDA) negotiations, promote regional economic integration, strengthen IPR protection and enforcement, and set high standards for FTAs. The United States will work with Australia, the APEC Chair in 2007, to develop concrete actions in each of these areas.

The 21 APEC economies collectively account for 46 percent of world trade and 57 percent of global GDP. The growth in U.S. goods exports to APEC clearly demonstrates the benefits of open markets and trade liberalization. Since 1994, U.S. exports to APEC economies increased by 99 percent. In 2005, two-way trade in goods and services with APEC economies totaled \$1.9 trillion, an increase of 12 percent from 2004.

2006 Activities

WTO Leadership

APEC economies continued to exercise leadership in the WTO. In November 2006, APEC Leaders issued a strong political statement of support in Hanoi for the WTO/DDA negotiations. Their statement affirmed that APEC economies “are determined to resume without further delay negotiations to achieve a balanced and ambitious outcome that works for all WTO Members. Although agriculture remains the key to resolving the current impasse, we need to build an overall package covering market access for industrial goods and services, rules and trade facilitation.” The APEC Leaders then reaffirmed their commitment to breaking the current deadlock and moving beyond their current positions in key areas of the Round. Earlier in the year (June 2006), APEC Trade Ministers unanimously endorsed a statement that committed the APEC economies “to summon the necessary political will to conclude the negotiations with an ambitious and balanced outcome across the board” and called on “other parties to do the same.” The APEC Geneva Caucus, comprised of ambassadors to the WTO from APEC economies, continued to serve as an important link between APEC and the WTO.

Advancing Trade Liberalization in the APEC Region

Promoting Regional Economic Integration/Free-Trade Area of the Asia Pacific

In 2006, the United States worked to deepen its economic trans-Pacific ties through APEC. At the summit of APEC Economic Leaders in November 2006, the United States achieved agreement among the 21 APEC economies to further promote regional economic integration with an eye towards establishing a Free Trade Area of the Asia-Pacific (FTAAP) as a long-term prospect. As unprecedented economic developments in the Asia-Pacific are drawing economies closer together, a growing number of trade arrangements have emerged. To embrace the challenges and opportunities involved in these

developments, the United States will work closely in 2007 with the other APEC economies to develop a number of initiatives to ensure APEC remains front-and-center in the trend toward economic integration in the Asia-Pacific region. This will be a high priority in the coming year and will culminate in an APEC report to the next Economic Leaders' summit in Sydney in September 2007.

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

In 2006, APEC continued to address the growing number of FTAs and RTAs in the region and the need to ensure that APEC economies' agreements are trade-promoting and reflect high standards. In 2005, APEC economies agreed on model measures for trade facilitation FTA/RTA chapters--key elements that should be included in a high-quality FTA. In 2006, work was completed on model measures for six additional FTA/RTA chapters -- market access, government procurement, technical barriers to trade, transparency, dispute settlement, and cooperation/capacity building. APEC economies agreed to develop model measures for additional FTA/RTA chapters in 2007.

Intellectual Property Rights Protection and Enforcement

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

Building on the 2005 APEC Anti-Counterfeiting and Piracy Initiative, APEC economies endorsed two new IPR guidelines in 2006: one, to better inform citizens about the importance of IPR protection and enforcement, and another to help secure business supply chains against counterfeit and pirated goods. This work was done in close cooperation with Korea, Hong Kong, and Japan. These two new guidelines add to three other guidelines agreed in 2005 that are designed to reduce trade in counterfeit and pirated goods, reduce on-line piracy and protect against unauthorized copying in digital form, and prevent the sale of counterfeit and pirated products over the Internet. All five guidelines set high standards for IPR protection and enforcement in the APEC region.

Also building on the APEC Anti-Counterfeiting and Piracy Initiative, APEC agreed that central government agencies should use only legal software and other copyright materials and implement effective policies intended to prevent copyright infringement on their computer systems and via the Internet – a primary objective of this step is to reduce peer-to-peer related infringement.

In addition, the United States obtained APEC agreement to pursue further work in 2007 on IPR protection and enforcement in close consultation with the private sector.

Technology Choice

In 2006, the United States spearheaded the successful adoption of the Pathfinder on the APEC Technology Choice Principles, with 14 member economies joining. This new initiative is designed to promote principles of technology choice in a market-opening, trade-liberalizing manner that spurs the cycle of innovation and opportunity, and promotes economic development across the region. To encourage competition and promote efficiency, it is essential that market forces are allowed to determine the availability, commercialization, and use of technologies. The United States will encourage additional participation in 2007.

Trade Facilitation

This year, APEC concluded it had met its 2001 target of a 5 percent reduction in trade transaction costs by 2006 and endorsed a framework for achieving another 5 percent reduction by 2010. Economies will

develop a detailed Trade Facilitation Action Plan for achieving that additional 5 percent cut for the 2007 Trade Ministerial. In 2007, APEC will also continue work on the single window initiative, launched in September 2006, and work to promote the implementation of global standards for supply chain security.

Private Sector Involvement

The APEC Business Advisory Council

The APEC Business Advisory Council (ABAC) was extremely active in 2006, offering recommendations and participating in government-business dialogues to advance several key APEC priorities including the WTO/DDA negotiations, high-quality FTAs, trade facilitation, IPR protection and enforcement, and life sciences.

ABAC conducted a study on the feasibility of an FTAAP, which concluded that while there are practical difficulties in negotiating an FTAAP at this time, APEC should consider more effective avenues for achieving free trade in the region. This timely study played an important role in the decisions of the APEC economies to place a greater emphasis on promoting regional economic integration in 2006 and beyond, and to consider establishing an FTAAP as a long-term prospect.

Life Sciences Innovation Forum

In 2006, APEC Ministers endorsed recommendations for a dialogue in 2007 between Life Sciences experts and senior finance and health officials to discuss innovative approaches to the health dimensions of economic challenges in the region, such as the risk of infectious disease pandemic, chronic disease, and aging populations. In addition, Ministers endorsed the establishment of public-private partnerships to develop pilot projects for disease management and wellness; identify and address enablers of investment in life sciences innovation in health systems; and assess research capacities with a view to developing scientific exchanges and training to enhance the region's leadership in life sciences innovation and assure economic development. Four projects were approved for 2007, which will help economies to harmonize with international best practices and provide training to combat the counterfeiting of drugs and medical devices.

Automotive and Chemical Dialogues

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

In 2006, the Automotive Dialogue launched an initiative aimed at facilitating customs procedures through the use of expedited clearance and periodic filing for low-risk shippers. The Automotive Dialogue also approved an IPR Best Practices paper, which aims to provide member economies with a reference for their planning and implementing measures to protect IPR in the automotive and motorcycle industries, and the parts industries. APEC funding was approved for a Road Safety Summit in Australia in 2007 that will raise awareness of the importance of road safety. The Dialogue has also begun work in the areas of emerging fuels and environmental issues.

The Chemical Dialogue continued its examination of the potential negative impact of the EU's proposed chemical regulations (REACH), particularly concerns related to the uncertainty over details of implementation (including the treatment of confidential business information) and the capacity of the

region's chemical industry to comply with onerous testing requirements. Also in the regulatory area, the Chemical Dialogue shared information and raised awareness about chemical industry and individual government concerns with other product-related environmental regulations, such as the Restrictions on Hazardous Substances and the United Nations Environmental Programme's work to conclude a "Strategic Approach to International Chemicals Management."

APEC economies continued their work to adopt the UN Globally Harmonized System of Classification and Labeling (GHS). Ministers encouraged APEC economies to fully implement the GHS by 2008. The Dialogue also initiated work on Rules of Origin and Emergency Response.

C. The Americas

1. Canada

a. Softwood Lumber

The U.S.-Canada Softwood Lumber Agreement (SLA) was signed on September 12, 2006, and entered into force on October 12, 2006. Under the terms of the agreement, the United States and Canada ended a large portion of the litigation over trade in softwood lumber, and unrestricted trade will occur in favorable market conditions. When the lumber market is soft, Canadian exporting provinces can choose either to collect an export tax that ranges from 5 percent to 15 percent as prices fall or to collect lower export taxes and limit export volumes. The agreement also includes provisions to address potential Canadian import surges, provide for effective dispute settlement, revoke the antidumping (AD) and countervailing (CV) duty orders, refund the AD and CV duty deposits held by the United States, and discipline future trade cases. An industry-led binational council will also be established under the agreement to promote increased cooperation between the lumber industries in Canada and the United States and to strengthen and expand the market for softwood lumber products in both countries, and \$450 million will be disbursed to promote meritorious initiatives in the United States.

b. Agriculture

Canada is the largest market for U.S. food and agricultural exports. For Fiscal Year 2006 (October 2005 to September 2006), U.S. agricultural exports to Canada grew by nearly 9 percent to a record breaking \$11.6 billion. In fact, one of every six U.S. dollars of exported agricultural products goes to Canada.

As a result of the 1998 U.S.-Canada Record of Understanding on Agricultural Matters (ROU), the U.S.-Canada Consultative Committee (CCA) and the Province/State Advisory Group (PSAG) were formed to provide fora to strengthen bilateral agricultural trade relations and to facilitate discussion and cooperation on matters related to agriculture.

In 2006, the CCA met twice on issues covering livestock, fruits and vegetables, seed, processed food and plant trade, as well as pesticide and animal drug regulations and biotechnology. The most recent meeting, which was held in November 2006, reinforced the close working relationship between the two governments, as well as their respective agricultural sectors.

Canada has long maintained non-tariff barriers that prohibit the entry of bulk shipments of fruits and vegetables in packages exceeding certain standard sizes. Based on a request of the National Potato Council, the United States, in December 2003, requested negotiations with Canada to discuss ways to begin to address the burdensome ministerial exemption requirements specifically for potatoes. Since 2004, the United States and Canada have held several meetings regarding bulk restrictions for potatoes and will continue discussions in 2007.

c. Intellectual Property Rights (IPR)

Canada is a member of the World Intellectual Property Organization (WIPO), and adheres to several international agreements, including the Paris Convention for the Protection of Industrial Property (1971) and the Berne Convention for the Protection of Literary and Artistic Works (1971). In 1997, Canada signed the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty (together the WIPO Treaties), which set standards for intellectual property protection in the digital environment. However, it has not yet ratified either of these treaties. While ratification legislation was introduced in Canada's Parliament in 2005, it was not acted upon before Parliament dissolved; subsequently, no legislation was introduced in the new Parliament in 2006. U.S. intellectual property owners are concerned that weaknesses in Canada's border measures and general enforcement raise concerns about Canada's implementation of the requirements of the WTO TRIPS Agreement. Despite some progress made in enforcement measures taken over the past year, Canada remains a transshipment point for infringing products. The inability of Customs authorities to seize suspect goods without a court order has hampered their ability to stem the flow of pirate and counterfeit items.

Canada was involved in multilateral and bilateral talks on intellectual property rights during the year. In September 2006, as part of the Security and Prosperity Partnership of North America (SPP), Canada, Mexico and the United States discussed ways to join forces in combating piracy and counterfeiting in North America. Bilateral consultations between the U.S. and Canada on a full range of IPR issues, including the need to introduce new copyright legislation, were held in October 2006. That same month, the Government of Canada published data protection regulations, providing for eight years of data protection for pharmaceutical companies submitting drugs for regulatory approval.

2. Mexico

Mexico is the United States' 3rd largest single-country trading partner and has been among the fastest-growing major export markets for goods since 1993, with U.S. exports up 189 percent over the period. The NAFTA has fostered this relationship by virtue of the Agreement's comprehensive, market-opening rules. It is also creating a more equitable set of trade rules as trade barriers in Mexico are reduced and eliminated.

a. Agriculture

North American agricultural trade has grown significantly since the NAFTA was implemented. Mexico is currently the United States' second-largest agricultural export market. For 2006, U.S. agricultural exports to Mexico increased 14 percent above 2005's record level, to an estimated \$10.8 billion (based on annualized data for the first 11 months of 2006).

The Administration has had notable success over the last year in addressing concerns over Mexico's antidumping regime. In November 2003, at the request of the United States, the WTO established a dispute settlement panel with regard to Mexico's antidumping order on long grain white rice and provisions of its foreign trade law that govern all antidumping proceedings. In June 2005, the WTO panel ruled in favor of the United States in all major areas of the dispute, determining that Mexico's antidumping duties and various provisions of its antidumping and countervailing duties laws are WTO inconsistent. Mexico appealed the panel's decision, and, in November 2005, the WTO Appellate Body upheld the earlier panel's findings. On September 11, 2006, Mexico published the final resolution of Mexico's antidumping investigation on U.S. long-grain white rice.

In January 2006, Mexico officially announced the termination of the investigation of dumping it had filed on behalf of the Mexican Pork Council against importers and exporters of U.S. pork, deeming that there was not sufficient evidence to impose compensatory duties.

Beyond dumping issues, in June 2004, the United States requested the formation of a WTO dispute settlement panel regarding Mexico's 20 percent tax on soft drinks made with any sweetener other than cane sugar, including high fructose corn syrup (HFCS). The tax had been in effect since January 1, 2002. In October 2005, the panel ruled in favor of the United States in all major areas of the dispute. In December 2005, Mexico appealed the decision, and in March 2006, the WTO Appellate Body ruled in favor of the United States. In response to the WTO ruling, Mexico's Congress repealed the tax on December 22, 2006, effective January 1, 2007.

Independent of the WTO action, the United States and Mexico reached an agreement on market access for sweeteners. The agreement provides Mexico duty-free access to the United States for 250,000 metric tons raw value of raw or refined sugar in FY 2007 and at least 175,000 metric tons raw value of raw or refined sugar for the first three months of FY 2008. Under the agreement, Mexico will provide reciprocal access for U.S. HFCS: 250,000 metric tons in FY 2007 and at least 175,000 metric tons for the first three months of FY 2008.

b. Cement

In March 2006, then-U.S. Trade Representative Rob Portman and Secretary of Commerce Carlos Gutierrez signed an agreement with Mexico to promote bilateral trade in cement and put an end to a long-standing dispute over cement trade. The agreement provides for increased imports of Mexican cement, encourages U.S. cement exports to Mexico, and settles outstanding litigation. The agreement also responds to concerns by consumers and builders, notably those rebuilding following the devastation of Hurricanes Katrina and Rita.

3. Brazil and the Southern Cone

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

The Common Market of the South, referred to as "MERCOSUR" from its Spanish acronym, is the largest trade bloc in Latin America. As a customs union, MERCOSUR applies a common external tariff (CET) to products of nonmembers. Its original members (Argentina, Brazil, Paraguay, and Uruguay) make up over one-half of Latin America's gross domestic product. On December 9, 2005, Venezuela joined MERCOSUR as a full member, but it has yet to make certain policy changes that will grant it full voting rights.

On December 30, 2005 Bolivia was invited to join as a full member. Bolivia is currently an associate member along with Peru, Colombia, Ecuador and Chile. Associate members benefit from certain preferential access to MERCOSUR markets, but maintain their own external tariff policies.

MERCOSUR became operative on January 1, 1995, and covers some 85 percent of intra-MERCOSUR trade, with each member allowed to maintain a list of sensitive products that remain outside the duty-free arrangement. Full CET product coverage, scheduled for implementation in 2006, was delayed.

b. Argentina

U.S. goods exports to Argentina continued their recovery after a substantial decline in recent years. A key factor in the Argentine economy is its trade with Brazil, its largest trading partner. U.S. exports to

Argentina increased by 15.3 percent to \$4.8 billion⁴⁴ in 2006, while exports decreased by 14.2 percent to \$3.9 billion⁴⁵.

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

c. Brazil

The United States exported goods valued at an estimated \$19.2 billion⁴⁶ to Brazil in 2006. Brazil's market accounts for 22 percent of U.S. exports to Latin America and the Caribbean, excluding Mexico and 59 percent of U.S. goods exports to MERCOSUR.⁴⁷ In 2006, the United States and Brazil met under the auspices of the Bilateral Consultative Mechanism to discuss intellectual property rights, WTO negotiations, SPS issues, and the other issues concerning our bilateral and multilateral trade agenda.

The Administration engaged intensively with the Brazilian government on the issue of copyright protection as a result of the review of Brazil's benefits under the GSP trade program that was prompted by an International Intellectual Property Rights Association petition charging that Brazil had failed to offer adequate protection to copyrighted material.

Positive initiatives taken by the Brazilian government under the auspices of the U.S.-Brazil Bilateral Consultative Mechanism (BCM), in particular the formation of a public-private National Anti-Piracy Council, the development of a national action plan to combat piracy, and increased police actions, led to closure of the GSP Review in early January 2006.

In October 2006, the BCM met to review progress on issues of bilateral interest and to take stock of progress on efforts to combat piracy. While the recent progress is significant in improving Brazil's institutional capacity to combat piracy, the Administration will continue to work with Brazil in the BCM to seek further improvements.

d. Paraguay

With a population of just over six million, Paraguay is one of the smaller markets in Latin America. Paraguay is a major exporter of, and a transshipment point for, pirated and counterfeit products in the region, particularly to Brazil.

In 2006, the Bilateral Council on Trade and Investment met to discuss a wide range of issues including efforts to increase transparency in government-business relationships, implementation of the IPR MOU (see next paragraph), ongoing cooperation toward a strategic plan for Paraguay to develop non-traditional exports, and other issues concerning our bilateral and multilateral trade agenda.

In January 1998, the USTR identified Paraguay as a Priority Foreign Country under the Special 301 provisions of the Trade Act of 1974. The USTR initiated an investigation of Paraguay in February 1998. During investigations under Special 301, Paraguay indicated that it had undertaken a number of actions to improve IPR protection. In 1998, in light of commitments made by Paraguay in a bilateral Memorandum

⁴⁴ Annualized 11 month data

⁴⁵ Annualized 11 month data

⁴⁶ Annualized 11 month data

⁴⁷ Defined as Merc 6—Argentina, Brazil, Paraguay, Uruguay, Bolivia, and Chile.

of Understanding (MOU), USTR concluded its Special 301 investigation. In 2003, the two governments revised and extended the term of the MOU. Paraguay has made a significant effort to implement the MOU, signed in March 2004, and met regularly with the United States under the auspices of the Bilateral Council on Trade and Investment to discuss MOU implementation.

e. Uruguay

Uruguay has the smallest population among MERCOSUR members (3.4 million). U.S. exports to Uruguay increased by 36.9 percent to \$488 million⁴⁸ in 2006, while imports decreased by 29.4 percent to \$517 million.⁴⁹

In 2005, the United States and Uruguay signed a Bilateral Investment Treaty (BIT), the first BIT concluded by the United States on the basis of its 2004-model BIT text. As in the investment chapters of recent bilateral FTAs, the United States-Uruguay BIT includes several key provisions that respond to the investment negotiating objectives set forth by Congress in the Trade Promotion Act of 2002. The core provisions of the United States-Uruguay BIT will give U.S. investors a number of critical protections when they establish businesses in Uruguay, including non-discriminatory treatment, the ability to transfer funds relating to their investments, and access to binding international arbitration of investment disputes. The U.S.-Uruguay BIT entered into force on November 2, 2006.

In the past 12 years, Uruguay's exports to the United States have increased 208 percent, while U.S. exports to Uruguay have increased at a steady, but less dramatic rate of 56 percent. The U.S. – Uruguay Joint Commission on Trade and Investment met three times in 2006. The two parties agreed to negotiate a new Trade and Investment Framework Agreement (TIFA) to better address mutual interest in deepening the trade relationship. The new TIFA was signed by the parties in January 2007.

f. Chile

The United States-Chile Free Trade Agreement entered into force on January 1, 2004 and provides the framework for our bilateral trade relations. Developments in 2005 with respect to the United States-Chile FTA are discussed in Chapter III, section A.

4. The Andean Community

a. Trade Promotion Agreement Negotiations

On November 18, 2003, after consulting with relevant congressional committees and the Congressional Oversight Group, the Office of the United States Trade Representative notified the Congress of the President's intent to initiate free trade agreement negotiations with Colombia, Peru, Ecuador, and Bolivia. Negotiations were launched on May 18, 2004 in Cartagena, Colombia. On December 7, 2005, the United States and Peru concluded negotiations on the U.S.-Peru Trade Promotion Agreement (PTPA); and on February 27, 2006, the United States and Colombia completed their work on the U.S.-Colombia Trade Promotion Agreement (CTPA). Negotiations with Ecuador took place through March 2006, but no date has been set to continue the negotiations. Negotiations with Bolivia were not initiated.

See Chapter III, Section A for a description of these negotiations.

⁴⁸ Annualized 11 month data

⁴⁹ Annualized 11 month data

b. Andean Trade Preference Act

The United States trade relationship with the Andean countries is currently conducted in the framework of the unilateral trade preferences of the Andean Trade Preference Act (ATPA), as amended by the Andean Trade Promotion and Drug Eradication Act (ATPDEA). Congress enacted the ATPA in 1991 in recognition of the fact that regional economic development is necessary in order for Bolivia, Colombia, Ecuador and Peru to provide economic alternatives to the illegal drug trade, promote domestic development, and thereby solidify democratic institutions.

The original ATPA expired in 2001. The ATPDEA, which was signed into law on August 6, 2002 as part of the Trade Act of 2002, restored the benefits of the ATPA, providing for retroactive reimbursement of duties paid during the lapse. In addition, while the original ATPA excluded from duty-free treatment products in several sectors including textiles, apparel, footwear, articles of leather, and tuna in airtight containers, the ATPDEA expanded the list of items eligible for duty-free treatment by about 700 products.

The most significant expansion of benefits in the ATPA, as amended by the ATPDEA, was in the apparel sector. Apparel assembled in the region from U.S. fabric, fabric components or components knit-to-shape in the United States may enter the United States duty-free in unlimited quantities. Apparel assembled from Andean regional fabric or components knit-to-shape in the region may enter duty-free subject to a cap. The cap was set at 2 percent of total U.S. apparel imports, increasing annually in equal increments to 5 percent.

The ATPA, as amended, was set to expire on December 31, 2006, but on December 9, 2006, Congress passed the Andean Trade Preferences Extension Act. The Act granted a straightforward six-month extension of ATPA for Peru, Colombia, Ecuador, and Bolivia from January 1, 2007 through June 30, 2007. An additional six-month extension will be granted to a beneficiary country if the United States and that country both complete their legislative process to approve a trade promotion agreement.

5. Central America and the Caribbean

a. Free Trade Agreement with Central America and the Dominican Republic

See Chapter III, Section A for a discussion of this topic.

b. Caribbean Basin Initiative

The Caribbean Basin Initiative (CBI) currently provides beneficiary countries and territories with duty-free access to the U.S. market. They are: Antigua and Barbuda, Aruba, The Bahamas, Barbados, Belize, British Virgin Islands, Costa Rica, Dominica, Dominican Republic, Grenada, Guyana, Haiti, Jamaica, Montserrat, Netherlands Antilles, Panama, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, and Trinidad and Tobago.

During 2006, the trade programs collectively known as the CBI remained a vital element in U.S. economic relations with its neighbors in Central America and the Caribbean. CBI was initially launched in 1983 through the Caribbean Basin Economic Recovery Act (CBERA). It was substantially expanded in 2000 through the United States - Caribbean Basin Trade Partnership Act (CBTPA). The Trade Act of 2002 increased the type and quantity of textile and apparel articles eligible for preferential tariff treatment accorded to designated beneficiary CBTPA countries. Among other actions, the Trade Act of 2002 extended duty-free treatment for clothing made in beneficiary countries from both U.S. and regional

inputs, and increased the quantity of clothing made from regional inputs that regional producers can ship duty-free to the United States annually.

Since its inception, the CBERA program has helped beneficiaries diversify their exports. On a region-wide basis, this export diversification has led to a more balanced production and export base and has reduced the region's vulnerability to fluctuations in markets for traditional products. Since 1983, the year prior to the implementation of the CBI, total CBI country non-petroleum exports to the United States have more than tripled. Light manufactures, principally printed circuit assemblies and apparel, but also medical instruments and chemicals, account for an increasing share of U.S. imports from the region and constitute the fastest growing sectors for new investment in CBERA countries and territories.

In 2006, the Administration continued to work with Congress, the private sector, CBI beneficiary countries and other interested parties to ensure a faithful and effective implementation of this important expansion of trade benefits. The United States has concluded negotiations, signed and ratified a free trade agreement (CAFTA-DR) with several CBI beneficiaries (Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and the Dominican Republic), as called for in the legislation. The agreement locks in preferential market access benefits for the Central American countries and the Dominican Republic while simultaneously opening their markets to U.S. products. In co-production arrangements with CAFTA-DR countries, the remaining CBI beneficiary countries will be able to continue to count inputs from the former beneficiaries toward qualifying for CBI benefits.

In December 2006, the United States completed FTA negotiations with Panama, another CBI beneficiary, subject to further discussions regarding labor.

Apparel remains one of the fastest growing categories of imports from the CBI countries and territories - growing from just 5.5 percent of total U.S. imports from the region in 1984, to nearly 40 percent in 2005, valued at \$10 billion.

c. The Caribbean

The Dominican Republic: The Dominican Republic is the largest single U.S. trading partner in the CBI region, with bilateral trade of nearly \$10 billion in 2006⁵⁰. The Dominican Republic continued to lead all countries in taking advantage of the CBI, as it has done in virtually every year since the program became effective, accounting for 25.0 percent of U.S. imports under CBI provisions.

Reflecting the importance of this trade relationship, the United States undertook negotiations with the Dominican Republic, between January and March 2004 to integrate that country into the free trade agreement already negotiated with Central America. On August 5, 2004, the United States, the Dominican Republic and five Central American countries together signed the CAFTA-DR (see Chapter III, Section A for a discussion of the developments with respect to CAFTA-DR in 2006).

Following entry into force of CAFTA-DR, the benefits received under CBI will be locked into place permanently. Moreover, the Dominican Republic inputs will continue to count as qualifying when incorporated into products of remaining CBI beneficiaries. Textile and apparel goods that are co-produced in Haiti and the Dominican Republic will also continue to qualify for duty-free treatment under the CBI program.

The Dominican Republic does not belong to any regional trade association, but has negotiated trade agreements with its partners in Central America and CARICOM. Unilateral liberalization and fiscal reform efforts have made the Dominican Republic one of the fastest growing economies over the last

⁵⁰ Annualized 11 month data

decade and an economic engine in the Caribbean Basin. The Dominican Republic's strong trade relations within the Caribbean, including with neighboring Puerto Rico, and with Central America establish it as an economic bridge within the region.

CARICOM: Members of the Caribbean Community and Common Market (CARICOM) are: Antigua and Barbuda, The Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname and Trinidad and Tobago. In theory, CARICOM is a customs union rather than a common market. CARICOM welcomed Haiti back into the Community earlier this year.

The nations of CARICOM launched a Caribbean Single Market Economy (CSME) in January 2006, which creates a bloc to allow for the free movement of goods, services and labor across the region. Full members of the CSME include: Antigua and Barbuda, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Suriname and Trinidad and Tobago.

The U.S.-CARICOM Trade and Investment Council met in October 2006 to expand economic opportunity, growth and stability in the region.

Trinidad and Tobago accounts for about three quarters of U.S. imports from CARICOM countries, with petroleum, natural gas and petro-chemicals dominating such trade. Of those CBTPA beneficiary countries not currently covered by CAFTA-DR, the Dominican Republic and Haiti export the greatest amount of apparel products to the United States. Jamaica also supplies bauxite and sugar to the United States. Although a few countries have successfully attracted investment in electronics assembly, more progress is needed in developing educational, energy and port infrastructure to lure additional investment and take advantage of proximity to the U.S. market.

The United States and the CARICOM are working together on the Doha Development Agenda. In addition, the United States works with CARICOM countries on trade capacity building initiatives.

D. Europe and Eurasia

1. European Union

Overview

The U.S. economic relationship with Europe is the largest and most complex in the world. Due to the size and the highly integrated nature of the transatlantic economic relationship, serious trade issues inevitably arise. Even when small in dollar terms, especially compared with the overall value of transatlantic commerce, these issues can nonetheless take on significance for their precedent-setting impact on U.S. trade policies.

U.S. trade relations with Europe are dominated by our relations with the European Union (EU). The EU expanded to 27 countries on January 1, 2007 with the accession of Romania and Bulgaria to encompass a market of nearly 500 million consumers with a total gross domestic product of \$13 trillion. U.S. goods exports in 2006⁵¹ were \$237 billion and U.S. exports of private commercial services (i.e., excluding military and government) to the European Union (25) were \$128 billion in 2005 (latest data available).

⁵¹ Annualized 11 month data

In the past year, USTR actively engaged with the European Commission and EU Member States on the full range of U.S. trade concerns, and also expanded cooperative efforts to enhance the transatlantic economic relationship. Key issues addressed include:

a. Enhancing Transatlantic Economic Relations

The huge size, advanced integration, and generally robust health of the transatlantic trade and investment relationship have provided an anchor of prosperity for both sides of the Atlantic, even as economic conditions in other parts of the world fluctuate. Recognizing the benefits of preserving and enhancing these productive ties, the United States and the EU for some time have been interested in exploring ways to create new opportunities for transatlantic economic activity.

At the June 2004 U.S.-EU Summit, Leaders agreed to the Joint Declaration on Strengthening Our Economic Partnership, which initiated a government discourse with business, labor, consumer and other elements of civil society on concrete ways for governments to improve U.S.-EU economic interaction. The results of these stakeholder consultations yielded the U.S.-EU Initiative to Enhance Transatlantic Economic Integration and Growth, which was announced at the June 2005 U.S.-EU Summit. The Summit also yielded a declaration on U.S.-EU cooperation against Global Piracy and Counterfeiting, which is viewed as an important step for promoting enhanced cooperation on IPR matters.

The Economic Initiative includes a forward-looking agenda of cooperative activities intended to expand economic opportunity, promote prosperity, and maintain the health and safety of our citizens. At the U.S.-EU Economic Ministerial in November 2005, the governments issued a detailed work program listing specific initiatives U.S. and European officials have agreed to pursue in 11 different areas, including: regulatory and standards cooperation; open and competitive capital markets; transparency in the fight against malpractice; innovation and the development of technology; trade, travel and security; energy efficiency; protection of intellectual property rights; investment; competition policy and enforcement; procurement; and services. The June 2006 Summit noted implementation progress on this multi-year program and in other areas of transatlantic cooperation. USTR and other agencies continue to work closely with European counterparts to advance this Initiative in 2007, and expect to continue to aggressively pursue regulatory and standards cooperation to address U.S. concerns.

b. Regulatory Cooperation

Trade obstacles arising from divergences in U.S. and EU regulations and the lack of transparency in the EU rulemaking and standardization processes are an increasingly important focus of our cooperation and dialogue with the EU. USTR continued to expand our efforts during 2006 to enhance U.S.-EU regulatory cooperation and reduce unnecessary “technical” barriers to transatlantic trade. Through increased regulatory cooperation, we aim to promote quality regulation, minimize U.S.-EU regulatory divergences and facilitate transatlantic commerce.

At the June 2005 U.S.-EU Summit, the United States and European Commission issued the Roadmap for U.S.-EU Regulatory Cooperation to significantly expand and deepen the scope of transatlantic regulatory cooperation and promote a stronger economic relationship. Under this framework, U.S. and European officials advanced U.S.-EU regulatory cooperation during 2005 and 2006 in three principal ways: First, we established the U.S.-EU High-Level Regulatory Cooperation Forum through which U.S. and European regulators exchange views, share experiences, and learn from each other regarding general or crosscutting regulatory cooperation approaches and practices of mutual interest. Based on initial Forum meetings in Brussels in January 2006 and Washington D.C. in May 2006, we developed a set of Best Cooperative Practices to guide regulators and complement U.S.-EU Guidelines on Regulatory Cooperation and Transparency. Second, the U.S. Office of Management and Budget and relevant experts in the European Commission initiated an expert dialogue to address horizontal regulatory management

issues (e.g., transparency, risk assessment, impact assessment, public consultation) in order to improve our understanding of each others' regulatory systems and practices. Third, U.S and European regulators pursued a broad range of specific cooperation activities in 15 different sectors, including: pharmaceuticals, auto safety, information and communications technology, cosmetics, consumer product safety, food safety, nutritional labeling, consumer protection enforcement, unfair commercial practices, marine equipment, eco-design of electrical/electronic products, chemicals, energy efficiency, telecommunications equipment and medical devices. The June 2006 U.S.-EU Summit noted progress on the Roadmap. We continue to build on these activities by pursuing cooperation on new topics in 2007.

c. Subsidies for Large Commercial Aircraft

The United States has long expressed its concerns with European government subsidization of large commercial aircraft (LCA) development by Airbus. The issue has acquired new urgency in recent years as Airbus sought and received substantial new subsidies (so-called “launch aid”) for the Airbus A380 super jumbo aircraft and commitments of further launch aid subsidies for its new A350 passenger aircraft. At a time when Airbus is delivering more aircraft than its U.S. rival, the Boeing Company, the United States believes that there is no justification for continued subsidies to Airbus. In 2004 and 2005, USTR attempted to work with the European Commission to establish a new agreement aimed at eliminating LCA subsidies. The Commission’s reluctance to negotiate such an agreement led the United States to request initiation of dispute settlement procedures at the WTO (as the United States believes Airbus subsidies violate the WTO Agreement on Subsidies and Countervailing Measures). The EU requested its own WTO dispute settlement proceeding claiming alleged U.S. federal and state government subsidies to Boeing. Although the United States would prefer to reach a negotiated solution, it is prepared to see its WTO case through to completion if necessary.

d. WTO Information Technology Agreement

The United States has expressed concerns about EU proposals to apply duties as high as 14 percent on imports of several technologically-sophisticated versions of products covered under the WTO Information Technology Agreement (ITA). Such products include certain set-top boxes (e.g., cable boxes), flat panel displays for computers, digital cameras, and certain multifunction units (e.g., “all-in-one” printer/copier/scanner devices). All ITA Members, including the EU, committed to bind and eliminate customs duties on these products when coverage for the ITA was finalized in 1996. However, the EU continued to draft proposals in 2006 which would limit duty-free treatment to less technologically sophisticated versions of these products, many of which are no longer sold in today’s marketplace. The product definitions proposed by the EU are not found in the ITA and are so narrow that almost none of today's models of the aforementioned ITA products would be guaranteed duty-free treatment if imported into the EU. The United States has raised its concerns both bilaterally and in the ITA Committee in Geneva and will continue to press the EU to abide by the letter and spirit of the ITA.

e. Geographical Indications

As a result of a WTO dispute launched by the United States, the WTO Dispute Settlement Body (DSB) ruled on April 20, 2005 that the EU’s regulation on food-related geographical indications (GIs) is inconsistent with the EU’s obligations under the TRIPS Agreement and the GATT 1994. The DSB ruled that the EU’s GI regulation impermissibly discriminates against non-EU products and persons and also agreed with the United States that the regulation could not create broad exceptions to trademark rights guaranteed by the TRIPS Agreement.

The DSB recommended that the EU amend its GI regulation to come into compliance with its WTO obligations. The EU adopted an amended GI regulation in March 2006. The United States has

highlighted certain questions and concerns with regard to the revised EU regulation and its compliance with the DSB findings and recommendations, and continues to monitor implementation in this dispute. Separately, the United States continues to have concerns about the EU's regime concerning geographical indications for wine and spirits – including Council Regulation 1493/99.

f. Agricultural Biotechnology

In May 2003, the United States initiated WTO dispute settlement proceedings with respect to the EU's *de facto* moratorium on approvals of agricultural biotechnology products and the existence of individual Member State marketing prohibitions on agricultural biotechnology products previously approved at the EU level. In September 2006, the WTO dispute settlement panel ruled in favor of the United States, finding that both the EU's moratorium and the Member State prohibitions were inconsistent with WTO rules. The WTO formally adopted the panel report on November 21, 2006. On December 19, 2006, the EU notified the WTO that it intended to comply with the panel findings, and that it would need a "reasonable period of time" to do so.

In April 2004, EC Regulations 1829/2003 and 1830/2003 governing the traceability and labeling of biotechnology food and feed entered into force. The regulations include mandatory traceability and labeling requirements for all agricultural biotechnology and downstream products. In some cases, these directives have severely restricted market access for U.S. farmers and food suppliers.

Beginning in May 2004, following the adoption of new biotechnology regulations, the EU began to approve a limited number of the many pending biotechnology product applications. These limited approvals, however, have not resulted in a complete removal of the *de facto* moratorium. Many important biotechnology product applications continue to face unjustified, politically-motivated delays. Despite the lack of any science-based health or safety concerns, and despite positive reviews by the EU's own scientific committees, the EU has yet to assemble in the Council of Ministers a qualified majority of EU Member States to support product approvals. As a result, the EU continues to hold applications back from final decision. Even when applications are sent to the Council, the result is lengthy periods of additional delay, after which the applications are sent back to the Commission for final decision.

Furthermore, several EU member States, including Austria, France, Germany, and Greece, continue to maintain their unjustified, WTO-inconsistent national bans on certain biotechnology products that had been approved by the EU prior to the adoption of the moratorium.

g. Customs Administration Procedures

While the customs law of the EU is set forth in the Community Customs Code, the EU does not in fact currently operate as a single customs administration. Administration of the Community Customs Code is the responsibility of EU Member State customs administrations, which do not have identical working practices and are not obliged to follow each other's decisions.

The difficulties presented by non-uniform administration are exacerbated by the absence of any forum for prompt EU-wide review and correction of customs decisions. Review by the European Court of Justice of national decisions regarding customs administrative matters may be available in some cases, but generally only after an affected party proceeds through multiple layers of Member State domestic court review. Obtaining corrections with EU-wide effect for administrative actions relating to customs matters may take years.

Given the growing negative consequences of deficiencies in the EU's customs administration and review procedures, the United States in September 2004 initiated WTO consultations on these matters. Subsequently, in March 2005, a dispute settlement panel was formed to consider U.S. complaints. On

June 16, 2006, the panel circulated its report, in which it found a lack of uniform administration in certain specified instances and found no breach of the EU's obligations with respect to prompt review and correction of customs determinations. The United States and EU each appealed from different aspects of the panel report. The panel and Appellate Body reports were adopted at the December 11, 2006 meeting of the DSB. The reports as adopted included a finding that the EU is in breach of its obligation of uniform administration with respect to rules pertaining to the tariff classification of certain liquid crystal display monitors.

h. Foreign Sales Corporation (FSC) Tax Rules

On October 14, 2004, Congress passed the American Jobs Creation Act (AJCA), designed in part to repeal provisions of the FSC Repeal and Extraterritorial Income Exclusion Act (ETI Act) that had been found to constitute a WTO-inconsistent export subsidy. Unfortunately, in November 2004, the EU asked the WTO once again to review the U.S. compliance efforts in the FSC dispute. The EU based its request on its dissatisfaction with transition provisions in the AJCA that provided for a general two-year phase-out of the ETI provision and the grandfathering of certain pre-existing binding contracts. The EU did so notwithstanding the fact that such transition provisions are standard in major U.S. tax legislation and that the grandfathering provision, in particular, was of relatively limited commercial value. The EU adopted a Regulation that provided for the lifting of sanctions on U.S. products in the form of additional duties as of January 1, 2005. However, the Regulation, which entered into force on February 1 (Council Regulation (EC) No 171/2005), provides for the automatic re-imposition of sanctions should the WTO find continued non-compliance by the United States. In that event, sanctions would resume on January 1, 2006, or 60 days after (whichever date is later) the WTO Dispute Settlement Body rules that the AJCA is inconsistent with U.S. WTO obligations. On September 30, 2005, a WTO panel found that the transition provisions of the AJCA were inconsistent with U.S. WTO obligations.

On November 14, 2005, the United States appealed the panel report. The Appellate Body circulated its report on February 13, 2006, upholding the legal findings and conclusions of the panel. The DSB adopted the report on March 14, 2006. On May 17, 2006, the President signed legislation that repealed the grandfathering provisions. The transition provision expired by operation of law at the end of 2006. (For more information on this dispute, see Chapter II.)

i. Chemicals

In December 2006, after three years of negotiation within the European Union, the EU reached internal agreement on its comprehensive new regulatory regime for all chemicals (known as Registration, Evaluation and Authorization of Chemicals or "REACH") that will impose extensive additional testing and reporting requirements on producers and downstream users of chemicals. This expansive EU regulation could impact virtually all industrial sectors, including the majority of U.S. manufactured goods exported to the EU. The REACH regulation is to enter into force on June 1, 2007.

While supportive of the EU's objectives of protecting human health and the environment, the United States stressed that the EU regulation adopted a particularly complex and burdensome approach, which appeared to be neither workable nor cost-effective in its implementation, and could adversely impact innovation and disrupt global trade. Many of the EU's trading partners expressed similar concerns.

We will continue to monitor closely the implementation of this EU regulation, and remain engaged constructively with the EU to ensure that U.S. interests are protected.

j. Ban on Growth Promoting Hormones in Meat Production

The EU continues to ban the import of U.S. beef obtained from cattle treated with growth-promoting hormones. In 1996, the United States challenged this ban in the WTO and in June 1997, a WTO panel ruled in favor of the United States on the basis that the EU's ban was inconsistent with the EU's obligations under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) because the EU failed to base its ban on a scientific risk assessment. This finding was upheld by the WTO Appellate Body in 1998, and in 1999, the WTO authorized the United States to suspend concessions to the EU because the EU failed to comply with the WTO rulings.

In September 2003, the EU announced the entry into force of an amendment to its original hormone directive, which recodified the ban on the use of estradiol for growth promotion purposes and established provisional bans on the five other growth hormones included in the original EU legislation. The EU argued that it was in compliance with the earlier WTO ruling based on this amended Directive.

At present, the United States continues to apply 100 percent duties on \$116.8 million of U.S. imports from the EU. In November 2004, the EU requested WTO consultations with the United States on this matter, claiming that U.S. sanctions were no longer justified. The first panel meeting was held in September 2005. A second set of meetings with the panel and a group of scientific experts was held in September-October 2006. The United States maintains that the amended EU measure cannot be considered to implement WTO recommendations and rulings on this matter, and that the U.S. sanctions remain authorized. The panel's decision is not expected until early Summer 2007.

k. Poultry Meat

U.S. poultry meat exports to the EU have been banned since April 1, 1997, because U.S. poultry producers currently use washes of low-concentration anti-microbial treatments (AMTs), such as chlorine, to reduce the level of pathogens in poultry meat production, a practice not permitted by the EU sanitary regime. In December 2005, the European Commission's Food Safety Authority completed studies of four AMTs and found them to be safe, and in February 2006, the European Commission's Health and Consumer Protection Directorate General circulated the first draft of its proposal to allow those substances to be used on poultry meat in the EU market. That draft regulation proposed to ban the use of more than one AMT and require poultry treated with AMTs to be rinsed after treatment. These two requirements are not consistent with U.S. production methods and will limit most U.S. exporters' ability to trade poultry to the EU under this regulation but would nonetheless mark a lifting of the ban on U.S. poultry exports. In 2007, the United States will continue to push for a regulation allowing the use of AMTs to be finalized in the EU legislative process.

l. Wine

Since the mid-1980s, U.S. wines have been permitted entry to the EU market through temporary exemptions from certain EU wine regulations. One such regulation requires wines imported into the EU to be produced using only certain wine-making practices. Other regulations require extensive certification procedures for imported wines and prohibit the use of wine names and grape varieties as regulated in the United States.

Without derogations from these regulations, many U.S. wines would be immediately barred from entering the EU. U.S. wines that are produced with practices for which there are no EU derogations are already barred. For over six years the United States and the EU negotiated an agreement to address this and other issues.

On March 10, 2006, the United States and the European Community signed an agreement on wine-making practices and labeling of wine, aimed at facilitating bilateral trade in wine valued at \$2.8 billion annually. The Agreement provides for acceptance of existing wine-making practices and addresses a number of labeling issues, helping to create marketing certainty for U.S. and EU wine exporters, and entered into effect upon signature.

The agreement provides for: (1) recognition of existing wine-making practices; (2) a consultative process for accepting new wine-making practices; (3) the United States limiting the use of certain “semi-generic” terms in the U.S. market; (4) the EU allowing under specified conditions for the use of certain regulated terms on U.S. wine exported to the EU; (5) recognizing certain names of origin in each other’s market; (6) simplifying certification requirements; and (7) defining parameters for optional labeling elements of U.S. wines sold in the EU market. The Agreement also provides for a second phase of negotiations to address other outstanding U.S.-EU wine trade issues. The Agreement does not address the use of “geographical indications,” a form of intellectual property. The United States and the EU held discussions to address implementation of the Phase I Agreement and to initiate the second phase of negotiations in June, September and December 2006.

m. EU Enlargement

On March 22, 2006, the United States and the European Communities signed a bilateral agreement within the framework of the GATT related to the May 2004 enlargement of the European Union. As part of the agreement, the EC opened new country-specific tariff-rate quotas for U.S. exports of boneless ham, poultry, and corn gluten meal. It expanded existing global tariff-rate quotas for food preparations, fructose, pork, rice, barley, wheat, maize, preserved fruits, fruit juices, pasta, chocolate, petfood, beef, poultry, live bovine animals and sheep, and various cheeses and vegetables. It permanently reduced tariffs on protein concentrates, fish (hake, Alaska Pollack, surimi), chemicals (polyvinyl butyral), aluminum tube, and molybdenum wire. These unilateral EU concessions went into effect in July 2006. Similarly, in advance of the January 1, 2007 accession of Romania and Bulgaria to the European Union, the United States entered into negotiations with the European Communities in December 2006 within the framework of GATT provisions relating to the expansion of customs unions. The two new EU members were required to change their tariff schedules to conform to the EU’s common external tariff schedule, resulting in increased tariffs on certain imported products. Under General Agreement on Tariffs and Trade 1994 (GATT 1994) Articles XXIV:6 and XXVIII, the United States is entitled to compensation from the EU to offset all of these changes. The expansion of EU quotas to account for the addition of Romania and Bulgaria to the European Union common market is another key element of the negotiations. This round of enlargement also presents issues for exporters to Romania and Bulgaria of key commodities such as pork, which will face a significant increase in applied tariff rates and the imposition of quotas. In 2007, the United States will seek to conclude an appropriate bilateral compensation agreement with the European Commission and ensure that its benefits are implemented as soon as possible.

2. European Free Trade Association (EFTA)

The United States continues to broaden our economic engagement with the countries of Switzerland, Norway, Iceland and Liechtenstein and explore ways to foster closer U.S.-EFTA trade. On May 25, 2006, the United States and Switzerland established a “Trade and Investment Cooperation Forum” to discuss bilateral trade and related issues, and to examine ways to strengthen our economic relationship.

On March 1, 2006, two mutual recognition agreements (MRAs) between the United States and Norway, Iceland and Liechtenstein entered into force. These MRAs parallel existing U.S. agreements with the European Community – one covering telecommunications equipment, electro-magnetic compatibility

(EMC) and recreational craft; and the other covering marine equipment. These agreements permit approved U.S. laboratories to conduct required conformity assessment procedures (e.g., product tests) for designated products according to EFTA requirements (U.S. requirements in the case of marine equipment), and vice versa. This saves manufacturers the time and expense of additional product testing, lowers prices for consumers and conserves regulators' resources.

3. Turkey

a. General

Turkey maintains high tariff rates on many agricultural and food products to protect domestic producers. It also uses its import licensing regime to manage trade. In 2006, the U.S. brought a WTO dispute against Turkey regarding its regime for the importation of rice; the case is proceeding in Geneva. Turkey also levies high duties, as well as excise taxes and other domestic charges, on imported alcoholic beverages that significantly increase wholesale prices. Turkey does not permit any meat or poultry imports.

b. Investment

While Turkey's legal regime for foreign investment is liberal, private sector investment is often hindered, regardless of nationality, by: excessive bureaucracy; political and macroeconomic uncertainty; weaknesses in the judicial system; high tax rates; a weak framework for corporate governance; and frequent, sometimes unclear, changes in the legal and regulatory environment.

c. Intellectual Property

Turkey does not have a patent linkage system in place to prevent generic drugs that infringe the Turkish patents of U.S. pharmaceutical companies from receiving marketing approval in Turkey. Turkey has a Registration Regulation for protecting confidential test data which provides a six-year term of data exclusivity protection for pharmaceutical test data, however the regulation contains several provisions that may not be consistent with TRIPS requirements. The U.S. is addressing these issues with the Turkish government. Improving enforcement against copyright piracy and trademark infringement in Turkey also remains an issue.

4. Southeast Europe

a. EU Accession

The United States has been strongly supportive of the integration of Bulgaria and Romania into the EU. As with previous accessions, USTR and other U.S. agencies worked with Bulgaria and Romania to ensure that the accession process does not adversely affect U.S. commercial interests in the region. (See EU Enlargement in the EU Section.)

Croatia, Macedonia, and Albania have concluded Stabilization and Association Agreements (SAAs) with the EU, which indicate their desire for EU membership. These Agreements provide for the reduction to zero of virtually all tariff rates on industrial goods and preferential rates and quotas for many agricultural goods traded between the EU and these countries. Subsequent agricultural agreements (the Zero-Zero Agreements) have further reduced tariffs on the majority of agriculture goods. U.S. goods continue to face generally higher MFN tariff rates in these countries, creating a tariff differential *vis-à-vis* EU goods. Negotiations are ongoing for a EU SAA with Bosnia and Herzegovina, Serbia, and Montenegro.

b. Generalized System of Preferences

Most of the countries in this region participate in the U.S. Generalized System of Preferences (GSP) program, including Serbia and Montenegro, which were granted eligibility in 2005. As required by the GSP statute, once a country has joined the EU, it loses its GSP eligibility. Thus, Romania and Bulgaria were removed from the GSP on January 1, 2007, when they joined the EU.

The GSP statute provides that a country may not receive GSP benefits if it affords preferential treatment to the products of a developed country, other than the United States, that has a significant adverse effect on U.S. commerce. As noted above, the United States has consulted with several countries concerning their granting of preferential tariffs to EU exports compared with U.S. exports, pursuant to their Europe Agreements with the EU and will continue to monitor the impact of these agreements on U.S. commercial interests.

c. Intellectual Property Rights (IPR)

USTR closely monitors WTO Members' compliance with the TRIPS Agreement and works with countries to improve enforcement of their IPR legislation, as well as to counter trends such as increasing copyright piracy and trademark counterfeiting. USTR has worked to encourage Bulgaria to reestablish strong IP protection after piracy and counterfeiting problems began growing in recent years. A top USTR priority in 2006 remained protecting the confidential data submitted by pharmaceutical firms to government health authorities to obtain marketing approval.

d. Bilateral Investment Treaties

The United States has Bilateral Investment Treaties (BITs) in force with Albania, Bulgaria, Romania, and Croatia.

5. Russia

The United States has established strong bilateral trade and investment links with Russia, based on a 1992 bilateral trade agreement concluded in accordance with the Trade Act of 1974. The United States also extends Generalized System of Preferences (GSP) benefits to Russia. In response to petitions from the U.S. copyright industry, USTR continued a review in 2006 to determine Russia's eligibility to receive GSP benefits.

Multilaterally, the United States has encouraged Russia's accession to the World Trade Organization (WTO) as an important way to support economic reforms. On November 19, 2006, the United States and Russia signed a bilateral market access agreement on goods and services, which included significant benefits and market openings in areas of longstanding interest to the United States. Russia has completed its bilateral market access negotiations with most other interested WTO Members, and is now focused on multilateral negotiations on its terms for accession, as well as completing its implementation of WTO provisions. Russia must also complete negotiations with WTO Members on levels of funding for certain programs supporting its agriculture sector.

a. Jackson-Vanik Amendment

Russia (as is the case with several of the other countries in the region – see below) receives conditional Normal Trade Relations (NTR) tariff treatment pursuant to the provisions of Title IV of the Trade Act of 1974, also known as the Jackson-Vanik amendment. Under the Jackson-Vanik amendment, the President is required to deny NTR tariff treatment to an economy that was not eligible for such treatment in 1974

and that fails to meet the statute's freedom of emigration requirements contained in the legislation. This provision is subject to waiver, if the President determines that such a waiver will substantially promote the legislation's objectives. Alternatively, the President can determine that the country is in full compliance with the legislation's emigration requirements. The country must also have a trade agreement with the United States, including certain specified elements, in order to obtain conditional NTR status. The President has determined that Russia is in full compliance with Title IV's freedom of emigration requirements and the United States and Russia have had a qualifying trade agreement in effect since 1992.

If a country is still subject to Jackson-Vanik at the time of its accession to the WTO, the United States needs to invoke the "non-application" provisions of the WTO. In such cases, the United States and the other country in effect have no "WTO relations." In such a situation, the United States is unable to bring a WTO dispute based on a country's violation of the WTO or of commitments the country undertook as part of its WTO accession package, and U.S. exporters are not able to benefit from many of the market opening tariff and services commitments that Russia undertook as part of the bilateral market access agreement. Congressional action is required to terminate the application of Jackson-Vanik to a country. The Administration continues to consult with the Congress and interested stakeholders regarding the status of our WTO negotiations and the termination of application of Jackson-Vanik and the provision of Permanent Normal Trade Relations status to Russia.

b. Intellectual Property Rights (IPR)

U.S. industry continues to be concerned about the IPR situation in Russia. A number of Members of Congress have written to USTR in support of those concerns. U.S. copyright industries estimate they lost in excess of \$1.9 billion in 2005 due to copyright piracy in Russia (films, videos, sound recordings, books and computer software). In 2006, Russia's optical disc production capacity continued to be far in excess of domestic demand, with pirated products apparently intended not only for domestic consumption, but also for export. Internet piracy continued to be a serious concern. Criminal investigations are ongoing against operators of the Russia-based download website www.allofmp3.com, which offers global distribution of pirated music and is the most notorious of several problem websites operating from within Russia.

USTR is working to ensure that Russia takes appropriate actions to protect intellectual property rights across the board. On November 19, 2006, the U.S. Government and the government of Russia concluded an agreement that sets out a blueprint for actions that Russia will take to address piracy and counterfeiting and improve protection and enforcement of intellectual property rights, both stated priorities of the government of Russia. As part of the agreement, the government of Russia has committed to fight optical disc and Internet piracy, protect pharmaceutical test data, deter piracy and counterfeiting through criminal penalties, strengthen border enforcement and bring Russian laws into compliance with WTO and international IPR norms. This binding agreement is an integral part of the United States-Russia WTO bilateral market access agreement, and Russia's implementation of commitments on IPR will be essential to completing the final multilateral negotiations on the overall accession package.

In addition, the United States is reviewing Russia's status as a beneficiary country under the U.S. Generalized System of Preferences (GSP) Program. Russia has also been on the Special 301 Priority Watch List since 1997 and will be subject to the annual review in 2007.

The most significant legislative development in 2006 was the Duma's consideration and adoption of Part IV of the Civil Code, which will replace most of Russia's IPR legislation with a single code. The Code and implementing regulations to be developed over the next year will go into effect on January 1, 2008. While Russian government ministries and the Duma took some steps to address some concerns of certain rights holders and the U.S. Government regarding the new legislation, Part IV still contains provisions that raise serious concerns regarding consistency with WTO and other international agreements. The

government of Russia has pledged to ensure that Part IV and its other IPR measures will be fully consistent with the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) upon Russia's accession to the WTO. In September 2006, amendments to the Law on Copyright and Related Rights came into effect, providing rights holders control over Internet distribution of their work.

Russia continues to deny national treatment for the protection of geographical indications. As well, Russia has committed to implement Article 39.3 of the TRIPS Agreement to protect against unfair commercial use of undisclosed data submitted to government authorities to obtain marketing approval of pharmaceutical and agricultural chemical products. Russia currently does not provide such protection for pharmaceutical products. In late 2005, the government of Russia proposed legislative changes to address these concerns. Unfortunately, these changes were not considered by the Russian Duma in 2006. Russia has committed in the November 2006 bilateral agreement and in statements to WTO members to amend its Law on Medicines to take this action before accession to the WTO.

Poor enforcement of IPR is a pervasive problem. The prosecution and adjudication of intellectual property cases remains sporadic and inadequate; there is a lack of transparency and a failure to impose deterrent penalties. Russia's customs administration also needs to significantly strengthen its enforcement efforts. Russian authorities initiated some enforcement actions in 2006, which included raids on some optical disc production facilities and investigation of internet sites. The November 2006 bilateral agreement calls for specific actions to improve IPR enforcement. USTR will continue its work on enforcement of intellectual property rights and Russia's compliance with its bilateral obligations through the U.S. - Russia Bilateral Working Group on Intellectual Property Rights.

c. Market Access for Poultry, Pork and Beef

The United States was actively engaged with the Government of Russia throughout 2006 to ensure that U.S. producers of poultry, pork, and beef continue to have access to the Russian market and that Russia appropriately implements the U.S.-Russian Bilateral Meat Agreement on poultry, pork and beef that entered into force in 2005. The Meat Agreement established tariff-rate quotas (TRQs) for poultry, pork and beef, a 15.0 percent tariff for imports of U.S. high quality beef and other provisions related to importing meat and poultry into Russia. The WTO bilateral market access agreement sets out a framework, including the time tables, tariff rates and TRQ parameters, for WTO negotiations on how such goods will be treated post-2009.

d. Sanitary and Phytosanitary Restrictions

Sanitary and phytosanitary (SPS) restrictions have had a major negative affect on U.S. trade, with products deemed as "sensitive" by Russia being blocked, seemingly without a scientific basis. As part of the bilateral WTO market access agreement, Russia and the United States signed bilateral agreements to address SPS issues related to trade in frozen pork, certification of pork, beef and poultry facilities, trade in beef and beef by-products and products of modern biotechnology. In addition to these specific issues, the government of Russia in 2006 issued a decree allowing the adoption of international standards, guidelines and recommendations, such as those set by internationally recognized bodies such as Codex Alimentarius, the Office of International Epizootics (OIE). These international standards, guidelines and recommendations formed the basis for addressing specific SPS issues.

e. Product Standards, Certification, and Licensing

U.S. companies cite product certification requirements as a principal obstacle to U.S. trade and investment in Russia. In the context of Russia's WTO accession negotiations, USTR is urging Russia to put in place the necessary legal and administrative framework to establish transparent procedures for

developing and applying standards, technical regulations and conformity assessment procedures to better comply with WTO rules.

In addition, import licenses and activity licenses to produce or distribute products such as alcoholic beverages, pharmaceuticals and products containing encryption technology are required to import these products. As part of the bilateral WTO market access agreement, Russia agreed to establish a streamlined interim system for the import of goods containing encryption technology; implement transparent, nondiscriminatory and WTO-compatible procedures; and allow importation of most commercially-traded information technology and telecommunications goods after a one-time notification, or in some cases, with no licensing or evaluation requirements at all. The U.S. Government will continue to work on addressing the licensing barriers to trade in products with encryption capabilities and the other products subject to licensing requirements.

f. Services

As a result of the bilateral market access agreement with the United States, U.S. services suppliers will benefit in a wide range of sectors, including banking and securities, insurance, telecommunications, audio-visual services, distribution, express delivery, energy services, environmental services and professional services, when the WTO agreement enters into effect. Russia will provide a significant level of market access and national treatment for insurance companies, including 100 percent foreign ownership of non-life insurance firms, upon accession. On banking and securities, Russia has agreed to bind most existing market access and to offer some liberalization of treatment of foreign bank subsidiaries.

6. Ukraine

The United States has established strong bilateral trade and investment links with Ukraine, including negotiating a bilateral trade relations agreement and a bilateral investment treaty (BIT). The U.S.-Ukrainian BIT took effect on November 16, 1996. The BIT guarantees U.S. investors the better of national and MFN treatment, the right to make financial transfers freely and without delay, international legal standards for expropriation and compensation and access to international arbitration. There are a number of longstanding investment disputes faced by several U.S. companies. These disputes mainly date from the early 1990s and the initial opening of the Ukrainian economy to foreign investors. In most cases, however, there has been little progress toward resolution under subsequent Ukrainian governments.

The United States also extends Generalized System of Preferences (GSP) benefits to Ukraine and on February 17, 2006, the Department of Commerce designated Ukraine a “market economy” for purposes of the application of the U.S. anti-dumping and countervailing duty statutes.

Multilaterally, the United States has encouraged Ukraine’s accession to the World Trade Organization (WTO) as an important way to support economic reforms. On March 6, 2006, the United States and Ukraine signed a WTO bilateral market access agreement on goods and services, which included significant benefits and market opening in areas of longstanding interest to the United States. Ukraine has almost completed its bilateral market access negotiations with other interested WTO Members, and is now focused on completing its implementation of WTO provisions and resolving outstanding issues involving WTO rules.

Ukraine must also complete negotiations on levels of funding for certain programs supporting its agriculture sector before it becomes a WTO Member.

a. Jackson-Vanik Amendment

On March 23, 2006, President Bush signed a bill terminating the application of the Jackson-Vanik amendment to Ukraine and providing for Permanent Normal Trade Relations (PNTR) tariff treatment.

b. Intellectual Property Rights

The United States withdrew Ukraine's benefits under the Generalized System of Preferences (GSP) program in 2001 and imposed trade sanctions and elevated Ukraine to the Special 301 Priority Watch List in 2002 as a result of Ukraine's record of not protecting intellectual property rights (IPR), such as widespread piracy of copyrighted goods such as compact discs (CDs) and digital video discs (DVDs). The United States lifted sanctions on August 30, 2005, after the Ukrainian Government made significant improvements to IPR protection over a number of years, culminating in the passage of amendments to the "Laser-Readable Disk Law" in July 2005. In recognition of Ukraine's efforts to improve the enforcement and protection of intellectual property rights, on January 23, 2006, the United States also reinstated GSP benefits for Ukraine and lowered Ukraine's designation under Special 301 from Priority Foreign Country to Priority Watch List.

In January 2006, the government of Ukraine agreed to work with the U.S. Government and with the U.S. copyright industry to monitor the progress of future enforcement efforts through the Enforcement Cooperation Group (ECG). This bilateral group conducted successful dialogues in the summer and fall of 2006 that brought additional IPR concerns to Ukraine's attention, particularly the non-transparent operation of copyright royalty-collecting societies in Ukraine.

c. Sanitary and Phytosanitary Issues

The March 2006 WTO bilateral market access agreement with the United States addresses the terms of U.S. exports of beef, beef products, and pork to Ukraine. The two sides signed detailed veterinary certificates related to such goods. As agreed, Ukrainian authorities have issued instructions allowing the import of U.S. origin beef and pork, and the United States is monitoring resulting trade flows. Allowing trade in these products to flow is required for Ukraine to adhere to its commitments under the bilateral agreement.

In the past, Ukraine has blocked the importation of U.S. beef and beef products due to concerns over the use of growth promoting hormones as well as bovine spongiform encephalopathy (BSE). The United States is working with the government of Ukraine to ensure that any measures undertaken by Ukraine are consistent with World Organization for Animal Health (OIE) standards. Under Ukraine's domestic legislation, its Law of Veterinary Medicine addresses this issue.

U.S. pork exports to Ukraine have historically been hampered by regulations concerning trichinae. The United States is working with Ukraine to take the necessary steps to align Ukrainian standards for trichinae with international norms.

d. Grain Exports

Ukraine is the sixth largest wheat exporter in the world. In September and October 2006, the government of Ukraine implemented new policies to restrict wheat, barley, and corn exports, following failed attempts to convince grain traders to sell wheat to the State Grain Reserve at below-market prices. The government of Ukraine said that a grain shortage would result should exports continue to flow freely, although national grain reserves were not significantly below historical levels. The measures brought grain exports to a near standstill and resulted in major financial losses for grain traders, including some

U.S. companies. The Ukrainian government's provision at the end of 2006 of export licenses for wheat exports, the volumes of which fall far short of historical trade, does not address the strong concerns expressed by the United States and other foreign governments. This issue remained unresolved at the end of 2006, but USTR and other U.S. agencies will continue to press the government of Ukraine for a workable long-term solution.

7. Central Asia and the Caucasus

The United States continues actively to support political and economic reforms in Central Asia and the Caucasus region, which includes Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan.

The United States has been working – bilaterally and multilaterally – to construct strong trade and investment links with this region. Bilaterally, the United States has concluded trade agreements to extend Normal Trade Relations (NTR, formerly referred to as “most favored nation” or “MFN”) tariff treatment to these countries and to enhance intellectual property rights protection. The United States also has extended GSP duty-free benefits to certain exports from eligible beneficiary developing countries and has negotiated bilateral investment treaties (BITs) to guarantee compensation for expropriation, transfers in convertible currency, and the use of appropriate dispute settlement procedures. The United States has some form of bilateral investment agreement with every country in the region. The United States currently has BITs in force with Armenia, Azerbaijan, Georgia, Kazakhstan, and Kyrgyzstan, and has signed a BIT with Uzbekistan, which has not yet entered into force.

Multilaterally, the United States has encouraged accession to the WTO as an important method of supporting economic reform. Now that much of this framework is in place, the U.S. Government is working to ensure that these countries satisfy their bilateral and multilateral trade obligations.

In 2005, the United States signed a multi-party Trade and Investment Framework Agreement (TIFA) with five Central Asia countries (Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan). This Agreement provides a regional forum for discussion of trade and investment with a view to improving the regional investment climate and liberalizing and increasing trade between the United States and the region. The TIFA Council first met in Washington, DC, in 2005 and then in Almaty, Kazakhstan in July 2006.

a. Jackson-Vanik Amendment

Several countries in Central Asia and the Caucasus receive conditional NTR tariff treatment pursuant to the provisions of Title IV of the Trade Act of 1974, also known as the Jackson-Vanik amendment (see description of Jackson-Vanik above in Russia section). The President has determined that all the republics of Central Asia and the Caucasus, with the exception of Turkmenistan, are in full compliance with Title IV's freedom of emigration requirements. Turkmenistan receives NTR tariff treatment under an annual Presidential waiver. Turkmenistan became subject to the annual waiver in 2003, following the re-imposition of an exit visa requirement.

Pursuant to specific legislation, the President has terminated application of title IV to Kyrgyzstan, Georgia and Armenia. These countries now receive permanent normal trade relations (PNTR) treatment and the United States applies the WTO to these countries.

The Administration continues to consult with the Congress and interested stakeholders with a view to removing other countries in the region that comply fully with the Jackson-Vanik amendment's freedom of emigration provisions from the coverage of title IV's provisions.

b. Intellectual Property Rights (IPR)

Since the United States concluded bilateral agreements covering IPR protection throughout the region, USTR has worked to ensure compliance by these countries with their IPR obligations. In 2000, the transitional period granted to developing countries and formerly centrally-planned economies for compliance with the WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) expired. Accordingly, USTR has conducted a close examination of compliance of WTO Members in the region with the TRIPS Agreement. The United States has cooperated with, and provided technical assistance to, the countries in the region to help improve the level of IPR protection. Copyright and trademark piracy has been a widespread and serious problem throughout the region. Customs and law enforcement authorities in the region are making slow progress in upgrading these countries' enforcement efforts, but continued close monitoring and technical assistance are still warranted.

c. Generalized System of Preferences (GSP)

Armenia, Georgia, Kazakhstan, Kyrgyzstan and Uzbekistan are beneficiaries under the GSP program. In 2004, Azerbaijan submitted an application, which is under consideration, for designation as a beneficiary developing country under the GSP program. Tajikistan and Turkmenistan have not yet applied to be designated as eligible beneficiaries in the GSP program. USTR also conducts annual reviews of country practices, as required by statute, and in response to petitions received from interested parties, to determine beneficiaries' continued eligibility to receive GSP benefits.

Country practice petitions have been accepted regarding concerns about the IPR regimes of Kazakhstan and Uzbekistan. Because of improvements made in IPR enforcement by the government of Kazakhstan, the review of the IPR petition was closed in 2006. Review of the petition for Uzbekistan, including bilateral consultations, is continuing.

8. WTO Accessions

Please see Chapter II.J.6 for the discussion of WTO accessions relevant to the region.

E. Mediterranean/Middle East

Overview

Strong trade relations with the countries of Northern Africa and the Middle East can help advance important U.S. commercial and foreign policy interests. The events of September 11, 2001, highlighted the importance of supporting peace and stability in the region by fostering economic development. The Free Trade Agreements (FTAs) in force with Israel, Jordan, Morocco and Bahrain; the FTA concluded with Oman; and the ongoing FTA negotiations with the United Arab Emirates, together with the Trade and Investment Framework Agreements (TIFAs) established with most countries in the region, provide the context for our bilateral trade policy discussions with these countries. These discussions are aimed at increasing U.S. exports to the region, improving economic prosperity for countries in the region and assisting in the development of intra-regional trade.

1. Egypt

During 2006, Egypt continued to implement significant economic reforms long urged by the United States in such areas as privatization, customs administration, banking and tax reform. Qualifying Industrial Zones (QIZs) designated in Egypt by USTR in December 2004 and November 2005 continue to

prove effective in fostering expanded economic and trade ties between Egypt, Israel and the United States. In 2005, Egypt's QIZ exports accounted for 13 percent of total Egyptian exports to the United States, a figure which more than doubled to 28 percent⁵² in 2006.

Despite joint efforts to address issues affecting U.S. companies, Egypt's intellectual property regime remained an area of concern for the United States in 2006. In April 2006, Egypt was maintained on the Special 301 Priority Watch List due to marketing approvals granted for locally produced copies of patented United States pharmaceutical products, as well as deficiencies in Egypt's copyright enforcement regime, judicial system and trademark enforcement. The Egyptian Government in 2006 took the long-awaited step of expanding the enforcement role of the Ministry of Communications and Information Technology, a measure that has the potential to improve protection for U.S. copyrights. The United States will continue to look for Egypt to address intellectual property issues that are important for continued economic development and the expansion of the U.S.-Egypt trade relationship.

2. WTO Accessions

Please see Chapter II.J.6 for the discussion of WTO accessions relevant to the region.

3. Qualifying Industrial Zones

a. Egypt

Qualifying Industrial Zones (QIZs) are established pursuant to legislation passed by the Congress in October 1996, authorizing the President to proclaim elimination of duties on articles produced in the West Bank, Gaza Strip, and goods produced in qualifying industrial zones in Jordan and Egypt that have Israeli content. The President delegated the authority to designate QIZs to the USTR. Until December 2004, all QIZs had been established in Jordan. 2004 saw the expansion of the QIZ initiative to include Egypt.

In December 2004, USTR designated three QIZs in Egypt: the Greater Cairo QIZ, the Alexandria QIZ and the Suez Canal Zone QIZ. In November 2005, at the request of Egypt and Israel, USTR approved a new zone – the Central Delta QIZ – as well as the expansion of the already designated Greater Cairo and Suez Canal Zone QIZs.

Approval of Egypt's and Israel's QIZ requests reflects continuing U.S. support for expanded economic and political ties between the two countries. In addition, the QIZs are expected to further Egypt's efforts to liberalize its economy and integrate economically with its regional neighbors and in the global market. With the QIZs accounting for 26 percent of the U.S.'s \$2.4 billion in imports from Egypt in 2006, a 100 percent increase over 2005, important progress is being made towards realizing these objectives.

b. Jordan

Qualifying Industrial Zones (QIZs) continue to play a major role in Jordan's economy. Thirteen QIZs have been established in Jordan since 1998. The duty free benefits provided by QIZs remain particularly important for Jordanian products for which duty free treatment has not yet been phased-in under the United States-Jordan FTA. QIZs played an important role in helping to boost Jordan's exports to the United States from \$16 million in 1998 to \$1.3 billion in 2005. As of October 2006, Jordan's QIZ exports were up 8.3 percent over the prior year.

In 2004, USTR designated two QIZs in Jordan (the Resources Company for Development and Investment Zone (RCDI) and Al Hallabat Industrial Park). The Zarqa Industrial Zone was designated in 2001, and

⁵² Annualized 11 month data

five QIZs were designated in 2000: The Investors and Eastern Arab for Industrial and Real Estate Investments Company Ltd. (Mushatta International Complex), El Zay Ready Wear Manufacturing Company Duty-Free Area, Al Qastal Industrial Zone, Aqaba Industrial Estate, and the Industry and Information Technology Park Company (Jordan CyberCity Company). Four QIZs were designated in 1999 (Al-Tajamouat Industrial City, Ad-Dulayl Industrial Park, Al-Kerak Industrial Estate, and Gateway Projects Industrial Zone). The first QIZ in Jordan, Irbid, opened in 1998.

The steady growth of QIZs illustrates the economic potential of regional economic integration. In addition to the competitive benefit of duty-free status for QIZ exports to the United States, QIZs increasingly offer participating companies the advantages of modern infrastructure and strong export expertise and linkages. This evolution should serve to increase the economic benefits generated by QIZs.

To address allegations reported during the year of workers' rights violations in QIZs, the United States and Jordan held senior-level meetings and established a working group under the Joint Committee of the United States-Jordan FTA to address labor law and enforcement in Jordan.

F. Asia

1. Australia

A discussion of U.S.-Australia relations during 2006 can be found in Section A, describing the U.S.-Australia FTA.

2. New Zealand

The United States and New Zealand held discussions in June under the Trade and Investment Framework Agreement (TIFA), consulting on a range of bilateral issues including agriculture, sanitary and phytosanitary standards, biotechnology, intellectual property protection, pharmaceutical policy, customs cooperation and other issues. The two governments also agreed to establish a separate dialogue on agricultural issues under the TIFA. In addition, the United States and New Zealand continued to consult closely on advancing the APEC agenda and bringing the WTO Doha Development Agenda negotiations to a successful conclusion.

New Zealand is our 53rd largest trading partner. Two-way trade totaled \$6 billion⁵³ in 2006. U.S. goods exports totaled \$3 billion⁵⁴ in 2006, up 11.8 percent from the previous year. Exports are concentrated in the machinery, aircraft and electrical machinery sectors.

3. The Association of Southeast Asian Nations (ASEAN)

a. Cambodia

The United States and Cambodia signed a Trade and Investment Framework Agreement (TIFA) on July 14, 2006. The TIFA will provide a formal mechanism for the United States and Cambodia to engage on economic and trade issues of mutual interest, including Cambodia's domestic reform program and implementation of its WTO commitments.

⁵³ Annualized 11 month data

⁵⁴ Annualized 11 month data

Cambodia became the 148th member of the WTO on October 13, 2004. Ministers at the WTO Cancun Ministerial Meeting approved terms of accession for Cambodia in September 2003, but Cambodia did not complete its domestic ratification procedures until September 2004.

b. Indonesia

i. General

The United States has worked throughout 2006 to enhance its TIFA dialogue with Indonesia, seeking to help strengthen Indonesia's economy and encourage liberalization and other economic reforms that would generate additional trade and foreign investment. U.S. and Indonesian trade officials met several times in 2006 to discuss the range of outstanding issues affecting the U.S.-Indonesian economic relationship. They discussed the need to address unresolved bilateral issues and exchanged views on developments in regional and multilateral fora such as APEC and the WTO, as well as steps to create conditions that will allow for the consideration of a possible future free trade agreement. Indonesia is currently our 40th largest goods export market and total two-way goods trade reached \$16.5 billion⁵⁵ during 2006.

ii. Intellectual Property Rights (IPR)

The United States has continued to urge Indonesia to take steps to strengthen its IPR regime. Based on an improved level of enforcement, among many factors, USTR lowered Indonesia to the Special 301 Watch List in November 2006 following an Out-of-Cycle Review. Remaining concerns over weaknesses in Indonesia's efforts in this area led the United States to provide Indonesia with a suggested IPR Plan of Action. The plan proposes areas where additional improvement in strengthening intellectual property protection is needed, including enforcement, counterfeiting and trademark violations, and prosecution and deterrent sentencing of intellectual property cases. On enforcement, the United States, in 2006, encouraged Indonesia to fully and actively enforce the 2005 Optical Disc Regulations, which offer a mechanism to better control the production of pirated optical disc media. The United States also encouraged Indonesia to take steps to improve inter-ministerial coordination on efforts to combat IPR piracy and to strengthen the legal framework and enforcement mechanisms to protect IPR.

iii. Combating Illegal Logging

In 2006, the United States concluded a Memorandum of Understanding (MOU) with Indonesia to enhance joint efforts between the two countries to combat illegal logging and associated trade. This agreement is the first of its kind for both countries and is designed to promote forest conservation and to help ensure that Indonesia's legally-produced timber and wood products continue to have access to markets in the United States and elsewhere. The MOU envisions ongoing action between U.S. and Indonesian authorities to share information on timber trade, including information on illegally-produced timber products, and cooperation in law enforcement activities. In order to guide implementation and identify priority actions that both countries will undertake, the MOU establishes a working group under the TIFA.

iv. Textiles

The United States continues to raise concerns about Indonesia's 2002 Textiles Decree, which effectively precludes the importation of certain textiles into Indonesia other than directly by local manufacturers for use as inputs into other products. In September 2006 the United States and Indonesia signed a Memorandum of Understanding (MOU) to prevent the illegal transshipment of textiles and apparel through Indonesia to the United States. The MOU provides for customs cooperation, identification of

⁵⁵ Annualized 11 month data

textile and apparel manufacturers, and joint verification visits to provide each country's government with the information necessary to stop textile and apparel transshipments. The United States is Indonesia's largest market for exports of textile and apparel products. In 2005, textile and apparel imports from Indonesia were valued at \$3 billion, making Indonesia the United States' fifth largest textile and apparel supplier in value terms. The MOU will facilitate textiles and apparel trade by helping both governments better distinguish between legitimate transactions and shipments that circumvent trade rules and procedures.

v. Sanitary and Phytosanitary Standards

The United States continued to press Indonesia in 2006 to address its concerns about a sanitary and phytosanitary (SPS) issue regarding U.S. fruit and vegetable imports. In May 2005, Indonesia issued a proposed regulation, Decree 37, which imposed new requirements for fresh fruit and vegetable imports. The proposal inaccurately represented the presence of fruit flies in the United States. Although the United States corrected this information in its August 2005 response to the proposed regulation, Decree 37 became effective on March 27, 2006 without modification of the U.S. pest status. The final regulation requires imports of fruit fly host commodities to originate from fruit fly free areas or to be treated as a condition of entry. Eleven U.S. fruit products were affected by Decree 37, including apples and grapes. Indonesia is the seventh largest market for U.S. apples with imports of over \$20 million in 2005. In December 2006, following a Ministry of Agriculture inspection visit, Indonesia declared California as a pest-free area for the Mediterranean fruit fly for grapes, opening the way to renewed grape exports. In 2005, the United States exported over \$15 million worth of grapes to Indonesia, its ninth largest market. The United States will continue to press Indonesia to permit resumption of U.S. fruit exports on the basis of sound science and in conformance with international SPS standards.

c. Laos

The United States - Laos Agreement on Trade Relations (BTA) came into effect on February 4, 2005, after domestic ratification procedures were completed in both countries. The BTA normalized trade relations between the two countries. Under the BTA, the United States extended normal trade relations status (NTR) to products of Laos. Laos agreed to implement a variety of reforms to its trade regime, including MFN and national treatment for products of the United States, transparency in rule making, establishment of a regime to protect intellectual property rights, and implementation of WTO-compliant customs regulations and procedures.

The United States is working closely with Laos to implement the terms of the BTA and is continuing to work with Laos to support its accession to the WTO. The second meeting of the Working Party for Laos' accession met in November 2006.

d. Malaysia

The United States and Malaysia launched FTA negotiations in March 2006. A discussion of U.S. – Malaysian engagement during 2006 can be found in Chapter III, Section A.16.

e. The Philippines

i. General

The United States furthered its dialogue with the Philippines in 2006, holding several rounds of consultations under the bilateral TIFA which was signed in 1989. The two sides have used these meetings to make progress in addressing outstanding concerns. In addition, the United States used these

meetings to urge the Philippines to resist taking any steps that might run counter to continued progress toward liberalizing its trade and investment regime. The United States has also asked the Philippines to reaffirm its support for global trade liberalization as outlined in the WTO Doha Development Agenda. The Philippines is currently the 19th largest export market for U.S. goods. Based on annualized data from January through November of 2006, U.S. goods exports in 2006 were \$7.7 billion, up 11.9 percent from the previous year and U.S. imports from the Philippines were \$9.8 billion, up 5.9 percent. The stock of U.S. foreign direct investment (FDI) in the Philippines in 2005 was \$6.6 billion (latest data available), up from \$6.0 billion in 2004. U.S. FDI in the Philippines is concentrated largely in the manufacturing, finance, and nonbank holding companies sectors.

ii. Intellectual Property Rights (IPR)

The Philippines continued to make some progress in its efforts to strengthen IPR protection in 2006. As a result, the United States announced in February 2006 that following an “Out-of-Cycle Review” (OCR) it had elected to lower the Philippines to the Special 301 Watch List from the Priority Watch List. The OCR concluded that throughout 2005 and into 2006, the Philippines had bolstered implementation of its special legislation that was passed to stop illegal production of pirated optical discs by controlling the licensing of, and conducting raids against, pirate optical disc production facilities. In addition, Philippine authorities conducted numerous raids on retail stores selling pirated and counterfeit goods. The Philippine government also measurably improved coordination of government agencies responsible for IPR enforcement. However, the OCR also concluded that sustained effort and continued progress on key IPR issues will be essential to avoid a future return to the Priority Watch List. To support the Philippines' efforts to strengthen its IPR regime, the United States provided Philippine officials with an IPR Action Plan intended to assist with prioritizing areas where further action is needed to improve the level of IPR enforcement, including a call for prosecutions of IPR-related crimes that result in deterrent-level sentences being handed down and actually served by offenders. The United States continues to monitor closely efforts by the Philippine Government to further improve its IPR enforcement regime.

In 2006, the Philippine Intellectual Property Office (IPO) continued work aimed at interagency coordination and cooperation on IPR enforcement. The Optical Media Board (OMB) significantly increased the number of raids it carried out against IP pirates in 2006. Nonetheless, pirated optical media continues to be widely available across the Philippines, indicating that additional enforcement action remains necessary. In addition, the Philippines has been slow to prosecute IPR offenders and impose deterrent penalties. The IPO, in 2005, proposed the creation of three Special IP Courts, but these Courts have not yet been established.

Other concerns regarding the protection of intellectual property rights in the Philippines remain. The United States has been closely monitoring proposals pending in the Philippine Congress to amend the Intellectual Property Code in ways that could weaken patent and trademark protections for pharmaceuticals. The Philippines has yet to pass copyright amendments, pending in its Congress as of January 2007, which would update its domestic law to address electronic commerce piracy.

iii. Telecommunications

The United States continues to monitor developments in the telecommunications sector, although no significant changes took place in 2006. The U.S. and Philippine governments successfully worked together to begin reopening U.S. access to the Philippines telecommunications networks. In February 2003, Philippine telecommunications companies blocked access to their networks to incoming call traffic from certain U.S. and other foreign telecommunications companies that were unwilling to agree to tariff increases the Philippine companies wanted to impose. Senior U.S. government officials, including from USTR and the FCC, raised concerns over this action with Philippine officials. In November 2003, some

telecommunications connections between the two countries were restored and ongoing negotiations resulted in a complete restoration of telecommunications links in 2004.

iv. Customs

The Philippines has made progress over the last several years toward bringing its customs regime into compliance with its WTO obligations, but the United States has continued to have concerns about inconsistent application of customs rules and procedures, undue and costly processing delays, and the role of the Philippine private sector in the valuation process. The Philippines has outlined steps it has taken and plans to take to strengthen the enforcement and consistency of its customs rules and improve enforcement against IPR piracy at the border. The United States will continue to closely monitor this issue.

v. Sanitary and Phytosanitary (SPS) Issues

Throughout 2006, the United States requested that the Philippines reform the manner in which it administers its Veterinary Quarantine Clearance (VQC) certificate program. Currently, VQCs are issued in fixed tonnage amounts that do not necessarily match the tonnage of a given shipment of U.S. meat and poultry exports to the Philippines. VQCs issued with fixed tonnage assigned to them force importers to waste VQC allotments because excess VQC tonnage can not be reclaimed in any way. This practice impedes the flow of U.S. meat and poultry exports that otherwise meet Philippine VQC standards. The United States will continue to press the Philippines to permit VQCs to be issued to match the tonnage of incoming shipments or for importers to be able to “carry over” any unused tonnage to subsequent shipments of U.S. meat and poultry.

f. Singapore

The United States and Singapore negotiated a bilateral Free Trade Agreement (FTA), which was signed in May 2003 and entered into force on January 1, 2004. United States-Singapore trade issues, including FTA implementation issues, are discussed in the section on bilateral and regional FTA negotiations (see Chapter III, section A.4).

g. Thailand

The United States and Thailand initiated negotiation of an FTA in mid-2004. A discussion of U.S. – Thai engagement on trade issues during 2006 can be found in Chapter III, section A.14.

h. Vietnam

The United States worked closely with Vietnam throughout 2006 on continued implementation of the Bilateral Trade Agreement (BTA) and concluding Vietnam’s accession to the World Trade Organization. Vietnam is currently our 43rd largest trading partner. Two-way trade totaled \$9.9 billion in 2006 based on annualized 11 month trade data, an increase of 420 percent from 2001. Exports are concentrated in the machinery and electrical machinery, plastics, and civil aircraft sectors.

The BTA entered into force on December 10, 2001. After the BTA entered into force, the United States extended NTR treatment to products of Vietnam subject to the conditions set out in the so-called Jackson-Vanik provisions of the Trade Act of 1974. In the BTA, Vietnam committed to make sweeping economic reforms, which have created trade and investment opportunities for both U.S. and Vietnamese companies over the past five years. Implementation of the BTA, in conjunction with technical assistance from the

United States, supported Vietnam's entry into the WTO and increased the country's capacity to undertake the broad reforms necessary to meet the requirements of the WTO.

The Joint Committee established by the BTA has met annually in formal session since implementation of the Agreement, most recently in June 2006. The primary purpose of the Joint Committee is to review implementation of the provisions of the BTA. The United States will continue to work with the Vietnamese to ensure continued compliance with the BTA commitments.

Vietnam concluded its bilateral and multilateral negotiations for WTO membership in 2006. In May 2006, the United States and Vietnam completed a bilateral market access agreement on goods and services, forming part of the terms of Vietnam's accession to the WTO. Throughout 2006, the United States worked intensively with Vietnam and Members of the Working Party on Vietnam's accession to the WTO to conclude negotiations on the remaining outstanding multilateral issues and to complete the Working Party Report. This work was completed in late 2006 and on November 7 the WTO General Council formally invited Vietnam to become the body's 150th member. Vietnam's National Assembly ratified the terms of accession in late November and Vietnam became a member of the WTO on January 11, 2007.

On December 8, 2006 the United States Congress passed legislation authorizing the grant of permanent normal trade relations to products of Vietnam. On December 29, 2006, President Bush signed a proclamation terminating application of the Jackson-Vanik provisions of the Trade Act of 1974 to Vietnam and extending permanent normal trade relations tariff treatment to the products of Vietnam.

4. Republic of Korea

The United States launched negotiations on a free trade agreement (FTA) with Korea on February 2, 2006. As the most commercially significant free trade negotiation launched by the United States in over 15 years, since talks with Mexico and Canada, the United States-Korea FTA (KORUS FTA) will have significant economic, political, and strategic benefits for both sides.

Korea is the world's 8th largest economy and is the United States' 7th largest trading partner, 7th largest export market and the 6th largest agricultural export market. The KORUS FTA will serve to improve upon these established ties by promoting exports of U.S. industrial and agriculture goods through eliminating Korea's tariffs on U.S. products. The amount of two-way trade between the U.S. and Korea, now valued at \$73 billion annually, is expected to grow as a result of an FTA. The FTA will provide an opportunity to eliminate or reduce tariff and non-tariff measures that impede access for industrial and agricultural goods to the Korean market, as well as reduce or eliminate restrictions that make it difficult for U.S. service providers to operate in the Korean market. It will promote bilateral investment by establishing rules that reduce or eliminate trade-distorting barriers to investment in Korea. In addition, the agreement provides the opportunity to further enhance Korea's customs administration and intellectual property regimes, and stands to address unjustified sanitary and phytosanitary barriers. The Korea FTA will also provide the opportunity to address anti-competitive business conduct, strengthen transparency in Korea's regulatory processes, and reduce non-tariff barriers, including those in the automotive and pharmaceutical sectors.

In addition to strengthening our economic partnership, the KORUS FTA will help to solidify the two countries' long-standing diplomatic relationship – serving as a pillar of our bilateral relations for generations to come. In addition, as the first U.S. FTA with a North Asian partner, the KORUS FTA promises to serve as a model for trade agreements for the rest of the region, and will underscore the U.S. commitment to and engagement in the Asia-Pacific region.

Five rounds of KORUS FTA negotiations were completed in 2006 and substantial progress was made in most of the areas of negotiations during this time. Under the talks, there are 17 negotiating groups and 2 working groups on automotives and pharmaceuticals/medical devices. The KORUS FTA is the first U.S. FTA negotiation to dedicate specific working groups to these issues. While no chapters of the agreement were closed, a good part of the FTA text was agreed upon on an *ad referendum* basis by the end of 2006. However, many sensitive issues remain to be resolved. The United States is seeking to conclude the agreement by the end of March 2007, in order to complete the agreement under the current Trade Promotion Authority. To that end, additional meetings will take place in 2007, at both the working and higher levels.

In 2006, Korea played a largely constructive role in the World Trade Organization (WTO) Doha Development (DDA) negotiations prior to the suspension, particularly in the areas of non-agricultural market access, services, and trade facilitation. Furthermore, Korea continued to cooperate closely with the United States in the Asia-Pacific Economic Cooperation (APEC) forum to help promote trade and investment liberalization in the region, particularly with regard to strengthening intellectual property rights protection and enforcement.

Non-FTA Issues

Beef: In September 2006, Korea announced the partial reopening of its market to U.S. beef exports. The market had been closed since December 2003, following the detection of an imported cow with Bovine Spongiform Encephalopathy (BSE) in Washington State.

Under the current import protocol, de-boned muscle meat from animals 30 months and younger is eligible for entry into Korea. Prior to the resumption of trade, the United States made multiple requests for a copy of the import inspection protocol that would be applied to shipments of U.S. beef upon arrival in Korea, in an effort to avoid potential misunderstandings that could jeopardize the newly re-opened market. No protocol was provided. Three shipments of de-boned muscle meat were exported to Korea in the fall of 2006. Each was rejected by Korean authorities following the detection of material Korea defined as non-compliant, but which Korea acknowledged presented no human health risk. No additional shipments were exported to Korea, and the market remains effectively closed.

The United States continues to work with Korea to fully reopen its beef market consistent with international guidelines.

5. India

a. General

In 2006, the United States and India completed an active year on trade policy. The agenda was wide-ranging, commensurate with India's dynamic and growing economy, the significant opportunities for bilateral trade that U.S. and Indian companies are enthusiastically pursuing, and the many challenges U.S. investors continue to face as India gradually opens its markets and liberalizes its economy. These efforts included work to identify areas for cooperation and focused on issues such as India's tariff and tax regime, intellectual property rights, investment climate and subsidies. India continues to limit market access in various sectors, including through high taxes and tariffs, non-transparent procedures, differential treatment of imports, and non-tariff technical measures. Our discussions also addressed WTO-related trade issues, though the bulk of such dialogue occurs in the multilateral context, mainly in Geneva. Bilateral trade doubled in the three years preceding President Bush's historic visit to India in March 2006, and President Bush and Prime Minister Singh announced in March our governments' intention to double trade again in the next three years to approximately \$50 billion. That said, the current total amount of

bilateral trade is not consistent with the size and potential of both the U.S. and the Indian economies, and both governments agree that trade and investment flows should be much greater.

b. Trade Dialogue

During President Bush's historic visit to India in March 2006, then United States Trade Representative Rob Portman and India's Minister of Commerce and Industry Kamal Nath convened the second ministerial-level meeting of the United States-India Trade Policy Forum (TPF). President Bush and Prime Minister Singh launched the TPF in 2005 as the premier mechanism for the two countries to discuss bilateral trade and related issues with a goal to expand commercial interaction between India and the United States. The discussions also address multilateral issues such as the ongoing Doha Development Round negotiations. The Trade Policy Forum is part of the overall Economic Dialogue between India and the United States. Ambassador Schwab and Minister Nath convened the third ministerial meeting in June 2006. They will continue to oversee the Forum and guide its work. Through regular dialogue both sides hope to remove impediments to bilateral trade, seek early resolution of concerns and anticipate potential problems.

The Trade Policy Forum serves as the umbrella for five Focus Groups covering Agriculture, Tariff and Non-Tariff Barriers, Services, Investment, and Innovation and Creativity (covering intellectual property rights issues). In 2006, the U.S. and Indian Focus Group co-chairs met regularly to address priority issues such as foreign direct investment caps, intellectual property rights, telecommunications policy and market access for products as diverse as automobiles and agricultural products. In 2006, Deputy U.S. Trade Representative Karan Bhatia and India's Commerce Secretaries (S.N. Menon and current Secretary Gopal Pillai) co-chaired three deputy-level meetings of the Forum and supervised the ongoing Focus Group discussions. In 2007, the Trade Policy Forum's Focus Groups will continue to meet regularly by digital videoconference and face-to-face meetings. The TPF will also meet as necessary throughout the year in New Delhi and Washington, DC, at the ministerial and deputy-levels. USTR also will continue to work with India to find common ground to ensure an ambitious outcome of the Doha Round.

6. Pakistan

Both U.S.-Pakistan trade and U.S. investment in Pakistan grew in 2006. Work continues with the government of Pakistan to enhance and expand the bilateral trading relationship, including by helping Pakistan to create a climate conducive to increased foreign investment.

In 2006, bilateral efforts included two ministerial-level meetings. USTR Susan Schwab met with Pakistan's Commerce Minister Humayun Khan in August 2006, and again in September 2006 in Cairns, Australia. In October, AUSTR Douglas A. Hartwick co-chaired the second meeting of the U.S.-Pakistan Trade and Investment Framework Agreement (TIFA) Council with Pakistan's Commerce Secretary Syed Asif Shah. The TIFA Council meeting, which took place in Islamabad, focused on a number of priorities in the bilateral economic relationship, including Reconstruction Opportunity Zones (ROZs), GSP, textiles, workers rights, services, facilitation of Afghan-Pakistan transit trade, and agriculture.

In March 2006, the President announced his intention to request Congress to authorize the creation of Reconstruction Opportunity Zones (ROZs) in Afghanistan and in Pakistan's border regions. USTR and the Department of State have led the effort to develop this initiative, which is intended to bring development and job creation to geographic areas that are among the most critical in the global war on terror. The creation of ROZs will encourage investment by granting duty-free entry to the United States for certain goods produced in designated territories. In support of this effort, USTR officials held consultations with the governments of Afghanistan and Pakistan and visited both regions. In 2007, the Administration will work closely with Congress and private sector stakeholders to implement this important initiative.

The government of Pakistan continued to take noticeable steps during 2006 to improve copyright enforcement, especially with respect to optical disc piracy. Nevertheless, Pakistan does not provide adequate protection of all intellectual property. Book piracy, weak trademark enforcement, lack of data protection for proprietary pharmaceutical and agricultural chemical test data, and problems with Pakistan's pharmaceutical patent protection remain serious barriers to trade and investment. However, Pakistan took significant steps to shut down optical disc production and exports of pirated optical discs over the last two years, and it created the Intellectual Property Rights Organization (IPO). In April 2006, in recognition of the government of Pakistan's efforts, USTR lowered Pakistan from the Special 301 Priority Watch List to the Watch List. USTR officials engaged the Pakistani Ministry of Health and IPO throughout 2006 to see that they met other commitments, particularly in areas of patent linkage and data protection.

In 2006, USTR continued bilateral efforts to finalize a Bilateral Investment Treaty (BIT), which would provide U.S. investors in Pakistan with significant legal protections. A small but significant number of differences have persisted on issues of considerable importance to the United States. Discussions on the BIT are expected to continue in 2007.

7. Afghanistan

In March 2006, the President announced his intention to request Congress to authorize the creation of Reconstruction Opportunity Zones (ROZs) in Afghanistan and in Pakistan's border regions. USTR and the Department of State have led the effort to develop this initiative, which is intended to bring development and job creation to geographic areas that are among the most critical in the global war on terror. The creation of ROZs will encourage investment by granting duty-free entry to the United States for certain goods produced in designated territories. In support of this effort, USTR officials held consultations with the governments of Afghanistan and Pakistan and visited both regions. In 2007, the Administration will work closely with Congress and private sector stakeholders to implement this important initiative.

USTR officials met twice with Afghan Minister of Commerce Mohammed Amin Farhang in 2006. Topics discussed included ROZs, Afghanistan's accession to the WTO, diversification of the economy, and the need for Afghanistan to maximize its use of the GSP program. USTR supported efforts to assist Afghanistan's economic integration into the South and Central Asia regions, including finding opportunities for Afghanistan to participate in regional conferences and raising with neighboring governments the critical need to facilitate Afghanistan's transit trade.

In 2007, in addition to efforts to put in place ROZs, USTR will hold high-level trade discussions under the auspices of the U.S.-Afghanistan Trade and Investment Framework Agreement and will conduct training for Afghan officials for future WTO accession.

8. People's Republic of China

When China acceded to the WTO on December 11, 2001, it committed to implement over time a set of sweeping reforms that required it to lower trade barriers in virtually every sector of the economy, provide national treatment and improved market access to goods and services imported from the United States and other WTO members, and protect intellectual property rights. Five years later, the deadlines for almost all of China's commitments have passed, and China's transition period as a new WTO Member is now essentially over.

China has taken significant and often impressive steps to reform its economy since acceding to the WTO. During this period, China has repealed, revised or enacted more than 1,000 laws, regulations and other measures in an effort to bring its trading system into basic compliance with WTO standards. China has also taken steps to implement numerous specific commitments pursuant to schedules set forth in its WTO accession agreement. Each year, China has made annual reductions in its tariff rates, eliminated non-tariff barriers, expanded market access for foreign services providers and improved transparency. All of these steps were designed to deepen China's integration into the international trading system, as well as to facilitate and strengthen economic reforms that China began 20 years earlier. The United States – including U.S. workers, businesses, farmers, service providers and consumers – has benefited significantly from these steps and continues to do so as U.S.-China trade grows.

Nevertheless, despite significant progress in many areas, China's record in implementing WTO commitments is decidedly mixed. China continues to pursue problematic industrial policies that rely on trade-distorting measures such as local content requirements, import and export restrictions, discriminatory regulations and prohibited subsidies, all of which raise serious WTO concerns. China's shortcomings in enforcing laws in areas where detailed WTO disciplines apply, such as intellectual property rights (IPR), have also created serious problems for the United States and its other trading partners.

U.S. industry traces many of the United States' most difficult trade issues with China to excessive Chinese government intervention in the market through policy directives and the actions of individual officials. This government intervention, evident in many areas of China's economy, is a reflection of China's historic yet unfinished transition from a centrally planned economy to a free-market economy governed by the rule of law. To some extent, these difficulties were anticipated. During the fifteen years of negotiations leading up to China's WTO accession, the United States and other WTO members were aware of the state's large role in China's economy and carefully negotiated conditions for China's WTO accession that would, when implemented, lead to significantly reduced levels of government intervention in the market and distortions in trade flows attributable to such intervention.

Noteworthy progress was made as a result of economic reforms adopted by China before and in the first few years after its accession to the WTO. But, there are indications that progress toward further market liberalization slowed in 2006.

U.S. industry expressed concern about an upsurge in industrial planning measures as tools of economic development by central government authorities in 2006, as China appeared to want to expand the government's role in directing the economy and in developing internationally competitive Chinese enterprises, while also restricting the role of international companies in certain sectors. U.S. industry believes that China's continued and expanding use of government intervention and industrial policies has the potential to create sharp frictions in bilateral economic relations.

Developments evidencing the reduced momentum for economic reforms in 2006 make clear that China has not yet fully institutionalized market mechanisms, and that some Chinese government agencies and officials have not yet fully embraced the key WTO principles of market access, non-discrimination, national treatment and transparency. A lack of consensus within China's government and competing Chinese government priorities – including differences in views and approaches among China's central, provincial and local governments – have also contributed to the reduced momentum for economic reforms, as have systemic rule of law problems.

Recognizing these challenges, USTR announced, in a “top-to-bottom” review of U.S.-China trade relations issued in February 2006, that it would adopt a dual-track approach to resolving its WTO concerns. The United States will continue to seek cooperative and pragmatic resolutions through bilateral dialogue with China, including the Joint Commission on Commerce and Trade (JCCT) and the U.S.-

China Strategic Economic Dialogue (“SED”), as well as *ad hoc* bilateral meetings and a variety of sector-specific dialogues. However, when bilateral dialogue fails to succeed in addressing U.S. concerns, the United States will not hesitate to exercise its WTO rights through the initiation of dispute settlement against China, as it would with any other mature WTO trading partner.

The United States achieved some important successes through bilateral dialogue in 2006, including at a JCCT meeting in April. At that meeting, China made several commitments related to IPR protection and enforcement and it also committed to eliminate duplicative testing and certification requirements applicable to imported medical devices, to make adjustments to its registered capital requirements for telecommunications service providers and to allow the resumption of trade in U.S. beef and beef products upon finalization of a protocol. China also reaffirmed past commitments to technology neutrality for 3G telecommunications standards and to ensuring that foreign express couriers would not be negatively impacted by new rules in the postal area. In addition, China committed to commence, by no later than December 31, 2007, formal negotiations to join the WTO’s Government Procurement Agreement. Since the JCCT meeting in April, the United States has been working with China to make sure that it implements all of these commitments.

However, to date, other issues have evaded bilateral consensus, despite extensive dialogue. Issues like IPR criminal enforcement thresholds, certain market access concerns and WTO prohibited subsidies have resisted resolution in 2006. Although the United States has been making earnest efforts to resolve these concerns through bilateral discussions, it will have to pursue other options if the bilateral approach is not fruitful.

U.S. preparation for the pursuit of formal WTO dispute settlement facilitated resolution of one dispute in 2006, and another Chinese measure is now the subject of formal WTO dispute settlement. In January 2006, after the United States informed China that it would be filing a formal request for WTO consultations in a challenge to antidumping duties that China had imposed on imports of unbleached kraft linerboard from the United States, China rescinded the antidumping duties. This result enabled U.S. industry to obtain a faster resolution to this problem than would have been possible if the dispute settlement process had needed to run its course. In March 2006, the United States, acting in coordination with the European Communities (EC) and Canada, commenced a WTO dispute settlement case challenging Chinese rules that brought back prohibited local content requirements in the auto sector through the imposition of measures that discriminated unfairly against imported auto parts. More recently, in November 2006, the United States informed China that it would be filing a WTO consultations request with regard to certain IPR enforcement issues, but then agreed to hold off, with the support of U.S. industry, when China asked for further bilateral discussions.

Overall, several areas continue to cause particular concern for the United States and U.S. industry in terms of China’s full adherence to its WTO commitments. The key concerns in each of these areas are summarized below.

Intellectual Property Rights

Since its accession to the WTO, China has been able to put in place a relatively good set of laws and regulations aimed at protecting the intellectual property rights of domestic and foreign rights holders. However, some critical measures – such as those establishing high thresholds for criminal prosecution – still need to be revised, and China’s enforcement of its laws protecting the intellectual property rights covered by the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (the TRIPS Agreement) has often been ineffective. With many in U.S. industry reporting no significant reduction in IPR infringement levels again in 2006, counterfeiting and piracy in China remain at unacceptably high levels and cause serious economic harm to U.S. businesses in virtually every sector of the economy.

In 2006, the Administration continued to place the highest priority on improving IPR enforcement in China. One key focus of the United States' bilateral engagement with China continued to be on working with China to improve its IPR enforcement regime so that significant reductions in IPR violations in China could be realized. The United States sought to build on its earlier engagement with China at the April 2004 and July 2005 JCCT meetings, and it placed China on the Special 301 Priority Watch List in 2005. Through the JCCT process in 2006, which included a meeting in April, China agreed to take some immediate steps to address particular problems and committed to take additional future actions. During the run-up to the JCCT meeting, China took enforcement actions against plants that produce pirated optical discs, and it issued new rules that require computers to be pre-installed with licensed operating system software. At the JCCT meeting itself, China committed to ensure the legalization of software used in Chinese enterprises, to pursue increased cooperation to combat pirated goods displayed at trade fairs in China and to intensify efforts to eliminate infringing products at major consumer markets in China. The two sides further agreed that they would increase cooperation between their respective law enforcement and customs authorities and that the United States would provide China with additional technical assistance to assist it in fully implementing the World Intellectual Property Organization (WIPO) Internet treaties, which address the increasingly important area of copyright protection over electronic information networks.

Despite this progress, China continues to deflect calls from the United States and other WTO members for better utilization of criminal remedies to combat rampant IPR infringement in China, claiming that its combination of administrative, civil and criminal enforcement is increasingly effective. The available statistics on continuing massive IPR infringement in China raise obvious questions about this claim. The United States and other WTO members have been unable to review details concerning China's administrative, civil and criminal enforcement system because of China's lack of transparency. In an attempt to better assess this situation, the United States, Japan and Switzerland submitted requests to China under Article 63.3 of the TRIPS Agreement in October 2005, seeking detailed information from China on its IPR enforcement efforts over the prior four years. China has provided only limited information in response, hampering the United States' ability to evaluate what steps are being taken to try to address the rampant IPR infringement found throughout China.

The United States remains committed to working constructively with China to significantly reduce IPR infringement levels in China and continues to devote extra staff and resources, both in Washington and in Beijing, to address the many aspects of this issue. At the same time, when bilateral discussions prove unable to resolve key differences on particular issues, the United States remains prepared to take action, including WTO dispute settlement, where appropriate, to ensure that China develops and implements an effective system of IPR enforcement, as required by the TRIPS Agreement.

Industrial Policies

China has continued to resort to industrial policies that limit market access for non-Chinese origin goods and foreign service providers and that provide substantial government resources to support Chinese industries and increase exports. In some cases, the objective of these policies seems to be to promote the development of Chinese industries that are higher up the economic value chain than the industries that make up China's current labor-intensive base. In other cases, China appears simply to be protecting less competitive domestic industries.

In 2006, examples of these industrial policies remained evident. One obvious example is China's regulations on auto parts tariffs, issued in 2005, which serve to prolong prohibited local content requirements for motor vehicles – a matter that is currently the subject of a WTO dispute brought by the United States, the EC and Canada. Other examples include the telecommunications regulator's continuing interference in commercial negotiations over royalty payments to intellectual property rights

holders in the area of 3G standards; the continuing pursuit of unique national standards in many areas of high technology that could lead to the extraction of technology or intellectual property from foreign rights holders; a July 2005 industrial policy that calls for the state's management of nearly every major aspect of China's steel industry; export restrictions on raw materials like coke; and excessive government subsidization benefiting a range of domestic industries in China. Worrying new measures in 2006 include new requirements for state control of "critical" equipment manufacturers, revised rules for foreign mergers and acquisitions that confer broad and vaguely defined powers on the government to block investments in a range of industries, and plans to steer government purchases to domestic manufacturers to promote innovation in Chinese enterprises. Some of these policies appear to conflict with China's WTO commitments in the areas of market access, national treatment and technology transfer, among others.

The United States and China made little progress in resolving U.S. concerns regarding these industrial policies in 2006. China did reaffirm its commitment to technology neutrality for 3G telecommunications standards, but serious disagreements over a number of other industrial policies remain, including China's continued use of prohibited subsidies. The United States will again press China on these matters in 2007 and will take further appropriate actions seeking elimination of these policies, including WTO dispute settlement, where appropriate.

Trading Rights and Distribution Services

China was scheduled to phase in two key WTO commitments by December 11, 2004. These commitments called for full liberalization of trading rights – the right to import and export – and distribution services, including wholesale and retail services, franchising services and related services. Although delay and confusion initially characterized China's efforts to implement its distribution services commitments, China was able to largely overcome these problems in 2006, prodded by consistent and determined U.S. engagement. U.S. companies and individuals in most sectors are now not only able to import and export goods in China directly, without having to use a middleman, but are also able to establish their own distribution networks within China. Many in U.S. industry consider trading rights and distribution services to be the most important of the WTO commitments China has so far implemented.

Nevertheless, some problems still remain in critical areas. In particular, China continues to maintain import and distribution restrictions on several types of products, including foreign publications such as books, periodicals and audio and video products, in apparent contravention of China's trading rights and distribution services commitments. These restrictions reduce and delay market access for these copyrighted products, creating additional incentives for infringement in China's market. Another key area involves China's commitment to open its market for sales away from a fixed location, also known as "direct selling." Initially delayed, China's implementation of this commitment has since proceeded slowly and has subjected foreign direct sellers to unwarranted restrictions on their business operations. The United States will continue to pursue these important issues in 2007 to ensure that China fully meets its commitments and will take further appropriate actions seeking the revision or elimination of problematic policies, including through WTO dispute settlement, where appropriate.

Agriculture

U.S. agricultural exports to China in 2005 totaled \$5.2 billion, with China becoming the United States' fourth largest agricultural export market. The past year was even more successful. U.S. exports of agricultural commodities, particularly cotton and wheat, have continued to increase dramatically in recent years, and China remained the leading export destination for U.S. soybeans – well exceeding \$2 billion for the fourth year in a row.

While U.S. exports of agricultural commodities largely fulfill the potential envisioned by U.S. negotiators during the years leading up to China's WTO accession, China's WTO implementation in the agricultural sector continues to be plagued by uncertainty, largely because of selective intervention in the market by China's regulatory authorities. As in past years, capricious practices by Chinese customs and quarantine officials can delay or halt shipments of agricultural products into China, while sanitary and phytosanitary (SPS) standards with questionable scientific basis and a generally opaque regulatory regime frequently bedevil traders in agricultural commodities, who require as much predictability and transparency as possible in order to preserve margins and reduce the already substantial risks involved in agricultural trade. As a result, trade with China in the agricultural sector remains among the least transparent and predictable of the world's major markets.

In 2007, the United States will continue to pursue vigorous bilateral engagement with China in order to obtain progress on its outstanding concerns, particularly with regard to China's ban on the importation of U.S. beef and beef products. This issue is emblematic of the problems that U.S. exporters face with non-transparent application of SPS measures, many of which appear to lack scientific basis and impeded market access for many U.S. agricultural products in 2006, particularly exports of consumer-ready and value-added products.

Services

Overall, the United States enjoyed a substantial surplus in trade in services with China in 2006, as in prior years, and the market for U.S. service providers in China remains promising. However, in some sectors, the expectations of the United States and other WTO members when agreeing to China's commitments to increase market access and remove restrictions have still not been fully realized. Chinese regulatory authorities continue to frustrate efforts by U.S. providers of banking, insurance, motor vehicle financing, telecommunications, construction and engineering, legal and other services to achieve their full market potential in China through the use of an opaque regulatory process, overly burdensome licensing and operating requirements, and other means.

In 2006, U.S. engagement led to some positive developments. China's insurance regulators continued to participate in a dialogue on insurance issues, and China made a commitment at the April 2006 JCCT meeting to adjust capital requirements for telecommunications services providers, although it has been slow to follow through on that commitment. China also reiterated its commitments at the April 2004 and July 2005 JCCT meetings not to negatively affect the regulatory environment for foreign providers of express delivery services via new postal rules being drafted.

At the same time, some new concerns arose in 2006. Xinhua, the Chinese state news agency, issued rules in September 2006 imposing new restrictions on foreign providers of financial information services, in apparent contravention of China's WTO obligations. In addition, a variety of problematic proposals were circulated by Chinese regulators as China prepared to implement important financial services commitments scheduled to be phased in by December 11, 2006. In 2007, the United States will continue to engage China and will closely monitor developments in these areas in an effort to ensure that China fully adheres to its commitments.

Transparency

One of the fundamental principles of the WTO Agreement, reinforced throughout China's WTO accession agreement, is transparency. Adherence to this principle permits markets to function effectively and reduces opportunities for officials to engage in trade-distorting practices behind closed doors. While China's transparency commitments in many ways require a profound historical shift, China made important strides to improve transparency across a wide range of national and provincial authorities during the first four years of its WTO membership, although two shortcomings stood out. By the

beginning of 2006, China had still not adopted a single official journal for publishing all trade-related measures, and it had yet to regularize the use of notice-and-comment procedures for new or revised trade-related measures prior to implementation, despite having made commitments to do so. In March 2006, after the United States elevated this issue to the JCCT level, China finally adopted a single official journal, although much work remains for China to ensure full participation by all relevant government entities. The United States has also pushed China to adopt a mandatory notice-and-comment practice, but, to date, this practice remains optional in China. As a result, in 2006, many of China's regulatory regimes continued to suffer from systemic opacity, frustrating efforts of foreign – and domestic – businesses to achieve the potential benefits of China's WTO accession.

Conclusion

In 2007, the Administration will continue its relentless efforts to ensure China's full implementation of specific WTO commitments and full adherence to China's ongoing obligations as a WTO member, with particular emphasis on reducing IPR infringement levels in China and on pressing China to make greater efforts to institutionalize market mechanisms and make its trade regime more predictable and transparent. Throughout this process, the Administration will use a dual-track approach. The Administration remains committed to working cooperatively and pragmatically with China to ensure that the benefits of China's WTO membership are realized by U.S. workers, businesses, farmers, service providers and consumers and that problems in our trade relationship are appropriately resolved. The new, high-level U.S.-China Strategic Economic Dialogue, which began in December 2006, demonstrates that commitment and promises to provide a useful framework for understanding and supporting, at a broader level, key bilateral problem-solving efforts, such as the JCCT process and other bilateral dialogues. When bilateral dialogue is not successful, however, the Administration will not hesitate to employ the full range of enforcement tools available as a result of China's accession to the WTO, whether it be the dispute settlement procedures at the WTO or the strict enforcement of U.S. trade laws to ensure that U.S. interests are not harmed by unfair trade practices.

9. Japan

Economic reforms that spur business, trade and investment are necessary to help keep Japan on a positive growth track as well as to promote an open business environment that affords U.S. companies new opportunities to serve consumers in Japan's market. The United States therefore welcomes Prime Minister Shinzo Abe's commitment to pursue reform and continues to urge Japan to accelerate and broaden its regulatory and structural reform program in ways that promote competition and create new markets. The United States engaged Japan during 2006 to resolve important bilateral trade issues, while also working more closely to advance mutual trade priorities in the Asia-Pacific region and around the globe.

Overview of Accomplishments in 2006

U.S.-Japan Economic Partnership for Growth

The U.S.-Japan Economic Partnership for Growth (the Partnership) is the primary vehicle governing our bilateral trade and economic relations by providing multiple fora through which to achieve progress that strengthens our economic ties and promotes growth in our economies. Both countries cooperate under the Partnership to coordinate international trade and economic policies, promote structural and regulatory reform, facilitate foreign direct investment, and remove trade barriers. Functionally, the main elements of the Partnership in 2006 are as follows: Subcabinet Economic Dialogue, the Regulatory Reform and Competition Policy Initiative (Regulatory Reform Initiative), the Investment Initiative, the Financial

Dialogue, and the Trade Forum. Highlights of activities under the Partnership during 2006 include the following:

a formal meeting of the Subcabinet Economic Dialogue took place in Tokyo in December 2006 to coordinate and provide direction to our overall policies on bilateral, regional, and multilateral affairs and to outline areas to strengthen our cooperation in the coming months and years. The Subcabinet participants emphasized the need to achieve concrete progress during 2007 on issues of importance to our bilateral economic ties as well as to our mutual interests in the Asia-Pacific region including the protection of intellectual property rights, the facilitation of secure trade, and the promotion of greater transparency in regulatory and policy processes. Less formal consultative meetings of the Subcabinet Dialogue were convened in June and October 2006;

under the Regulatory Reform Initiative, the Fifth Report to the Leaders presented to President Bush and Prime Minister Junichiro Koizumi on June 29, 2006, reflected progress across several industry sectors as well as on cross-cutting issues that affect the overall business and trade environment in Japan. The United States continued to urge Japan to make further progress on reform in its December 2006 recommendations, which will be addressed during the first half of 2007; and

in 2006, the United States and Japan convened two working-level meetings of the Investment Initiative and raised a number of topics, including mergers and acquisitions, medical and educational services, and labor mobility. This Initiative also co-sponsored investment promotion seminars in both countries to promote better understanding and support for foreign direct investment (FDI) among regional government and business leaders.

a. Regulatory Reform

The Regulatory Reform Initiative's June 2006 Report to the Leaders identified a range of new measures taken by Japan to help boost competition, open up new business opportunities, and remove barriers that have favored incumbent Japanese entities. Progress was made across a number of sectors, such as medical devices and pharmaceuticals, telecommunications, agriculture, information technologies, and financial services. In addition, Japan implemented new measures in areas that impact multiple industries, including distribution, competition policy, transparency, privatization of public corporations, and commercial law.

The United States continued to urge Japan to make further progress in its comprehensive set of reform recommendations released in December 2006. These recommendations placed a greater emphasis on reforms in the areas of agriculture as well as transparency in regulation and policy-making, in addition to continuing to call on Japan to implement further reforms in areas such as Japan Post privatization and in specific industry sectors such as medical devices and pharmaceuticals.

Initial Working Group meetings to discuss the December 2006 recommendations will take place in early 2007, to be followed by additional Working Group meetings and a bilateral High-Level Officials Group in the spring. The Initiative's Sixth Annual Report to the President and Prime Minister will be completed sometime during mid-2007 to detail progress made under this year's Initiative, including specific measures to be taken by each government.

Highlights of the June 2006 Report to the Leaders as well as key reform recommendations submitted to Japan in December 2006 are summarized below:

i. Sectoral Regulatory Reform

Telecommunications: Establishment of a pro-competitive telecommunications services market in Japan based on transparent regulation is the primary focus of the United States in advocating regulatory reform for this sector in Japan. Despite significant progress, Japan's telecommunications regulator, the Ministry of Internal Affairs and Communications (MIC), continues to defer to the interests of Nippon Telegraph and Telephone (NTT) at the expense of business and residential users and to the detriment of promoting competition in the telecommunications services market. While the competitive provision of broadband services is encouraging, the inability of new entrants to make significant inroads into NTT's control of 95 percent of subscriber telephone lines and 55 percent of mobile customers continues to impair the introduction of innovative, low-cost services to business and residential users in Japan, one of the world's largest and most advanced telecommunications markets.

The June 2006 Report to the Leaders highlighted measures taken by Japan to promote further competition in this sector. These measures included policy deliberations on new competition rules for networks migrating to Internet Protocol (IP), guidelines for Mobile Virtual Network Operators (MVNOs), and technical requirements for broadband mobile wireless access systems. Although the United States was disappointed by Japan's decision to delay until 2010 an important discussion on NTT's reorganization, the original proposal by NTT in 2005 to merge its operations was derailed by opponents who proposed to split NTT's operations further.

MIC continues to grapple with NTT's loss of business to wireless and voice-over-the-Internet while maintaining its universal service obligations. In 2005, MIC implemented a more rational rate structure for wireline interconnection rates by phasing out fixed costs that have been unnecessarily charged to competitors. The United States had pressed Japan for many years to remove these costs from the formula because they distort the rates for wholesale access to the network, calculated on a per-minute basis. In 2006, the interconnection rates for local and tandem switches decreased 5.1 percent and 3.5 percent, respectively. MIC, however, is allowing NTT a five-year transition period, which delays the much-needed reductions for competitors. MIC is expected to continue studying how to revise or replace the rate structure, and the United States will continue discussions with MIC to ensure any changes will improve the competitive environment.

The mobile wireless sector also remains an area of concern. NTT DoCoMo, designated since 2002 as a "dominant carrier," reduced its interconnection rates by only 2.6 percent (the lowest decrease in five years) and overall rate levels in Japan remain high. The high cost of connecting international calls to a mobile subscriber in Japan is passed along to U.S. consumers in the form of surcharges. The United States will continue to press Japan for measures that may have an impact on these rates, such as encouraging competition and preventing anticompetitive behavior by DoCoMo towards new market entrants.

In its December 2006 Regulatory Reform submission, the United States urged Japan to take measures to ensure market-based technology decisions, strengthen competitive safeguards on dominant carriers, and streamline certification processes for telecommunications equipment. These recommendations will be discussed at the next meeting of the Telecommunications Working Group.

In 2006, the United States and Japan reached tentative agreement on the text for a Mutual Recognition Agreement (MRA) for conformity assessment procedures for telecommunications equipment. After the MRA is implemented, U.S. manufacturers will have the option of certifying equipment for Japan's technical regulations at designated U.S.-based testing laboratories. This is expected to facilitate faster and more efficient trade in telecommunications equipment with Japan.

Information Technologies: The Information Technologies Working Group (ITWG) under the U.S.-Japan Regulatory Reform Initiative (RRI) promotes vibrant Information Technology (IT) and electronic commerce policies that benefit both Japan and the United States. It also works to support Japan's intellectual property strategy goals, and to advance policies and practices to address challenges posed by digital communication in the modern age. In 2006, Japan continued its work to implement new policies and reforms related to IT and electronic commerce, as evidenced by the completion of several new plans for IT-related policies, including the New IT Reform Strategy, Priority Policy Program 2006, and e-Government Promotion Plan. In addition, Japan continued efforts to strengthen its Copyright Law and achieve numerous other goals related to the creation, protection, and enforcement of intellectual property rights.

In the June 2006 Report to the Leaders, Japan expressed its intention to foster a regulatory environment that promotes the utilization of IT, including electronic commerce, and to provide meaningful opportunities for interested parties to contribute to IT policy formulation. It reaffirmed the importance of technology neutrality for encouraging innovation, indicated that it would cooperate with the private sector in standards development, and recommitted to harmonizing its policies for electronic commerce and related Internet technologies with international practice. In addition, Japan recognized the need to ensure that its Revised Administrative Procedure Act provides meaningful opportunities for input into the administrative rulemaking process, including for the IT and electronic commerce sectors.

With regard to protecting intellectual property, Japan and the United States reaffirmed in the 2006 Report to the Leaders their commitment to intensify cooperation to strengthen intellectual property rights protection and enforcement in Asia and around the world. This is part of a broader effort by the United States and Japan to cooperate on IPR that also included stepping up efforts to address shared problems in China and advancing implementation of the APEC Anti-Counterfeiting and Piracy Initiative.

In addition, Japan is undertaking a sweeping review of its Copyright Law to address issues stemming from the burgeoning use of digital technology. The United States hopes that this review will result, among other things, in decisions to implement a statutory damages system and extend the term of protection for sound recordings and all copyrighted works.

In the 2006 Report to the Leaders, Japan also acknowledged the private sector's leadership role in online consumer protection and management of personal data. Japan took several steps towards improving transparency and understanding related to implementation of Japan's Law on the Protection of Personal Information (Privacy Law). Japanese officials participated in a third public-private sector roundtable in June 2006 to educate U.S. and Japanese industry on the Privacy Law, and Japan also offered to take steps to clarify that failure to adhere to voluntary guidelines would not result in penalties to firms. Japan convened various working groups to devise strategies to combat online fraud and to help generate public awareness. Japan is vigorously enforcing its amended law on Regulation of Transmission of Specified Electronic Mail (Anti-Spam Law), and promoted international anti-spam activities in close cooperation with the private sector and the U.S. Government. In April 2006, the governments of the United States and Japan collaborated to support the U.S.-Japan Financial Technology Seminar to discuss how best to combat online fraud.

Japan took significant steps to improve information security as well. It affirmed the importance of private sector input in the development of guidelines for local governments' information security policy by holding a public comment period on a draft of these guidelines in fall 2006. Japan also confirmed it would work with the private sector to develop and disseminate voluntary best practices for information security.

The United States and Japan also discussed emerging issues such as Japan's work on IT-related financial reforms, health IT, and e-accessibility. Japan affirmed the private sector's lead role in promoting IT

investments in financial services and indicated it was working to promote consistency among IT-related financial reforms and other IT and electronic commerce regulations and policies. Japan acknowledged the importance of observing technology neutrality, to the extent practicable, in policymaking for health IT. Japan agreed to continue to exchange information with the United States on e-accessibility issues.

Japan improved government IT procurement processes by: (1) implementing components of the Inter-Ministerial Task Force for Information Systems Procurement (Task Force) 2002 memorandum on government IT procurement reform; (2) clarifying and limiting liability in certain procurement contracts; and (3) developing rules for investigations of extremely low-priced bids. In addition, Japan has developed legislation for fiscal year 2007 that will make it possible for contractors to obtain ownership rights to intellectual property created through government-sponsored development of IT systems, including software. Japan acknowledged the need to sign contracts as soon as possible after winning bidders are chosen.

Building on these accomplishments, the United States, in its December 2006 recommendations, urged Japan to take steps designed to foster the growth of Japan's IT sector and create greater opportunities for U.S. companies. These recommendations focus on increasing the transparency of Japan's IT and electronic commerce policy-making processes; strengthening intellectual property rights protection and enforcement; ensuring an effective review of the implementation of the Privacy Law; enhancing online security; promoting the use of IT for delivery of health services; sharing information on e-accessibility; and carrying out reforms of government IT procurement.

Medical Devices and Pharmaceuticals: Japan's regulatory and reimbursement pricing systems unnecessarily slow the introduction of innovative U.S. medical devices and pharmaceuticals in Japan and do not adequately create incentives for the development of innovative products. The United States raised these issues with Japan in 2006 in the Medical Devices and Pharmaceuticals Working Group, which meets under both the Regulatory Reform Initiative and the Market-Oriented, Sector-Selective Agreement.

Companies often introduce innovative medical devices and drugs in the United States and Europe several years before marketing them in Japan because of Japanese regulatory delays, among other factors. Japanese patients may wait years for innovative medical technologies and pharmaceuticals that are available elsewhere. Japanese regulators have acknowledged the need to reduce delays in the introduction of new devices and drugs in Japan. Japan changed its Pharmaceutical Affairs Law in 2005 and created the Pharmaceuticals and Medical Devices Agency (PMDA) in 2004, in part, to speed approvals of new products. Those changes have not been successful yet, so the U.S. Government continued to urge Japan to speed approvals by increasing regulatory resources, sharing information with industry, and streamlining reviews. In the June 2006 Report to the Leaders, the United States and Japanese governments noted the efforts by PMDA and the Ministry of Health, Labor and Welfare (MHLW) to speed the introduction of safe, effective, and innovative devices and drugs. In the subsequent December 2006 Regulatory Reform Initiative submission, the United States recommended that Japan reform regulations and practices that impede the development and introduction of devices and drugs in Japan. Specifically, the United States recommended that Japan increase regulatory agency staffing, eliminate application backlogs, and improve the environment for clinical trials. The U.S. Government also raised concerns about Japan's regulation of nutritional supplements, over-the-counter medicines, and cosmetics and quasi-drugs.

As Japan confronts the problems of a rapidly aging society, it is also examining ways to limit the growth of healthcare spending through means such as changes to reimbursement pricing policies for devices and drugs. In 2006, the U.S. Government opposed a Japanese proposal to double the frequency of revisions to device and drug reimbursement prices to once a year out of concern the proposal would reduce incentives for companies to develop innovative products. In December 2006, MHLW decided not to conduct a price

revision in Japan Fiscal Year 2007, but the United States continues to monitor the situation, as media reports indicate the proposal might be revived. In the 2006 Report to the Leaders, MHLW noted that the U.S. Government opposed Japan's proposal for an annual pricing system. In its 2006 Regulatory Reform Initiative submission, the United States urged Japan to consider the budgetary and health benefits of pricing systems that reward development of innovative products and to improve transparency and industry's ability to offer input on pricing policies and decisions.

Financial Services: Japan has made significant progress in recent years in allowing new financial products, increasing competition within and between financial industry segments, and enhancing accounting and disclosure standards. Foreign financial service providers reach customers in most segments of the Japanese financial system.

The Financial Instruments and Exchange Law, enacted by the Diet in June 2006, amends the Securities and Exchange Law and other related laws so that investment advisors, investment trust management companies and securities companies will become subject to the same supervision as financial instrument firms. Under the amended law, the Financial Services Agency (FSA) will publish relevant draft cabinet and ministerial ordinances through the public comment process. The amended Administrative Procedure Law, effective in April 2006, establishes a minimum 30-day public comment process as a statutory procedure.

In December 2006, the Diet approved revisions to the Money Lending Business Law. The revised law will lower the maximum allowable interest charges on uncollateralized consumer loans, and introduce a legal limit on the total amount of consumer loans that individuals can borrow from moneylenders. The bill also calls for designated credit bureau establishments to share credit information among moneylenders. It contains a clause requiring the government to review the status of lending rates and business conditions of moneylenders within 30 months after the revised Law takes effect.

In its December 2006 Regulatory Reform recommendations, the United States commended Japan on its progress on financial services regulatory reforms and called on Japan to continue such reforms to support further development of the Japanese financial markets, thereby allowing Japan to take full advantage of international financial expertise and to support future Japanese growth. These recommendations include: (1) expanding the body of published written interpretations of Japan's financial laws; (2) publishing and updating the Financial Inspection Basic Policy and inspection manuals, and using private sector outreach to make the inspection process more transparent and predictable; (3) providing sufficient opportunity for thoughtful comment on all the forthcoming implementing regulations related to the Financial Instruments and Exchanges Law; (4) creating a legal and regulatory framework for a credit bureau system with fair and open access to full-file credit information; (5) specifying the scope of all required firewalls and firewall maintenance "best practices" in detailed written guidance; (6) expanding the use of corporate defined contribution pension programs; (7) harmonizing the regulatory framework governing investment advisory and investment trust management activities, and eliminating inconsistencies and duplications; (8) allowing mergers and reducing obstacles to the early termination of investment trusts; and (9) reviewing the revisions to the institutional investor disclosure rules for large shareholdings. These issues were discussed in January 2007 at the sixth meeting of the U.S.-Japan Financial Services Working Group in Tokyo.

ii. Structural Regulatory Reform

Competition Policy: A key goal of our Regulatory Reform efforts is to ensure that steps to deregulate and introduce competition into Japan's economy are not undone by anticompetitive actions by firms and trade associations resistant to such steps. An active and strong antitrust enforcement policy in Japan is needed to eliminate and deter anticompetitive behavior, including stronger measures to dismantle Japan's bid-rigging (dango) system.

Japan took some very important steps in 2006 aimed at strengthening competition in the Japanese market and ensuring that Japan Fair Trade Commission (JFTC) enforcement actions are applied in a fair and transparent manner. In January 2006, JFTC introduced an Antimonopoly Act (AMA) Leniency Program that encourages firms to report the existence of cartels and bid rigging agreements to JFTC by eliminating administrative fines and criminal penalties for the first reporting company and reducing administrative fines for up to two additional reporting companies. JFTC also introduced a procedure aimed at strengthening due process rights of the subjects of its investigations. Under the new procedure, JFTC will, before issuing any cease and desist or surcharge payment order for violation of the AMA, allow the subject companies to review the evidence obtained by JFTC and to present their own evidence and views to JFTC. Proposed recipients of warnings for suspected violations of the AMA or the Premiums and Misrepresentations Act will be provided a draft of the proposed warning and will be given the opportunity to submit any views and evidence on their behalf before a final decision is made by JFTC.

Japan also strengthened measures in 2006 aimed at preventing bid-rigging. The Ministry of Land, Infrastructure and Transport (MLIT) established an administrative leniency program that will encourage reporting of bid-rigging and complement the JFTC Leniency Program. The MLIT program cuts in half the period of suspension from bidding for companies that were admitted to JFTC's Leniency Program. MLIT also doubled to 12 months the minimum period of suspension from bidding for firms that commit a second serious bid-rigging violation within ten years. Furthermore a Cabinet Decision was issued in May 2006 that will help address Japan's bid-rigging problem by expanding the open bidding system, strictly implementing suspensions from bidding for firms engaging in bid-rigging, and requiring greater government efforts to eliminate and prevent government-led bid-rigging.

Transparency: The United States welcomed Japan's implementation of a revised Public Comment Procedure (PCP) in April 2006. This reform requires ministries and agencies to solicit comments on proposed rule changes for a minimum of 30 days, in principle. This step represents a significant improvement in Japan's formal procedures. Monitoring of the new system since its implementation, however, has indicated the PCP is not yet being evenly applied by related government entities. In its December 2006 recommendations, the United States therefore urged Japan to take further steps to improve the PCP as well as to take additional steps to improve the transparency of its regulatory and policy-making processes by: 1) implementing rules relating to government-appointed advisory groups to ensure they are consistently, as appropriate, open to opportunities for interested parties to express views and be informed of deliberations; 2) requiring ministries and agencies to make public in writing their regulations and any statements of policy or generally applicable interpretations regarding those regulations; 3) soliciting public comments, to the extent possible, on draft legislation prepared by ministries and agencies; and 4) ensuring adequate periods for companies to comply with new regulations. The United States also seeks a stronger partnership with Japan to promote high standards of transparency throughout the Asia-Pacific region, including implementation of APEC transparency standards by Member Economies.

Other Government Practices: The United States also urged progress on a variety of other government practices in the Regulatory Reform Initiative during 2006, including in the areas of agriculture and insurance-related practices.

In the 2006 Report to the Leaders, progress was demonstrated regarding Japan's revision of quarantine and inspection practices for imported produce to help bring Japan into conformity with certain international standards. The United States also urged Japan, in its December 2006 recommendations, to make further progress in agriculture by implementing international standards in plant quarantine and in other measures, including biotech products; implementing international standards in animal health and related measures; ensuring measures that enforce maximum pesticide residue levels are the least trade

restrictive possible; and completing review of food additives recognized as safe by a Joint FAO/WHO Evaluation Committee.

The 2006 Report to the Leaders also reported progress in the insurance sector including: 1) implementation of amended regulations to further broaden the scope of insurance products available through banks; and 2) steps to bring certain unregulated insurance cooperatives (kyosai) under the oversight of the Financial Services Agency, a measure that should strengthen the stability of the insurance market and consumer protection. (*For additional discussion of insurance-related issues, see 'Bilateral Consultations – Insurance' section below.*)

Privatization – Japan Post: Japan's privatization of public corporations continued to feature prominently in the United States' Regulatory Reform recommendations. A particular focus was placed on Japan Post privatization and reform, where the United States continued to call on Japan to implement measures that ensure that a level playing field is established between Japan Post (and its successor entities) and private sector competitors in the banking, insurance, and express delivery markets. The United States, furthermore, continued to urge Japan to ensure that a level playing field is actually created between the postal financial institutions and private financial institutions before the postal financial institutions are permitted to introduce new lending services, underwrite new or altered insurance products, or originate non-principal-guaranteed investment products. The United States also emphasized the importance of clarity and transparency in the reform process, asking Japan to ensure that the process, including with respect to advisory bodies, is made fully transparent and that meaningful opportunities are made available to interested parties to express views before decisions are made.

With respect to insurance and banking, the United States welcomed confirmation by Japan in the 2006 Regulatory Reform Initiative Report to the Leaders that the new Japan Post entities, from October 2007, will be held to the same regulations, laws, and ordinances as other private sector companies, including the Banking Law and Insurance Business Law. The United States also welcomed confirmation that postal savings and insurance products will no longer be subject to government guarantees and that the new postal financial institutions will be required to meet the same licensing, disclosure, and supervisory requirements as private sector financial institutions. When fully implemented, these and other steps confirmed by Japan are important elements in the establishment of a level playing field. In its December 2006 Regulatory Reform recommendations, the United States continued to urge Japan to implement additional steps to ensure the Japan Post privatization law's objective of creating equivalent conditions of competition between the new entities and the private sector is ultimately achieved. These include ensuring fair and transparent selection of private sector financial products for distribution through the Post Office network and steps to ensure cross-subsidization does not occur among the newly created entities, among other issues. The United States looks to Japan to finish the job of ensuring equivalent conditions of competition are firmly established before the new postal entities are permitted to introduce their own new financial products.

In addition, the United States urged Japan to ensure fair competition in its express delivery sector by taking a number of steps to put Japan Post's express delivery services on an equal footing with private service suppliers. The United States welcomed confirmation by Japan in the 2006 Report to the Leaders that it will apply ordinary freight transportation laws and ordinances to Japan Post's international and domestic physical distribution services as well as to deliveries of postal items via truck and similar methods. Japan also confirmed that Japan Post and successor entities will be made subject to the same aviation safety and security laws and regulations as those applied to private companies. Japan furthermore indicated it will require the new postal delivery company to disclose profits and losses for different operations in a manner that will allow for an objective evaluation of whether cross-subsidization is occurring among them. While these and other steps represent progress, the United States continues to call on Japan to take additional measures that are vital to ensure a level playing field is actually

established. The United States is placing particular emphasis in this area on customs treatment for Japan Post's Express Mail Service (EMS).

As Japan moves forward with these reforms, the United States continues to stress the importance of ensuring full transparency, including by related government-appointed advisory groups, to ensure interested parties are able to be fully aware of progress in the reform process as well as have meaningful opportunities for input before decisions and recommendations are made. During 2006, Japan took a number of steps to help promote transparency in the reform process, and the United States has encouraged Japan to continue with these as well as take additional steps to ensure transparency is fully achieved.

Legal Services and Judicial System Reform: The creation of a legal environment in Japan that supports regulatory and structural reform and meets the needs of international business is a critical element for Japan's economic health and restructuring. The Japanese legal system must be able to respond to the market's need for the efficient provision of international legal services, and provide a sound and effective foundation for the conduct of business transactions in an increasingly deregulated environment.

In 2006, Japan's Ministry of Justice continued to study whether to permit registered foreign lawyers to form legal professional corporations in Japan and whether to allow foreign law firms to establish multiple offices in Japan without forming a separate Japanese professional corporation. Japan has committed to inform the United States of its findings and conclusions by April 2007. In addition, the United States continued to closely monitor the implementation of the amendments to the Foreign Lawyers Law that came into effect in 2005 that permit foreign lawyers to employ or to enter into partnership arrangements with Japanese lawyers to ensure that such implementation fosters the market liberalizing objectives of those amendments.

Commercial Law: Reform of Japan's commercial law to permit the use of modern merger techniques is necessary to facilitate merger and acquisition activities by both foreign and domestic firms in Japan. The Japanese economy also will benefit from additional measures to improve corporate governance, since good corporate governance systems encourage increased productivity and economically sound business decisions as management strives to maximize shareholder value. However, good corporate governance requires active shareholder participation, particularly by large institutional investors such as pension funds and mutual funds, and the dissemination of information to shareholders that will allow them to make informed decisions.

Japan took some important steps in 2006 toward facilitating foreign merger and acquisition (M&A) activities in Japan and to protect the interests of stockholders. Corporate Code revisions permitting short-form (squeeze out) mergers came into effect in May 2006 and Japan continued to prepare for the May 2007 introduction of triangular mergers that use foreign shares as consideration. However, as of the end of 2006, it was not clear whether rules implementing the introduction of triangular mergers, in particular tax deferral rules, would be sufficiently flexible to allow this new merger tool to work in a manner that facilitates foreign M&A activities in Japan.

The Securities and Exchange Law was amended in June 2006 to modernize tender offer rules. Persons making tender offers will now be permitted to withdraw or modify the offer in response to certain anti-takeover measures by the target. A target of tender offers is also now required to issue a public statement indicating the position of its board of directors with regard to the tender offer, and the basis for that position. Japan's Ministry of Justice (MOJ) also promulgated new regulations that require companies to specify in their annual report any anti-takeover measures that have been adopted along with an explanation as to why those measures do not undermine the interests of the company and its shareholders.

In March 2006 the MOJ issued an internal notification (“tsutatsu”) clarifying the interpretation of Article 821 of the Corporate Code – dealing with quasi-foreign companies – to ensure that this provision does not adversely affect the operation of foreign companies that are duly registered in Japan and that conduct their operations in a lawful manner, and the House of Councilors of the Japanese Diet adopted an ancillary resolution that confirms that objective.

In the area of strengthening corporate governance, Japan took measures to promote active proxy voting by institutional investors, including by encouraging the Investment Trust Association to amend its rules to require mutual fund managers to disclose the results of their proxy voting records. Japan also recognized the importance of enhancing corporate governance of listed companies in Japan, including through dialogue with the stock exchanges on the role that such exchanges can play in realizing that goal. In that regard, in March 2006 the Tokyo Stock Exchange (TSE) adopted rules requiring listed companies to publish their corporate governance structures, including whether they have outside directors or have adopted anti-takeover measures. The TSE rules also provide for the delisting of companies that adopt anti-takeover measures that seriously harm the rights of shareholders.

Distribution: The efficiency of Japan's distribution system is hampered by high airport user fees, relatively inefficient and costly customs procedures, and excessive rules on the activities of private express delivery companies. In addition, the enforcement of parking regulations under the Revised Traffic Law, combined with a severe shortage of designated commercial parking spaces, has significantly increased the cost of doing business for express mail providers. Finally, revisions made to the Central City Invigoration Law and the City Planning Law in May 2006 have the potential to significantly erode retailers' ability to open larger stores that meet customers' needs.

The June 2006 Report to the Leaders nevertheless noted a number of steps by Japan intended to have a positive impact on its distribution sector. The United States welcomes the recent reductions in landing fees by Narita International Airport Corporation. Those reductions, however, have been offset in part by higher airport user fees, and Japan's international airports remain among the most expensive in the world. Transparency remains a concern, including with regard to changing operating rules at Haneda Airport and a costly runway extension project at Narita. Another significant measure Japan took in 2006 was to acknowledge that airport user fees should be determined in accordance with International Civil Aviation Organization principles.

The United States welcomes Japan's efforts over the past year to revise the Road Transport Vehicle Law (RTVL) in May 2006 to create a one-stop omnibus registration system for automobiles. However, with the new system not scheduled to be introduced until late 2011, the registration system will continue to be a burden on operators of fleet vehicles.

The United States continued its focus on seeking improvements in Japan's distribution sector in its December 2006 reform recommendations. Reform recommendations included urging Japan to: ensure transparency in the setting of user fees at Japan's international airports; take additional steps to streamline customs procedures; speed the implementation of the revised Road Transport Vehicle Law; and ensure new regulations or other measures are not implemented that would limit the ability of large-scale retailers to open stores in Japan.

b. Bilateral Consultations

i. Insurance

Consultations under the 1994 and 1996 bilateral insurance agreements take place on an annual basis, and remain a key forum to address developments and lingering concerns in this important market for U.S. companies. Because of passage of legislation to reform and privatize Japan Post in the last quarter of

2005, bilateral consultations for 2005 took place in January 2006, while consultations for 2006 took place in December. The United States also urged progress on insurance-related issues in the U.S.-Japan Regulatory Reform Initiative, as well as in other fora through 2006.

During both of these consultations, the United States continued to call on Japan to create a fully level playing field in Japan's insurance market by eliminating the tax, regulatory, supervisory, and other advantages that Japan Post has had over private sector companies. The United States also continued to urge Japan to ensure a level playing field is actually created between the postal financial institutions and private financial institutions before the postal insurance business is permitted to introduce its own new or altered insurance products. (*For detailed discussion of Japan Post insurance issues, see section titled 'Privatization – Japan Post' above.*)

The United States welcomed initial steps, effective December 2005, to further open the sale of insurance products through banks, and continued to urge Japan to fully liberalize the bank sales channel by no later than 2007. The United States also welcomed confirmation from Japan that it recognizes the importance of implementing related consumer protection rules in a way that does not favor one product or one services supplier over another.

The United States continued to raise its concerns about Japan's insurance cooperatives (kyosai), particularly as kyosai have been expanding their product range and customer reach. Kyosai are able to compete directly with the private sector, but are not required to meet the same tax, legal, supervisory, and regulatory obligations as private companies. Japan's steps to regulate and supervise some kyosai that heretofore were completely unregulated in the marketplace are welcome, and the United States urged that these initial steps be strengthened to bring about consistent treatment between kyosai and private sector insurance suppliers. With respect to kyosai regulated by ministries and agencies other than the FSA, the United States remains concerned by their continuing expansion in the insurance market and urged Japan to bring these kyosai under the same regulatory standards and obligations, including full supervision by the FSA, as those applied to the private sector.

In 2005, Japan reformed its insurance policyholder protection system and also renewed the operation of the Life and Non-life Policyholder Protection Corporations (PPCs). In the 2006 consultations, the United States welcomed Japan's confirmation that interested parties would be provided meaningful opportunities to express views to related officials as well as advisory committees when plans to review the current system get underway, likely to occur during 2007. The United States also urged Japan to ensure full transparency, including meaningful opportunities for interested parties to express views, as it reviews the Insurance Contracts Law for possible amendment.

ii. Government Procurement

Public Works (Design/Construction): U.S. firms remain largely excluded from Japan's massive (\$156 billion) public works market, obtaining far less than 1 percent of projects awarded. A number of Japanese practices inhibit the effective participation of U.S. design and construction firms in this sector, including rampant bid rigging, use of arbitrary qualification and evaluation criteria that exclude U.S. firms, and unreasonable restrictions on the formation of joint ventures.

The United States urged Japan to take steps to address the systemic problems faced by U.S. firms, including complying with a 1994 bilateral agreement on public works. The United States asked Japan to develop procedures to simplify the qualification process for foreign firms, to ensure that procurements list all of the qualifying criteria for a project, and to address problems such as excessively high Business Evaluation scores. The United States, moreover, urged Japan to address bid-rigging and to ensure that the

procurement procedures set forth in the 1988 U.S.-Japan Major Projects Arrangement (MPA) are used for all upcoming procurements for the Central Japan International Airport project.

iii. Investment

Japan's inward direct investment remains the lowest of major OECD countries. Former Prime Minister Koizumi had set a target of doubling Japan's stock of foreign direct investment (FDI) to 2.5 percent of gross domestic product (GDP) over a five year period ending in 2006. Despite progress over the last few years, pullouts by a few large investors resulted in a trend toward new outflow of FDI in 2006 and looked to leave Japan short of this target. In his first major policy speech to the Diet, Prime Minister Abe reaffirmed his predecessor's commitment to raise foreign investment in Japan and announced his intention to re-double FDI to 5 percent of GDP by the end of 2010. Amendments to Japan's Corporate Law that will facilitate foreign investment by permitting the use of cross-border stock swaps in the context of triangular mergers appeared headed for implementation in May 2007, after a year's delay to allow domestic firms to consider adopting anti-takeover measures allowed under the revised law. However, opposition to rules that would facilitate tax treatment for such mergers from major players in Japan's business community left the terms of implementation uncertain as of December 2006. The United States continued to urge Japan to ensure the triangular merger tool is made truly effective through adoption of tax deferral provisions that are made available to all potential foreign investors.

The United States continued to press for early amendment of Article 821 of the new Corporate Law, which went into effect in May 2006. Although the Upper House of the Diet clarified that the provision was not meant to affect legitimate foreign investment, it poses a legal liability for foreign companies by appearing to prohibit branches of foreign corporations from engaging in transactions in Japan on a continuous basis. Some foreign firms chose to incur the substantial legal cost and business disruption of incorporating in Japan prior to entry into force, while others, for whom incorporation is not an option, have no alternative but to live with the risk. The Ministry of Justice issued an administrative circular in April 2006 that instructs local Legal Affairs Bureaus that Article 821 should not be interpreted to prohibit branches otherwise operating within the law.

Other provisions in the revised Corporate Law have begun to raise public and business understanding of investment and corporate governance issues. More than 100 Japanese corporations adopted takeover defensive measures based on provisions that came into effect in May 2006. In some high-profile cases, Japanese companies used poison pills and similar tools to turn back takeover attempts by other Japanese companies. While unsuccessful, actions by mainstream Japanese companies to initiate hostile takeover attempts appear to indicate a softening of business opposition to the idea of such actions. Moreover, some in Japan's investment community, including institutional investors, have begun to question the value of anti-takeover measures to shareholders and to ask for review before the measures are adopted.

The United States continues to watch developments in this area closely. Investment issues are discussed under the Investment Initiative, which meets regularly and presents an annual report to the President and Prime Minister. A working group met in June and October 2006 to discuss implementation of the new Corporate Law, upcoming labor market reforms, and developments in educational and medical services. The Japanese government granted an additional U.S. university with "foreign university Japan campus" status, but the United States continues to seek a solution to tax provisions that put these campuses at a disadvantage to Japanese universities.

c. Sectoral Issues

i. Agriculture

Japan slipped from being the United States' second largest export market to its third largest export market (behind Canada and Mexico) for food and agriculture products this past year. Although Japan took steps to facilitate agricultural trade during this period, it maintains many tariff and non-tariff barriers on imports in this sector.

Beef: On December 12, 2005, Japan partially reopened its market to U.S. beef after a nearly two-year ban resulting from the December 2003 discovery of a single imported cow with Bovine Spongiform Encephalopathy (BSE) in Washington State. Japan suspended imports of U.S. beef again on January 20, 2006, after a shipment of U.S. veal was rejected for containing a vertebral column (which is not allowed under Japanese regulations). On July 27, 2006, Japan lifted the January suspension after intensive engagement among officials and technical experts from both governments at various levels.

The full reopening of the Japanese market remains a top priority of the Administration. With the most recent reopening, the United States is able – under a special marketing program – to export beef to Japan from cattle 20 months of age and younger. However, only a small percentage of the cattle slaughtered in the United States qualify for export under this program. It is estimated that U.S. beef exports to Japan over 2006 will be worth nearly \$50 million. Prior to the ban, U.S. beef and beef product exports to the Japanese market (the largest export market for U.S. beef) totaled roughly \$1.3 billion annually.

The United States continues to place a high priority on fully opening Japan's market to U.S. beef, and continues to urge Japan to implement the BSE guidelines of the World Organization for Animal Health (OIE), thereby allowing imports of cattle of any age as well as meat and meat products from those animals. The United States will continue to work toward achieving this important objective.

Other Sanitary and Phytosanitary (SPS) Measures: Japan's use of sanitary and phytosanitary measures continues to create barriers to certain U.S. agricultural goods, such as in the areas of Maximum Residue Limits (MRL) and chipping potatoes.

On May 29, 2006, Japan implemented new regulatory requirements expanding MRL standards (Positive List) for food that may contain pesticide residues. Although the United States has worked closely with the Ministry of Health, Labour, and Welfare (MHLW) to ensure the transition to the Positive List system does not unnecessarily disrupt U.S. exports, there remain outstanding issues with Japan's MRL policies, including the seemingly arbitrary and trade restrictive manner in which MHLW imposes penalties on foreign suppliers in the event of a violation. Import violations are treated more strictly than domestic violations. Detection of a single MRL violation in an imported product results in a significantly increased inspection and testing regime for all imports of similar food products from the country where the food product in question originated. A 100 percent testing regime is imposed after a second violation. Domestic violations, however, are addressed on a more favorable company-by-company basis. To remedy these concerns, the United States has and will continue to urge Japan to implement an import inspection and testing regime that is risk-based, and no more trade restrictive than necessary to protect human health.

On December 5, 2006, Japan's Ministry of Agriculture, Forestry and Fisheries (MAFF) invited public comments on proposed regulations for the resumption of imports of U.S. chipping potatoes. This announcement stemmed from an agreement reached in October to resume trade in potatoes in 2007. Imports of U.S. chipping potatoes halted in April after a brief reopening of the market when authorities in

Idaho discovered a pest cyst nematode (white potato cyst) in the state's crop that had not been previously discovered in the United States.

Progress was also made with respect to Japan's revision of quarantine and inspection practices for imported produce (*as highlighted under the Regulatory Reform section above*).

Rice: The United States continues to express concerns over U.S. access to Japan's rice market. Although the United States has supplied about half of Japan's rice import needs since 1995 when it opened its market under its WTO minimum market access agreement, only a minor share of U.S. rice imported under the tariff rate quota (TRQ) is allowed to be sold into the private sector immediately upon entry. Very small quantities are occasionally released from government stocks and eventually permitted to enter the industrial food-processing sector. Since Japan started applying tariffs to rice imports in 1999, only a minuscule amount has been imported outside of the TRQ, because such imports are subject to a duty of 341 yen per kilogram, equivalent to about 1100 percent *ad valorem* at January 2005 prices and exchange rates.

10. Taiwan

During 2006, the United States and Taiwan continued to work together to enhance economic cooperation through our Bilateral Trade and Investment Framework Agreement (TIFA) process, and to address shortcomings in several areas related to Taiwan's implementation of its WTO commitments in 2006. The United States and Taiwan held a meeting of the TIFA Joint Council in Taipei, on May 25-26, 2006. These WTO implementation issues include ensuring market access for rice and improving intellectual property rights protection. In addition, the United States worked with Taiwan bilaterally to ensure market access for American beef and more transparent pharmaceutical pricing and reimbursement procedures.

a. Beef

On January 25, 2006, Taiwan again lifted its ban on U.S. boneless beef from cattle less than 30 months of age with labels of approval from the USDA. After reopening the market to U.S. beef in April of 2005, Taiwan re-imposed its import suspension in June 2005, after the discovery of a second case of Bovine Spongiform Encephalopathy (BSE) in the United States. Specified Risk Materials identified by the World Health Organization like brains, spinal cords, and certain bones are prohibited entry. Non-ruminant products for feed use such as tallow, lard, poultry and porcine meal are banned, while limited exceptions for pet food have been approved after a thorough case-by-case review or plant clearance process. The United States is continuing to work with Taiwan to achieve market access for the full range of beef and beef products.

b. Rice

In 2006 the United States and Taiwan made substantial progress in resolving outstanding differences on Taiwan's rice procurement arrangements. However, certain other countries that also supply rice to the Taiwan market have not yet agreed to the proposed modifications to Taiwan's rice import system. As a result, Taiwan will continue its current system while working toward final resolution of this issue. Taiwan is a leading Asian market for U.S. rice exports. Despite concerns associated with the rice tender process, U.S. suppliers won a majority of the tenders conducted in 2006. The United States will continue to work with Taiwan and other interested suppliers to the Taiwan market to achieve improvements to the rice import system.

c. Intellectual Property Rights (IPR)

IPR protection continues to be an important issue in the U.S.-Taiwan trade relationship. In December 2004, Taiwan was moved from the Special 301 Priority Watch List to the Watch List after an out-of-cycle review (OCR) determined that Taiwan had made sufficient progress to warrant improved status. The United States recognizes Taiwan's continuing efforts to take measures to improve enforcement of IPR in 2006, including intensifying raids against manufacturers and retailers. The United States strongly encouraged Taiwan's passage of legislation to create a specialized court for intellectual property matters and its training of judges and prosecutors on these matters.

Following these improvements, the United States will continue to monitor further developments in this area. Chief among these developments should be the passage and implementation of effective legislation to address liability of Internet Service Providers (ISP) as well as the dismantling of unauthorized peer-to-peer (P2P) file sharing systems, which is expected to occur in 2007. In addition, preliminary versions of draft patent law amendments permitting compulsory licensing do not appear to be TRIPS-consistent, and Internet piracy and illegal peer-to-peer downloading have been serious concerns.

To deter Internet piracy, the Taiwan Intellectual Property Office (TIPO), in May 2005, initiated an "implementation plan for strengthening preventive measures against Internet infringement." However, efforts to use the legal system to shut down or restrict the activities of such services have had mixed success. Taiwan needs to take further effective actions against piracy of copyrighted works over the Internet, and to continue strengthening its enforcement efforts so as to effectively reduce piracy and counterfeiting. The United States will continue to follow closely Taiwan Customs' efforts to stop exports of counterfeit materials to ensure that these efforts are as effective as, or more effective than, Taiwan's recently abolished Export Monitoring System. Adequate resources must also be devoted, especially at high levels within the Ministry of Education, to improve enforcement against the unauthorized use of copyright material that occurs on and around university campuses and the Internet piracy that is endemic on university networks.

d. Pharmaceuticals

Continuing concerns in the pharmaceutical sector in Taiwan include pharmaceutical pricing, transparency and the domestic regulatory regime. Through the TIFA process, the United States has been encouraging Taiwan to adopt a system of actual transaction pricing to address the significant gap between the amount that the Taiwan's Bureau of National Health Insurance (BNHI) reimburses for a pharmaceutical product and the price actually paid to the provider of that product. This gap distorts pharmaceutical trade and prescription patterns in Taiwan. These distortions are compounded by another aspect of the Taiwan health care system, which permits doctors to both prescribe and dispense pharmaceuticals. Research-based pharmaceutical companies see separating these functions as essential to resolving the long-term pricing problem. In 2006, the United States worked with Taiwan to delay the full implementation of its pharmaceutical price-volume survey (PVS) which was created to rein in health care expenditures but which initially appeared disproportionately to affect foreign firms.

Production and sale of counterfeit pharmaceuticals in Taiwan also remains a concern. The United States is encouraging Taiwan's Ministry of Justice and Department of Health to work together to take action to resolve this problem.

11. Hong Kong (Special Administrative Region)

a. Intellectual Property Rights (IPR)

The Hong Kong government continues to maintain a robust IPR protection regime. Hong Kong's IPR enforcement efforts have helped reduce losses by U.S. companies, but end-user piracy, the rapid growth of peer-to-peer downloading from the Internet, and the importation and transit shipments of infringing products remain continuing problems. The software industry estimates that Hong Kong's software piracy rate was 54 percent in 2005, placing Hong Kong well above the software piracy rates in other advanced economies, resulting in business and entertainment industry losses of approximately \$147 million.

In 2006, the Hong Kong government took some steps toward addressing each of these problems. In October, it partnered with software industry representatives to launch a pilot program to provide free on-site audits for companies to determine if they are unknowingly using unlicensed software and to assist violators in purchasing licenses to guarantee the use of genuine computer products. Hong Kong officials have also established a joint task force with copyright industry representatives to track down online pirates using peer-to-peer networks for unauthorized file sharing and, in February, started a pilot "Youth Ambassador Against Internet Piracy Scheme." About 200,000 "youth ambassadors" participated in the program and, by July 2006, Hong Kong Customs reported that it had received 1,200 reports of suspected BitTorrent seed files involving pirated copyright work from the youth ambassadors. Over 60 percent of the infringing files were removed, and a great majority of the remaining files were invalidated. Hong Kong Customs also continues to routinely seize IPR infringing products from mainland China.

The Hong Kong government also introduced in March 2006 the Copyright (Amendment) Bill and extended the expiry date of its existing Copyright Ordinance through July 2007, to give lawmakers more time to examine the proposed Copyright (Amendment) Bill and industries sufficient opportunity to express their views. U.S. Government and industry have been concerned over possible loopholes in the proposed Bill concerning digital rights management and circumvention of technical prevention measures, fair use provisions for copyrighted works, and business end-user software piracy. Industry also has been concerned over the issue of parallel imports for optical discs in the Bill. In December, the Hong Kong government published a public consultation "Copyright Protection in the Digital Environment" document to address the challenges of the digital era and ensure that amendments to the Hong Kong Copyright Ordinance cover issues related to internet piracy. U.S. officials will continue to monitor progress on the development of Hong Kong's Copyright (Amendment) Bill legislation and urge Hong Kong authorities to sustain their IPR protection efforts and address problem areas.

b. Beef

Hong Kong banned imports of U.S. beef in December 2003 following an imported case of Bovine Spongiform Encephalopathy (BSE). After two years of intensive efforts on the part of the U.S. government and industry, the Hong Kong government announced the partial reopening of its market, with certain restrictions, in December 2005. Excessive restrictions, however, have discouraged most qualified U.S. beef exporters from shipping to Hong Kong. It is estimated that the two-year ban cost U.S. exporters approximately \$160 million. The U.S. Government continues to press Hong Kong to normalize trade and implement import requirements consistent with international standards.

12. Sri Lanka

Sri Lanka continued to recover from the 2004 tsunami. Nevertheless, U.S. exports to Sri Lanka increased approximately 28 percent in 2006 over 2005, signaling the continued potential for U.S. goods in the Sri Lankan market.

In early December 2006, Deputy U.S. Trade Representative Karan Bhatia and Sri Lanka's then Minister of Trade, Commerce, Consumer Affairs and Marketing Development, Jeyaraj Fernandopulle, met in Colombo, Sri Lanka, to co-chair the fifth Joint Council meeting under the U.S.-Sri Lanka Trade and Investment Framework Agreement. The delegations addressed issues that would contribute to enhancing bilateral trade and investment relations, including pursuing sound policies to improve Sri Lanka's macro-economy, lowering market access barriers (such as tariffs), protecting intellectual property rights and facilitating investment flows. The United States and Sri Lanka also expressed their desire to see a successful and ambitious outcome to the Doha Development Round. USTR will continue to pursue these issues at the staff level in the coming year.

13. Iraq

In 2006, USTR continued to assist Iraq in its accession to the WTO, and provided guidance, upon request, on key legislation the government of Iraq is seeking to implement in the areas of investment, customs, and services. USTR also conducted an orientation on the U.S. GSP program for Iraqi officials in May 2006. In 2007, the United States will continue to work to find new ways to expand bilateral trade and investment as a means to enhance Iraq's economic development.

G . Africa

1. African Growth and Opportunity Act

On December 20, 2006, President Bush signed the Africa Investment Incentive Act (AIIA), which included significant enhancements to the textile and apparel provisions of the African Growth and Opportunity Act (AGOA). The AIIA extends to 2012 the AGOA "third-country fabric" provision that allows lesser-developed AGOA beneficiary countries duty-free entry into the United States for qualifying AGOA apparel made of fabric from any source. It also introduces an exception to the third-country fabric provision for apparel made from yarn and fabric that are made in sub-Saharan Africa and are in "abundant supply" and readily available in commercial quantities. For lesser-developed AGOA beneficiary countries, the AIIA also expands the list of items eligible for duty-free treatment to include certain non-apparel textile products.

The AGOA legislation provides incentives to promote economic reform and trade expansion in sub-Saharan Africa, including duty-free access to the U.S. market for almost all products made in beneficiary sub-Saharan African countries.

AGOA requires the President to determine annually whether sub-Saharan African countries are, or remain, eligible for benefits based on their progress in meeting criteria set out in the legislation. These criteria include the establishment of a market-based economy and the rule of law, the elimination of barriers to U.S. trade and investment, the implementation of economic policies to reduce poverty, the protection of internationally recognized worker rights, and the establishment of a system to combat corruption. Additionally, countries cannot engage in: (1) violations of internationally recognized human rights; (2) support for acts of international terrorism; or (3) activities that undermine U.S. national security or foreign policy interests.

An interagency AGOA Implementation Subcommittee, chaired by USTR, conducts the annual eligibility review, drawing on information from the private sector, non-governmental organizations, U.S. Government agencies, and prospective beneficiary governments. Following the eligibility review in the fall of 2006, and after receiving the recommendation of the U.S. Trade Representative, the President issued a Proclamation on December 29, 2006 listing the 38 sub-Saharan African countries that meet

AGOA's requirements for eligibility in 2007. Liberia was determined to be meeting the eligibility criteria and was designated as a beneficiary country for the first time.

As of December 2006, 26 AGOA-eligible countries had instituted acceptable customs measures to prevent illegal trans-shipment and, accordingly, had been certified for AGOA's textile and apparel benefits; of these, 17 countries have met the requirements for handmade, hand-loomed, or folkloric items, and two countries (Nigeria and Tanzania) have qualified to export ethnic-printed fabric under AGOA.

AGOA also institutionalizes a process for strengthening U.S. trade relations with sub-Saharan African countries by establishing a regular ministerial level forum with AGOA-eligible countries. AGOA establishes a U.S.-Sub-Saharan Africa Trade and Economic Cooperation Forum – informally known as “the AGOA Forum” – to discuss expanding trade and investment relations between the United States and sub-Saharan African countries, and implementation of AGOA. The fifth meeting of the Forum was held in June 2006 in Washington. Participants included the U.S. Secretaries of State and Agriculture, the U.S. Trade Representative, the Deputy Secretary of Commerce, the Administrator of the U.S. Agency for International Development, the CEO of the Millennium Challenge Corporation, the U.S. Global AIDS Coordinator, and Ministers of Trade, Foreign Affairs, and/or Finance from almost all AGOA-eligible countries. The next AGOA Forum will be held in Accra, Ghana in July 2007.

AGOA and related Generalized System of Preferences (GSP) provision imports from AGOA-eligible countries were valued at \$34.1 billion in the first nine months of 2006, 28 percent more than in the first nine months of 2005.⁵⁶ Petroleum products continued to account for the largest portion of AGOA imports with a 93 percent share of overall AGOA imports. AGOA non-oil imports also continued to grow, totaling \$2.4 billion, an 8 percent increase over the previous year, with notable increases in key non-oil sectors. For example, AGOA imports of transportation equipment increased by 99 percent to \$405.7 million, due to an increase in the import of passenger vehicles and parts from South Africa. Agriculture imports increased 41 percent to \$254.8 million. AGOA textile and apparel imports decreased by 14 percent to \$941.8 million, but some AGOA countries (e.g. Ethiopia and Botswana) held steady or even increased their exports of apparel in 2006, despite increased global competitive challenges in this sector. The top five AGOA beneficiary countries were Nigeria, Angola, South Africa, Chad, and Gabon, followed by the Republic of Congo, Lesotho, Kenya, and Madagascar.

2. Africa and the WTO

Supporting African countries' integration into the global economy is one of the main elements of the Administration's Africa trade policy. An important step toward this end is encouraging fuller participation in the WTO by African Members, including the undertaking of greater commitments under WTO agreements. Accordingly, the United States consults closely with the 38 sub-Saharan African Members of the WTO and provides technical assistance to facilitate African participation in WTO negotiations and agreements.

The United States has provided technical assistance and trade capacity building support on a range of issues such as trade facilitation, services, and sanitary and phytosanitary measures, in coordination with the WTO, the World Bank and other international financial institutions, the Integrated Framework, and via bilateral assistance. The United States also provided technical assistance to support WTO accession of two African countries – Cape Verde and Ethiopia – engaged in that process.

⁵⁶ Note that AGOA imports are imports for consumption, while all other import figures are general imports. Imports for consumption include only those goods as they enter the U.S. economy for consumption. General imports include all goods as they cross the U.S. border, including those destined for bonded warehouses or foreign trade zones.

WTO issues continued to be a major topic of USTR's engagement with African countries in 2006. Deputy USTR Bhatia attended the African Union Trade Ministerial in Nairobi in April 2006. U.S. Trade Representative Schwab co-chaired, with Kenyan Trade Minister Kituyi, a roundtable discussion on Doha at the June 2006 AGOA Forum in Washington. Doha was also a major topic of discussion during TIFA Council meetings in 2006 with Ghana, Nigeria, Mozambique, Rwanda and the West African Economic and Monetary Union.

Among the Doha issues that figured prominently in U.S.-African discussions in 2006 were agriculture (including cotton), non-agricultural market access (NAMA), and development-related issues, including Aid for Trade and duty-free, quota-free market access for LDC products in developed country markets. The handling of cotton involved particularly high-level engagement. Ambassador Schwab and Agriculture Secretary Johanns discussed the issue with the trade ministers of the "Cotton-4" countries (Benin, Burkina Faso, Mali, and Chad) during their October 2006 visit to Washington. Ambassador Bhatia was also in regular contact with the "Cotton-4" Ministers of Trade during the year. Assistant U.S. Trade Representative Liser represented the United States at a June 2006 World Bank conference in Burkina Faso on the development aspects of cotton.

3. COMESA⁵⁷

The Common Market for Eastern and Southern Africa (COMESA) is the largest regional economic organization in Africa, with twenty member states and a population of over 374 million. The United States and COMESA signed a TIFA agreement in 2001 and have subsequently held three TIFA Council meetings, most recently in Washington in June 2005. The next TIFA Council meeting is expected to be held in early 2007. U.S. trade capacity building assistance to COMESA, delivered mainly through USAID's regional mission and the East and Central Africa Global Competitiveness Hub in Kenya, has helped COMESA to advance its internal free trade area and to harmonize its Members' policies in telecommunications, services, and investment, as well as to increase trade linkages between the United States and COMESA countries under AGOA. Fourteen COMESA members are AGOA-eligible and nine qualify for textile and apparel benefits. Ambassador Carmen Martinez, the U.S. Representative to COMESA (and U.S. Ambassador to Zambia), led the U.S. delegation to the 2006 COMESA Summit in Djibouti.

Total two-way trade between COMESA and the United States was valued at \$20.5 billion in the first eleven months of 2006, a 22 percent increase over the same period in 2005. Egypt and Angola were the two largest markets for U.S. goods. The leading U.S. exports to COMESA countries were aircraft and machinery. U.S. imports from COMESA were dominated by oil imports from Angola but also included apparel, diamonds, and coffee. In the first eleven months of 2006, U.S. imports from COMESA under AGOA, including its GSP provisions, were valued at \$11.2 billion, an increase of 32 percent over the same period in 2005, due mainly to an increase in the value of oil imports.

4. Ghana

The United States and Ghana strengthened trade relations in 2006. In July, the United States and Ghana met under the auspices of the U.S.-Ghana Trade and Investment Framework Agreement (TIFA) to discuss a wide range of issues including WTO negotiations, intellectual property rights, and ongoing cooperation toward a strategic plan for Ghana to develop non-traditional exports under AGOA. A number of bilateral issues have been resolved through the TIFA process.

⁵⁷ COMESA members are Angola, Burundi, Comoros, Democratic Republic of the Congo, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Libya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Swaziland, Uganda, Zambia and Zimbabwe.

Total two-way trade between Ghana and the United States was valued at \$435 million in the first eleven months of 2006, a 12 percent decrease over the same period in 2005. Ghana is the sixth largest sub-Saharan African market for U.S. goods. The leading U.S. exports to Ghana were machinery, vehicles, and wheat. U.S. imports from Ghana are primarily cocoa, oil, timber, and apparel. In the first eleven months of 2006, U.S. imports from Ghana under AGOA, including its GSP provisions, were valued at \$43.4 million, a 22 percent decrease over the same period in 2005.

5. Mauritius

In September 2006, Deputy U.S. Trade Representative Karan Bhatia and Mauritian Foreign Affairs, International Trade, and Cooperation Minister Madan Murlidhar Dulloo signed a Trade and Investment Framework Agreement (TIFA) aimed at strengthening and expanding trade and investment ties between the United States and Mauritius. The TIFA provides a formal mechanism to address bilateral trade issues and helps enhance trade and investment relations between the United States and Mauritius. The TIFA encourages new trade and investment opportunities in both countries by establishing a cooperative forum for implementing specific strategies to enhance the U.S.-Mauritius trade and investment relationship.

Total two-way trade between Mauritius and the United States was valued at \$234 million in 2006, down 7 percent from 2005, primarily due to decreases in Mauritian textile and apparel exports that were balanced by increases in Mauritian exports of jewelry, eyewear, and agricultural products. The leading U.S. exports to Mauritius are jewelry and diamonds. U.S. imports from Mauritius are primarily apparel, fish, diamonds, perfumes, and sugar. In the first eleven months of 2006, U.S. imports from Mauritius under AGOA, including its GSP provisions, were valued at \$147.1 million, a 4.7 percent increase over the same period in 2005.

6. Mozambique

The United States and Mozambique signed a U.S.-Mozambique Trade and Investment Framework Agreement (TIFA) in July 2005. At the last United States-Mozambique TIFA Council meeting in October 2006, the United States and Mozambique worked together on critical issues such as market access, the WTO Doha Development Agenda, AGOA implementation and trade capacity building. The TIFA encourages new trade and investment opportunities in both the United States and Mozambique, and provides a formal mechanism to implement specific strategies to enhance the U.S.-Mozambique trade and investment relationship.

In February 2005, the government of Mozambique ratified the U.S.-Mozambique Bilateral Investment Treaty (BIT), which had been pending since 1998. The United States had ratified the BIT in 1998. The BIT entered into force in March 2005.

Total two-way trade between Mozambique and the United States was valued at \$65 million in 2006, a 13 percent decrease over the same period in 2005. This decrease was primarily due to a drop in Mozambican exports of sugar and tobacco to the United States. The leading U.S. exports to Mozambique are petroleum coke, wheat, tractors, and used clothing. U.S. imports from Mozambique are primarily sugar, shrimp, tobacco, and cashew nuts. In the first eleven months of 2006, U.S. imports from Mozambique under AGOA, including its GSP provisions, were valued at \$5.8 million, a 30 percent decrease over the same period in 2005.

7. Nigeria

Nigeria is the United States' largest trading partner in sub-Saharan Africa, due to the high level of petroleum imports from Nigeria. Total two-way trade was valued at \$30.8 billion in 2006, a 19 percent increase over 2005. The leading U.S. exports to Nigeria were machinery, wheat and motor vehicles. U.S. imports from Nigeria were oil and rubber products. Nigerian exports to the United States under AGOA, including its GSP provisions, were valued at \$23.9 billion during the first eleven months of 2006, a 19 percent increase over the same period in 2005, due to an increase in oil exports. The United States was the largest foreign investor in Nigeria in 2005.

In June 2006, the United States met with Nigeria under the existing Trade and Investment Framework Agreement (TIFA) to advance the ongoing work program and to discuss improvements in Nigerian trade policies and market access. Among other topics discussed were investment issues and cooperation to develop a strategy for Nigeria to diversify its export base, especially in the area of manufactured goods. Under the auspices of the TIFA, the United States and Nigeria pledged to work together on critical issues such as the WTO Doha Development Agenda, intellectual property rights, and trade capacity building. In 2006, Nigeria continued to implement reforms aimed at improving its trade and investment environment, including the removal of certain textile items from its list of import bans. However, the United States continues to be concerned about Nigeria's use of protective import bans on certain products, including sorghum, millet, wheat flour, rice, meats, and bulk vegetable oil.

8. Rwanda

In June 2006, Deputy U.S. Trade Representative Karan Bhatia and Rwandan Minister of Trade Protais Mitali signed the U.S.-Rwanda Trade and Investment Framework Agreement (TIFA). The TIFA provides a formal mechanism to address bilateral trade issues and to help enhance trade and investment relations between the United States and Rwanda. The first TIFA Council meeting under the new agreement was held on October 31, 2006 in Kigali, Rwanda, and was co-chaired by Ambassador Bhatia and Minister Mitali. Among the topics discussed were the WTO's Doha Round, means to enhance Rwanda's use of AGOA, trade capacity building assistance, measures to improve the business environment and improve investment flows, and issues related to trade-related infrastructure. Exploratory discussions on a possible Bilateral Investment Treaty between Rwanda and the United States were held in Kigali in November 2006.

Total two-way trade between Rwanda and the United States was valued at \$19.2 million in 2006, a 14 percent increase over 2005. The leading U.S. exports to Rwanda are vegetable fats and oils, cereal foods, and beans. U.S. imports from Rwanda include coffee, tungsten ores and concentrates, and basketry. In the first eleven months of 2006, U.S. imports from Rwanda under AGOA, including its GSP provisions, were valued at \$758,000, more than an eight-fold increase over the same period in 2005, largely due to imports of tungsten ores and concentrates.

9. South Africa

The United States and South Africa enjoy a broad and mutually beneficial trade and investment relationship. This relationship has been encouraged by a Trade and Investment Framework Agreement (TIFA) signed in February 1999; the start, in June 2003, of free trade agreement negotiations with the Southern African Customs Union (SACU), of which South Africa is a member; a proposed U.S.-SACU Trade and Investment Cooperation Agreement; and AGOA.

Two-way goods trade between the United States and South Africa increased 22 percent in 2006, to \$12 billion. South Africa is the largest and most diversified supplier of non-fuel, AGOA-eligible products. In

the first eleven months of 2006, U.S. imports from South Africa under AGOA and related GSP provisions were valued at \$1.6 billion with imports of a wide-range of goods including minerals and metals, agricultural products (including fresh citrus fruits and wines), chemicals, transportation equipment, textiles, and apparel. Leading U.S. exports to South Africa include motor vehicles, tractors, aircraft, machinery, and medical equipment.

South Africa continues to play an important role in the WTO/DDA negotiations. South Africa, with a strong interest in agricultural liberalization, is a member of the Cairns Group of nations, and also belongs to the G-20 coalition of advanced developing countries. South Africa and the United States continue to consult closely on issues related to the WTO/DDA despite differences on certain issues.

The United States has been one of the largest single-country sources of new foreign investment in South Africa since South Africa's 1994 transition to democracy. There are an estimated 600 U.S. companies (including subsidiaries, joint ventures, local partners, agents, franchises, and representative offices) doing business in South Africa. As with any trade and investment relationship as diverse and vibrant as this one, certain disputes have arisen between the United States and South Africa. These include concerns related to South Africa's September 2006 antidumping order against imports of certain U.S. poultry products, concerns regarding restrictions placed on U.S. exports of soda ash, and ongoing problems related to South Africa's basic telecommunications monopoly, Telkom, and its failure to provide facilities necessary for U.S. value-added network services (VANS) providers to operate and expand.

The United States continues to consult with South Africa about the specifics of its Black Economic Empowerment (BEE) policies, which are intended to promote the economic empowerment of the historically disadvantaged majority population in South Africa. U.S. companies generally support the objectives of BEE, particularly its emphasis on development and on moving historically disadvantaged people into the mainstream of the national and global economy, but some have expressed concern about the scope and implementation of BEE policies. For example, there are concerns about BEE policies requiring the transfer of equity to historically disadvantaged companies, particularly among wholly-owned U.S. subsidiaries that have no equity to transfer. U.S. companies have expressed concern as to the details associated with BEE implementation, interpretation, and policy.

Foreign investors in South Africa have cited the uncertainty of South African policies (BEE and others) as the number one risk of doing business in the country. BEE guidelines for multinationals, released in December 2005, have provided companies with more details, and companies have sought further clarification through their comments to the South African government. The United States continued to discuss all of these issues with South Africa in 2006.

10. Southern African Customs Union

The United States and the Southern African Customs Union (SACU) – comprised of Botswana, Lesotho, Namibia, Swaziland, and South Africa – launched free trade agreement (FTA) negotiations in 2003. Active FTA negotiations were suspended in April 2006, largely due to divergent views on the scope and level of ambition for the FTA. The FTA remains a longer-term objective for both the United States and SACU.

In November 2006, the United States and SACU agreed to pursue a new type of agreement – a proposed Trade and Investment Cooperation Agreement (TICA) – that could help lead the United States and SACU to an FTA in the longer term. The proposed TICA would establish a forum for consultative discussions on a wide range of trade issues, including but not limited to FTA issues; develop sector-specific work plans that should lead to increased U.S.-SACU trade and investment in the near term; and put in place the “building blocks” for an FTA in the longer term.

The SACU countries are key beneficiaries of AGOA, with U.S. imports from SACU under AGOA valued at \$2.2 billion in the first eleven months of 2006, and they comprise the largest U.S. export market in sub-Saharan Africa, with \$4.2 billion in U.S. exports in the first eleven months of 2006.

11. West African Economic and Monetary Union (UEMOA)

Members of the West African Economic and Monetary Union (also known by its French acronym, UEMOA) are Benin, Burkina Faso, Cote d'Ivoire, Guinea-Bissau, Mali, Niger, Senegal, and Togo. UEMOA has established a customs union, eliminated internal duties, and is making progress in addressing key non-tariff barriers. Six⁵⁸ of the eight UEMOA member countries are eligible for AGOA. Five of these countries – Benin, Burkina Faso, Mali, Niger, and Senegal – are eligible to receive AGOA's textile and apparel benefits.

UEMOA entered into a TIFA with the United States in April 2002. At the most recent TIFA Council meeting in June 2006, Assistant U.S. Trade Representative Liser and UEMOA Commission President Cisse discussed export diversification; the WTO's Doha Development Agenda, including the handling of cotton in these negotiations; transport issues; and trade capacity building.

Total two-way trade between UEMOA and the United States was valued at \$1.3 billion in the first eleven months of 2006, a 5 percent decrease over the same period in 2005. Cote d'Ivoire remained the largest UEMOA market for U.S. goods. The leading U.S. exports to UEMOA are motor vehicles and electrical machinery. U.S. imports from UEMOA are primarily cocoa and petroleum products. In the first eleven months of 2006, U.S. imports from UEMOA under AGOA, including its GSP provisions, were valued at \$14.9 million, an exponential increase from only \$841,000 during the same period in 2005, mainly due to the first AGOA shipment of groundnut oil from Senegal.

⁵⁸ AGOA beneficiaries are Benin, Burkina Faso, Guinea-Bissau, Mali, Niger, and Senegal.

IV. OTHER MULTILATERAL ACTIVITIES

The United States pursues its trade and trade-related interests in a wide range of other international fora. In addition to opening new trade opportunities, such efforts focus on establishing an infrastructure for international trade that is transparent, predictable and efficient, and prevents restrictive practices and other impediments to expanded trade and sustainable economic growth and prosperity. These efforts also are aimed at ensuring that U.S. strategies and objectives relating to international trade, environment, labor and other trade-related interests are balanced and mutually supportive.

A. Trade and the Environment

As President Bush stated when he signed the Trade Act of 2002, “history shows that as nations become more prosperous, their citizens will demand, and can afford, a cleaner environment.” The United States, understanding that advancing trade and environmental objectives are mutually supportive, has been very active in promoting a trade policy agenda that pursues economic growth in a manner that integrates economic, social, and environmental policies.

As provided for in the Trade Act of 2002, and consistent with Executive Order 13141 (1999) and its implementing guidelines, the Administration conducts environmental reviews of ongoing trade negotiations. These reviews are the product of rigorous interagency consultations and continue to be an important dimension of trade policy formulation. The reviews identify environmental issues to be taken into account during trade negotiations and inform the public about trade and environment interactions in the context of specific negotiations. In 2006, the program of work on reviews included preparation and release of an interim review for the United States-Korea FTA; completion of final reviews for the United States-Oman FTA and United States-Peru TPA; and progress on the interim review for the WTO Doha Round. USTR and the Council on Environmental Quality (CEQ) also continued their joint effort to assess cumulative experiences with environmental reviews of trade agreements in order to provide a basis for gauging success.

The United States continues to take an active role in the WTO Committee on Trade and Environment (CTE) to put into effect our commitment to the simultaneous promotion of expanded trade, environmental improvement, and economic growth and development.

The Congress specified certain objectives with respect to trade and the environment in the Trade Act of 2002, and USTR took these into account in coordinating interagency development of negotiating positions. Also during 2006, USTR consulted closely with Congress on the environmental provisions of each FTA throughout negotiations.

In addition, USTR has participated both in multilateral and regional economic fora and in international environmental agreements, in conjunction with other U.S. agencies. USTR also has worked bilaterally with U.S. trading partners to avert or minimize potential trade frictions arising from foreign and U.S. environmental regulations.

1. Multilateral Fora

As described in more detail in the WTO section of this report (see Chapter II), the United States is active on all aspects of the Doha trade and environment agenda. In particular, the United States has contributed to the intensification of work on liberalization of trade in environmental goods in the Committee on Trade and Environment (CTE) in Special Session in 2006, including through a proposal for an ambitious tariff-cutting modality in the negotiations. The United States believes that increased market access for environmental goods is an effective means to enhance access to environmental technologies around the

world and has continued to advance innovative ideas for product coverage and modalities in these negotiations. In the Rules Negotiating Group, the United States continues to lead in pressing for stronger disciplines on fisheries subsidies, including the prohibition of the most harmful subsidies that contribute to overcapacity and overfishing.

With respect to the Doha trade and environment agenda that does not specifically involve negotiations, the United States played an active role, particularly in emphasizing the importance of capacity-building. This included environmental reviews of trade negotiations, and the role of the CTE in Regular Session in discussing the environmental implications of all areas under negotiation in the Doha Development Agenda.

USTR co-chairs United States participation in the OECD Joint Working Party on Trade and Environment (JWPTE), which met twice in 2006. Work has focused on trade, environment and development issues with an emphasis on the role of environmental goods and services liberalization in promoting “win-win-win” scenarios. These activities are discussed further in the OECD section of this report (see Chapter IV, Section C).

USTR participates in U.S. policymaking regarding the implementation of various multilateral environmental agreements to ensure that the activities of these organizations are compatible with both U.S. environmental and trade policy objectives. Examples include the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the Montreal Protocol on Substances that Deplete the Ozone Layer, the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, the United Nations Framework Convention on Climate Change, international fisheries management schemes, the Cartagena Protocol on Biosafety and the Stockholm Convention on Persistent Organic Pollutants. USTR also participates in U.S. policymaking regarding activities related to the United Nations Environment Programme.

USTR leads United States participation in the International Tropical Timber Agreement (ITTA), a commodity agreement that includes, amongst its objectives, the sustainable management of tropical forests. Negotiations for a successor agreement to the ITTA, which was enacted in 1994, were concluded in 2006, and the new agreement is expected to strengthen efforts to promote trade in the context of sustainable management.

USTR also continues to be involved in the trade-related aspects of a variety of other international forest policy deliberations, including the implementation of President Bush’s Initiative to Address Illegal Logging. In addition, USTR has participated extensively in U.S. policymaking regarding the compliance regimes of the International Commission for the Conservation of Atlantic Tuna and other regional fisheries management organizations.

2. Bilateral Activities

The Bush Administration has continued to advance the policy of enhancing environmental cooperation with our new FTA partners. To complement negotiation of FTAs, the Department of State leads interagency efforts to negotiate parallel environmental cooperation mechanisms. For example, as a complement to the recently approved U.S.-Oman FTA, the United States and Oman negotiated a Memorandum of Understanding on Environmental Cooperation that establishes a Joint Forum on Environmental Cooperation to set priorities for future environment-related projects. Such cooperative activities are already underway in Oman. An Environmental Cooperation Agreement (ECA) with parties to the CAFTA-DR was completed in 2005. This ECA identifies several areas, such as institutional strengthening and enforcement of environmental laws, for priority attention and is innovative in its use of mechanisms to establish benchmarks and monitoring procedures to measure progress.

USTR has included in all of its recent FTAs environment chapters core obligations to promote high levels of environmental protection, ensure effective enforcement of environmental laws, and restrict FTA partner governments from inappropriately derogating from these laws to encourage increased trade or investment.

Additionally, all FTA environment chapters include provisions to advance public participation, remedial action for violations of environmental laws and measures to enhance environmental performance. CAFTA-DR, in particular, includes an innovative public submissions mechanism that allows members of the public to have independent review of their written submissions on enforcement matters and to promote action by the Environmental Cooperation Commission under the ECA that may build capacity to address enforcement problems. USTR is currently negotiating FTA environment chapters with the United Arab Emirates, Korea and Malaysia. USTR recently concluded an FTA with Panama that includes an environment chapter with provisions very similar to the ones contained in CAFTA-DR.

USTR also concluded Trade Promotion Agreements (TPAs) with Peru and Colombia. Both the Peru TPA and the Colombia TPA environment chapters include the core provisions of other FTAs and specific recognition of the importance of conserving and protecting biological diversity.

With respect to implementation of recently concluded FTAs, USTR has worked with the State Department, USAID and other agencies to follow up with implementation of eight environmental cooperation projects outlined in the United States-Chile FTA. The U.S.-Chile Environmental Affairs Committee met in October 2006 to discuss progress made on these projects. Additionally, USTR and other agencies focused in 2006 on implementation of other cooperation mechanisms, such as those involving Middle East FTA partners and Singapore. In 2006, the State Department and USTR worked with Central American countries and the Dominican Republic to finalize a work plan for the CAFTA-DR Environmental Cooperation Agreement (ECA) with a goal of continuing current and beginning new project implementation in early 2007.

In 2006, USTR concluded a Memorandum of Understanding (MOU) with Indonesia to enhance joint efforts between the two countries to combat illegal logging and associated trade. This agreement is the first of its kind for both countries and is designed to promote forest conservation and to help ensure that Indonesia's legally-produced timber and wood products continue to have access to markets in the United States and elsewhere. The MOU envisions ongoing action between U.S. and Indonesian authorities to share information on timber trade, including information on illegally-produced timber products, and cooperation in law enforcement activities. In order to guide implementation and identify priority actions that both countries will undertake, the agreement establishes a working group under the existing U.S.-Indonesia Trade and Investment Framework Agreement (TIFA).

3. The North American Free Trade Agreement (NAFTA)

USTR continues to work actively with EPA and other agencies in the institutions created by the NAFTA environmental side agreement, the North American Agreement on Environmental Cooperation (NAAEC), and the border environmental infrastructure agreement. These institutions were designed to enhance the mutually supportive nature of expanded North American trade and environmental improvement. The Border Environment Cooperation Commission and the North American Development Bank develops and finances needed environmental infrastructure projects along the U.S.-Mexico border.

The trilateral Commission on Environmental Cooperation (CEC) has responsibility for implementation of the NAAEC. USTR has worked closely with EPA, as well as trade and environment officials in Canada and Mexico, and at the CEC to implement the CEC's strategic plan on trade and environment. This strategic plan identifies six priority areas for CEC projects: renewable energy; trade and enforcement of

environmental laws; ongoing environmental assessments of NAFTA; green purchasing; market-based mechanisms for sustainable use; and invasive alien species.

B. Trade and Labor

The trade policy agenda of the United States includes a strong commitment to protecting the rights of workers and promoting a level playing field for workers, both in America and in countries with which we trade. Expanded trade benefits all Americans through lower prices and greater choices in products available to consumers.

American workers benefit from expanded employment opportunities created by trade liberalization. A concerted focus on worker training and education policies will continue to ensure that the American workforce can compete with anyone. For workers displaced by trade, the Trade Adjustment Assistance Reform Act of 2002 [Title XXI of the Trade Act of 2002] modifies and expands the Trade Adjustment Assistance (TAA) program. TAA helps workers adversely affected by foreign trade through the provision of re-employment services including skills training for displaced workers, income support while in training and job search and relocation assistance. Important changes to the program made in 2002 include expanded eligibility to more worker groups, increased benefits and tax credits for health insurance coverage assistance. In pursuing trade liberalization through free trade agreements, we rely on the congressional guidance contained in the Bipartisan Trade Promotion Authority Act of 2002 (TPA) to bring the benefits of trade and open markets to America and the rest of the world. During this past year, USTR continued to consult with Congress on the labor provisions of each agreement throughout the negotiations. USTR also continued to work cooperatively with other U.S. agencies in multilateral, regional and bilateral fora to promote respect for core labor standards, including the abolition of the worst forms of child labor, in pursuing labor provisions in numerous free trade agreements consistent with the bipartisan guidance contained in the Trade Act of 2002.

1. Bipartisan Trade Promotion Authority Act of 2002 (TPA) – Trade and Labor

The importance of the linkage between trade and labor is underscored by the fact that TPA contains labor-related clauses in three sections of the legislation: overall trade negotiating objectives; principal negotiating objectives; and the promotion of certain priorities to address U.S. competitiveness in the global economy.

The overall labor-related U.S. trade negotiating objectives are threefold. The first objective is to promote respect for worker rights and the rights of children consistent with the core labor standards of the International Labor Organization (ILO). TPA defines core labor standards as: (1) the right of association; (2) the right to organize and bargain collectively; (3) a prohibition on the use of forced or compulsory labor; (4) a minimum age for the employment of children; and (5) acceptable conditions of work with respect to minimum wages, hours of work and occupational safety and health. The second objective is to strive to ensure that parties to trade agreements do not weaken or reduce the protections of domestic labor laws as an encouragement for trade. The third objective is to promote the universal ratification of, and full compliance with, ILO Convention 182 – which the United States has ratified – concerning the elimination of the worst forms of child labor.

The principal trade negotiating objectives in TPA most important for labor include the provision that a party to a trade agreement with the United States should not fail to effectively enforce its labor laws in a manner affecting trade. TPA recognizes that the United States and its trading partners retain the sovereign right to establish domestic labor laws, exercise discretion with respect to regulatory and compliance matters, and make resource allocation decisions with respect to labor law enforcement.

Additional principal negotiating objectives include strengthening the capacity of our trading partners to promote respect for core labor standards and ensuring that the labor, health or safety policies and practices of our trading partners do not arbitrarily or unjustifiably discriminate against American exports or serve as disguised trade barriers. A final principal negotiating objective is to seek commitments by parties to trade agreements to vigorously enforce their laws prohibiting the worst forms of child labor.

In addition to seeking greater cooperation between the WTO and the ILO, other labor-related priorities in TPA include the establishment of consultative mechanisms among parties to trade agreements to strengthen their capacity to promote respect for core labor standards and compliance with ILO Convention 182. The Secretary of Labor is charged with consulting with any country seeking a trade agreement with the United States concerning that country's labor laws and providing technical assistance if needed. Finally, TPA mandates a series of labor-related reviews and reports to Congress in connection with the negotiation of new trade agreements. These include an employment impact review of future trade agreements, the procedures for which are modeled after Executive Order 13141, which establishes environmental impact reviews of trade agreements. A report addressing labor rights and a report describing the extent to which there are laws governing exploitative child labor are also required for each of the countries with which we are negotiating a free trade agreement.

2. Multilateral Efforts

At the WTO Ministerial meetings in Singapore (1996) and Seattle (1999), the United States was among a group of countries supporting the creation of a WTO Working Party to examine the interrelationships between trade and labor standards. At the 2001 Doha WTO Ministerial, the United States supported a similar EU proposal that a group of developing countries adamantly opposed. The text of the Doha Ministerial Declaration, adopted by consensus, includes the following:

“We affirm our declaration made at the Singapore Ministerial Conference regarding internationally recognized core labor standards. We take note of work underway in the International Labor Organization (ILO) on the social dimensions of globalization.”

In the Hong Kong Ministerial Declaration adopted during the 2005 WTO Ministerial, the governments reaffirmed the declarations and decisions adopted in Doha and their full commitment to give effect to them.

In October 2005, the United States participated along with representatives from other ILO member countries, worker and employer organizations, non-governmental organizations, the WTO and the World Bank in the Tripartite Meeting on Promoting Fair Globalization in Textiles and Clothing in a Post-MFA Environment that was held in Geneva.

In 2005, the ILO released the document “A global alliance against forced labor” as part of its yearly “Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work.” In this document, the ILO proposed action by member states against forced labor. These recommendations included identification of labor market characteristics that facilitate forced labor, ensuring law enforcement agents have the capacity and resources to implement the law, and establishment of time-bound action programs to eliminate forced labor.

In 2006, as part of its yearly Global Report under the ILO Declaration, the ILO released “The end of child labour: Within reach.” In this report, the ILO concluded that significant progress is being made in global efforts to end child labor and set out an action plan for further progress by member states. The proposed action plan emphasizes supporting national responses to child labor, deepening and strengthening the worldwide movement as a catalyst and promoting further integration of child labor concerns within overall ILO priorities.

The United States remains the largest donor to the work of the ILO. The United States has been particularly supportive of the ILO's International Program on the Elimination of Child Labor (IPEC). ILO-IPEC efforts have focused on the means to eliminate the worst forms of child labor, including child prostitution and pornography, forced or bonded child labor and work in hazardous or unhealthy conditions.

Activities to combat the worst forms of child labor continued in 2006, including in many of our trading partner countries. Total U.S. contributions to ILO-IPEC and other organizations in support of projects to address exploitive child labor in Fiscal Year 2006 amounted to \$53 million, helping to finance 17 projects in 19 countries.

3. Regional Activities

The Inter-American Conference of Ministers of Labor (IACML) is a meeting of the Western Hemisphere's Labor Ministers, held about every two years under the auspices of the Organization of American States (OAS) in order to promote hemispheric cooperation on labor issues. Mexico is the current chair of the IACML. In 2005, the IACML endorsed Trinidad and Tobago as the incoming chair of the conference. Trinidad and Tobago will host the Fifteenth IACML in September 2007.

The IACML responds to the labor mandates agreed to by President Bush and other heads of state in the Summit of the Americas process. A number of outcomes from the Fourteenth IACML, hosted by Mexico in September 2005, were incorporated into the IV Summit of the Americas in November 2005, where President Bush met with the heads of state of governments of the Americas to discuss the topic, "Creating Jobs to Fight Poverty and Strengthen Democratic Governance."

The Plan of Action of Mexico, endorsed by the Labor Ministers in 2005, provides for the continued examination of the labor dimensions of free trade agreements and regional integration processes within IACML Working Group 1, with a focus on decent work as an instrument of development and democracy. Working Group 1 is chaired by Argentina and vice-chaired by Costa Rica and Chile. Working Group 2 focuses on strengthening the capacities of Labor Ministries to respond to the challenges of promoting decent work in the context of globalization, including an emphasis on the *ILO Declaration on Fundamental Principles and Rights at Work*. This working group is chaired by El Salvador and vice-chaired by Uruguay and the United States. The ILO, the Organization of American States, the Inter-American Development Bank and the UN's Economic Commission for Latin America and the Caribbean, along with the Business Technical Advisory Committee on Labor Matters and the Trade Union Technical Advisory Committee, participate in IACML meetings and activities.

In 2006, the IACML work program examined efforts to measure progress in combating child labor (in the context of the Summit of the Americas commitment to eradicate the worst forms of child labor by 2020), employment services, effective enforcement of national labor laws, policies to promote decent work, developments in occupational safety and health, and country programs to protect the labor rights of migrant workers.

The Secretariat of the Commission for Labor Cooperation, comprised of representatives from the United States, Canada and Mexico, and established under the North American Agreement on Labor Cooperation (NAALC), continued its efforts to support the IACML process in 2006 through work by an expert working party to examine employment services opportunities in furtherance of the Plan of Action of Mexico.

Other regional trade and labor activities carried out under NAFTA/NAALC and the OECD are noted in those sections of this report.

4. Bilateral Activities

i. FTAs

The Administration continued to negotiate bilateral trade agreements that fully incorporate the congressional guidance on trade and labor contained in TPA. During 2006, Congress approved an FTA with Oman and USTR signed FTAs with Peru and Colombia and concluded negotiations with Panama. The Bahrain FTA entered into force on August 1, 2006. The Oman and Bahrain FTAs mark further progress on the President's commitment to creating a Middle East Free Trade Area (MEFTA) by 2013.

The FTA process has helped to encourage many of our trading partners to adopt new labor law reforms. For example, reform of the labor code languished in the Moroccan Parliament for 20 years before United States-Morocco FTA negotiations helped provide the momentum for Morocco to update its labor code. Labor reforms made during the negotiation of the U.S.-Bahrain FTA fully supported and complemented the democratic reforms by the Kingdom of Bahrain. Bahrain enacted significant labor law reforms in 1993 and 2002 to allow for independent labor unions for the first time since the early 1970s; it also implemented additional statutory reforms in 2006 to further support trade union rights.

Oman undertook significant labor law reform in 2003, allowing for the creation of trade unions for the first time. During Congressional consideration of the Oman FTA, the Government of Oman made several commitments to the United States to enact additional labor law reforms to ensure respect for core labor standards. The Government of Oman enacted relevant reforms in July and December 2006, and further reforms related to the commitments are expected in early 2007.

In each of these FTAs, the parties reaffirm their obligations as ILO members and commit to strive to ensure that internationally recognized labor rights and the principles in the *ILO Declaration on Fundamental Principles and Rights at Work* are recognized and protected by domestic labor laws. Each party is obligated not to fail to effectively enforce its labor laws, recognizing the discretion parties have in matters such as allocation of resources. Each party also is committed to designate an office within its labor ministry to serve as a contact point for purposes of the labor chapter.

On December 21, 2006, the Bureau of International Labor Affairs (ILAB) of the U.S. Department of Labor established the Office of Trade and Labor Affairs (OTLA) and designated it as the contact point for purposes of administering the Bureau's responsibilities under the labor provisions of free trade agreements and the North American Agreement on Labor Cooperation (NAALC). OTLA will maintain the designation as the National Administrative Office under the NAALC. ILAB published new procedural guidelines for public submissions under trade agreements on December 21, 2006 (Fed. Reg. vol. 71, no. 245, Dec 21, 2006, 76691-76696).

Cooperation and consultations are the preferred means to resolve differences over a party's compliance with its obligations under an FTA's labor chapter. If cooperation and consultations fail to resolve such a disagreement, our FTAs permit a party to ask a dispute settlement panel to determine whether the other party has violated its obligation not to fail to effectively enforce its labor laws in a manner affecting trade. If a panel determines that the respondent party has violated this obligation, and if the parties are unable to agree on an action plan for bringing that party into compliance, then the panel may establish a monetary assessment to be paid by that party, based on criteria such as the trade effect and pervasiveness of the violation. Any monetary assessment for a labor violation would be paid into a fund established by a joint commission (consisting of representatives of both parties to the agreement) and expended at the direction of the joint commission for appropriate labor initiatives, including efforts to improve or enhance labor law enforcement. If a party fails to pay an assessment within a reasonable period, the other party may take appropriate steps to collect the assessment, including suspending tariff concessions under the FTA

sufficient to collect the assessment, bearing in mind the agreement's objective of eliminating barriers to bilateral trade while seeking to avoid unduly affecting parties or interests not party to the dispute.

We continue to include a labor cooperation mechanism in each agreement to help ensure the longer-term capacity of our trading partners to effectively enforce labor laws, including capacity building programs designed to strengthen the ability of our partners to better protect worker rights.

Capacity building initiatives related to U.S. free trade agreements include a regional project in Central America that was expanded to include the Dominican Republic and Panama to increase workers' and employers' knowledge of their national labor laws, strengthen labor inspections systems, and bolster alternative dispute resolution mechanisms. This project was funded through an \$8.75 million grant from the U.S. Department of Labor.

The Administration committed an additional \$20 million in FY2005 for labor and environment initiatives in CAFTA-DR countries. For FY2006, the Administration requested and successfully obtained \$40 million which was appropriated in the form of \$20 million in Economic Support Funds and \$20 million in Developmental Assistance (DA). Nineteen million dollars of FY2005 funds and \$21.1 million of FY2006 funds are being directed toward labor initiatives, including projects to strengthen labor ministries, modernize labor justice systems, reduce gender and other types of workplace discrimination, promote a culture of compliance with labor laws, and benchmark and verify progress. For FY2007, the Administration again requested \$40 million for labor and environment initiatives in the CAFTA countries. An interagency group comprised of the Departments of State and Labor, USTR, USAID and other agencies was established to program the funds.

The United States is in the process of identifying additional appropriate projects at this time, in concert with the CAFTA-DR countries. Several labor programs are also being carried out in Morocco, Oman, Bahrain and Jordan aiming to train workers on worker rights issues, to enhance the labor ministries' capacity to increase compliance with labor laws, and to help eradicate the worst forms of child labor.

Pending bilateral FTA negotiations with Korea, Malaysia and the United Arab Emirates include discussion of labor provisions and adherence to internationally recognized labor rights.

ii. Other Bilateral Agreements and Programs

In November 2000, the U.S. Department of Labor and Vietnam's Ministry of Labor, Invalids and Social Affairs signed a Memorandum of Understanding (MOU) to establish a program of cooperation and an annual dialogue on labor matters of mutual interest, including international labor standards, worker rights, and labor market reform. The 2000 MOU expired at the end of 2005. In August 2006, both governments reaffirmed their commitment to labor cooperation by signing a Letter of Understanding, pledging to continue the annual labor dialogue.

A final aspect of trade and labor bilateral activities relates to the worker rights provisions of U.S. trade preference programs, such as the African Growth and Opportunity Act (AGOA), the Andean Trade Preference Act (ATPA), the Caribbean Basin Trade Preferences Act (CBTPA), and the Generalized System of Preferences (GSP). Pursuant to the ATPA, there is an annual petitioning process to review the eligibility of countries. ATPA petitions concerning working rights in Ecuador were filed in 2005 and the Trade Policy Staff Committee (TPSC) continued to review worker rights conditions in that country in 2006. Any modifications to the list of beneficiary developing countries or eligible articles resulting from this review of progress will be published in the *Federal Register*.

As part of the 2006 GSP Annual Review process, USTR concluded reviews of country practice petitions concerning worker rights in Swaziland and Uganda. These petitions requested GSP trade benefits be

withdrawn from the two countries, but the USTR found both countries to be taking steps to afford internationally recognized labor rights. The review of Swaziland's GSP beneficiary status stemmed from a 2002 petition submitted by the AFL-CIO. In the past several years, Swaziland has made steady progress on worker rights, including ratifying a new Constitution, amending the Industrial Relations Act to strengthen the Conciliation, Mediation, and Arbitration Commission, participating in a U.S. DOL-funded regional project to increase awareness of, and compliance with, labor laws, and participating in a regional ILO project to eliminate the worst forms of child labor. The AFL-CIO submitted a worker rights petition concerning Uganda in June 2005. Since that time, Uganda has put forward labor reform laws for ratification by its parliament addressing the issues raised in the AFL-CIO petition, and the garment employers and workers have signed a first-ever agreement recognizing a workers union. Also in 2006, the President restored GSP least developed beneficiary status to Liberia. Under newly elected Liberian President Ellen Sirleaf Johnson, the Liberian government made progress restoring many of the labor rights that had been curtailed during the regime of Charles Taylor, including repealing a prohibition on the right to strike, and working with the ILO to improve worker rights.

C. Organization for Economic Cooperation and Development

Thirty democracies in Europe, North America, and the Pacific Rim comprise the Organization for Economic Cooperation and Development (OECD), established in 1961 and headquartered in Paris. In 2005, these countries accounted for 58 percent of world Gross Domestic Product (GDP (in purchasing-power-parity terms)), three-quarters of world trade, 96 percent of world official development assistance, and 18 percent of the world's population. The OECD is not just a grouping of economically significant nations, but also a policy forum covering a broad spectrum of economic, social and scientific areas, from macroeconomic analysis to education to biotechnology. The OECD helps countries - both OECD members and non-members - reap the benefits and confront the challenges of a global economy by promoting economic growth, free markets, and efficient use of resources. Each substantive area is covered by a committee of member government officials, supported by Secretariat staff. The emphasis is on discussion and peer review, rather than negotiation, though some OECD instruments are legally binding, such as the Anti-Bribery Convention. Most OECD decisions require consensus among member governments. In the past, analysis of issues in the OECD often has been instrumental in forging a consensus among OECD countries to pursue specific negotiating goals in other international fora, such as the WTO.

The OECD conducts wide-ranging outreach activities to non-member countries and to business and civil society, in particular through its series of workshops and "Global Forum" events held around the world each year. In 2006, the OECD completed comprehensive reviews of the economies of Russia and Brazil, both non-member countries that participate as observers in various OECD committees. Non-members may participate as observers of committees when members believe that participation will be mutually beneficial. The OECD carries out a number of regional and bilateral cooperation programs. The China program, for instance, supports China's efforts to establish a market economy and improve public governance.

Angel Gurría, former Foreign Minister and Finance Minister of Mexico, became the new Secretary-General of the OECD, effective June 1, 2006, replacing Donald J. Johnston of Canada, who retired after 10 years in the post. The Secretary-General oversees the work of the OECD's Secretariat, and chairs the OECD's decision-making Council.

The OECD is mainly funded by the member countries. National contributions to the annual budget are based on a formula related to the size of each member's economy, with the United States' contribution capped at just under 25 percent. The overall budget for 2006 was projected to total 336 million euros (approximately \$434 million).

1. Trade Committee Work Program

In 2006, the OECD Trade Committee, its subsidiary Working Party, and its joint working groups on environment and agriculture, continued to address a number of issues of significance to the multilateral trading system. Members asked the Secretariat to focus its analytical resources on work that would advocate freer trade and facilitate WTO negotiations, deepening understanding of the rationale for continued progressive trade liberalization in a rules-based environment. The Trade Homepage on the OECD website (www.oecd.org/trade) contains up-to-date information on published analytical work and other trade-related activities.

Several major analytical pieces were completed under the Trade Committee during 2006. These included the studies *Trading Up: Economic Perspectives on Development Issues in the Multilateral Trading System*, which considers trade and development from an economic perspective, examining welfare and economic adjustments from liberalization, and related policy options, and *Liberalization and Universal Access to Basic Services: Telecommunications, Water and Sanitation, Financial Services and Electricity*, which examines how trade liberalization can contribute to achieving basic access to these services.

The Trade Committee also released a number of Working Papers on topics such as “South-South Trade in Goods” and “South-South Services Trade” which highlighted that South-South trade barriers, particularly tariff barriers, are still much higher than those governing South trade with other partners. In addition, the Trade Committee released case studies that examined how two member countries and two non-members had identified complementary measures to ensure the maximum realization of benefits from the liberalization of trade in goods and services. Work on “Dynamic Gains from Trade” found robust evidence that open economies are richer and more productive than those that are closed to trade. 2006 also saw the release of a study on “China’s Trade and Growth” and their impact on selected OECD countries, including the United States, was also published in 2006. This work was shared with Chinese government officials and academics at a November OECD-China seminar in Beijing.

Work in the Trade Committee on trade in services continued to provide analysis and background relevant to the WTO negotiations and trade liberalization in general. In 2006, the OECD published a number of papers on services. Two of them – “Logistics and Time as a Barrier to Trade” and “Business Services, Trade and Costs” – highlighted the linkages between the services sector and the manufacturing and agricultural sectors. In addition, the papers demonstrated how services liberalization can benefit all three sectors of the economy. The papers included examinations of developed and developing countries. Also touching on issues of interest to developing countries were papers on “Special and Differential Treatment under the GATS” and “The Linkages between Open Services Markets and Technology Transfer.” The latter report found that services liberalization in key sectors in developing countries can have a significant impact on technology diffusion.

In June 2006, the OECD held a workshop on trade in services, organized in Geneva in conjunction with UNCTAD. The purpose of the event was to help officials of WTO Members, and particularly developing countries, gain greater insight into issues of importance in services sectors, and how they might be approached in the GATS negotiations. The sectors covered included business support services; logistics and related services; construction and related engineering services; energy services; and environmental services.

In conjunction with the Trade Committee, the Committee on Agriculture prepared *Agriculture Policy and Trade Reform: Potential Effects at Global, National, and Household Levels*, which found that gains to developing countries from agricultural trade reform in OECD countries would come “almost entirely” from tariff cuts, versus cuts in domestic support. Working together, the Trade Committee and the Development Cooperation Directorate produced *The Development Dimension: Aid for Trade: Making it Effective*, which reviews the effectiveness of existing aid programs and advocates that reinforcing mutual

accountability at the local level along with a global review mechanism will enhance the impact of Aid for Trade.

A Global Forum on Trade was held in October 2006 in Mexico, which provided an opportunity to discuss the issues of market access and development, touching on global (MFN) liberalization, North-South trade and South-South trade, trade in services, and regional trade liberalization. Several regional trade-related events were also held, including a regional forum on “Maximizing the Developmental Benefits of Trade Facilitation,” held in Cameroon in September, gathering over 100 private sector and government representatives from Western and Central Africa, and a regional workshop on agriculture and trade, organized in conjunction with the WTO in Argentina in October, with participation from 20 countries in Latin America and the Caribbean. U.S. Government representatives participated in all three events, as well as in an OECD-APEC Global Conference on “Removing Barriers to SME Access to International Markets,” held in Athens in November, 2006.

The Trade Committee also laid the groundwork for a meeting of OECD member country trade ministers in May 2006. U.S. Trade Representative Susan C. Schwab (then nominee for U.S. Trade Representative) headed the U.S. delegation. Ministers from a number of key non-members also participated. Those discussions made a positive contribution to the WTO negotiations.

In addition, the Trade Committee adopted in 2006 a new strategy for dialogue with civil society and discussed aspects of its work and issues of concern with representatives of civil society, including members of the OECD’s Business and Industry Advisory Council and Trade Union Advisory Council.

2. Dialogue with Non-OECD Members

The OECD has continued its contacts with non-member countries to encourage the integration into the multilateral trade regime of developing and transition economies, such as the countries of Eastern Europe and Central Asia, leading developing economies in South America and Asia, and sub-Saharan African countries.

In 2006, the Trade Committee and its Working Party continued its discussion on how to enhance outreach to non-members. A new, more pro-active strategy for outreach was adopted in October 2005, and was followed in March 2006 by a decision to invite non-member economies to be observers on an *ad hoc* basis when their participation could both benefit from, and contribute to, the Trade Committee’s work. Thailand and Malaysia were invited to participate as *ad hoc* observers in the Trade Committee’s June 2006 meeting, while China and India were invited to the October meeting. The current regular observers in the Trade Committee are Argentina, Brazil, Chile, Hong Kong China, and Singapore. These five observers, plus China, Egypt, Guyana, India, Kenya, Pakistan, Russia, South Africa and Zambia, also accepted the OECD’s invitation to participate in the trade ministers’ meeting at the May 2006 Ministerial Council Meeting, which focused on the follow-up to the WTO Ministerial Meeting in Hong Kong China. Dialogue with non-member countries is also a key motivation for the outreach events described earlier.

3. Technical Assistance and Capacity Building

The OECD Trade Committee provided leadership in 2006 for expanded dialogue and coordination on the Aid for Trade (A4T) discussions underway at the WTO

In November 2006, the OECD Development Assistance Committee (DAC) organized the “OECD Policy Dialogue with non-members on Aid for Trade: From Policy to Practice,” in Doha, Qatar. The event brought together policy makers from OECD and developing countries to advance the Aid for Trade agenda. Participants affirmed their commitment to build on the WTO A4T task force’s October 2006 recommendations and the Paris Declaration on Aid Effectiveness.

The DAC composed a number of discussion papers that sought to assist the A4T discussions in the WTO and develop guidelines for delivering A4T assistance. Additionally, DAC papers provided useful perspectives on the connection between A4T discussions and new policy commitments. One paper targeting trade facilitation, “Making Technical Assistance and Capacity Building for Trade Facilitation Effective and Operational”, connects potential commitments from the WTO Trade Facilitation Negotiating Group with the A4T discussions. Importantly, the DAC contributed to strengthening international best practices for delivering technical assistance, including the need for sufficient country demand, needs assessments, long run outlooks, and donor coordination.

4. Competition Policy and Trade

The OECD sponsored a Global Forum on Trade and Competition on February 10, 2006, at which approximately twenty non-OECD countries and international organizations participated. Developing countries presented case studies involving antitrust matters that may have affected trade or development. References to competition in the Millennium Development Goals were discussed, and representatives from CARICOM and the Andean Community described the competition provisions in their regional agreements.

The mandate of the OECD’s Joint Group on Trade and Competition was not renewed. The U.S. opposed renewal in both the Trade and Competition Committees, noting that trade and competition discussions were a low priority in both committees, that attendance at recent Joint Group meetings had been poor, and that work on trade and competition policy could continue, as warranted, without the Joint Group as a formal institution. For instance, in 2006, a project was launched to examine how pro-competitive reforms in developing countries influence trade.

5. Environment and Trade

The OECD Joint Working Party on Trade and Environment (JWPTE) met twice in 2006 to continue its analysis of the effects of environmental policies on trade and the effects of trade policies on the environment, as well as its efforts to promote mutually supportive trade and environmental policies. During the year, the JWPTE contributed important work on environmental goods and services to support the WTO/DDA, including in key sectors such as renewable energy. The JWPTE continued its work to support the trade and environment-related elements of the September 2002 World Summit for Sustainable Development plan of implementation, focusing on successful transfer of environmentally-sound technologies. Papers on “Building Capacity to Monitor Water Quality: A First Step to Cleaner Water in Developing Countries,” and on “The Impact of Monitoring Equipment on Air Quality Management Capacity in Developing Countries,” were completed and published.

The JWPTE also continued its work on environmental aspects of regional trade agreements (RTAs). In June 2006, the JWPTE hosted an informative workshop involving many OECD and non-OECD member country experts with experience in negotiating and implementing environmental provisions set out in, or complementary to, RTAs. The extensive body of work and national experiences will be published in early 2007, and is expected to highlight innovative environmental provisions in U.S. Free Trade Agreements.

6. Agriculture and Trade

The Committee for Agriculture (CoAg) is the primary forum for discussing agriculture-related issues. The CoAg has two flagship publications – a 10-year *Agricultural Outlook* and a review of *Agricultural Policies in OECD Countries* – usually published in June, with the releases often involving presentations by the Secretariat on Capitol Hill and elsewhere in Washington. The *Agricultural Outlook* is published

every year, while the agricultural policies reports alternate annually between a full *Monitoring and Evaluation* report and a brief *At a Glance* overview. Publication of the 2006 *At a Glance* report, which covers agricultural policies and support in OECD countries, plus Brazil, China and South Africa, through 2005, was delayed over a dispute on how to uniformly measure decoupled subsidies in OECD member nations. The *Agricultural Outlook*, which is prepared in conjunction with the Food and Agriculture Organization (FAO) of the United Nations, presents the OECD-FAO 10-year baseline for agricultural commodity production and trade. In addition to the OECD countries, the market projections in the report cover a large number of other countries and regions, including Brazil, Russia, Argentina, and South Africa. Results from most other analytical reports prepared throughout the year are compared to that baseline.

Other work overseen by the CoAg during 2006 included a paper on “Commodity Market Impacts of Trade and Domestic Agricultural Policy Reform,” which is a companion to the study “Agricultural Non-Reciprocal Tariff Preferences by the Quad Countries.” Both are part of a major effort to evaluate preferences and to start looking at preference erosion. “Agricultural Market Impacts of Future Growth in the Production of Biofuels,” was a notable 2006 publication and represented a CoAg effort to look at policies and plans for biofuel production across OECD and some non-OECD countries and to provide some initial analysis regarding implications for land use and commodity prices. Further work on that subject is planned for 2007 and 2008. As part of its on-going work on the relationship between agriculture and the environment, the OECD published *Water and Agriculture: Sustainability, Markets and Policies* in 2006 and completed work on *Environmental Indicators for Agriculture*. CoAg also released several smaller studies related to various aspects of agricultural policy such as policy-related transaction costs, decoupling, and policy financing. Though not released before the end of the year, in 2006, CoAg carried out a major study of Mexico’s agricultural policy. The Mexican government both requested the study and provided financing for it.

During 2006, CoAg sponsored two Global Forums. The May event covered “Constraints to Agriculture in Sub-Saharan Africa,” while the November meeting provided updates on agricultural policy in eight key non-member countries. In addition, CoAg sponsored regional outreach efforts in Latin America and Africa, and a half dozen workshops at various locations, including China.

7. Labor and Trade

A reassessment of the *OECD Jobs Strategy* was a joint project of the Employment, Labor and Social Affairs (ELSA) and Economics (ECO) Directorates, and was completed in 2006. The original *Jobs Strategy* dated to 1994. The purpose of the reassessment was to take stock of progress in implementing recommendations since 1994, and to assess whether recommendations needed to be changed or expanded upon. A major motivation for the exercise was the rapid globalization of the past decade. Employment and Labor Ministers, or their surrogates, discussed the *Jobs Strategy* at a Ministerial meeting held in Toronto on June 16, 2006. At that meeting, Ministers agreed that all four pillars of the restated *Jobs Strategy* were central to the design of effective economic and labor market reforms. Extensive analytical work supporting the *Jobs Strategy* was published in June in the 2006 edition of the *OECD Employment Outlook*.

The Trade Union Advisory Committee (TUAC) to the OECD, made up of over 56 national trade unions centers from OECD member countries, has played a consultative role in the operation of the OECD and its various committees since 1962. As part of the OECD Ministerial Council meeting in May 2006, joint consultations were held with TUAC and BIAC (the Business and Industry Advisory Committee). TUAC submitted a statement to the May 2006 OECD Ministerial Council meeting, emphasizing the need to rebalance growth among OECD regions at high levels of employment and income, and to correct the imbalance between profits and wages and between high and low incomes.

In 2006, joint work continued between ELSA and the Trade Committee on the Globalization and Structural Adjustment project. The third part of this project (abbreviated GSA-3) is on the effect of globalization on labor market adjustment. OECD analysts are developing multiple indicators of various facets of international competition and assessing their relationship to, among other things, employment by demand and skill level; labor reallocation across firms within industries and the frequency with which individual workers of varying characteristics experience job loss or changes in industry; and associated effects on these workers' earnings growth. Two regional case studies will be prepared to complement the statistical analyses. GSA-3 will yield a number of outputs in 2007, including a policy paper in May; input into the discussion paper for the Ministerial Council's planned discussion of globalization and equity; and, detailed analytical contribution to the 2007 *OECD Employment Outlook*.

8. Export Credits

The OECD Arrangement for Officially Supported Export Credits (the Arrangement) places limitations on the terms and conditions of government-supported export credit financing so that competition among exporters is based on the price, quality and service of the goods and/or services being exported, rather than on the terms of government-supported financing. It also limits the ability of governments to tie their foreign aid to procurement of goods and services from their own countries (tied aid). The Participants to the Arrangement (Participants), a stand-alone policy-level body of the OECD, are responsible for implementing the 28-year-old Arrangement and for negotiating further disciplines to reduce subsidies in official export credit support.

The Administration estimates that the Arrangement saves U.S. taxpayers about \$800 million annually. First, rules on minimum interest rates ensure that the Export-Import Bank of the United States, the U.S. export credit agency, no longer has to offer loans with below-cost interest rates and long repayment terms to compete with such practices by other governments. Second, agreement on minimum exposure fees for country risk has generally reduced costs. Finally, the "level playing field" created by the Arrangement's tied aid disciplines has created conditions for U.S. exporters to increase their exports by about \$1 billion per year. These exports alone would have cost taxpayers about \$300 million annually since 1993 if the United States had been obligated to create its own tied aid program.

The OECD tied aid rules continue to reduce tied aid dramatically and redirect it from capital projects, where it has had trade-distorting effects, toward rural and social sector projects. Tied aid levels were nearly \$10 billion in 1991 before the rules were adopted, but were \$5.5 billion in 2005. For the first half of 2006, the Participants provided \$1.6 billion in tied aid. This represents only 64 percent of tied aid levels in the first half of 2005, suggesting that the 2006 annual levels will also be less than 2005 annual levels. Aside from reducing the overall volume of tied aid, the tied aid rules also ensure that tied aid-financed projects remain in sectors that do not distort trade and better represent bona fide development aid.

Untied aid practices by other governments have also raised competitive concerns for U.S. exporters but, unlike *tied* aid, there have been no multilateral rules governing their administration. (Untied aid has averaged over \$7 billion annually since 1995, and was as high as \$14 billion in 1996.) However, in 2004, the United States achieved a path-breaking transparency agreement that convinced other Participants to participate in a pilot agreement for untied aid financed projects that required: (1) broad, *ex ante* notification of untied aid projects; (2) a minimum bidding period of 45 days for procurement competition; and, (3) *ex post* reporting of bid winners in order to collect data to assess whether or not procurement under such untied aid credit programs creates trade distortions. The two-year pilot agreement was set to expire at the end of 2006. Lacking adequate data to evaluate the outcome of the bidding process for these projects, OECD Participants agreed – at the urging of the United States – to extend the transparency agreement until December 2008.

The United States also took the lead in achieving agreement, in May 2006, on a strengthened Action Statement on Bribery, which governs export credit agencies' anticorruption practices. However, the biggest challenge facing Participants is on how to address developing country concerns that the Participants – the wealthiest countries – are not taking developing country concerns into account when setting the rules for the provision of export credits. WTO disputes over export credits for aircraft have highlighted the need for aircraft-manufacturing Participants to consult with Brazil on aircraft financing even though Brazil is not an OECD member. Thus, the Participants have launched a formal review of the OECD agreement on official export financing for aircraft, with Brazil participating as a full partner in the negotiations. The Administration is coordinating closely with U.S. exporters on these negotiations.

The Participants will continue to work with non-OECD members to improve and refine the Arrangement rules to ensure a level playing field for all governments providing official export credit support.

9. Investment

The Investment Committee of the OECD is the primary multilateral forum for addressing international investment issues. The Committee's discussions and analytical work help build international consensus on key emerging policy challenges with respect to international investment, and on ways to promote sound investment policy and high standards of investment protection. The Committee also seeks to promote voluntary adherence by multinational enterprises to sound business practices to strengthen understanding of the relationship between investment and development and to enhance the contribution of investment to economic advancement. The Committee is responsible for monitoring and implementing the OECD Codes of Liberalization and the OECD Declaration on International Investment and Multinational Enterprises. The United States plays a major role in shaping investment-related work within the OECD.

In view of increasing developments among members and key non-members regarding the protection of national security or other important national interests in relation to foreign investment, the OECD investment committee has begun work to survey practice in this area and evaluate its implications for sustaining and promoting an open investment policy among OECD members and non-members. In June, September and December of 2006, the Committee hosted roundtables on "Freedom of Investment, National Security and Strategic Sectors," in which OECD members and key non-members (e.g. Brazil, India, Russia and China) were invited to discuss approaches being taken to address national security interests and other essential interests, and their potential implications for sustaining open investment policies. The theme of the roundtables concerned changes in legislative and regulatory practices at the juncture of investment policy and national security; threats to advances in investment liberalization, such as emerging protectionist pressures; and, possible steps on international cooperation designed to address the issue. The OECD plans to continue work on this important topic throughout 2007 and beyond.

In 2006, the OECD continued its investment policy dialogue with non-members. This included an Investment Policy Review of the Russian Federation. The review was Russia's first since 2004, and contained analyses of Russia's capital control regime as well as a survey of Russia's approach to the use of international investment agreements. The OECD also continued work on the Middle East-North Africa Initiative (MENA), which aims to mobilize private investment for the benefit of economic development in Middle Eastern countries. With the MENA Investment Ministerial held in Jordan in June 2006, the OECD-MENA Initiative moved from its initial stocktaking phase to the implementation phase. Ten countries have completed investment reform action plans; others are working on them.

Similarly, the OECD hosted a roundtable for the NEPAD-OECD Africa Investment Initiative that explored how private investment could be used within the context of the African Peer Review Mechanism. The Investment Committee completed work this past spring on a multi-year effort, in conjunction with key non-member governments and in consultation with other OECD bodies, to develop

a comprehensive Policy Framework for Investment (PFI) that will be the cornerstone of future OECD outreach with non-member governments and cooperative programs with APEC, the World Bank, and other institutions promoting improved policies to encourage foreign and domestic investment. The Framework will assist countries in analyzing ten broad policy areas – ranging from investment and trade to competition and corporate governance – that have an important impact on the ability of countries to encourage foreign and domestic investment. Egypt, Costa Rica, and Vietnam – in conjunction with APEC – were the first countries to implement the PFI in a review of the country's investment policies. The PFI also formed a major part of last year's NEPAD-OECD Africa Investment Initiative roundtable.

In addition to the PFI, 2006 saw the debut of the OECD Principles for International Investor Participation in Infrastructure. This instrument is an OECD effort designed to promote linkage between a country's investment climate and its infrastructure investment. It describes ways that governments can foster a climate of cooperation between investors, authorities and stakeholders on infrastructure projects, and addresses challenges of maintaining responsible business conduct in the infrastructure sector. The OECD Investment Committee will incorporate the Principles for International Investor Participation in Infrastructure into its 2007 work.

Finally, the Investment Committee continued to play an active role in promoting corporate social responsibility through its oversight of the voluntary OECD Guidelines for Multinational Enterprises. The Committee concluded its examination of the role of private firms in countries characterized by weak governance and completed work on a tool to assist firms in assessing the risks facing operations in such challenging environments. With the involvement of its Business and Industry Advisory Committee, the Committee complemented this work in 2006 with the preparation of a practical resource guide to help firms identify sources of information on experiences in confronting operational challenges in specific contexts. The Committee also continues to serve as a forum for exchanges of experience on the Guidelines among national contact points (NCPs), as a source of clarification with respect to the Guidelines, and as a source of guidance in addressing the role of NCPs in promoting the Guidelines and in assisting firms in the resolution of issues that arise between them and others regarding their activities in relation to the Guidelines.

10. Steel

As noted in the "Steel Trade Policy" section of this report, the Administration continued in its efforts to address market-distorting steel subsidies at the OECD. A number of non-OECD steel-producing countries, including India and China, have been active in the OECD steel activities. The OECD Secretariat implemented its plans to enhance outreach to non-members by organizing a May 2006 joint workshop on steel and raw material issues with the government of India and the International Iron and Steel Institute, a global industry association, held in New Delhi, India.

11. Regulatory Reform

Since 1998, the OECD Trade Committee has contributed to OECD work on domestic regulatory governance with country reviews of regulatory reform efforts. The United States has supported this work on the grounds that targeted regulatory reforms (e.g., those aimed at increasing transparency) can benefit domestic and foreign stakeholders alike by improving the quality of regulation and enhancing market openness.

The Trade Committee's work on regulatory reform has two aspects: country reviews and product standards. In conducting country reviews, the Committee evaluates regulatory reform efforts in light of six principles of market openness: transparency and openness of decision-making; non-discrimination; avoidance of unnecessary trade restrictions; use of internationally harmonized measures, where

available/appropriate; recognition of the equivalence of other countries' procedures for conformity assessment, where appropriate; and, application of competition principles.

The Trade Committee has reviewed twenty OECD Members, including all of the G8 countries. In 2006, the Trade Committee carried out a review of regulatory reform in Sweden from the perspective of market openness, and a report on regulatory reform in Korea as part of a monitoring exercise that reviews the progress and new challenges since the initial report on regulatory reform in Korea was published in 2000. The Trade Committee discussed a preliminary report on enhancing China's trade openness through better regulations, which will feed into the overall regulatory reform review of China begun in 2006.

Based in large part on the lessons learned in the country reviews, in April 2005, the OECD Council adopted Guiding Principles for Regulatory Quality and Performance, which updated the Recommendations for Regulatory Reform that the OECD had adopted in 1997. These principles, in turn, fed into the APEC-OECD Integrated Checklist on Regulatory Reform, which was approved by the Special Group on Regulatory Policy in the OECD in March 2005, and was endorsed by APEC Ministers Responsible for Trade in June 2005. The Integrated Checklist was discussed at a September 12, 2006, meeting of the APEC Economic Committee, at which the United States was one of three economies to present a response to the Checklist.

12. The OECD Anti-Bribery Convention: Deterring Bribery of Foreign Public Officials

The OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions entered into force in February 1999. The Convention was adopted by the then 29 members of the OECD and five non-members. The non-members were Argentina, Brazil, Chile, Bulgaria, and Slovakia (now an OECD member). In 2001, non-member Slovenia became a party to the Anti-Bribery Convention, and, in 2004, Estonia (also a non-member) acceded to the Convention.

The Convention requires parties to criminalize the bribery of foreign public officials in executive, legislative, and judicial branches; to impose dissuasive penalties on those who offer, promise or pay bribes; and to implement adequate accounting procedures to make it harder to hide illegal payments. All 36 parties have adopted legislation to implement the Convention. Prior to the entry into force of the Convention, the United States was alone in criminalizing the bribery of foreign public officials. As a result, U.S. firms are believed to have lost international contracts with an estimated value of billions of dollars every year due to bribery payments to corrupt officials. Such payments also distort investment and procurement decisions in developing countries, undermine the rule of law and create an unpredictable environment for business. These consequences can be particularly damaging in developing countries.

By the end of 2006, all parties had undergone a review of their respective national legislation implementing the Convention (i.e., Phase 1 review). The parties to the Convention commenced the second phase (i.e., Phase 2) of peer monitoring – the evaluation of enforcement – in November 2001. By the end of 2006, Phase 2 reviews had been completed for 27 countries. Information on these reviews is available on the internet at www.export.gov/tcc and www.oecd.org. The United States has successfully pressed for an accelerated Phase 2 monitoring schedule and ensured that there are sufficient OECD budget funds to support it. The Working Group on Bribery will undertake seven more Phase 2 country reviews in 2007 with the goal of completing the first country enforcement review cycle in early 2008. The United States is working to ensure that an effective peer-review monitoring process remains in place to ensure needed action by other parties to the OECD Anti-Bribery Convention.

D. Semiconductor Agreement

On June 10, 1999, the United States, Japan, Korea and the European Commission announced a multilateral Joint Statement on Semiconductors designed to ensure fair and open global trade in semiconductors. The 1999 Joint Statement aims to promote the growth of the global semiconductor market through improved mutual understanding between industries and governments and cooperative efforts to respond to challenges facing the semiconductor industry. Chinese Taipei subsequently endorsed the objectives of the Joint Statement and became the Agreement's fifth party.

Major outcomes in 2006 included the accession of the People's Republic of China (the PRC) as the sixth party to the Joint Statement, revision of the 1999 Joint Statement to better reflect activities and initiatives agreed or underway and to reflect the PRC's status as a party, and implementation of the landmark 2005 agreement to reduce duties to zero on multichip integrated circuits (MCPs). The PRC's accession to the Joint Statement reflects the increasing importance of China as a producer and consumer of semiconductors. The PRC's market for semiconductors is estimated at approximately \$42 billion in 2006. All major semiconductor producers are now parties to the Joint Statement.

Implementation of the MCP agreement reduces to zero the duty on an evolutionary new semiconductor, which was not yet in existence when duties on most other semiconductors were eliminated in 1996 through the Information Technology Agreement. The global market for MCPs was over \$4 billion in 2004, and is expected to increase to nearly \$8 billion by 2008. The five parties had each reduced their MCP duties to zero by April 1, 2006. The agreement was implemented in the United States by Presidential proclamation. The PRC is expected to join the MCP agreement.

The Joint Statement provides for industry to make reports and recommendations to governments on policies that may affect the future outlook and competitive conditions within the global semiconductor industry through a CEO-level World Semiconductor Council (WSC). In May 2006, the WSC held its seventh annual meeting. Specific topics discussed by the WSC include cooperation on global issues such as standardization, environmental concerns, worker health and safety, intellectual property rights, trade and investment liberalization, and worldwide market development. National/regional industry associations may become members of the WSC only if their governments have eliminated semiconductor tariffs or committed to eliminate these tariffs expeditiously.

The Joint Statement also calls for the parties to hold a Government/Authorities Meeting on Semiconductors (GAMS) at least once a year to receive and discuss the WSC recommendations. The seventh GAMS was held in September 2006, hosted by Japan. At that meeting, the GAMS discussed WSC recommendations relating to expanded participation in the MCP agreement; improving market access through the Doha Round negotiations for semiconductors and other information technology goods; expanding participation in the Information Technology Agreement (ITA); initiatives to protect intellectual property rights and intensify enforcement activities; enforcing WTO non-discrimination rules to prevent discrimination against foreign products; promoting fair and effective antidumping rules; the growing cost burden on the semiconductor industry of copyright levies on digital equipment; decoupling rules of origin used for trade remedies from rules of origin for general customs purposes; and promoting sound environmental and safety practices.

E. Steel Trade Policy

In 2006, the Administration worked to address concerns related to the rapidly changing trade situation in the global steel sector, continuing its work at the Organization for Economic Cooperation and Development (OECD), the North American Steel Trade Committee (NASTC), and beginning a new steel dialogue with China under the U.S.-China Joint Commission on Commerce and Trade (JCCT).

The Administration continued to work with the OECD Secretariat and governments of other steel-producing economies to engage on policy issues affecting the global steel industry. These included issues related to capacity expansion, government subsidies in the steel sector, the environmental impact of steelmaking technologies and raw materials. The United States supported efforts by the OECD secretariat to reach out to developing steelmaking economies, including the organization of a major steel conference held in May 2006 in New Delhi, India, jointly hosted by the OECD, the Government of India and the International Iron and Steel Institute, a global steel industry association.

The explosive growth of China's steel production and exports emerged as a major development for U.S. and global steel producers in 2006. In light of concerns that the growth of China's largely state-owned industry was not responding to a slowdown in demand, in December 2005, the Administration obtained China's agreement to initiate a cooperative dialogue under the auspices of the JCCT. The Steel Dialogue is led by the Department of Commerce and the Office of the U.S. Trade Representative on the U.S. side and by the Ministry of Commerce on the Chinese side. It represents an effort to increase Chinese government and industry understanding of market-oriented behavior and the problems that subsidies and other government intervention in the steel sector can cause in world steel markets. Two meetings of the dialogue took place in 2006, and included participation by industry representatives from both countries and the National Reform and Development Commission, the Chinese ministry responsible for steel development policies.

The governments and steel industries of North America have continued their wide-ranging work to seek common policy approaches for enhancing the competitiveness of North American steel producers. To implement the "North American Steel Strategy" under the 2005 Security and Prosperity Partnership (SPP) initiative by the leaders of the United States, Canada and Mexico, NASTC developed coordinated positions on issues in multilateral fora of importance to steel, including the OECD steel committee and the WTO Rules Negotiations. Within the mandate of the NASTC, the three governments and steel industries have been tracking developments in certain steel-producing countries to identify and address, as appropriate, distortions in the global steel market. The Administration also continued working with the Canadian and Mexican governments to enhance compatibility of the steel import monitoring systems maintained by all three NAFTA countries.

The Administration also continues to raise specific concerns with other countries bilaterally, at the OECD, and in WTO accession negotiations about steel policies that contribute to excess capacity and production, including subsidies, border measures on steel and steelmaking raw materials, and other trade distorting practices. After extensive bilateral consultations with China in 2006, on February 2, 2007, the United States requested formal WTO consultations with China regarding subsidies which appear to be prohibited by the WTO's Agreement on Subsidies and Countervailing Measures.

V. TRADE ENFORCEMENT ACTIVITIES

A. Enforcing U.S. Trade Agreements

1. Overview

USTR coordinates the Administration's active monitoring of foreign government compliance with trade agreements and pursues enforcement actions, using dispute settlement procedures and applying the full range of U.S. trade laws when necessary. Vigorous investigation efforts by relevant agencies, including the Departments of Agriculture, Commerce, and State, help ensure that these agreements yield the maximum benefits in terms of ensuring market access for Americans, advancing the rule of law internationally, and creating a fair, open, and predictable trading environment. Ensuring full implementation of U.S. trade agreements is one of the Administration's strategic priorities. We seek to achieve this goal through a variety of means, including:

- Asserting U.S. rights through the World Trade Organization (WTO), including the stronger dispute settlement mechanism created in the Uruguay Round, and the WTO bodies and committees charged with monitoring implementation and with surveillance of agreements and disciplines;
- Vigorously monitoring and enforcing bilateral agreements;
- Invoking U.S. trade laws in conjunction with bilateral and WTO mechanisms to promote compliance;
- Providing technical assistance to trading partners, especially in developing countries, to ensure that key agreements like the Agreement on Basic Telecommunications and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) are implemented on schedule; and
- Promoting U.S. interests under FTAs through work programs, accelerated tariff reductions, and use, or threat of use, of dispute settlement mechanisms, including with respect to labor and environment.

Through the vigorous application of U.S. trade laws and active use of WTO dispute settlement procedures, the United States has effectively opened foreign markets to U.S. goods and services. The United States also has used the incentive of preferential access to the U.S. market to encourage improvements in workers' rights and reform of intellectual property laws and practices in other countries. These enforcement efforts have resulted in major benefits for U.S. firms, farmers, and workers.

To ensure the enforcement of WTO agreements, the United States has been one of the world's most frequent users of WTO dispute settlement procedures. Since the establishment of the WTO in 1994, the United States has filed 70 complaints at the WTO, thus far successfully concluding 46 of them by settling 23 cases favorably and prevailing on 23 others through litigation in WTO panels and the Appellate Body. The United States has obtained favorable settlements and favorable rulings in virtually all sectors, including manufacturing, intellectual property, agriculture, and services. These cases cover a number of WTO agreements – involving rules on trade in goods, trade in services, and intellectual property protection – and affect a wide range of sectors of the U.S. economy.

Satisfactory settlements. Our hope in filing cases, of course, is to secure U.S. benefits (and fairer trade for both countries) rather than to engage in prolonged litigation. Therefore, whenever possible we have sought to reach favorable settlements that eliminate the foreign breach without having to resort to panel proceedings.

We have been able to achieve this preferred result in 23 of the 50 cases concluded so far, involving: Argentina's protection and enforcement of patents; Australia's ban on salmon imports; Belgium's duties on rice imports; Brazil's auto investment measures; Brazil's patent law; China's value added tax; Denmark's civil procedures for intellectual property enforcement; Egypt's apparel tariffs; the EU's market access for grains; an EU import surcharge on corn gluten feed; Greece's protection of copyrighted motion pictures and television programs; Hungary's agricultural export subsidies; Ireland's protection of copyrights; Japan's protection of sound recordings; Korea's shelf-life standards for beef and pork; Mexico's restrictions on hog imports; Pakistan's protection of patents; the Philippines' market access for pork and poultry; the Philippines' auto regime; Portugal's protection of patents; Romania's customs valuation regime; Sweden's enforcement of intellectual property rights; and Turkey's box-office taxes on motion pictures.

Litigation successes. When our trading partners have not been willing to negotiate settlements, we have pursued our cases to conclusion, prevailing in 23 cases so far, involving: Argentina's tax and duties on textiles, apparel, and footwear; Australia's export subsidies on automotive leather; Canada's barriers to the sale and distribution of magazines; Canada's export subsidies and an import barrier on dairy products; Canada's law protecting patents; the EU's import barriers on bananas; the EU's ban on imports of beef; the EU's regime for protecting geographical indications; India's import bans and other restrictions on 2,700 items; India's protection of patents on pharmaceuticals and agricultural chemicals; India's and Indonesia's measures that discriminated against imports of U.S. automobiles; Japan's restrictions affecting imports of apples, cherries, and other fruits; Japan's barriers to apple imports; Japan's and Korea's discriminatory taxes on distilled spirits; Korea's beef imports; Mexico's antidumping duties on high-fructose corn syrup; Mexico's telecommunications barriers; Mexico's antidumping duties on rice; the EU's moratorium on biotechnology products; Mexico's discriminatory soft drink tax; and the EU's non-uniform classification of LCD monitors.

USTR also works to ensure the most effective use of U.S. trade laws to complement its litigation strategy and to address problems that are outside the scope of the WTO and U.S. free trade agreements. USTR has effectively applied Section 301 of the Trade Act of 1974 to address unfair foreign government measures, "Special 301" for intellectual property rights enforcement, Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 for telecommunications trade problems, and Title VII of the 1988 Act to address problems in foreign government procurement. The application of these trade law tools is described further below.

2. WTO Dispute Settlement

Enforcement successes in 2006 include rulings against the EU's moratorium on biotechnology products, Mexico's discriminatory soft drink tax, and the EU's non-uniform classification of LCD monitors.

The United States also favorably resolved several disputes after completing, initiating or threatening to initiate WTO dispute settlement procedures. For example, China removed its antidumping duties on kraft liner board, Canada rejected a countervailing duty petition on U.S. corn, the EU amended its discriminatory regime on geographical indications, and Mexico removed its antidumping duties on rice, amended its antidumping legislation and repealed its discriminatory soft drink tax.

Ongoing enforcement actions involve the EU's aircraft subsidies, China's charges on auto parts and Turkey's restrictions on rice.

The cases described in Chapter II of this report further demonstrate the importance of the dispute settlement process in opening foreign markets and securing other countries' compliance with their WTO obligations. Further information on WTO disputes to which the United States is a party is available on the USTR website (<http://www.ustr.gov/enforcement/index.shtml>).

3. Other Monitoring and Enforcement Activities

a. Subsidies Enforcement

The WTO Agreement on Subsidies and Countervailing Measures (Subsidies Agreement) establishes multilateral disciplines on subsidies. Among its various disciplines, the Subsidies Agreement provides remedies for subsidies that have adverse effects not only in the importing country's market, but also in the subsidizing government's market and in third-country markets. Prior to the Subsidies Agreement coming into effect in 1995, the U.S. countervailing duty law was the only practical mechanism for U.S. companies to address subsidized foreign competition. However, the countervailing duty law focuses exclusively on the effects of foreign subsidized competition in the United States. Although the procedures and remedies are different, the multilateral remedies of the Subsidies Agreement provide an alternative tool to address foreign subsidies that affect U.S. businesses in an increasingly global market place.

Section 281 of the Uruguay Round Agreements Act of 1994 (URAA) sets out the responsibilities of USTR and the Department of Commerce (Commerce) in enforcing the United States' rights in the WTO under the Subsidies Agreement. USTR coordinates the development and implementation of overall U.S. trade policy with respect to subsidy matters; represents the United States in the WTO, including the WTO Committee on Subsidies and Countervailing Measures; and leads the interagency team on matters of policy. The role of Commerce's Import Administration (IA) is to enforce the countervailing duty law and, in accordance with responsibilities assigned by the Congress in the URAA, to spearhead the subsidies enforcement activities of the United States with respect to the disciplines embodied in the Subsidies Agreement. The Import Administration's Subsidies Enforcement Office (SEO) is the specific office charged with carrying out these duties.

The primary mandate of the SEO is to examine subsidy complaints and concerns raised by U.S. exporting companies and to monitor foreign subsidy practices to determine whether there is reason to believe they are impeding U.S. exports to foreign markets and are inconsistent with the Subsidies Agreement. Once sufficient information about a subsidy practice has been gathered to permit it to be reliably evaluated, USTR and Commerce will confer with an interagency team to determine the most effective way to proceed. It is frequently advantageous to pursue resolution of these problems through a combination of informal and formal contacts, including, where warranted, dispute settlement action in the WTO. Remedies for violations of the Subsidies Agreement may, under certain circumstances, involve the withdrawal of a subsidy program or the elimination of the adverse effects of the program.

During this past year, USTR and IA staff have handled numerous inquiries and met with representatives of U.S. industries concerned with the subsidization of foreign competitors. These efforts continue to be importantly enhanced by IA officers stationed overseas (in China and Korea), who help gather, clarify and check the accuracy of information concerning foreign subsidy practices. State Department officials at posts where IA staff are not present have also handled such inquiries.

The SEO's electronic subsidies database continues to fulfill the goal of providing the U.S. trading community with a centralized location to obtain information about the remedies available under the Subsidies Agreement and much of the information that is needed to develop a countervailing duty case or a WTO subsidies complaint. The website (<http://ia.ita.doc.gov/esel/index.html>) includes information on all the foreign subsidy programs that have been investigated in U.S. countervailing duty cases since 1980, covering more than 50 countries and over 2,000 government practices. This database is frequently updated, making information on subsidy programs investigated or reviewed quickly available to the public.

b. Monitoring Foreign Antidumping and Countervailing Duty Actions

The WTO Agreement on Implementation of Article VI (Antidumping Agreement) and the WTO Agreement on Subsidies and Countervailing Measures (Subsidies Agreement) permit WTO Members to impose antidumping or countervailing duties to offset injurious dumping or subsidization of products exported from one Member to another. The United States closely monitors antidumping and countervailing duty proceedings initiated against U.S. exporters to ensure that foreign antidumping and countervailing duty actions are administered fairly and in full compliance with the WTO Agreements.

To this end, IA tracks foreign antidumping and countervailing duty actions involving U.S. exporters and gathers information collected from U.S. embassies worldwide, enabling U.S. companies and U.S. Government agencies to monitor other Members' administration of antidumping and countervailing duty actions involving U.S. companies. Information about foreign antidumping and countervailing duty actions affecting U.S. exports is accessible to the public via IA's website at <http://ia.ita.doc.gov/trcs/index.html>. The stationing of IA officers to certain overseas locations, as noted above, has contributed to the Administration's efforts to monitor the application of foreign trade remedy laws with respect to U.S. exports.

Based in part on this monitoring activity, the United States mounted a successful WTO challenge of Mexico's antidumping measure on U.S. exports of rice, as well as certain changes to Mexico's foreign trade laws. Among other antidumping investigations of U.S. goods that were closely monitored in the past year are Canada's AD/CVD investigations of grain corn; Mexico's *ex officio* investigation of pork legs and shoulders/hams, and its "reinvestigation" of apples; and China's investigations of kraft linerboard, butanols, wear resistant overlay and several other products. Import Administration personnel have also participated in technical exchanges with the administering authorities of Australia, Egypt, the European Union, Indonesia and Pakistan to obtain a better understanding of these countries' administration of trade remedy laws and compliance with WTO obligations.

Members must notify on an ongoing basis and without delay their preliminary and final determinations to the WTO. Twice a year, WTO Members must also notify the WTO of all antidumping and countervailing duty actions they have taken during the preceding six-month period. The actions are identified in semi-annual reports submitted for discussion in meetings of the relevant WTO committees. Finally, Members are required to notify the WTO of changes in their antidumping and countervailing duty laws and regulations. These notifications are accessible through the USTR and IA website "links" to the WTO's website.

B. U.S. Trade Laws

1. Section 301

Section 301 of the Trade Act of 1974, as amended (the Trade Act), is designed to address foreign unfair practices affecting U.S. exports of goods or services. Section 301 may be used to enforce U.S. rights under bilateral and multilateral trade agreements and also may be used to respond to unreasonable, unjustifiable or discriminatory foreign government practices that burden or restrict U.S. commerce. For example, Section 301 may be used to obtain increased market access for U.S. goods and services, to provide more equitable conditions for U.S. investment abroad, and to obtain more effective protection worldwide for U.S. intellectual property.

a. Operation of the Statute

The Section 301 provisions of the Trade Act provide a domestic procedure whereby interested persons may petition the USTR to investigate a foreign government policy or practice and take appropriate action. The USTR also may self-initiate an investigation. In each investigation, the USTR must seek consultations with the foreign government whose acts, policies, or practices are under investigation. If the consultations do not result in a settlement and the investigation involves a trade agreement, Section 303 of the Trade Act requires the USTR to use the dispute settlement procedures that are available under that agreement.

If the matter is not resolved by the conclusion of the investigation, Section 304 of the Trade Act requires the USTR to determine whether the practices in question deny U.S. rights under a trade agreement or whether they are unjustifiable, unreasonable, or discriminatory and burden or restrict U.S. commerce. If the practices are determined to violate a trade agreement or to be unjustifiable, the USTR must take action. If the practices are determined to be unreasonable or discriminatory and to burden or restrict U.S. commerce, the USTR must determine whether action is appropriate and, if so, what action to take. The time period for making these determinations varies according to the type of practices alleged. Investigations of alleged violations of trade agreements with dispute settlement procedures must be concluded within the earlier of 18 months after initiation or 30 days after the conclusion of dispute settlement proceedings, whereas investigations of alleged unreasonable, discriminatory, or unjustifiable practices (other than the failure to provide adequate and effective protection of intellectual property rights) must be decided within 12 months.

The range of actions that may be taken under Section 301 is broad and encompasses any action that is within the power of the President with respect to trade in goods or services, or with respect to any other area of pertinent relations with a foreign country. Specifically, the USTR may: (1) suspend trade agreement concessions; (2) impose duties or other import restrictions; (3) impose fees or restrictions on services; (4) enter into agreements with the subject country to eliminate the offending practice or to provide compensatory benefits for the United States; and/or (5) restrict service sector authorizations.

After a Section 301 investigation is concluded, the USTR is required to monitor a foreign country's implementation of any agreements entered into, or measures undertaken, to resolve a matter that was the subject of the investigation. If the foreign country fails to comply with an agreement or the USTR considers that the country fails to implement a WTO dispute panel recommendation, the USTR must determine what further action to take under Section 301.

During 2006, there were ongoing actions in the following Section 301 investigations, and USTR received one petition seeking the initiation of a new investigation.

b. Intellectual Property Laws and Practices of the Government of Ukraine

On March 12, 2001, the Trade Representative identified Ukraine as a Priority Foreign Country (PFC) under section 182 of the Trade Act (known as Special 301 – see below), and simultaneously initiated a Section 301 investigation of the intellectual property laws and practices of the Government of Ukraine. The priority foreign country identification was based on: (1) deficiencies in Ukraine's acts, policies and practices regarding the protection of intellectual property rights, including the lack of effective action enforcing intellectual property rights, as evidenced by high levels of compact disc piracy; and (2) the failure of the Government of Ukraine to enact adequate and effective intellectual property legislation addressing optical media piracy.

On August 2, 2001, the USTR determined that the acts, policies and practices of Ukraine with respect to

the protection of intellectual property rights were unreasonable and burdened or restricted U.S. commerce, and were thus actionable under Section 301(b). The USTR determined that appropriate and feasible action in response included the suspension of duty-free treatment accorded to the products of Ukraine under the GSP program, effective with respect to goods entered on or after August 24, 2001. On December 11, 2001, the USTR determined that appropriate additional action included the imposition of 100 percent *ad valorem* duties on a list of 23 Ukrainian products with an annual trade value of approximately \$75 million.

In August 2005, the Government of Ukraine adopted a package of important amendments to its Laser Readable Disc Law that strengthens Ukraine's licensing regime and enforcement capabilities to stem the illegal production and trade of optical media products. In response to the adoption of these amendments, the USTR terminated the 100 percent *ad valorem* duties on the list of Ukrainian products, effective August 30, 2005.

In January 2006, the United States concluded a Special 301 Out-of-Cycle Review (OCR) of Ukraine. In recognition of the Government of Ukraine's efforts to improve the enforcement and protection of intellectual property rights, the United States reinstated GSP benefits for Ukraine effective January 23, 2006, and lowered Ukraine's designation under Special 301 from PFC to Priority Watch List. Ukraine agreed to work with the U.S. Government and with the U.S. copyright industry to monitor the progress of future enforcement efforts through an Enforcement Cooperation Group. The United States will continue to monitor developments in the protection of intellectual property rights in Ukraine pursuant to Section 306 of the Trade Act of 1974.

c. EC - Measures Concerning Meat and Meat Products (Hormones)

An EC directive prohibits the import of animals and meat from animals to which certain hormones had been administered (the "hormone ban"). This measure has the effect of banning nearly all imports of beef and beef products from the United States. A WTO panel and the Appellate Body found that the hormone ban was inconsistent with the EC's WTO obligations because the ban was not based on scientific evidence, a risk assessment, or relevant international standards. Under WTO procedures, the EC was to have come into compliance with its obligations by May 13, 1999, but failed to do so. Accordingly, in May 1999 the United States requested authorization from the Dispute Settlement Body (DSB) to suspend the application to the EC, and Member States thereof, of tariff concessions and related obligations under the GATT. The EC did not contest that it had failed to comply with its WTO obligations but objected to the level of suspension proposed by the United States.

On July 12, 1999, WTO arbitrators determined that the level of nullification or impairment suffered by the United States as a result of the EC's WTO-inconsistent hormone ban was \$116.8 million per year. Accordingly, on July 26, 1999, the DSB authorized the United States to suspend the application to the European Community and its Member States of tariff concessions and related obligations under the GATT covering trade up to \$116.8 million per year. In a notice published in July 1999, the USTR announced that the United States was exercising this authorization by using authority under Section 301 to impose 100 percent *ad valorem* duties on a list of certain products (the "retaliation list") of certain EC Member States.

Section 306(b)(2) of the Trade Act provides that the USTR is not required to revise a retaliation list if the USTR, together with the affected United States industry, agree that it is unnecessary to revise the retaliation list. Pursuant to this provision, on October 2, 2006, the USTR issued a determination agreeing with the affected U.S. industry that it was unnecessary to revise the retaliation list. The increased duties on the products included on the retaliation list remained in place throughout 2006. Talks were held during 2006 with the aim of reaching a mutually satisfactory solution to the dispute, but no resolution was reached.

In February 2005, a WTO panel was established to consider the EC's claims that it had brought its hormone ban into compliance with the EC's WTO obligations and that the increased duties imposed by the United States were no longer covered by the DSB authorization. The WTO panel continued its work throughout 2006. (The section of this report addressing WTO dispute settlement contains further information on this matter.)

d. Petitions Filed in 2006

During 2006, USTR received one petition seeking the initiation of a new investigation under section 301. The petition alleged that the Government of China denies certain workers' rights to manufacturing workers; that this denial amounts to an "unreasonable" practice under the workers' rights provision of Section 301; and that the denial burdens or restricts U.S. commerce. The USTR determined not to initiate an investigation with respect to the petition on the basis that an investigation would not be effective in addressing the policies and practices covered in the petition.

2. Special 301

During the past year, the United States continued to vigorously implement the Special 301 program, resulting in continued improvement in the global intellectual property environment. Publication of the Special 301 lists indicates those trading partners whose intellectual property protection regimes most concern the United States, and alerts those considering trade or investment relationships with such countries that their intellectual property rights (IPR) may not be adequately protected. Pursuant to Section 182 of the Trade Act of 1974, as amended by the Omnibus Trade and Competitiveness Act of 1988 and the Uruguay Round Agreements Act (enacted in 1994), USTR must identify those countries that deny adequate and effective protection for IPR or deny fair and equitable market access for persons that rely on intellectual property protection. Countries that have the most onerous or egregious acts, policies or practices and whose acts, policies or practices have the greatest adverse impact (actual or potential) on relevant U.S. products are designated as "Priority Foreign Countries" unless they are entering into good faith negotiations or making significant progress in bilateral or multilateral negotiations to provide adequate and effective protection of IPR. USTR may identify a trading partner as a Priority Foreign Country or remove such identification whenever warranted. Priority Foreign Countries are subject to an investigation under the Section 301 provisions of the Trade Act of 1974, unless USTR determines that the investigation would be detrimental to U.S. economic interests.

In addition, USTR has created a Special 301 "Priority Watch List" and "Watch List." Placement of a trading partner on the Priority Watch List or Watch List indicates that particular problems exist in that country with respect to IPR protection, enforcement, or market access for persons relying on intellectual property. Countries placed on the Priority Watch List are the focus of increased bilateral attention concerning problem areas.

Additionally, under Section 306, USTR monitors a country's compliance with bilateral intellectual property agreements that are the basis for resolving an investigation under Section 301. USTR may apply sanctions if a country fails to satisfactorily implement an agreement.

a. 2006 Special 301 Review Announcements

On April 28, 2006, U.S. Trade Representative Rob Portman announced the results of the 2006 Special 301 annual review, which examined in detail the adequacy and effectiveness of intellectual property protection in 87 countries. USTR placed 48 countries on the Priority Watch List, Watch List or the Section 306 monitoring list.

China remained a top IPR enforcement priority in 2006, and was placed on the Priority Watch List. USTR announced that it would maintain heightened scrutiny of China, step up consideration of its WTO dispute settlement options, and for the first time scrutinize IPR protection and enforcement at China's provincial level by conducting a special provincial review in the coming year. The China section of the report recognized China's efforts to address IPR problems but concluded that IPR infringements throughout China remained at unacceptable levels.

Russia also continued to be a serious concern and was placed on the Priority Watch List. The Russia section of the report noted that although Russia had taken some steps to curb pirated production of optical discs in factories, particularly those located on government-owned property, high levels of IPR infringement remained, particularly infringements connected with Russia-based optical disc plants and websites.

Countries on the Priority Watch List do not provide an adequate level of IPR protection, enforcement or market access for persons relying on intellectual property protection. In addition to China and Russia, eleven countries were placed on the Priority Watch List in 2006: Argentina, Belize, Brazil, Egypt, India, Indonesia, Israel, Lebanon, Turkey, Ukraine, and Venezuela.

Thirty-four trading partners were placed on the lower level Watch List, meriting bilateral attention to address underlying IPR problems. The Watch List countries were: the Bahamas, Belarus, Bolivia, Bulgaria, Canada, Chile, Colombia, Costa Rica, Croatia, the Dominican Republic, Ecuador, the European Union, Guatemala, Hungary, Italy, Jamaica, Kuwait, Latvia, Lithuania, Malaysia, Mexico, Pakistan, Peru, the Philippines, Poland, the Republic of Korea, Romania, Saudi Arabia, Taiwan, Tajikistan, Thailand, Turkmenistan, Uzbekistan and Vietnam. Paraguay remains under Section 306 monitoring.

Due to progress on intellectual property, the status of several countries in the 2006 Special 301 report improved in comparison to the 2005 report. In January 2006, Ukraine was moved from the Priority Foreign Country list to the Priority Watch List. In February, the Philippines was moved from the Priority Watch List to the Watch List. In conjunction with release of the 2006 report, USTR announced that Kuwait and Pakistan were also being moved from the Priority Watch List to the Watch List. Four countries were removed from the Watch List entirely because of improvement in intellectual property protection: Azerbaijan, Kazakhstan, the Slovak Republic and Uruguay.

The 2006 Special 301 report also announced five out-of-cycle reviews involving Canada, Chile, Indonesia, Latvia and Saudi Arabia. Out-of-cycle reviews are conducted on countries that warrant further review before the next Special 301 report and may result in changes to a country's listing. On November 6, 2006, USTR announced that Indonesia's status would be improved by moving Indonesia from the Priority Watch List to the Watch List because of improvements in its intellectual property regime. USTR will continue to work with Indonesia on further strengthening of its intellectual property system.

b. Initiatives

The 2006 Special 301 report includes a new section that highlighted progress in some countries. For example, Pakistan made notable progress by shutting down pirate optical disc factories. Ukraine implemented new legislation to combat pirate optical media production in plants, and Brazil took steps to improve IPR enforcement. In addition, Indonesia, Malaysia, the Philippines, the Republic of Korea and Taiwan have made progress with IPR protection and enforcement against retail piracy, Internet piracy and pirate optical media production.

In addition, the report sets out priorities for the coming year, such as implementation of free trade agreements and combating Internet piracy and counterfeit pharmaceuticals. The report also includes a

new section that highlights notorious markets, including both on-line websites, such as allofmp3.com, and traditional marketplaces.

The 2006 Special 301 report details ongoing U.S. efforts to conclude FTAs with strong IPR chapters and to work closely with FTA partners to achieve appropriate implementation of FTA obligations in domestic law. The report reviews USTR's examination of IPR practices in connection with its implementation of trade preference programs, such as the ongoing Generalized System of Preferences (GSP) reviews of countries. In addition, USTR reported on the status of ongoing initiatives and significant developments:

- **Continuing to advance the STOP! Initiative:** USTR reported that it is actively engaged in implementing the Administration's Strategy Targeting Organized Piracy (STOP!) initiative. As part of this effort, USTR, in coordination with other agencies, is introducing new initiatives in multilateral fora to improve the global intellectual property environment that will aid in disrupting the operations of pirates and counterfeiters.
- **Global Scope of Counterfeiting and Piracy:** USTR reported that global IPR theft and trade in fakes have grown to unprecedented levels, threatening innovative and creative economies around the world. Counterfeiting and digital piracy remained areas of particular concern in the 2006 Special 301 report.
- **Notorious Markets:** Noting that global piracy and counterfeiting thrive in part due to large marketplaces that deal in infringing goods, USTR in 2006 began to list "notorious markets" in the Special 301 Report. The list includes both virtual (online) markets and traditional physical markets. The listed markets are examples of marketplaces that have been the subject of IPR enforcement action, or that may merit further investigation for possible IPR infringements, or both.
- **Transshipment and In Transit Goods:** Transshipped and in transit goods pose a high risk for counterfeiting and piracy. USTR reported that transshipment or in transit goods are significant problems in Belize, Canada, Latvia, Lithuania, Paraguay, Ukraine and United Arab Emirates, among others.
- **Optical Media Piracy:** USTR reported that some trading partners, such as Ukraine, Brazil, Pakistan and the Philippines had taken important steps toward implementing much-needed controls on optical media production in order to address and prevent future pirate activity. However, other countries urgently need to implement controls or improve inadequate existing measures. Such countries included India, Thailand and Russia, which have not made sufficient progress in this regard.
- **Cracking down on Internet Piracy:** USTR reported that, in order to realize the enormous potential of the Internet, a growing number of countries are implementing the WIPO Internet Treaties and creating a legal environment conducive to investment and growth in Internet-related businesses and technologies. As of the end of 2006, there were 61 members of the WIPO Copyright Treaty and 59 members of the WIPO Performances and Phonograms Treaty; this number will rise significantly when the EU member States join.
- **Ensuring Government Use of Authorized Software:** In October 1998, the United States announced an Executive Order directing U.S. government agencies to maintain appropriate and effective procedures to ensure legitimate use of software. In addition, USTR was directed to undertake an initiative to work with other governments, particularly those in need of modernizing their software management systems or about which concerns have been expressed, regarding

government use of illegal software. USTR reported continued progress under this initiative. Most recently, the United States welcomed the April 22, 2006 announcement by China that it will require computers to be pre-installed with licensed operating system software and government agencies to purchase only such computers.

- **Ensuring Compliance with the WTO TRIPS Agreement:** USTR reported on efforts to ensure compliance by our trading partners with the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). Compliance with the TRIPS Agreement is an essential first step in providing the quality of IPR protection essential to promote growth and productivity.
- **Intellectual Property and Health Policy:** Noting the Administration's dedication to addressing the serious health problems, such as HIV/AIDS, afflicting least-developed countries in Africa and elsewhere, USTR reported on developments following the 2001 Doha Declaration on the TRIPS Agreement and Public Health.
- **Supporting Pharmaceutical Innovation:** USTR reported on its efforts to eliminate market access barriers faced by U.S. pharmaceutical companies in many countries and to both provide for affordable health care today and support the innovation that assures improved health care tomorrow.

3. Section 1377 Review of Telecommunications Agreements

Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 requires USTR to review by March 31 of each year the operation and effectiveness of U.S. telecommunications trade agreements. The purpose of the review is to determine whether any act, policy or practice of a foreign country that has entered into a telecommunications-related agreement with the United States: (1) is not in compliance with the terms of the agreement; or (2) otherwise denies, within the context of the agreement, mutually advantageous market opportunities to telecommunications products and services of U.S. firms in that country.

The 2006 Section 1377 Review focused on the following issues: (1) high fixed-to-mobile termination rates, a factor identified as negatively impacting U.S. companies in a large number of markets, in particular Germany, Japan, Mexico, Peru and Switzerland; (2) restrictions incumbent carriers in Germany, India and Singapore place on access to, and use of, leased lines and submarine cable capacity owned or controlled by the incumbent; (3) universal service-related programs in Jamaica and Japan that did not appear competitively-neutral; and (4) a range of market access barriers in Australia, China, Egypt and India relating to licensing conditions, interconnection rights and regulatory oversight of dominant domestic operators.

USTR has urged national regulators to fulfill their responsibility to address such problems and some progress occurred. Egypt took steps to ensure that a requesting foreign carrier could interconnect its network with the state-owned carrier, but has yet to resolve other licensing issues for new entrants. Japan has licensed new mobile carriers, which may be a catalyst for more competitive termination rates. Mexico's regulator issued a ruling intended to bring mobile termination rates to more reasonable levels, but Mexico's mobile carriers have so far been successful in using judicial procedures to prevent application of these rules. India continues to try to address licensing conditions for foreign carriers. China pledged to reduce capitalization requirements to reasonable levels, but implementation details have yet to be finalized.

4. Antidumping Actions

Under the antidumping law, duties are imposed on imported merchandise when the Department of Commerce determines that the merchandise is being dumped (sold at "less than fair value" (LTFV)) and the U.S. International Trade Commission (USITC) determines that there is material injury or threat of material injury to the domestic industry, or material retardation of the establishment of an industry, "by reason of" those imports. The antidumping law's provisions are incorporated in Title VII of the Tariff Act of 1930 and have been substantially amended by the 1979, 1984, and 1988 trade acts as well as by the 1994 Uruguay Round Agreements Act.

An antidumping investigation usually starts when a U.S. industry, or an entity filing on its behalf, submits a petition alleging, with respect to certain imports, the dumping and injury elements described above. If the petition meets the applicable requirements, Commerce initiates an antidumping investigation. Commerce also may initiate an investigation on its own motion.

After initiation, the USITC decides, generally within 45 days of the filing of the petition, whether there is a "reasonable indication" of material injury or threat of material injury to a domestic industry, or material retardation of an industry's establishment, "by reason of" the LTFV imports. If this preliminary determination by the USITC is negative, the investigation is terminated; if it is affirmative, Commerce will make preliminary and final determinations concerning the alleged LTFV sales into the U.S. market. If Commerce's preliminary determination is affirmative, Commerce will direct U.S. Customs to suspend liquidation of entries and require importers to post a bond or cash deposit equal to the estimated weighted average dumping margin.

If Commerce's final determination of LTFV sales is negative, the investigation is terminated. If affirmative, the USITC makes a final injury determination. If the USITC determines that there is material injury or threat of material injury, or material retardation of an industry's establishment, by reason of the LTFV imports, an antidumping order is issued. If the USITC's final injury determination is negative, the investigation is terminated and the Customs deposits are released.

Upon request of an interested party, Commerce conducts annual reviews of dumping margins pursuant to Section 751 of the Tariff Act of 1930. Section 751 also provides for Commerce and USITC review in cases of changed circumstances and periodic review in conformity with the five-year "sunset" provisions of the U.S. antidumping law and the WTO Antidumping Agreement.

Most antidumping determinations may be appealed to the U.S. Court of International Trade, with further judicial review possible in the U.S. Court of Appeals for the Federal Circuit. For certain investigations involving Canadian or Mexican merchandise, appeals may be made to a bi-national panel established under the NAFTA.

The numbers of antidumping investigations initiated in and since 1986 are as follows: 83 in 1986; 16 in 1987; 42 in 1988; 24 in 1989; 35 in 1990; 66 in 1991; 84 in 1992; 37 in 1993; 51 in 1994; 14 in 1995; 21 in 1996; 15 in 1997; 36 in 1998; 46 in 1999; 45 in 2000; 77 in 2001; 35 in 2002; 37 in 2003; 26 in 2004; 13 in 2005; and 7 in 2006. The numbers of antidumping orders (not including suspension agreements) imposed in and since 1986 are: 26 in 1986; 53 in 1987; 12 in 1988; 24 in 1989; 14 in 1990; 19 in 1991; 16 in 1992; 42 in 1993; 16 in 1994; 23 in 1995; 9 in 1996; 11 in 1997; 9 in 1998; 19 in 1999; 20 in 2000; 31 in 2001; 27 in 2002; 16 in 2003; 14 in 2004; 18 in 2005; and 5 in 2006.

5. Countervailing Duty Actions

The U.S. countervailing duty (CVD) law dates back to late 19th century legislation authorizing the imposition of CVDs on subsidized sugar imports. The current CVD provisions are contained in Title VII

of the Tariff Act of 1930, as amended effective January 1, 1995, by the Uruguay Round Agreements Act. As with the antidumping law, the USITC and the Department of Commerce jointly administer the CVD law.

The CVD law's purpose is to offset certain foreign government subsidies, which benefit imports into the United States. CVD procedures under Title VII are very similar to antidumping procedures, and CVD determinations by Commerce and the USITC are subject to the same system of judicial review as are antidumping determinations. Commerce normally initiates investigations based upon a petition submitted by a representative of the interested party(ies). The USITC is responsible for investigating material injury issues. The USITC must make a preliminary finding of a reasonable indication of material injury or threat of material injury, or material retardation of an industry's establishment, by reason of the imports subject to investigation. If the USITC's preliminary determination is negative, the investigation terminates; otherwise, Commerce issues preliminary and final determinations on subsidization. If Commerce's final determination of subsidization is affirmative, the USITC proceeds with its final injury determination. If the USITC's final determination is affirmative, Commerce will issue a CVD order.

The numbers of CVD investigations initiated in and since 1986 are as follows: 28 in 1986; 8 in 1987; 17 in 1988; 7 in 1989; 7 in 1990; 11 in 1991; 22 in 1992; 5 in 1993; 7 in 1994; 2 in 1995; 1 in 1996; 6 in 1997; 11 in 1998; 10 in 1999; 7 in 2000; 18 in 2001; 3 in 2002; 5 in 2003; 3 in 2004; 2 in 2005, and 3 in 2006. The numbers of CVD orders imposed in and since 1986 are: 13 in 1986; 14 in 1987; 7 in 1988; 6 in 1989; 2 in 1990; 2 in 1991; 4 in 1992; 16 in 1993; 1 in 1994; 2 in 1995; 2 in 1996; 0 in 1997; 1 in 1998; 6 in 1999; 6 in 2000; 6 in 2001; none in 2002; 2 in 2003; 3 in 2004; none in 2005, and 2 in 2006. Under its sunset review procedures, Commerce revoked 8 and continued 22 countervailing duty orders in 2000; revoked 1 countervailing duty order and continued 5 orders in 2001; revoked no countervailing duty orders and continued no orders in 2002; revoked no countervailing duty orders and continued no orders in 2003; revoked 1 countervailing duty order and continued no orders in 2004; revoked 4 and continued 12 countervailing duty orders in 2005, and revoked 6 and continued 3 countervailing duty orders in 2006.

6. Other Import Practices

a. Section 337

Section 337 of the Tariff Act of 1930, as amended, makes it unlawful to engage in unfair acts or unfair methods of competition in the importation or sale of imported goods. Most Section 337 investigations concern alleged infringement of intellectual property rights, such as U.S. patents and trademarks.

The United States International Trade Commission (USITC or Commission) conducts Section 337 investigations through adjudicatory proceedings under the Administrative Procedure Act. The proceedings normally involve an evidentiary hearing before a USITC administrative law judge who issues an Initial Determination that is subject to review by the Commission. If the USITC finds a violation, it can order that imported infringing goods be excluded from the United States and/or issue cease and desist orders requiring firms to stop unlawful conduct in the United States, such as the sale or other distribution of imported goods in the United States. A limited exclusion order covers only certain imports from particular named sources, while a general exclusion order covers certain products from all sources. Cease and desist orders are generally directed to entities maintaining inventories of infringing goods in the United States. Many Section 337 investigations are terminated after the parties reach settlement agreements or agree to the entry of consent orders.

In cases in which the USITC finds a violation of Section 337, it must decide whether certain public interest factors nevertheless preclude the issuance of a remedial order. Such public interest considerations

include an order's effect on the public health and welfare, U.S. consumers, and the production of similar U.S. products. If the USITC issues a remedial order, it transmits the order, determination, and supporting documentation to the President for policy review. In July 2005, the President assigned these policy review functions, which are set out in section 337(j)(1)(B), section 337(j)(2), and section 337(j)(4) of the Tariff Act of 1930, to the USTR. The USTR conducts these reviews in consultation with other agencies. Importation of the subject goods may continue during this review process if the importer pays a bond set by the USITC. If the President (or the USTR exercising the functions assigned by the President) does not disapprove the USITC's action within 60 days, the USITC's order becomes final. Section 337 determinations are subject to judicial review in the U.S. Court of Appeals for the Federal Circuit with possible appeal to the U.S. Supreme Court.

The USITC also is authorized to issue temporary exclusion or cease and desist orders before it completes an investigation if it determines that there is reason to believe a violation of Section 337 exists.

In 2006, the USITC instituted 34 new Section 337 investigations. It also instituted one enforcement proceeding that related to a previously issued USITC remedial order. During the year, the USITC issued one general exclusion order, six limited exclusion orders, and one cease and desist order covering imports from foreign firms, as follows: *Certain Light-Emitting Diodes and Products Containing Same*, Inv. No. 337-TA-512 (limited exclusion order); *Certain Rubber Antidegradants, Components Thereof, and Products Containing Same*, Inv. No. 337-TA-533 (limited exclusion order directed to two entities); *Certain Audio Processing Integrated Circuits and Products Containing Same*, Inv. No. 337-TA-538 (limited exclusion order); *Certain Tadalafil or Any Salt or Solvate Thereof and Products Containing Same*, 337-TA-539 (general exclusion order); *Power Supply Controllers and Products Containing Same*, Inv. No. 337-TA-541 (limited exclusion order); *Certain Ink Sticks for Solid Ink Printers*, Inv. No. 337-TA-549 (limited exclusion order and one cease and desist order); and *Certain Portable Power Stations and Packaging Thereof*, Inv. No. 337-TA-563 (limited exclusion order).

The USTR, exercising the functions assigned by the President, permitted all the exclusion orders and the cease and desist order submitted by the USITC for review during 2006 to become final.

b. Section 201

Section 201 of the Trade Act of 1974 provides a procedure whereby the President may grant temporary import relief if increased imports are a substantial cause of serious injury or the threat of serious injury. Relief may be granted for an initial period of up to four years, with the possibility of extending the relief to a maximum of eight years. Import relief is designed to redress the injury and to facilitate positive adjustment by the domestic industry; it may consist of increased tariffs, quantitative restrictions, or other forms of relief. Section 201 also authorizes the President to grant provisional relief in cases involving "critical circumstances" or certain perishable agricultural products.

For an industry to obtain relief under Section 201, the USITC must first determine that a product is being imported into the United States in such increased quantities as to be a substantial cause (a cause which is important and not less than any other cause) of serious injury, or the threat thereof, to the U.S. industry producing a like or directly competitive product. If the USITC makes an affirmative injury determination (or is equally divided on injury) and recommends a remedy to the President, the President may provide relief either in the amount recommended by the USITC or in such other amount as he finds appropriate. The criteria for import relief in Section 201 are based on Article XIX of the GATT 1994 – the so-called "escape clause" – and the WTO Agreement on Safeguards.

As of January 1, 2006, the United States had no safeguard measures in place. The United States did not impose any safeguard measures during 2006, and did not commence any safeguard investigations.

c. Section 421

The terms of China's accession to the WTO include a unique, China-specific safeguard mechanism. The mechanism allows a WTO member to limit increasing imports from China that disrupt or threaten to disrupt its market if China does not agree to take action to remedy or prevent the disruption. The mechanism applies to all industrial and agricultural goods and will be available until December 11, 2013.

Section 421 of the Trade Act of 1974, as amended by the U.S.-China Relations Act of 2000, implements this safeguard mechanism in U.S. law. For an industry to obtain relief under Section 421, the United States International Trade Commission (ITC) must first make a determination that products of China are being imported into the United States in such increased quantities or under such conditions as to cause or threaten to cause market disruption to the domestic producers of like or directly competitive products. The statute directs that if the ITC makes an affirmative determination, the President shall provide import relief, unless the President determines that provision of relief is not in the national economic interest of the United States or, in extraordinary cases, that the taking of action would cause serious harm to the national security of the United States.

China's terms of accession also permit a WTO Member to limit imports where a China-specific safeguard measure imposed by another Member causes or threatens to cause significant diversions of trade into its market. The trade diversion provision is implemented in U.S. law by Section 422 of the Trade Act of 1974, as amended.

Through the end of 2005, six petitions had been filed and adjudicated under Section 421. No new petitions were filed during 2006.

On February 10, 2006, the U.S. Court of Appeals for the Federal Circuit dismissed the complaint filed against the President by Motion Systems Corporation, the petitioner in the first Section 421 investigation. The Court of Appeals held that the President has discretion in applying Section 421 and therefore judicial review is not available. The Court of Appeals also affirmed the Court of International Trade's decision that the U.S. Trade Representative could not be sued under Section 421 because the USTR's statutory role does not constitute "final agency action" and thus cannot be challenged in court. Motion Systems Corporation filed a petition for review with the Supreme Court. The Supreme Court denied the request on October 2, 2006.

d. China Textile Safeguard

The terms for China's accession to the WTO include a special textiles safeguard, which is available to WTO members until December 31, 2008. This safeguard covers all products that were subject to the WTO Agreement on Textiles and Clothing on January 1, 1995.

Paragraph 242 of the *Report on the Working Party for the Accession of China to the World Trade Organization* ("Paragraph 242") allows WTO Members that believe imports of Chinese-origin textile or apparel products are, due to market disruption, threatening to impede the orderly development of trade in these products to request consultations with China with a view to easing or avoiding such market disruption. Under Paragraph 242, the importing country must supply data which, in its view, show the "existence or threat" of market disruption and the role of Chinese-origin products in that disruption. On receipt of a request for consultations, China must impose specified limits on its exports of such products to the member country. If the consultations fail to yield a solution to the threat or existence of market disruption, the WTO Member may continue such limits on imports of Chinese-origin textile or apparel products for up to one year, unless such limits are reapplied.

As noted in last year's Annual Report, on November 8, 2005, China and the United States signed a broad agreement that addresses imports of certain textile and apparel products from 2006 through 2008 (the "Memorandum of Understanding Between the Governments of the United States of America and the People's Republic of China Concerning Trade in Textile and Apparel Products"). This agreement replaced the safeguard measures that had been taken by the United States under Paragraph 242, and no new measures were taken under this paragraph in 2006. At the request of USTR, the International Trade Commission issued a report in August 2006 with respect to the definition of baby socks covered by the agreement in order to facilitate the administration of the agreement.

7. Trade Adjustment Assistance

a. Overview and Assistance for Workers

The Trade Adjustment Assistance (TAA) program for workers, established under Title II, chapter 2, of the Trade Act of 1974, as amended, provides assistance for workers affected by foreign trade. Available assistance includes job retraining, trade readjustment allowances (TRA), job search assistance, relocation assistance, a health insurance tax credit, a wage supplement for older displaced workers, and other re-employment services. The program was most recently amended by the Trade Adjustment Assistance Reform Act (TAA Reform Act), which was part of the Trade Act of 2002, enacted on August 6, 2002.

The TAA Reform Act expanded the TAA program and superseded the North America Free Trade Agreement Transitional Adjustment Assistance (NAFTA-TAA) program. The TAA Reform Act also raised the statutory cap on funds that may be allocated to the States for training from \$110 million to \$220 million per year. Workers covered under certifications issued pursuant to TAA or NAFTA-TAA petitions filed on or before November 3, 2002, continue to be covered under the provisions of the TAA or NAFTA-TAA program that were in effect on September 30, 2001. Amendments to the TAA program apply to petitions for adjustment assistance that were filed on or after November 4, 2002.

The TAA Reform Act expanded eligibility for the TAA program. For workers to be eligible to apply for TAA, the Secretary of Labor must certify that a significant number or proportion of the workers in a firm (or appropriate subdivision of the firm) have become totally or partially separated or threatened with such separation and: (1) increased imports contributed importantly to a decline in sales or production and to the separation or threatened separation of workers; or (2) there has been a shift in production to a country that has a free trade agreement with the United States or is a beneficiary country under the African Growth and Opportunity Act, the Andean Trade Preference Act or the Caribbean Basin Economic Recovery Act; or (3) there has been a shift in production to another country, and there has been or is likely to be an increase in imports of like or directly competitive articles; or (4) loss of business as a supplier or downstream producer for a TAA-certified firm contributed importantly to worker layoffs. The fourth basis for certification is designed to cover certain secondarily-affected workers.

The U.S. Department of Labor (DOL) administers the TAA program through the Employment and Training Administration (ETA). Workers certified as eligible to apply for adjustment assistance may apply for TAA benefits and services at the nearest local One-Stop Career Center. Local One-Stop Career Centers can be found on the Internet at www.servicelocator.org or by calling 1-877-US2-JOBS. In order to be eligible for TRA, the income support available under the program, workers must be enrolled in approved training within 8 weeks of the issuance of the DOL certification or within 16 weeks of the worker's most recent qualifying separation (whichever is later). A 45-day extension is available under extenuating circumstances. A state may waive the training requirement under six specific conditions outlined in the law.

The TAA Reform Act created the Health Coverage Tax Credit (HCTC) for certain trade-impacted workers and others. Covered individuals may be eligible to receive a tax credit equal to 65 percent of the

amount they paid for qualifying health insurance coverage. The tax credit may be claimed at the end of the year, or a qualified individual may receive the credit in the form of monthly advance payments made directly to the health insurance provider.

In addition, the TAA Reform Act of 2002 created the Alternative Trade Adjustment Assistance (ATAA) for Older Workers program. This program was implemented on August 6, 2003, and provides qualified trade-impacted workers, who are over 50 years of age and find other work within 26 weeks of separation, with a wage supplement of up to half the difference between their old and new salaries, in lieu of retraining. The maximum amount payable is \$10,000 over a two-year period, and workers must earn less than \$50,000 per year in their new employment to qualify for the program.

Since implementation of the TAA Reform Act, DOL has implemented significant administrative reforms to improve program efficiency and the quality of services delivered to workers, including a reengineered petition process, certification of workers who produce intangible articles, inclusion of leased or contract workers in certifications, distribution of TAA training funds by formula, institutionalization of quarterly performance reporting requirements, and integration of services with WIA and the One-Stop system. The administrative reforms have led to a reduction in the average petition processing time from 96 days in Fiscal Year 2002 to 31 days in Fiscal Year 2006, increased ability of workers to access program benefits and services, improved fiscal management, and better program outcomes.

Three separate Notices of Proposed Rulemaking (NPRM), implementing provisions of the TAA Reform Act, have been prepared by DOL. The first NPRM was published in the *Federal Register* on August 25, 2006. It contains the provisions related to benefits for trade-certified individuals and state administration of the TAA program. The second NPRM was published in the *Federal Register* on October 18, 2006. It regulates the administration of the ATAA program. Public comments have been received on both of these NPRMs. DOL expects the final rules for both of these NPRMs to be published in spring 2007. A third NPRM, which will implement the group certification provisions under the Reform Act, is expected to be published in 2007.

In 2006, DOL issued 1,426 certifications for TAA, covering an estimated 120,199 workers. Around 60 percent of all TAA petitioners were certified as eligible to apply for program benefits and services. Over 80,000 workers participated in a TAA training program in 2006, with 72 percent of program exiters reported as entering employment in the first quarter after leaving the program. The number of workers certified as eligible for the program has remained steady for the past two years, but has declined since it peaked in 2002 with an estimated 235,000 workers certified.

b. Assistance for Farmers

The Trade Act of 2002 also contains a provision for Trade Adjustment Assistance for Farmers, with an appropriation of not more than \$90 million for each fiscal year between 2003 and 2007 to be administered by the U.S. Department of Agriculture. The Secretary of Agriculture delegated authority for this program to the Administrator of the Foreign Agricultural Service.

The regulation to implement Trade Adjustment Assistance for Farmers was published in the *Federal Register* on August 20, 2003, and is now codified at 7 C.F.R. § 1580. Primary requirements for a farmer to be eligible are that the price of the basic agricultural commodity produced by the farmer in the most recent year is less than 80 percent of the average price over the previous five years, and that imports contributed importantly to the price decline.

If a group of farmers is certified as eligible for benefits, individual producers can then apply to the Farm Service Agency for technical assistance and/or cash benefits. A producer must receive technical assistance to become eligible for cash benefits. Cash benefits are subject to certain personal and farm

income limits, and cannot exceed \$10,000 per year to an individual producer. The cash benefit per unit is one-half of the difference between the most recent year's price and the previous five-year average price. If the funding authorized by Congress is insufficient to pay 100 percent of all claims during the fiscal year, payments will be prorated.

c. Assistance for Firms and Industries

The Trade Adjustment Assistance for Firms Program (the "TAA Program") is authorized by Title II, Chapter 3 of the Trade Act of 1974, as amended (19 U.S.C. 2341 *et seq.*) (the "Trade Act"). The TAA Program provides technical assistance to help U.S. firms experiencing a decline in sales and employment to become more competitive in the global marketplace. To be certified for the TAA program, a firm must show that an increase in imports of like or directly competitive articles contributed to an important part of its decline in sales, production, or both, and to the separation or threat of separation of a significant portion of the firm's workers. The Secretary of Commerce is responsible for administering the TAA Program and has delegated the statutory authority and responsibility under the Trade Act to the Department of Commerce's Economic Development Administration (EDA). EDA regulations implementing the TAA Program are codified at 13 CFR Part 315 and may be accessed via EDA's Internet website at: <http://www.eda.gov/InvestmentsGrants/Lawsreg.xml>

In Fiscal Year (FY) 2006, EDA awarded a total of \$12,814,214 in TAA Program funds to its national network of 11 Trade Adjustment Assistance Centers (TAACs), each assigned a different geographic service area. TAACs are typically sponsored by universities or non-profit organizations and serve as the primary point of contact for firms as they proceed through the certification and adjustment proposal processes under the TAA Program. During FY 2006, EDA certified 171 petitions for eligibility and approved 137 adjustment proposals.

Additional information on the TAA Program (including eligibility criteria and application process) is available at <http://www.taacenters.org>.

8. Generalized System of Preferences

a. Overview

The U.S. Generalized System of Preferences (GSP), a program designed to promote economic growth in the developing world, provides preferential duty-free treatment for 3,400 products from 134 designated beneficiary countries and territories. The GSP program was instituted on January 1, 1976, and authorized under the Trade Act of 1974 (19 U.S.C. 2461 *et seq.*) for a ten-year period. The GSP Program has been renewed periodically since then, most recently in 2006, when President Bush signed legislation that reauthorized the GSP program through the end of 2008.

In 1996, an additional 1,400 articles were made eligible for duty-free treatment when supplied by least developed beneficiary developing countries (LDBDCs). There are 43 LDBDCs currently eligible for GSP benefits. LDBDCs are designated as such, pursuant to section 502(a) (2) of the Trade Act of 1974, as amended. In practice, they are typically GSP beneficiaries that are on the United Nations list of least developed countries.

The combined lists of GSP-eligible products include most dutiable manufactures and semi-manufactures, and selected agricultural, fishery and primary industrial products not otherwise duty-free. Top U.S. imports under GSP in 2006 were petroleum (which is eligible for GSP duty-free treatment only from LDBDCs), jewelry, aluminum alloy products, refined copper cathodes, methanol, polyethylene terephthalate (PET), and wiring harnesses for vehicles. Certain articles are prohibited by law (19 U.S.C.

2463) from receiving GSP treatment, including most non-silk textiles and apparel, watches, footwear, handbags, luggage, flat goods, work gloves and other leather apparel.

Several beneficiary developing countries (BDCs) and LDBDCs have been removed from GSP-beneficiary eligibility. This has occurred when certain countries have been newly designated by the World Bank as a “high income” country or when the interagency review of country practice petitions, submitted as part of GSP Annual Reviews, indicated that the beneficiary did not meet GSP statutory eligibility criteria such as those regarding protection of worker rights or intellectual property rights.

b. Purpose of the GSP Program

The underlying principle of the GSP program is that the creation of trade opportunities for developing countries is an effective way of encouraging broad-based economic development and a key means of sustaining the momentum of economic reform and liberalization. In its current form, the GSP program is designed to integrate developing countries into the international trading system in a manner commensurate with their development. The program achieves this objective by making it easier for exporters from developing economies to compete in the U.S. market with exporters from industrialized nations while, at the same time, excluding from GSP duty-free treatment those products determined by the President to be import-sensitive. The value of U.S. imports entering under the GSP program in 2006 was approximately \$32.6 billion, a 22 percent increase over the same period in 2005.

In addition, the GSP program encourages beneficiaries to: (1) eliminate or reduce significant barriers to trade in goods, services, and investment; (2) afford all workers internationally recognized worker rights; and (3) provide adequate and effective means for foreign nationals to secure, exercise, and enforce property rights, including intellectual property rights.

c. Annual Reviews

An important attribute of the GSP program is its ability to adapt, product by product, to shifting market conditions; to the changing needs of producers, workers, exporters, importers and consumers; and to concerns about individual beneficiaries’ continued conformity with the statutory criteria for eligibility in the U.S. GSP program. Modifications are made in the lists of articles eligible for duty-free treatment and countries eligible to be in the GSP program by means of an annual review. The process begins with publication of a *Federal Register* notice that requests submission of petitions for modifications in the list of eligible articles and beneficiary countries.

For those petitions that are accepted, public hearings are held, a U.S. International Trade Commission study of the “probable economic impact” of granting a petition affecting the list of articles eligible for duty-free treatment is prepared, and all relevant materials are reviewed by the interagency Trade Policy Staff Committee (TPSC). Following completion of this interagency review, the President announces his decision on which petitions are granted.

d. Conclusion of the 2005 GSP Annual Review

In Proclamation 8033 of June 30, 2006, the President announced the results of the 2005 Annual Review. The Proclamation modified the duty-free treatment of certain GSP-eligible products and certain beneficiary developing countries under the Generalized System of Preferences.

e. 2006 GSP Annual Review

On June 29, 2006, a notice was published in the *Federal Register* announcing that USTR would receive petitions to modify the list of products eligible for duty-free treatment under the GSP program, and to

modify the GSP status of certain beneficiary developing countries because of country practices. This notice initiated the 2006 Annual Review.

A *Federal Register* notice was subsequently published that announced a request for comments on the possible withdrawal or suspension of GSP benefits with respect to Romania and Bulgaria. Other *Federal Register* notices were also published that informed the public of the availability of import statistics relating to competitive need limitations (CNLs) and inviting submission of petitions for waivers to competitive need limitations for the 2006 Annual Review.

f. Designation of Beneficiary Developing Countries

On December 29, 2005, a notice was published in the *Federal Register* announcing a review, including the solicitation of public comments, to consider the designation of Liberia as a LDBDC. In Proclamation 7922 of February 22, 2006, the President designated Liberia as a LDBDC.

On August 1, 2006, a notice was published in the *Federal Register* announcing a review, including the solicitation of public comments, to consider the designation of East Timor as a LDBDC for purposes of the GSP. In Proclamation 8098 of December 29, 2006, the President designated East Timor as a LDBDC. Additionally, the President determined that Bulgaria and Romania may no longer be designated as beneficiary developing countries for purposes of the GSP, effective for each of these countries when it becomes a European Union Member State, and determined that Afghanistan should be designated as a member of the South Asian Association for Regional Cooperation (SAARC) for purposes of the GSP on the date that Afghanistan becomes a SAARC member. Bulgaria and Romania became European Union Member States on January 1, 2007.

g. Overall Review of the GSP Program

In connection with the potential expiration of the GSP program on December 31, 2006, and Congressional consideration of options for reauthorization, on October 6, 2005, a notice was published in the *Federal Register* requesting comments on whether the Administration's operation of the GSP program should be changed so that benefits are not focused on trade from a few countries, and so that developing countries that traditionally have not been major traders under the program receive benefits. The notice also invited comments on the period for which Congress should reauthorize the GSP Program.

Based on the information obtained, the TPSC initiated a further review and requested additional comments to determine whether major beneficiaries of the program have expanded exports or have progressed in their economic development within the meaning of the statute to the extent that their eligibility should be limited, suspended or withdrawn, pursuant to section 502(d) of the Trade Act of 1974 (19 U.S.C. 2462(d)). The TPSC also initiated a review of the 83 existing competitive need limitation (CNL) waivers and requested comments on whether any waivers should be terminated, pursuant to section 503(d)(5) of the Act (19 U.S.C. 2463(d)(5)), because they are no longer warranted due to changed circumstances. Over 800 comments were received as part of second phase of the Overall Review, which is ongoing.

h. Reauthorization of the GSP Program

On December 20, 2006, President Bush signed legislation continuing the GSP program through December 31, 2008. This was the first time since the GSP program was created in 1974 that Congress has extended it without a lapse. This legislation reauthorized the program for all current beneficiaries and included new statutory thresholds to identify products that have reached a level of competitiveness suggesting that they no longer warrant duty-free benefits.

USTR expects to issue a *Federal Register* notice in late February 2007, when full-year 2006 data are available, that will identify those waivers that meet the new thresholds established in the reauthorization legislation and are thus subject to potential revocation.

VI. TRADE POLICY DEVELOPMENT

A. Trade Capacity Building (TCB)

Trade Capacity Building (TCB) is a critical part of the United States' strategy to enable developing countries to negotiate and implement market-opening and reform-oriented trade agreements. Providing developing countries with the tools to maximize trade opportunities and improve the linkage between trade and development is critical to achieving broad-based reforms. Absolute poverty rates for globalizing countries have fallen sharply over the last 20 years. A 2004 study published by the Institute for International Economics found that trade barrier elimination in conjunction with related development policies would accelerate the decline in the number of people living in poverty over the next 15 years by an additional 500 million – greater than the entire population of the United States.

The United States is committed to assisting developing countries build up their capacity by providing aid for trade. Aid to build trade capacity is about giving countries, particularly the least-trade active, the opportunity to participate in negotiations, so that they can make decisions about the benefits of trade deals. The aid assists these countries in implementing their obligations to bring certainty to their trade regimes. The assistance also addresses broader transition issues, so rural areas, small businesses and women entrepreneurs benefit from ambitious reforms in trade rules that are being negotiated in the WTO and other trade agreements. The United States is the largest single contributor of aid for trade and, in 2005, pledged to double aid for trade funding by 2010.⁵⁹ Total U.S. funding for TCB activities in FY2006 was approximately \$1.4 billion, more than double the level of FY2001. In 2006, TCB funding was distributed as follows:

- Asia: \$173 million, for a total of \$768 million since 2001
- Central and Eastern Europe: \$49 million, for a total of \$363 million since 2001
- Former Soviet Republics: \$343 million, for a total of \$741 million since 2001
- Latin America and Caribbean: \$240 million, for a total of \$1.3 billion since 2001
- Middle East and North Africa: \$67 million, for a total of \$944 million since 2001
- Sub-Saharan Africa: \$394 million, for a total of \$1.08 billion since 2001

The United States has been, and will continue to be, an active participant in the WTO's Aid for Trade Initiative, including the Integrated Framework, that aims to help the least trade-active countries participate in the global trading system. U.S. cumulative spending on TCB activities from 2001 to 2006 totaled over \$5.6 billion.

Coherence. An important element of this work involves coordination with regard to technical assistance activities among international institutions such as the WTO, the World Bank, the IMF, the regional development banks, and other donors. The Administration's intention is to avoid duplication and to identify and take advantage of donor complementarities in programming. The United States will work in partnership with these institutions and with other donors to ensure that international financial institutions (IFIs) offer trade-related assistance as an integral component of development programs – including increasing awareness of existing mechanisms and programs – tailored to the circumstances within each developing country.

The United States' efforts build on its long-standing commitment to help all countries benefit from the global trading system, including through mechanisms such as the Integrated Framework and the

⁵⁹ Subject to developing countries prioritizing trade in their development plans and approval of Presidential Budget requests.

Millennium Challenge Corporation; contributions to the WTO's Annual Trade-related Technical Assistance program, including the Doha Development Agenda's Global Trust Fund; assistance to countries acceding to the WTO; targeted assistance for developing countries participating in U.S. preference programs, such as the \$200 million African Global Competitiveness Initiative helping Africa benefit from AGOA; TCB working groups that are integral elements of free trade negotiations; and Committees on TCB created to aid in the implementation of a number of FTAs, including the FTAs with the Dominican Republic and Central America, Colombia, Panama, and Peru. TCB assistance is helping countries work with the private sector and non-governmental organizations to transition to a more open economy, prepare for FTA and WTO negotiations and implement their trade obligations.

1. Millennium Challenge Corporation

The Millennium Challenge Corporation (MCC), established by the United States in 2004, provides a significant source of bilateral assistance for trade capacity building efforts to eligible countries. The purpose of the MCC is to ensure that the President's vision of a new "global development compact" is implemented in a manner in which "greater contributions from developed countries [are] linked to greater responsibility from developing nations."

The U.S. Trade Representative is a member of the MCC's Board of Directors. By giving eligible countries the opportunity to identify their own priorities and develop their own proposals for reducing poverty and spurring economic growth, the MCC enables countries to address long-term development obstacles, including in the area of trade.

Since 2004, MCC programs are a significant component of U.S. contributions to TCB, channeling funds to low and lower middle income countries that demonstrate a strong commitment to investing in their people, ensuring political justice, encouraging economic freedom, and promoting sustainable natural resource management policies. In 2006, the MCC signed compacts with six nations: Armenia, Benin, El Salvador, Ghana, Mali and Vanuatu, which will fund approximately \$2 billion in economic growth projects in the coming years, including significant TCB components. These compacts build on the five compacts signed before 2006.

A total of 25 countries have been deemed "eligible" for MCC assistance. In November 2006, the MCC Board announced that in FY2007, Jordan, Moldova, and Ukraine will be eligible to negotiate compacts for development assistance with the MCC and that Niger, Peru, and Rwanda are eligible to participate in the MCC's program designed to assist countries on the "threshold" of MCC eligibility for compact assistance. An additional 18 countries were previously selected for participation in the threshold program. The MCC is actively pursuing compacts with other eligible countries throughout the developing world.

2. The Integrated Framework

The Integrated Framework for Trade-related Assistance to Least-developed Countries (IF) is a multi-organization (including the WTO, World Bank, IMF, UNCTAD, UNDP, and the International Trade Centre), multi-donor program that operates as a coordination mechanism for trade-related assistance to least developed countries (LDCs) with the overall objective of integrating trade into national development plans. The mechanism incorporates a diagnostic assessment and action plan formulated by one of the international organizations and the country. The action plan, consisting of needs identified by the diagnostic assessment, is offered to multilateral and bilateral donors. Project design and implementation can be accomplished through the resources of the IF Trust Fund or multilateral or bilateral donor programs in the field (as the United States does through its development assistance programs). The IF is exclusively for the LDCs, with the goal of getting the least trade active more involved. Of the 50 LDCs, 39 are in the program.

Following discussions in the World Bank's Development Committee and the WTO, a process to enhance the IF was launched in early 2006. The United States was an active member of the Task Force created to guide this process and is an active participant in the implementation phase of this effort. The process focused on three elements to accelerate and improve the IF process: (1) increase resources for follow-up; (2) build the in-country capacity of countries to benefit from the IF; and (3) improve IF governance, including monitoring and dissemination of best practices.

The United States has contributed funds for the past few years to the Integrated Framework Trust Fund to finance Diagnostic Trade Integration Studies (DTIS). USAID's bilateral assistance to LDC participants supports initiatives both to integrate trade into national economic and development strategies and to address high priority "behind the border" capacity building needs designed to accelerate integration into the global trading system. The total FY2006 bilateral TCB assistance to the IF countries was \$242 million. Many of these countries also benefit from part of the \$129 million in regional assistance provided by USAID.

3. World Trade Organization-Related U.S. TCB

International trade can play a major role in the promotion of economic growth and the alleviation of poverty. The WTO's Doha Development Agenda (DDA) recognizes that TCB can facilitate the more effective integration of developing countries into the international trading system and enable them to benefit further from global trade. The United States provides leadership in promoting trade and economic growth in developing countries through comprehensive TCB programs. The United States directly supports the WTO's trade-related technical assistance.

Global Trust Fund: In April 2006, the U.S. Trade Representative announced that the United States would contribute approximately \$1 million to the WTO for trade-related assistance for 2006. The latest contribution brought total U.S. contributions to the WTO Doha Development Agenda's Global Trust Fund to almost \$6 million since the launch of negotiations.

Aid for Trade: The WTO's Hong Kong Declaration created a new WTO framework in which to discuss and prioritize aid for trade. In 2006, this framework created an Aid for Trade Task Force to operationalize aid for trade efforts and offer recommendations as to how to improve the efficacy and efficiency of these efforts among WTO Members and other international organizations. The United States continues to be an active partner in the aid for trade discussion.

WTO and Trade Facilitation: The United States spent \$281 million in FY2006 on trade facilitation activities. In doing so, the United States has looked to support the WTO discussions by providing assistance to developing countries that seek help in responding to the regulatory proposals being made by members in the Negotiating Group on Trade Facilitation.

WTO Accession: The United States supports countries that have acceded or are in the process of acceding to the WTO. For example, in 2006, USAID and USDA provided WTO accession and implementation services to Vietnam, which became a WTO member on January 11, 2007. In 2006, the United States also provided WTO accession support to Iraq, Afghanistan, Cape Verde, Ethiopia, the Lao PDR, Ukraine, and a number of other countries in Eastern Europe and the former Soviet Union.

4. TCB Initiatives for Africa

The United States is aggressively funding programs and developing new initiatives at the multilateral and bilateral levels to address the specific needs of African countries with respect to reducing poverty and

spurring economic growth. The United States has matched its trade initiatives with an equally strong commitment to provide assistance at the regional, sub-regional, and country levels.

African Global Competitiveness Initiative: In July 2005, the United States announced the African Global Competitiveness Initiative (AGCI) to build sub-Saharan Africa's capacity for trade and competitiveness. The AGCI is currently providing \$200 million in funding over five years to: (1) expand African trade with the United States under the African Growth and Opportunity Act (AGOA) trade preference program, with other international trading partners and regionally within Africa; and (2) promote export competitiveness of sub-Saharan African countries. Specifically, AGCI is assisting with trade capacity development by supporting four regional USAID-funded Regional Hubs for Global Competitiveness – in Botswana, Kenya, Ghana and Senegal – as well as supporting USAID bilateral missions to help African countries diversify trade, remove key barriers to expanding growth, and thus maximize the benefits of greater participation in global markets. For example, the trade hubs in Ghana and Senegal have made recent progress in aiding in the creation and expansion of export markets for African seafood, cashews, and shea butter. In East Africa, the trade hub is expanding export markets for African produced home décor and leather goods. In South Africa, the trade hub is expanding the regional agricultural trade in melons.

African Growth and Opportunity Act (AGOA): AGOA, enacted in 2000, is a U.S. trade preference program that is reducing barriers to trade, increasing exports, creating jobs and expanding opportunity for Africans. Under AGOA, eligible countries can export most of their products to the United States duty-free. Since the implementation of AGOA, two-way trade with sub-Saharan Africa has increased 115 percent. (See the Africa Chapter for more information on AGOA.)

Trade capacity building is an important element of AGOA implementation. As a result, TCB funding for Sub-Saharan Africa reached \$394 million in FY2006, an increase of 95 percent over FY2005. Several U.S. agencies – including USAID, Homeland Security's Customs and Border Protection, and the Departments of State, Agriculture, and Commerce – have conducted technical assistance and outreach programs designed to assist beneficiary countries to maximize their AGOA benefits. AGOA implementation is a major focus of the four regional trade hubs cited above. For example, Animal and Plant Health Inspection Service (APHIS) experts have been posted to each of the hubs to assist African countries in meeting U.S. food safety standards. The trade hubs also conduct seminars and workshops designed to help African businesses make the most of AGOA's trade opportunities.

Comprehensive Africa Agriculture Development Program (CAADP): CAADP is a New Partnership for Africa's Development (NEPAD) program in which African Heads of State agreed to achieve and sustain a 6 percent annual agricultural growth rate. The United States committed in September 2005 that USAID, as part of the Presidential Initiative to End Hunger in Africa, will program approximately \$200 million in fiscal year 2006 for the first year of a five-year effort from 2006 to 2010 to support African leaders' implementation of the CAADP. USAID expects similar commitments over each of the next four years. USAID works with governments, NGOs, and the private sector to expand alliances in grains, cocoa, coffee, cotton, horticulture, dairy, cassava, and other priority commodity food systems. Among other things, the framework, and efforts to support it, directly enhances Africa's ability to benefit and participate in global trade and world trade agreements in agriculture. In November 2006, representatives of development agencies from the major donor countries met in Geneva to coordinate their aid efforts under the CAADP framework.

Assistance to West African Cotton Producers: In 2006, the United States continued to fully mobilize its development agencies to address the obstacles faced by West African countries — particularly Benin, Burkina Faso, Chad, Mali and Senegal — in the cotton sector. The MCC, USAID, USDA, and the United States Trade and Development Agency (USTDA) all continued work on a coherent long-term development program based on the priorities of the West Africans. The United States will continue to

coordinate with the WTO, World Bank, the African Development Bank, and others as part of the multilateral effort to address the development aspects of cotton. This includes active participation in the WTO Secretariat's monthly meetings with donors and recipient countries to discuss the development aspects of cotton.

In October 2006, the U.S. Trade Representative, the Secretary of Agriculture, and other senior Administration officials met with trade ministers from Benin, Burkina Faso, Chad, and Mali to discuss trade-related issues, including cotton. In addressing the ministers, Ambassador Schwab stated, "We believe a multilateral agreement to open markets, coupled with technical assistance, will provide concrete benefits for African cotton producers and directly address their biggest problems."

In 2006, the United States undertook a number of activities to support the West African cotton industry:

- In January 2006, USAID and USDA officials met with representatives from Benin, Chad, Mali, and Senegal, and a number of West Africa regional organizations in Benin to identify and coordinate country-specific and regional activities relating to cotton for implementation under West Africa Cotton Improvement Program (WACIP).
- In June 2006, the United States announced a significant increase in funding for the WACIP. The WACIP was launched in November 2005 with initial funding of \$7 million. The June announcement increased total funding to \$27 million over the three year life of the program. The program is aimed at helping to improve the production and marketing of cotton in five countries: Benin, Burkina Faso, Chad, Mali, and Senegal. The WACIP is designed to help achieve the following objectives: (1) reduce soil degradation and expand the use of good agricultural practices; (2) strengthen private agricultural organizations; (3) establish a West African regional training program for ginners; (4) improve the quality of West African cotton through better classification of seed cotton and lint; (5) improve linkages between U.S. and West African research organizations involved with cotton; (6) improve the enabling environment for agricultural biotechnology; and (7) assist with policy/institutional reform.
- On August 1, 2006, the provision of the Deficit Reduction Omnibus Reconciliation Act of 2005, which repealed the "Step 2" cotton program, went into effect, thereby terminating U.S. export subsidies and import substitution subsidies on cotton.
- The U.S. provided critical leadership on a landmark debt relief package of \$6 billion for Benin, Burkina Faso, Mali, and Senegal. Effective July 2006, as part of the Multilateral Debt Relief Initiative (MDRI), these countries (along with other Heavily Indebted Poor Countries) received 100 percent cancellation of outstanding obligations to the World Bank's International Development Association (IDA).
- In 2006, the MCC signed compacts with Benin and Mali representing over \$750 million in development assistance to be distributed in the coming years, much of which is allocated to agricultural and infrastructure investment. Burkina Faso and Senegal are eligible to enter into MCC compacts and both are in the process of proposing projects to the MCC.
- In the autumn of 2006, USAID/West Africa signed a cooperative agreement with a consortium of agriculture development organizations to implement the enhanced WACIP. Implementation, including consultation with stakeholders, began in January 2007.

5. Free Trade Agreement Negotiations

Although the WTO programs and the IF are priorities, they are only part of the U.S. TCB effort. In order to help our FTA partners participate in negotiations, implement the rules, and benefit over the long-term, USTR has created TCB working groups in free trade negotiations with developing countries and committees on TCB to prioritize and coordinate TCB activities during the transition and implementation periods. USAID, its field missions, and a number of other U.S. Government assistance providers actively participate in these working groups and committees so that the TCB needs identified can be quickly and efficiently incorporated into ongoing regional and country assistance programs. The Committees on TCB also invite non-government organizations, representatives from the private sector, and international institutions to join in building the trade capacity of the countries in each region. Trade capacity building is a fundamental feature of bilateral cooperation in support of the completed Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR), our signed free trade agreements with Colombia and Peru and the recently concluded free trade agreement with Panama.

a. Dominican Republic-Central America Free Trade Agreement

In 2006, the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR) went into effect in all countries except the Dominican Republic and Costa Rica. During CAFTA-DR negotiations, the United States and other international institutions worked with the Central American countries through the CAFTA-DR TCB Working Group to address trade capacity issues, such as rural diversification programs for agricultural products (e.g., coffee), market linkages for goods and services, food industry development, strengthening of labor and customs systems, and combating exploitive child labor. In order to create a mechanism to continue the productive work of the TCB working group during implementation, the CAFTA-DR agreement included a provision which creates a Committee on TCB to build on the progress made during negotiations. The Committee on TCB held its first meeting in February of 2007 in Guatemala City, Guatemala and plans to hold another later in the year in Washington, D.C. The United States provided over \$100 million in TCB assistance through bilateral and regional assistance programs to the CAFTA-DR countries in FY2006 and plans to provide more than \$850 million in assistance through compacts signed with the MCC, much of it devoted to TCB projects in El Salvador, Honduras, and Nicaragua.

b. Colombia and Peru Trade Promotion Agreements

During free trade negotiations with the Andean countries, a working group on Trade Capacity Building, which included the Inter-American Development Bank (IDB), the World Bank (WB), the Andean Regional Development Bank, the OAS, and ECLAC, addressed a broad range of economic assistance issues, including programs to aid small and medium enterprises, rural farmers, food safety inspectors, and customs officials. These programs are intended to help the countries to implement the obligations of the agreement and to more broadly benefit from the opportunities created by the free trade agreement. The United States provided \$107.6 million in TCB assistance to the Andean countries in FY2006, up from \$95.2 million in FY2005.

In April 2006, the United States and Peru signed a comprehensive free trade agreement—the United States-Peru Trade Promotion Agreement (PTPA). The PTPA includes a provision that creates a Committee on TCB to build on work done during the negotiations by the TCB working group, which included further refining and implementing Peru's national TCB strategy and fostering critical assistance in promoting economic growth, reducing poverty, and adjusting to liberalized trade.

In November 2006, the United States and Colombia signed a comprehensive free trade agreement—The United States-Colombia Trade Promotion Agreement (CTPA). As with the PTPA, the CTPA also

includes the creation of a Committee on TCB to build upon the progress made by the TCB working group on economic assistance and poverty alleviation.

c. Panama Trade Promotion Agreement

As with the agreements with Central America, the Dominican Republic, Peru, and Columbia, the United States-Panama Trade Promotion Agreement creates a trade capacity building committee which will aid Panama in the implementation of its obligations and allow it to more broadly benefit from the opportunities created by the free trade agreement.

B. Congressional Affairs

In 2006, USTR worked closely with the 109th Congress to move forward the President's bilateral, regional and multilateral trade agenda. Consistent with the Bipartisan Trade Promotion Authority Act of 2002, USTR held meaningful consultations before and after each round of negotiations. These consultations provided the Administration with valuable advice on agreements that were concluded and approved by the Congress in 2006.

The Congress passed with bipartisan support and the President signed into law the U.S.-Oman Free Trade Agreement in September 2006. In addition, in 2006, USTR worked with the Congress to pass legislation enabling permanent normal trade relations with Ukraine and Vietnam. The latter was approved by the U.S. Congress and signed into law in December 2006.

USTR also worked closely with Congress on the successful conclusion of negotiations on agreements with Peru, Colombia, and Panama. The Peru Trade Promotion Agreement was signed in April 2006 and awaits Congressional consideration. The United States and Colombia signed the Colombia Trade Promotion Agreement on November 22, 2006. Negotiations with Panama were concluded in late December 2006.

USTR continued its consultations with the Congress with respect to negotiations with Malaysia, Korea, Ecuador, Thailand, the United Arab Emirates (UAE), the Southern African Customs Union (SACU) and the Free Trade Area of the Americas (FTAA).

In addition to free trade agreements, USTR maintained an ongoing dialogue with the Congress on multilateral initiatives in 2006. USTR consulted with the Congress on the WTO Doha Development Round and on legislation intended to bring United States into compliance with WTO rulings. USTR also worked with Congress to reauthorize several important trade preference programs such as the Generalized System of Preferences, the African Growth and Opportunity program, and the Andean Trade Preference Act.

C. Private Sector Advisory System and Intergovernmental Affairs

USTR's Office of Intergovernmental Affairs and Public Liaison (IAPL) administers the federal trade advisory committee system and provides outreach to, and facilitates dialogue with, state and local governments, the business and agricultural communities, labor, environmental, consumer, and other domestic groups on trade policy issues.

The advisory committee system, established by the U.S. Congress in 1974, falls under the auspices of IAPL. The advisory committee system was created to ensure that U.S. trade policy and trade negotiating objectives adequately reflect U.S. public and private sector interests. The advisory committee system

consists of 27 advisory committees, with a total membership of approximately 700 advisors. It is managed by IAPL, in cooperation with other agencies including the Departments of Agriculture, Commerce, Labor, and the Environmental Protection Agency.

IAPL also has been designated as the NAFTA and WTO State Coordinator. As such, the office serves as the liaison to state points of contact, and state and local government officials, on information regarding the U.S. trade agenda, the implementation of the NAFTA and the WTO, bilateral free trade agreements (FTAs), and other trade issues of interest.

Finally, IAPL coordinates USTR's outreach to the public and private sector through public briefings, notification of USTR *Federal Register* Notices soliciting written comments from the public and holding of Trade Policy Staff Committee (TPSC) public hearings, consulting with and briefing interested constituencies, speaking at conferences and meetings around the country, and meeting frequently with a broad spectrum of groups at their request.

1. The Advisory Committee System

The advisory committees provide information and advice with respect to U.S. negotiating objectives and bargaining positions before entering into trade agreements, on the operation of any trade agreement once entered into, and on other matters arising in connection with the development, implementation, and administration of U.S. trade policy.

The system consists of 27 advisory committees. Currently, there are approximately 700 advisors and membership can grow to a total of up to 1,000 advisors. Recommendations for candidates for committee membership are collected from a number of sources, including Members of Congress, associations and organizations, publications, other federal agencies, and individuals who have demonstrated an interest or expertise in U.S. trade policy. Membership selection is based on qualifications, geography, and the needs of the specific committee. Members pay for their own travel and other related expenses. In 2004, the number of industry committees at the technical level was streamlined and consolidated to better reflect the composition of the U.S. economy, in response to recommendations by the U.S. Government Accountability Office (GAO).

The system is arranged in three tiers: the President's Advisory Committee for Trade Policy and Negotiations (ACTPN); four policy advisory committees dealing with environment, labor, agriculture, and intergovernmental issues; and 22 technical and sectoral advisory committees in the areas of industry and agriculture. Additional information on the advisory committee can be found on the USTR website (<http://www.ustr.gov/outreach/advise.shtml>).

Private sector advice is both a critical and integral part of the trade policy process. USTR maintains an ongoing dialogue with interested private sector parties on trade agenda issues. The advisory committee system is unique since the committees meet on a regular basis and receive sensitive information about ongoing trade negotiations and other trade policy issues and developments. Committee members are required to have a security clearance.

Recently, USTR introduced a significant improvement to facilitate the work of the advisory committees, by creating a secure encrypted advisors' website with password protection. Confidential draft texts of FTA agreements were posted to the secure website on an ongoing basis to allow advisors to provide comments to U.S. officials in a timely fashion during the course of negotiations. This has enhanced the quality and quantity of input from cleared advisors, especially from those advisors who reside outside of Washington, DC.

USTR has introduced additional procedural innovations to improve the operation of the advisory committee system. This includes a single monthly advisory committee teleconference call with the “Chairs” for all 27 committees. This keeps “Chairs” apprised of ongoing developments and important dates on the trade negotiations calendar, which, in turn, facilitates greater transparency for all advisors.

Additionally, USTR and the Departments of Commerce and Agriculture convene periodic plenary sessions of the industry trade advisory committees, and the agricultural technical committees, respectively, in order to make more efficient use of negotiators’ time with the committees and allow the further exchange of ideas among committees.

a. President’s Advisory Committee on Trade Policy and Negotiations

The ACTPN consists of up to 45 members who are broadly representative of the key economic sectors affected by trade. The President appoints ACTPN members for two-year renewable terms. The ACTPN is the highest-tier committee in the system that examines U.S. trade policy and agreements from the broad context of the overall national interest.

b. Policy Advisory Committees

At the second tier, the members of the four policy advisory committees are appointed by the USTR alone or in conjunction with other Cabinet officers. The Intergovernmental Policy Advisory Committee (IGPAC) is appointed and managed solely by USTR. Those policy advisory committees managed jointly with the Departments of Agriculture, Labor, and the Environmental Protection Agency are, respectively, the Agricultural Policy Advisory Committee (APAC), Labor Advisory Committee (LAC), and Trade and Environment Policy Advisory Committee (TEPAC). Members serve two-year renewable terms or until the committee’s charter expires. Each committee provides advice based upon the perspective of its specific area.

c. Technical and Sectoral Committees

At the third tier, the 22 technical and sectoral advisory committees are organized into two areas: industry and agriculture. Representatives are appointed jointly by the USTR and the Secretaries of Commerce and Agriculture, respectively. Each sectoral or technical committee represents a specific sector or commodity group and provides specific technical advice concerning the effect that trade policy decisions may have on its sector or issue.

There are six agricultural technical committees (ATACs) co-chaired by USTR and Agriculture. There are sixteen industry trade advisory committees (ITACs), which reflect a streamlined and consolidated structure instituted in 2004.

The restructuring was consistent with recommendations in a U.S. Government Accountability Office Report, "International Trade: Advisory Committee System Should be Upgraded to Better Serve U.S. Policy Needs" (GAO 02-876), and reflects the commitment of USTR, Commerce, USDA, Labor and EPA to improve the trade advisory committee system.

2. State and Local Government Relations

With the passage of the NAFTA Implementation Act in 1993 and the Uruguay Round Agreements Act in 1994, the United States created expanded consultative procedures between federal trade officials and state

and local governments. Under both agreements, USTR's Office of IAPL is designated as the "Coordinator for State Matters." IAPL carries out the functions of informing the states, on an ongoing basis, of trade-related matters that directly relate to or that may have a direct effect on them. U.S. territories may also participate in this process. IAPL also serves as a liaison point in the Executive Branch for state and local government and federal agencies to transmit information to interested state and local governments, and relay advice and information from the states on trade-related matters. This is accomplished through a number of mechanisms:

a. State Point of Contact System

For day-to-day communications, pursuant to the NAFTA and Uruguay Round implementing legislation and Statements of Administrative Action, USTR created a State Single Point of Contact (SPOC) system. The Governor's office in each State designates a single contact point to disseminate information received from USTR to relevant state and local offices and assist in relaying specific information and advice from the states to USTR on trade-related matters.

The SPOC network ensures that state governments are promptly informed of Administration trade initiatives so their companies and workers may take full advantage of increased foreign market access and reduced trade barriers. It also enables USTR to consult with states and localities directly on trade matters which may affect them. SPOCs regularly receive USTR press releases, *Federal Register* notices, and other pertinent information. In 2006, USTR introduced a regular monthly conference call for SPOCs and members of the Intergovernmental Policy Advisory Committee (see below) to keep state and local governments apprised of timely trade developments of interest.

b. Intergovernmental Policy Advisory Committee

For advice from states and localities on trade policy matters, USTR has established an Intergovernmental Policy Advisory Committee on Trade (IGPAC). It is one of the four policy advisory committees discussed above. The IGPAC is comprised of representatives from all three branches of government and associations. Appointed on a bipartisan basis, the committee makes recommendations to the USTR and the Administration on trade policy matters from the perspective of state and local governments. USTR has sought to augment IGPAC's membership and expertise in order to receive timely advice on technical aspects of trade agreements. In 2006, IGPAC was briefed and consulted on trade priorities of interest to states and localities, including: voluntary government procurement commitments and reciprocity in trade agreements, ongoing negotiations in the WTO Doha Development Agenda with respect to the General Agreement on Trade in Services (GATS) and other matters, and bilateral FTA negotiations. IGPAC members were also invited to participate in monthly teleconference call briefings along with State Points of Contact.

c. Meetings of State and Local Associations and Local Chambers of Commerce

USTR officials participate frequently in meetings of state and local government associations to apprise them of relevant trade policy issues and solicit their views. For example, in 2006, USTR officials met with the National Governors' Association, Council of State Governments, National Conference of State Legislatures, Conference of Chief Justices of state supreme courts and others. USTR officials also addressed gatherings of state and local officials, as well as local and regional chambers of commerce around the country.

d. Consultations Regarding Specific Trade Issues

USTR initiates consultations with particular states and localities on issues arising under the WTO and other U.S. trade agreements, and frequently responds to requests for information from state and local governments. Topics of interest included the WTO Government Procurement Agreement (GPA), WTO General Agreement on Trade in Services (GATS) issues, FTA negotiations, NAFTA investment issues and others. On the issue of voluntary coverage of state government procurement under the GPA and FTAs, USTR consults extensively with governors' offices and other state officials. USTR also prepares periodic facts sheets to explain the benefits and specific provisions of trade agreements.

3. Public and Private Sector Outreach

It is important to recognize that the advisory committee system is but one of a variety of mechanisms through which the Administration obtains advice from interested groups and organizations on the development of U.S. trade policy. In formulating specific U.S. objectives in major trade negotiations, USTR also routinely solicits written comments from the public via *Federal Register* notices, consults with and briefs interested constituencies, holds public hearings, and meets with a broad spectrum of private sector and non-governmental groups.

a. 2006 Outreach Efforts

The 2006 trade agenda provided many opportunities for USTR to conduct outreach to, and consultations with, diverse trade policy stakeholders including the advisory committees, state and local governments, private sector and non-governmental groups.

i. World Trade Organization

Throughout 2006, USTR continued to solicit advice from cleared advisors, business and agriculture sectors, state governments and other domestic stakeholders and the general public regarding U.S. objectives for the Doha Development Agenda in areas such as agriculture, non-agriculture market access and services. USTR also conducted outreach and consultations with advisors and domestic stakeholders on WTO accession negotiations for Vietnam and Russia, for example. USTR developed timely WTO Fact Sheets for posting to the public website and disseminated these broadly to interested parties.

ii. Bilateral Trade Agreements

In 2006, USTR briefed and facilitated consultations with advisory committees and other stakeholders on free trade agreement negotiations, such as Korea, Malaysia, Thailand, Colombia, Peru, Panama, Oman, and UAE. This included advisory committee meetings, teleconference briefings on the progress of negotiations, issuing public fact sheets, and making materials widely available on the USTR website. Advisory committee reports on concluded FTAs, as required under the Trade Act of 2002, were delivered to the President, USTR, and Congress, and made public on USTR's website well in advance of congressional consideration of the FTAs to enable informed public discussion.

iii. Monitoring and Compliance Activities

USTR briefed and facilitated consultations with advisors, state officials and other stakeholders on trade disputes such as the WTO civil aircraft subsidies case, the EU biotechnology case, China's treatment of U.S. automotive parts, the Canada softwood lumber dispute, the Antigua and Barbuda internet gaming services case and other items. Other issues of interest to advisors and domestic groups included USTR's Top to Bottom Review of US-China Trade Relations and report entitled "U.S.-China Trade Relations:

Entering a New Phase of Greater Accountability and Enforcement,” the first comprehensive statement of U.S. trade policy towards China since it joined the WTO in 2001.

iv. Public Trade Education

USTR continues its efforts to promote and educate the public on trade issues. USTR has participated in educational efforts regarding U.S. trade activities and their benefits through speeches, publications and briefings. In 2006, USTR continued its fact sheet and e-mail service, called Trade Facts, to update interested parties on important U.S. trade initiatives and explain the benefits and provisions of trade agreements. This service provides USTR press releases, fact sheets, and background information to advisors and to the general public. USTR’s Internet homepage also serves as a vehicle to communicate to the public. During 2006, USTR initiated a bimonthly electronic newsletter, Trade Talk, to provide regular and timely trade agenda updates to advisors, state and local governments, other stakeholders and the public. Subscription to the newsletter is free and interested parties may subscribe at www.ustr.gov.

D. Policy Coordination

The U.S. Trade Representative has primary responsibility, with the advice of the interagency trade policy organization, for developing and coordinating the implementation of the U.S. trade policy, including on commodity matters and to the extent they are related to trade, direct investment matters. Under the Trade Expansion Act of 1962, the Congress established an interagency trade policy mechanism to assist with the implementation of these responsibilities. This organization, as it has evolved, consists of three tiers of committees that constitute the principal mechanism for developing and coordinating U.S. Government positions on international trade and trade-related investment issues.

The Trade Policy Review Group (TPRG) and the Trade Policy Staff Committee (TPSC), administered and chaired by USTR, are the subcabinet interagency trade policy coordination groups that are central to this process. The TPSC is the first line operating group, with representation at the senior civil servant level. Supporting the TPSC are more than 80 subcommittees responsible for specialized issues. The TPSC regularly seeks advice from the public on its policy decisions and negotiations through *Federal Register* notices and public hearings. In 2006, the TPSC held public hearings on: the United States-Korea Free Trade Agreement (March 14, 2006); the United States-Malaysia Free Trade Agreement (May 3, 2006); and China’s Compliance with WTO Commitments (September 28, 2006). The transcripts of these hearings are available in USTR’s Reading Room.

Through the interagency process, USTR requests input and analysis from members of the appropriate TPSC subcommittee or task force. The conclusions and recommendations of this group are then presented to the full TPSC and serve as the basis for reaching interagency consensus. If agreement is not reached in the TPSC, or if particularly significant policy questions are being considered, issues are referred to the TPRG (Deputy USTR/Under Secretary level).

Member agencies of the TPSC and the TPRG consist of the Departments of Commerce, Agriculture, State, Treasury, Labor, Justice, Defense, Interior, Transportation, Energy, Health and Human Services, and Homeland Security, the Environmental Protection Agency, the Office of Management and Budget, the Council of Economic Advisers, the Council on Environmental Quality, the International Development Cooperation Agency, the National Economic Council, and the National Security Council. The U.S. International Trade Commission is a non-voting member of the TPSC and an observer at TPRG meetings. Representatives of other agencies also may be invited to attend meetings depending on the specific issues discussed.

ANNEX I

Annex I. U.S. Trade in 2006

I. 2006 Overview

U.S. trade (exports and imports of goods and services, and the receipt and payment of earnings on foreign investment)¹ increased by over 17 percent in 2006 to a value of nearly \$5.1 trillion.² This marked the third consecutive year of strong growth (trade was up 17 percent in 2004, and 15 percent in 2005). The increase in trade in 2006 largely reflected a strong U.S. economy (real GDP up over 3.0 percent) as well as improved economic conditions in a number of U.S. trade partners. U.S. trade in goods and services increased by 12 percent, while U.S. trade of goods alone increased by 13 percent and U.S. trade of services alone increased by 9 percent. Exports of goods and services, and earnings on investment increased by 18 percent in 2006, while imports of goods and services and payments on investment increased by 17 percent.

In 2005, the latest year in which data is available, the United States was the world's largest trading nation for both exports and imports of goods and services.³ The United States accounts for roughly 17 percent of world goods trade and for roughly 18 percent of world services trade.⁴ Through 2006, the value of U.S. trade has increased 37-fold since 1970, and 169 percent since 1994, the year before the start of the Uruguay Round implementation (figure 1).⁵ U.S. trade expansion was more rapid in the 1970-2006 period than the growth of the overall U.S. economy, in both nominal and real terms. In nominal terms, trade has grown at an annual average rate of 10.6 percent per year since 1970, compared to U.S. gross domestic product (GDP) whose average growth over the same period was 7.3 percent. In real terms, the average annual growth in trade was double the pace of GDP growth, 6.5 percent versus 3.1 percent.

The value of trade in goods and services, including earnings and payments on investment, was a record 38 percent of the value of U.S. GDP in 2006 (figure 2). This represented an increase from the corresponding figure in 2005 (35 percent).⁶ For goods and services, excluding investment earnings and payments, U.S. trade represented a record 28 percent of the value of GDP in 2006, and was up from 27 percent in 2005.⁷

1 Earnings on foreign investment are considered trade because they are conceptually the payment made to foreign residents for the service rendered by the use of foreign capital. Beyond the overview section, however, this chapter deals with goods and services trade, excluding foreign investment earnings. All trade values are nominal unless otherwise indicated.

2 In this Chapter, 2006 is estimated based on partial year data (January-November).

3 Germany is the largest goods exporter, having surpassed the United States in 2003.

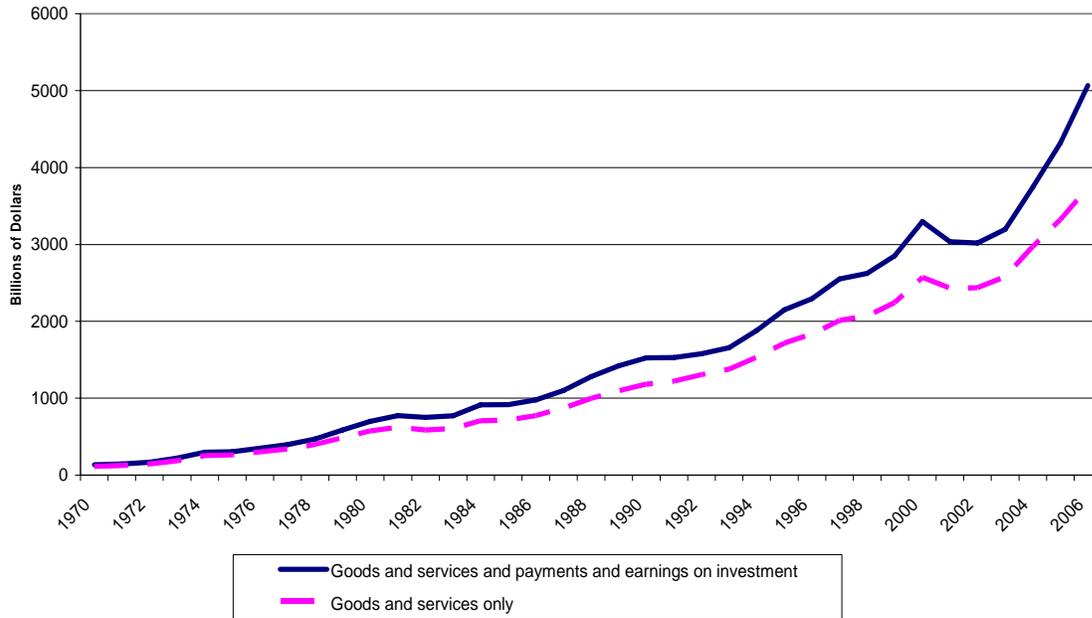
4 Trade in goods and services excluding intra-EU trade.

5 Trade in goods and services alone has increased 31-fold since 1970 and 117 percent since 1994.

6 Thirteen percent of the value of GDP in 1970 and 27 percent in 1994.

7 Eleven percent of the value of GDP in 1970 and 22 percent in 1994.

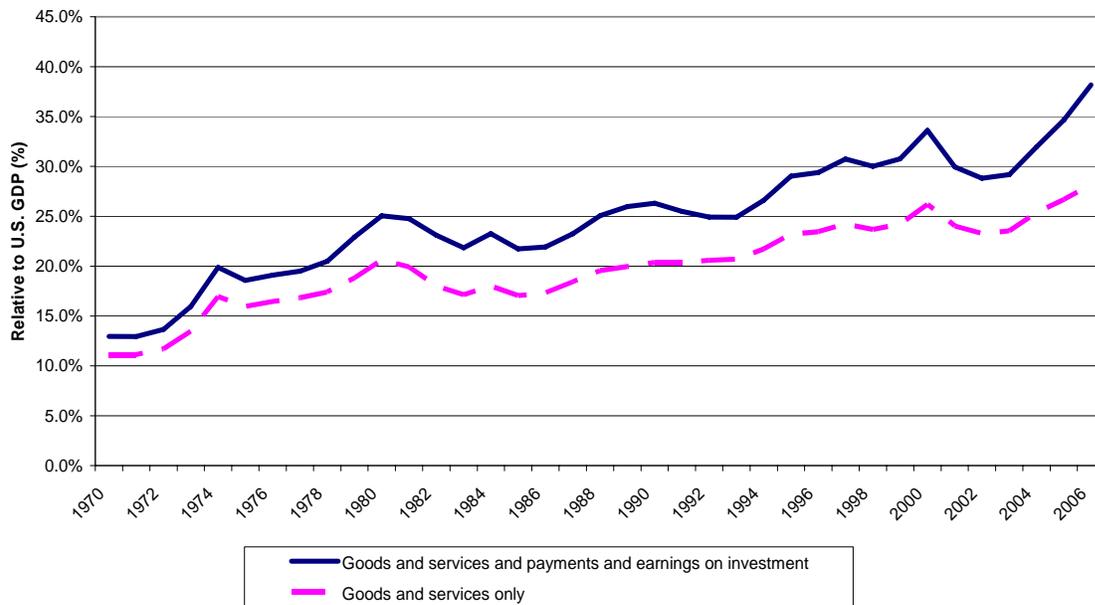
**Figure 1:
U.S. Trade Growth**



Total exports + imports

Source: U.S. Department of Commerce

**Figure 2:
Growing Importance of Trade in the U.S. Economy**



Total exports + imports as a percentage of the value of U.S. GDP

Source: U.S. Department of Commerce

This growth in trade has occurred in both U.S. exports and imports. U.S. exports of goods and services (including investment earnings) in 2006 are 28-fold greater than 1970 and 136 percent greater than 1994. U.S. imports of goods and services are 46-fold greater than 1970 and 200 percent greater than 1994.

With the value of U.S. exports increasing less than that of imports, the total deficit on goods and services trade (excluding earnings and payments on foreign investment) increased by approximately \$54 billion from \$717 billion in 2005 (5.8 percent of GDP) to \$771 billion in 2006 (still roughly 5.8 percent of GDP). The U.S. deficit in goods trade alone increased by \$60 billion from \$783 billion in 2005 (6.3 percent of GDP) to \$843 billion in 2006 (still roughly 6.3 percent of GDP). The services trade surplus increased by \$6 billion from \$66 billion in 2005 (0.5% of GDP) to \$72 billion in 2006 (0.5 percent of GDP).

II. Goods Trade

A. Export Growth

U.S. goods exports increased by 15 percent in 2006, as compared to the 11 percent increase in the preceding year (*table 1 and figure 3*). Manufacturing exports, which accounted for 86 percent of total goods exports, were up 14 percent, while agriculture exports, which accounted for 7 percent of total goods exports, were up by 12 percent. High technology exports, a subset of manufacturing exports, accounted for 24 percent of total goods exports and were up 17 percent in 2006. U.S. goods exports increased for every major end-use category in 2006, with the largest increase in the industrial supplies and materials category, up 19 percent.

Since 1994, U.S. goods exports are up 104 percent. Manufacturing exports increased 107 percent, while high technology exports increased 110 percent, and agriculture exports increased 59 percent. Exports of industrial supplies and materials, consumer goods and capital goods have more than doubled. Of the \$525 billion increase in goods exports since 1994, capital goods accounted for 40 percent of the increase, industrial supplies and materials accounted for 29 percent, and consumer goods accounted for 13 percent.

U.S. goods exports increased to all major markets in 2006 (*table 2*), led by a growth rate of 33 percent to China, and 23 percent to Latin America, excluding Mexico. U.S. exports increased 12 percent to industrial countries and 18 percent to developing countries. Since 1994, U.S. goods exports to developing countries exhibited higher growth rates than that to industrial countries, 131 percent compared to 83 percent. However, the United States still exports the majority of its goods to industrial countries, roughly 52 percent in 2006.

Goods exports to China continued to increase in 2006, up 19 percent, the 7th straight year of double-digit growth (and the 4th straight year of 20 percent plus growth). Exports of capital goods, industrial supplies, and autos and parts were the largest growth categories,

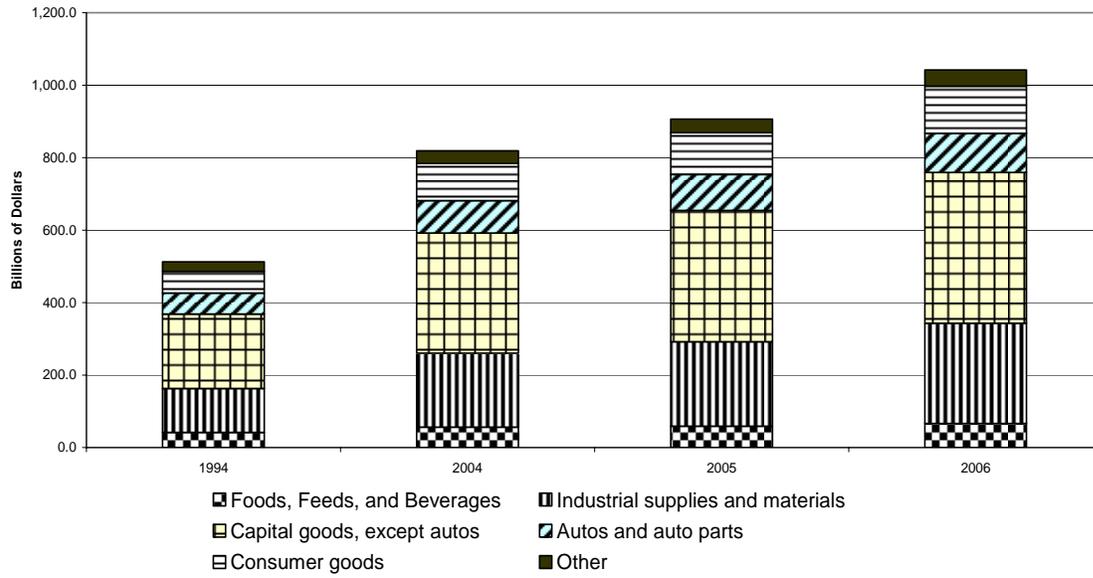
Table 1
U.S. Goods Exports

Exports:	1994	2004	2005	2006*	05-06*	94-06*
	<i>Billions of Dollars</i>				<i>Percent Change</i>	
Total (BOP basis)	502.8	807.5	894.6	1,028.3	14.9%	104.5%
Food, feeds, and beverages	42.0	56.6	59.0	66.6	12.9%	58.6%
Industrial supplies and materials	121.4	204.0	233.1	276.3	18.5%	127.6%
Capital goods, except autos	205.0	331.6	362.7	416.3	14.8%	103.0%
Autos and auto parts	57.8	89.2	98.6	108.0	9.6%	86.9%
Consumer goods	60.0	103.1	115.7	129.9	12.3%	116.6%
Other	26.5	34.4	37.0	44.8	21.2%	69.1%
Addendum: Agriculture	45.9	63.4	65.2	73.0	12.0%	59.1%
Addendum: Manufacturing	431.1	710.3	783.3	892.9	14.0%	107.2%
Addendum: High Technology	120.7	201.4	216.1	253.4	17.3%	109.9%

* Annualized based on January-November 2006 data

Source: U.S. Department of Commerce, Balance of Payments Basis for Total, Census basis for Sectors.

**Figure 3:
U.S. Goods Exports**



2006 Annualized based on January-November 2006
Source: U.S. Department of Commerce

Table 2
U.S. Goods Exports to Selected Countries/Regions

Exports to:	1994	2004	2005	2006*	05-06*	94-06*
	<i>Billions of Dollars</i>				<i>Percent Change</i>	
Canada	114.4	189.9	211.9	231.5	9.3%	102.3%
European Union (EU25)	109.6	172.6	186.4	214.1	14.8%	95.3%
Japan	53.5	54.2	55.5	60.1	8.3%	12.4%
Mexico	50.8	110.8	120.4	135.6	12.7%	166.7%
China	9.3	34.7	41.9	55.7	32.9%	500.1%
Asian Pacific Rim, except Japan and China	85.0	120.7	125.9	141.3	12.2%	66.2%
Latin America, except Mexico	41.8	61.5	72.4	89.2	23.2%	114.0%
Addendum: Industrial Countries**	297.4	444.5	486.1	544.5	12.0%	83.1%
Addendum: Developing Countries**	215.2	374.2	419.9	497.4	18.5%	131.1%

* Annualized based on January-November 2006 data

** As defined by the International Monetary Fund

Source: U.S. Department of Commerce, Census Basis.

up 46 percent, 39 percent, and 32 percent, respectively. Exports of capital goods accounted for 46 percent of U.S. exports to China in 2006, while exports of industrial supplies accounted for 39 percent, and autos and auto parts only 3 percent. Agriculture exports increased by 29 percent in 2006, but still accounted for 12 percent of total U.S. exports to China. U.S. exports to China have increased 5-fold since 1994.

U.S. exports to Latin America (excluding Mexico) increased 23 percent in 2006, due mainly to strong export growth in industrial supplies (up 27 percent) and capital goods (up 24 percent). These two categories accounted for 73 percent of total exports to the region. Exports of autos and parts were up a strong 28 percent, but only accounted for 5 percent of total exports. U.S. exports to Latin America (excluding Mexico) have more than doubled since 1994.

Exports to our NAFTA partners increased more than 10 percent in 2006, and have increased 159 percent since 1993, the year before the start of NAFTA's implementation. Approximately 35 percent of aggregate U.S. goods exports went to NAFTA countries in 2006 (over \$367 billion), up from nearly 33 percent in 1993 (\$142 billion).

U.S. exports to Canada, the largest U.S. export market, accounting for 22 percent of U.S. exports, increased by 9 percent in 2006. Growth areas of U.S. exports to Canada include consumer goods (up 15 percent), industrial supplies (up 12 percent), and agricultural products (up 11 percent). Overall, U.S. exports to Canada have doubled since 1994.

U.S. exports to Mexico, the second largest country export market, accounting for 13 percent of U.S. exports, increased by 13 percent in 2006. U.S. exports were up 15 percent each in both the industrial supplies and materials and agricultural goods categories. Since 1994, U.S. exports to Mexico have increased nearly 167 percent.

U.S. exports to the European Union were up 15 percent in 2006. Exports increased in industrial supplies (up 29 percent) and autos and auto parts (up 23 percent). In 2006, the EU accounted for 21 percent of aggregate U.S. exports. Since 1994, U.S. exports to the EU have nearly doubled. This growth was led by mostly manufactured goods as agricultural exports to the EU have remained relatively flat since 1996.

U.S. exports from the Asian Pacific rim (excluding China and Japan) increased 12 percent in 2006, and are up 66 percent since 1994. U.S. exports of agriculture were up 14 percent, though only accounted for 7 percent of total exports to the region.

U.S. exports to Japan increased 8 percent in 2006, and are only up 12 percent since 1994. U.S. exports of autos and auto parts were up 13 percent in 2006, but only accounted for 4 percent of total U.S. exports to Japan. U.S. exports of industrial supplies to Japan were up 12 percent.

B. Import Growth

U.S. goods imports increased 12 percent in 2006 (*table 3 and figure 4*) down slightly from the 14 percent growth rate in 2005. Manufacturing imports, accounting for 76

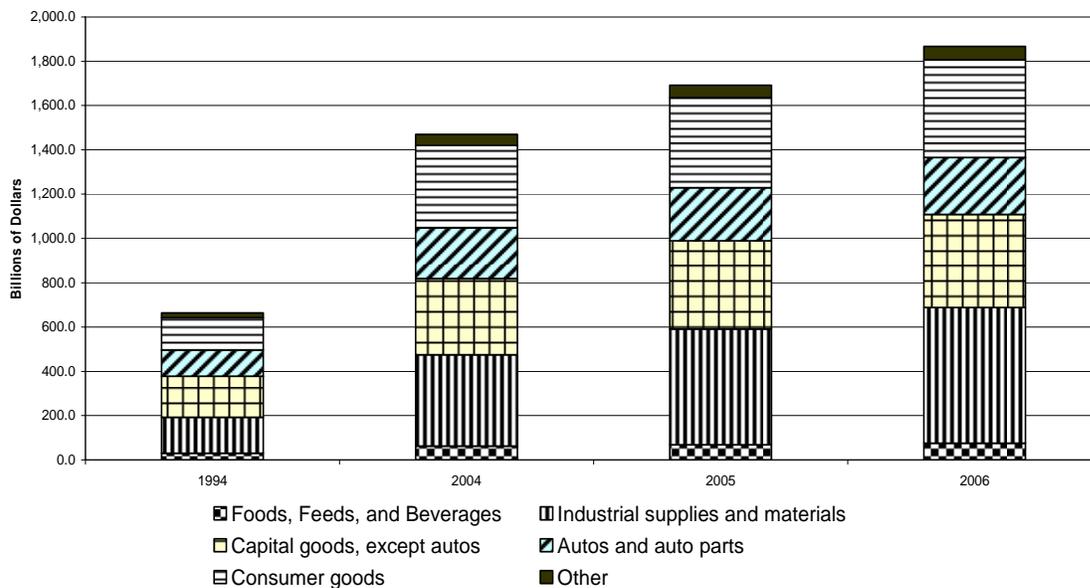
Table 3
U.S. Goods Imports

Imports:	1994	2004	2005	2006*	05-06*	94-06*
	<i>Billions of Dollars</i>				<i>Percent Change</i>	
Total (BOP basis)	668.7	1,472.9	1,677.4	1,870.8	11.5%	179.8%
Food, feeds, and beverages	31.0	62.1	68.1	75.4	10.8%	143.6%
Industrial supplies and materials	162.1	412.8	523.9	612.8	17.0%	278.0%
Capital goods, except autos	184.4	343.5	397.2	420.3	10.8%	128.0%
Autos and auto parts	118.3	228.2	239.5	257.1	7.3%	117.4%
Consumer goods	146.3	372.9	407.2	441.6	8.5%	201.9%
Other	21.3	50.1	55.6	59.4	6.9%	179.4%
Addendum: Agriculture	26.0	54.2	59.5	65.8	10.5%	153.5%
Addendum: Manufacturing	557.3	1,174.8	1,287.4	1,420.3	10.3%	154.9%
Addendum: High Technology	98.1	238.3	259.7	292.0	12.4%	

* Annualized based on January-November 2006 data

Source: U.S. Department of Commerce, Balance of Payments Basis for Total, Census basis for Sectors.

Figure 4:
U.S. Goods Imports



2006 Annualized based on January-November 2006
Source: U.S. Department of Commerce

percent of total goods imports, increased 10 percent in 2006. High technology imports, accounting for 16 percent of total goods imports, increased by 12 percent, while agriculture imports, accounting for 4 percent of total goods imports, increased by 11 percent in 2006. U.S. goods imports increased for every major end-use category in 2006, with the largest increase in industrial supplies (including petroleum) (up 17 percent). The three largest end-use categories for U.S. imports together accounted for 79 percent of total U.S. imports (industrial supplies – 33 percent; consumer goods – 24 percent; and capital goods – 22 percent).

U.S. imports of petroleum are up nearly 22 percent in 2006 (\$51 billion), whereas U.S. imports of non-petroleum products are up just 10 percent (\$125 billion). The increase in imports of petroleum was due to the 25% increase in price from \$46.54 per barrel to \$58.36 per barrel. The volume of petroleum imports increased slightly in 2006 by 0.2%.

Since 1994, U.S. goods imports are up 180 percent, nearly three-quarters larger than the growth of U.S. exports. U.S. imports of manufactured products and agriculture products increased by 155 percent and 154 percent, respectively. U.S. imports of advanced technology products increased by 198 percent. For the major end-use categories, U.S. imports of industrial supplies increased by 278 percent since 1994, while imports of consumer goods increased by 202 percent. Of the \$1.2 trillion increase in goods imports since 1994, industrial supplies and materials accounted for 37 percent of the increase, consumer goods accounted for 24 percent, capital goods for 20 percent, and autos and auto parts for 12 percent.

On a regional basis, U.S. goods imports increased from all the major markets in 2006, led by a growth rate of 18 percent from China and Mexico (*table 4*). U.S. imports increased by 16 percent from developing countries and by 7 percent from industrial countries. Since 1994, U.S. goods imports from developing countries exhibited higher growth (more than double) than that from industrial countries, 275 percent compared with 113 percent. Accordingly, the share of U.S. imports from developing countries has increased from 42 percent in 1994 to 56 percent in 2006.

Although U.S. goods imports continued its strong growth from China in 2006 (up 18 percent), this growth has declined over the past 4 years (28 percent growth in 2003, 23 percent growth in 2004, 21 percent growth in 2005, and 18 percent growth in 2006). U.S. imports from China have increased by over 640 percent since 1994. China is the second largest single country supplier of goods to the United States, accounting for 15 percent of total U.S. imports in 2006, up from 6 percent in 1994. Imports from China accounted for 21 percent of the overall increase in U.S. imports from the world since 1994 (second to NAFTA's 27 percent but greater than the EU's 18 percent). Much of U.S. imports from China are low value-added consumer goods, such as toys, footwear, apparel and some areas of consumer electronics. Consumer goods made up 54 percent of U.S. imports from China in 2006, and grew 14 percent in 2006. U.S. imports of industrial supplies, autos and parts, and capital goods, however, each exhibited stronger growth in 2006, 32 percent, 28 percent, and 22 percent, respectively.

Table 4
U.S. Goods Imports from Selected Countries/Regions

Imports from:	1994	2004	2005	2006*	05-06*	94-06*
	<i>Billions of Dollars</i>				<i>Percent Change</i>	
Canada	128.4	256.4	290.4	307.4	5.9%	139.4%
European Union (EU25)	121.5	282.0	308.8	331.2	7.2%	172.6%
Japan	119.2	129.8	138.0	148.3	7.5%	24.4%
Mexico	49.5	155.9	170.1	200.1	17.7%	304.4%
China	38.8	196.7	243.5	287.8	18.2%	642.0%
Asian Pacific Rim, except Japan and China	103.2	166.1	169.9	183.6	8.0%	77.9%
Latin America, except Mexico	38.5	98.6	122.9	135.7	10.5%	252.9%
Addendum: Industrial Countries**	382.9	694.2	764.6	815.8	6.7%	113.0%
Addendum: Developing Countries**	280.3	775.5	908.9	1,050.7	15.6%	274.8%

* Annualized based on January-November 2006 data

** As defined by the International Monetary Fund

Source: U.S. Department of Commerce, Census Basis.

Although imports from China have shown strong growth, non-China imports from Asia have slowed relative to overall U.S. imports, resulting from production shifting from other Asian countries to China. When U.S. imports from China, Japan, and the other Asian-Pacific Rim countries are considered together, however, the region's share of U.S. imports has actually declined from 39 percent in 1994 to 33 percent in 2006.

Imports from the Pacific Rim (excluding Japan and China) only increased 8 percent in 2006, and were only up 78 percent since 1994, far below the U.S. overall import growth of 12 percent in 2006 and 180 percent since 1994. Purchases from this region accounted for 10 percent of total U.S. imports in 2006, down from 16 percent in 1994. The largest import growth category in 2006 was industrial supplies, up 22 percent.

Similarly, import growth from Japan was below the overall U.S. growth rate, increasing 8 percent in 2006, and only by 24 percent since 1994. Purchases from Japan in 2006 accounted for 8 percent of total U.S. imports, as compared to 18 percent in 1994. The largest import growth category was autos and parts, up 14 percent in 2006.

Imports from Latin America (excluding Mexico) increased by 11 percent in 2006, and accounted for 7 percent of total U.S. imports in 2006. Roughly half of the increase in imports from Latin America was in the mineral fuel category. Industrial supplies and materials was the import category that exhibited the largest growth in 2006, up 16 percent. U.S. imports from Latin America have increased by 253 percent since 1994.

Imports from our NAFTA partners increased 10 percent in 2006 and have increased by over 250 percent since NAFTA started implementation. NAFTA imports accounted for 27 percent of aggregate U.S. goods imports in 2006, the same as in 1994.

U.S. imports from Canada, the largest single country supplier of goods to the United States, accounting for 16 percent of U.S. imports, increased by 6 percent in 2006. Roughly 43 percent of this increase was in the mineral fuel category. U.S. imports of industrial supplies from Canada were up 13 percent in 2006, while agriculture goods were up 9 percent. U.S. imports from Canada have increased by 139 percent since 1994.

U.S. imports from Mexico, the third largest single country supplier of goods to the United States, increased by 18 percent in 2006. Roughly 29 percent of this increase was in the mineral fuel category. The largest import growth category was industrial supplies (up 28 percent). U.S. imports from Mexico have grown 304 percent since 1994.

U.S. goods imports from the EU, accounting for 18 percent of total U.S. imports, increased by 7 percent in 2006. More than three-quarters of U.S. imports from the EU were capital goods (28 percent), consumer goods (26 percent), and industrial goods (23 percent). The import category that exhibited the largest growth in 2006 was industrial supplies (up 10 percent). U.S. imports from the EU have increased by 177 percent since 1994.

III. Services Trade

A. Export Growth

U.S. exports of services grew roughly 9 percent in 2006 to \$414 billion, and since 1994, U.S. services exports have increased by approximately 107 percent (*table 5 and figure 5*). U.S. services exports accounted for 29 percent of the level of U.S. goods and services exports in 2006.

The growth in U.S. services exports in 2006 was largely driven by the other private services category. Of the \$33 billion increase in U.S. services exports in 2006, the other private services category accounted for 61 percent of the increase.

On a percentage increase basis, categories exhibiting the largest export growth rates in 2006 were the other transportation and other private services categories, up 14 percent and 13 percent, respectively.

Since 1994, all of the major services exports categories have grown. Export growth has been led by the other private services category, up 193 percent, the royalties and licensing fees category, up 132 percent, and the other transportation category, up 103 percent. Of the \$214 billion increase in U.S. services exports between 1994 and 2006, the other private services category accounted for 55 percent of the increase, the royalties and licensing fees category accounted for 17 percent, and the travel category accounted for 13 percent.

Detailed sectoral breakdowns for exports of the other private services category are available only through 2005. In 2005, 31 percent of U.S. exports of other private services were to business related parties (to a foreign parent or affiliate). The largest categories for U.S. exports of other private services to related and unrelated parties, in 2004 were: business, professional and technical services, \$81 billion; financial services, \$34 billion; and education, \$14 billion. The business, professional and technical services category were led by research and development and testing services (\$10.1 billion), operational leasing (\$9.4 billion), computer and information services (\$8.2 billion), management and consulting services (\$6.4 billion), and the installation, maintenance, and repair of equipment (\$5.9 billion).⁸

The United Kingdom was the largest purchaser of U.S. private services exports in 2005, accounting for 13 percent of total U.S. private services exports. The top 5 purchasers of U.S. private services exports in 2005 were: the United Kingdom (\$45 billion), Japan (\$42 billion), Canada (\$33 billion), Mexico (\$21 billion), and Germany (\$20 billion).

Regionally, in 2005, the United States exported \$128 billion to the EU-25, \$99 billion to the Asia/Pacific Region (\$48 billion excluding Japan and China), \$53 billion to NAFTA countries, and \$24 billion to Latin America (excluding Mexico).

8 Installation, maintenance, and repair of equipment services value for unaffiliated sales only.

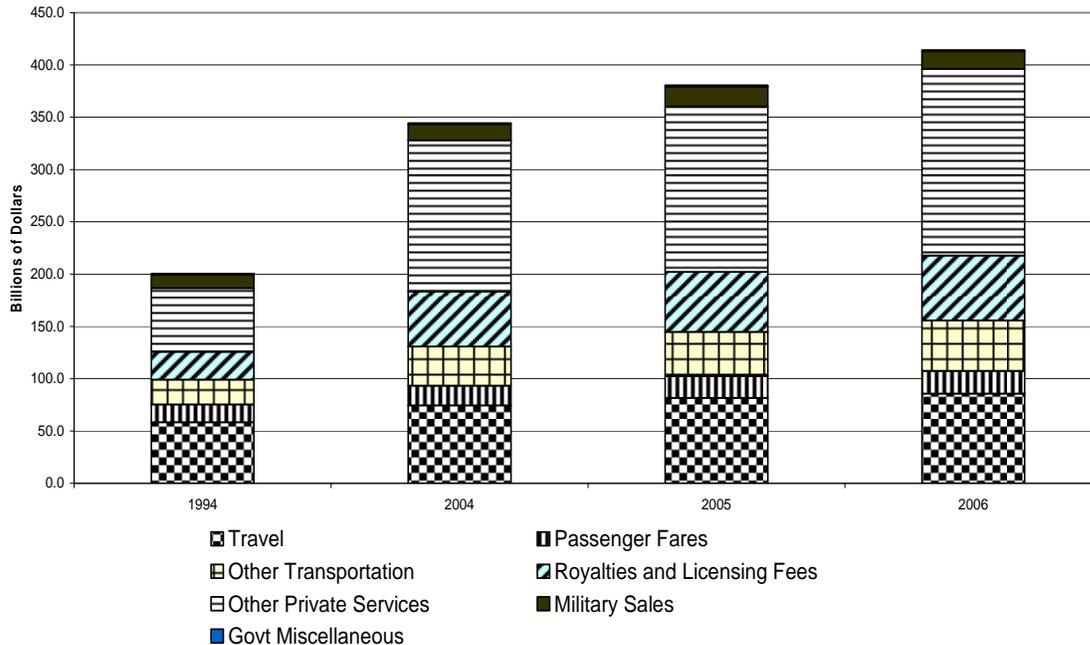
Table 5
U.S. Services Exports

Exports:	1994	2004	2005	2006*	05-06*	94-06*
	<i>Billions of Dollars</i>				<i>Percent Change</i>	
Total (BOP basis)	200.4	344.4	380.6	413.9	8.7%	106.5%
Travel	58.4	74.5	81.7	85.8	4.7%	46.3%
Passenger Fares	17.0	18.9	20.9	21.7	3.5%	27.5%
Other Transportation	23.8	37.4	42.2	48.3	14.4%	103.4%
Royalties and Licensing Fees	26.7	52.5	57.4	62.0	8.0%	132.1%
Other Private Services	60.8	144.7	158.2	178.4	12.8%	193.3%
Transfers under U.S. Military Sales Contracts	12.8	15.5	19.0	16.9	-11.0%	32.5%
U.S. Government Miscellaneous Services	0.9	1.0	1.1	1.1	4.4%	27.9%

* Annualized based on January-November 2006 data

Source: U.S. Department of Commerce, Balance of Payments Basis.

Figure 5:
U.S. Services Exports



2006 Annualized based on January-November 2006
Source: U.S. Department of Commerce

B. Import Growth

Services imports by the United States increased in 2006 by 9 percent to \$342 billion (*table 6, figure 6*). The other private services category accounted for roughly 59 percent of the \$27 billion growth in U.S. imports of services in 2006. It was also the category which exhibited the largest percentage import growth rates in 2006, up 16 percent. U.S. services imports accounted for 15 percent of the level of U.S. goods and services imports in 2006.

Since 1994, services imports grew by 157 percent or \$209 billion. This growth was driven by the other private services category (accounting for 40 percent of the increase) and the other transportation category (accounting for 19 percent of the increase). All of the major service categories grew since 1994. U.S. payments (imports) of royalties and licensing fees have quadrupled, while imports of other private services and direct defense expenditures have more than tripled.

As with exports, detailed sectoral breakdowns for imports of other private services are available only through 2005. In 2005, 41 percent of U.S. imports of other private services were from business related parties (from a foreign parent or affiliate). The largest categories for U.S. imports of other private services from related and unrelated parties in 2005 were: business professional and technical services \$48 billion; insurance services, \$28 billion; and financial services, \$12 billion. The business, professional and technical services category were led by the computer and information services (\$9.0 billion), research, development, and testing services (\$6.7 billion), and management, and consulting services (\$5.9 billion).

In the import sector, the United Kingdom remained our largest supplier of private services, providing \$35 billion to the United States in 2005. This accounted for 13% of total U.S. imports of private services in 2005. The United States imported \$22 billion from both Japan, our second largest supplier, and Canada our third largest supplier. Germany and Bermuda were our fourth and fifth largest import suppliers, exporting \$19 and \$15 billion, respectively, worth of services to the U.S. in 2005.

Regionally, the U.S. imported \$106 billion of services from the EU-25 in 2005, \$68 billion from the Asia/Pacific region (\$39 billion excluding Japan and China), \$37 billion from NAFTA, and \$13 billion from Latin America (excluding Mexico).

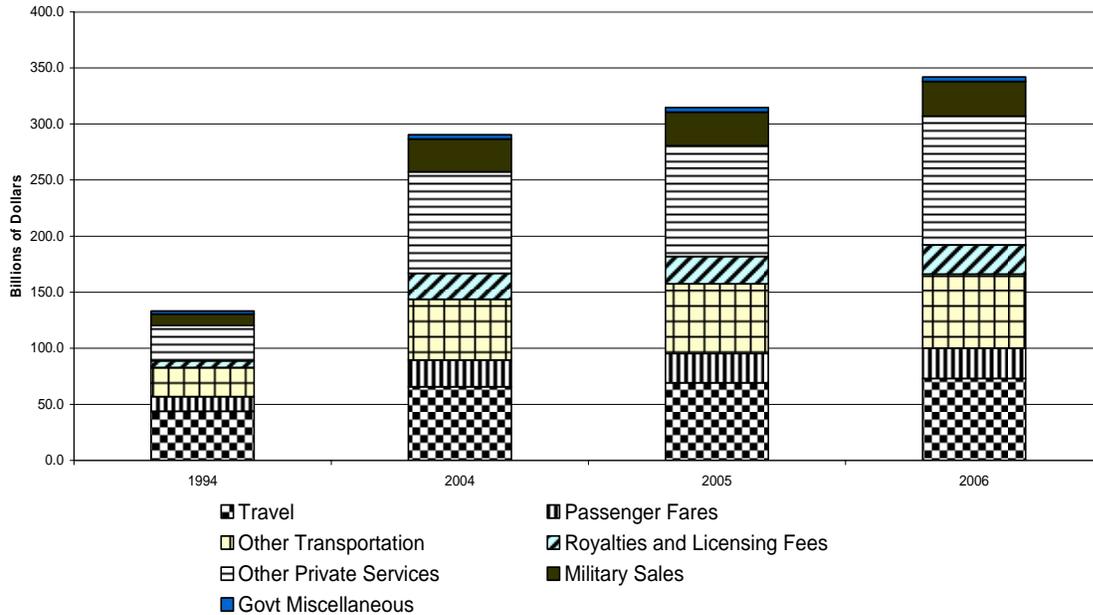
Table 6
U.S. Services Imports

Imports:	1994	2004	2005	2006*	05-06*	94-06*
	<i>Billions of Dollars</i>				<i>Percent Change</i>	
Total (BOP basis)	133.1	290.3	314.6	342.0	8.7%	157.1%
Travel	43.8	65.8	69.2	73.0	5.5%	66.7%
Passenger Fares	13.1	23.7	26.1	27.2	4.5%	108.5%
Other Transportation	26.0	54.2	62.1	65.8	6.0%	153.0%
Royalties and Licensing Fees	5.9	23.2	24.5	26.1	6.4%	345.3%
Other Private Services	31.6	90.4	98.7	114.8	16.3%	263.6%
Direct Defense Expenditures	10.2	29.3	30.1	31.1	3.6%	204.7%
U.S. Government Miscellaneous Services	2.6	3.8	4.0	4.0	1.5%	57.7%

* Annualized based on January-November 2006 data

Source: U.S. Department of Commerce, Balance of Payments Basis.

Figure 6:
U.S. Services Imports



2006 Annualized based on January-November 2006
Source: U.S. Department of Commerce

IV. The U.S. Trade Deficit

The U.S. goods and services deficit increased by \$54 billion in 2006 to a level of \$771 billion (*table 7*). The U.S. goods trade deficit alone increased by \$60 billion to \$843 billion in 2006. The services trade surplus increased by \$6 billion to \$72 billion in 2006.

Petroleum accounted for more than 85 percent of the increase in the goods and services trade deficit and more than 75 percent of the increase in the goods trade deficit alone. Nearly all of the increase in the petroleum deficit was due to the increase in price, up 25 percent in 2006.

As a share of U.S. GDP, the goods and services trade deficit, the goods trade deficit and the services surplus were the same as in 2005 (*table 8*). The goods and services trade deficit was 5.8 percent of GDP in 2006, while the goods trade deficit was 6.3 percent of GDP and the services trade surplus was 0.5 percent of GDP.

The regional distribution of the goods trade deficit for 2006 and the past 3 years is shown in *table 9*.

Table 7				
U.S. Trade Balances with the World				
Balance:	1994	2004	2005	2006*
	<i>Billions of Dollars</i>			
Goods and Services (BOP Basis)	-98.5	-611.3	-716.7	-770.6
Goods (BOP Basis)	-165.8	-665.4	-782.7	-842.5
Services (BOP Basis)	67.3	54.1	66.0	71.9
* Annualized based on January-November 2006 data				
Source: U.S. Department of Commerce				

Table 8
U.S. Trade Balances as a Share of GDP

Share of GDP:	1994	2004	2005	2006*
	<i>Percents</i>			
Goods and Services (BOP Basis)	-1.4	-5.2	-5.8	-5.8
Goods (BOP Basis)	-2.3	-5.7	-6.3	-6.3
Services (BOP Basis)	1.0	0.5	0.5	0.5
* Annualized based on January-November 2006 data				
Source: U.S. Department of Commerce				

Table 9
U.S. Goods Trade Balances with Selected Countries/Regions

Balance:	1994	2004	2005	2006*
	<i>Billions of Dollars</i>			
Canada	-14.0	-66.5	-78.5	-75.9
European Union (EU25)	-11.9	-109.3	-122.3	-117.1
Japan	-65.7	-75.6	-82.5	-88.2
Mexico	1.4	-45.1	-49.7	-64.5
China	-29.5	-161.9	-201.5	-232.1
Asian Pacific Rim, except Japan and China	-18.2	-45.3	-44.0	-42.3
Latin America, except Mexico	3.2	-37.2	-50.5	-46.5
Addendum: High Income Countries**	-85.5	-249.6	-278.5	-271.3
Addendum: Low to Middle Income Countries**	-65.1	-401.3	-489.0	-553.3
* Annualized based on January-November 2006 data				
** As defined by the International Monetary Fund				
Source: U.S. Department of Commerce				

ANNEX II

Background Information on the WTO

1. ***Doha Development Agenda***

Doha Ministerial Declaration

Doha Declaration on the TRIPS Agreement and Public Health

Doha Declaration on Implementation-Related Issues and Concerns

Doha Work Programme

Amendment of the TRIPS Agreement

Hong Kong Ministerial Declaration

U.S. Submissions to the WTO in Support of the Doha Development Agenda

WTO Affinity Groups in the DDA

Institutional Issues

2. Membership of the WTO

3. 2006 WTO Budget Contributions

4. 2006-7 Budget for the WTO Secretariat

5. Waivers Currently in Force

6. WTO Secretariat Personnel Statistics

7. WTO Accession Application and Status

8. Indicative List of Governmental and Non-Governmental Panellists

9. Appellate Body Membership

10. Where to Find More Information on the WTO

WORLD TRADE ORGANIZATION

WT/MIN(01)/DEC/1
20 November 2001

(01-5859)

MINISTERIAL CONFERENCE
Fourth Session
Doha, 9 - 14 November 2001

MINISTERIAL DECLARATION

Adopted on 14 November 2001

1. The multilateral trading system embodied in the World Trade Organization has contributed significantly to economic growth, development and employment throughout the past fifty years. We are determined, particularly in the light of the global economic slowdown, to maintain the process of reform and liberalization of trade policies, thus ensuring that the system plays its full part in promoting recovery, growth and development. We therefore strongly reaffirm the principles and objectives set out in the Marrakesh Agreement Establishing the World Trade Organization, and pledge to reject the use of protectionism.
2. International trade can play a major role in the promotion of economic development and the alleviation of poverty. We recognize the need for all our peoples to benefit from the increased opportunities and welfare gains that the multilateral trading system generates. The majority of WTO Members are developing countries. We seek to place their needs and interests at the heart of the Work Programme adopted in this Declaration. Recalling the Preamble to the Marrakesh Agreement, we shall continue to make positive efforts designed to ensure that developing countries, and especially the least-developed among them, secure a share in the growth of world trade commensurate with the needs of their economic development. In this context, enhanced market access, balanced rules, and well targeted, sustainably financed technical assistance and capacity-building programmes have important roles to play.
3. We recognize the particular vulnerability of the least-developed countries and the special structural difficulties they face in the global economy. We are committed to addressing the marginalization of least-developed countries in international trade and to improving their effective participation in the multilateral trading system. We recall the commitments made by Ministers at our meetings in Marrakesh, Singapore and Geneva, and by the international community at the Third UN Conference on Least-Developed Countries in Brussels, to help least-developed countries secure beneficial and meaningful integration into the multilateral trading system and the global economy. We are determined that the WTO will play its part in building effectively on these commitments under the Work Programme we are establishing.
4. We stress our commitment to the WTO as the unique forum for global trade rule-making and liberalization, while also recognizing that regional trade agreements can play an important role in promoting the liberalization and expansion of trade and in fostering development.

5. We are aware that the challenges Members face in a rapidly changing international environment cannot be addressed through measures taken in the trade field alone. We shall continue to work with the Bretton Woods institutions for greater coherence in global economic policy-making.

6. We strongly reaffirm our commitment to the objective of sustainable development, as stated in the Preamble to the Marrakesh Agreement. We are convinced that the aims of upholding and safeguarding an open and non-discriminatory multilateral trading system, and acting for the protection of the environment and the promotion of sustainable development can and must be mutually supportive. We take note of the efforts by Members to conduct national environmental assessments of trade policies on a voluntary basis. We recognize that under WTO rules no country should be prevented from taking measures for the protection of human, animal or plant life or health, or of the environment at the levels it considers appropriate, subject to the requirement that they are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, and are otherwise in accordance with the provisions of the WTO Agreements. We welcome the WTO's continued cooperation with UNEP and other inter-governmental environmental organizations. We encourage efforts to promote cooperation between the WTO and relevant international environmental and developmental organizations, especially in the lead-up to the World Summit on Sustainable Development to be held in Johannesburg, South Africa, in September 2002.

7. We reaffirm the right of Members under the General Agreement on Trade in Services to regulate, and to introduce new regulations on, the supply of services.

8. We reaffirm our declaration made at the Singapore Ministerial Conference regarding internationally recognized core labour standards. We take note of work under way in the International Labour Organization (ILO) on the social dimension of globalization.

9. We note with particular satisfaction that this Conference has completed the WTO accession procedures for China and Chinese Taipei. We also welcome the accession as new Members, since our last Session, of Albania, Croatia, Georgia, Jordan, Lithuania, Moldova and Oman, and note the extensive market-access commitments already made by these countries on accession. These accessions will greatly strengthen the multilateral trading system, as will those of the 28 countries now negotiating their accession. We therefore attach great importance to concluding accession proceedings as quickly as possible. In particular, we are committed to accelerating the accession of least-developed countries.

10. Recognizing the challenges posed by an expanding WTO membership, we confirm our collective responsibility to ensure internal transparency and the effective participation of all Members. While emphasizing the intergovernmental character of the organization, we are committed to making the WTO's operations more transparent, including through more effective and prompt dissemination of information, and to improve dialogue with the public. We shall therefore at the national and multilateral levels continue to promote a better public understanding of the WTO and to communicate the benefits of a liberal, rules-based multilateral trading system.

11. In view of these considerations, we hereby agree to undertake the broad and balanced Work Programme set out below. This incorporates both an expanded negotiating agenda and other important decisions and activities necessary to address the challenges facing the multilateral trading system.

WORK PROGRAMME

IMPLEMENTATION-RELATED ISSUES AND CONCERNS

12. We attach the utmost importance to the implementation-related issues and concerns raised by Members and are determined to find appropriate solutions to them. In this connection, and having regard to the General Council Decisions of 3 May and 15 December 2000, we further adopt the Decision on Implementation-Related Issues and Concerns in document WT/MIN(01)/17 to address a number of implementation problems faced by Members. We agree that negotiations on outstanding implementation issues shall be an integral part of the Work Programme we are establishing, and that agreements reached at an early stage in these negotiations shall be treated in accordance with the provisions of paragraph 47 below. In this regard, we shall proceed as follows: (a) where we provide a specific negotiating mandate in this Declaration, the relevant implementation issues shall be addressed under that mandate; (b) the other outstanding implementation issues shall be addressed as a matter of priority by the relevant WTO bodies, which shall report to the Trade Negotiations Committee, established under paragraph 46 below, by the end of 2002 for appropriate action.

1.1 AGRICULTURE

13. We recognize the work already undertaken in the negotiations initiated in early 2000 under Article 20 of the Agreement on Agriculture, including the large number of negotiating proposals submitted on behalf of a total of 121 Members. We recall the long-term objective referred to in the Agreement to establish a fair and market-oriented trading system through a programme of fundamental reform encompassing strengthened rules and specific commitments on support and protection in order to correct and prevent restrictions and distortions in world agricultural markets. We reconfirm our commitment to this programme. Building on the work carried out to date and without prejudging the outcome of the negotiations we commit ourselves to comprehensive negotiations aimed at: substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support. We agree that special and differential treatment for developing countries shall be an integral part of all elements of the negotiations and shall be embodied in the Schedules of concessions and commitments and as appropriate in the rules and disciplines to be negotiated, so as to be operationally effective and to enable developing countries to effectively take account of their development needs, including food security and rural development. We take note of the non-trade concerns reflected in the negotiating proposals submitted by Members and confirm that non-trade concerns will be taken into account in the negotiations as provided for in the Agreement on Agriculture.

14. Modalities for the further commitments, including provisions for special and differential treatment, shall be established no later than 31 March 2003. Participants shall submit their comprehensive draft Schedules based on these modalities no later than the date of the Fifth Session of the Ministerial Conference. The negotiations, including with respect to rules and disciplines and related legal texts, shall be concluded as part and at the date of conclusion of the negotiating agenda as a whole.

SERVICES

15. The negotiations on trade in services shall be conducted with a view to promoting the economic growth of all trading partners and the development of developing and least-developed countries. We recognize the work already undertaken in the negotiations, initiated in January 2000 under Article XIX of the General Agreement on Trade in Services, and the large number of proposals submitted by Members on a wide range of sectors and several horizontal issues, as well as on movement of natural persons. We reaffirm the Guidelines and Procedures for the Negotiations adopted by the Council for Trade in Services on 28 March 2001 as the basis for continuing the negotiations, with a view to achieving the objectives of the General Agreement on Trade in Services, as stipulated in the Preamble, Article IV and Article XIX of that Agreement. Participants shall submit initial requests for specific commitments by 30 June 2002 and initial offers by 31 March 2003.

MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTS

16. We agree to negotiations which shall aim, by modalities to be agreed, to reduce or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs, and tariff escalation, as well as non-tariff barriers, in particular on products of export interest to developing countries. Product coverage shall be comprehensive and without *a priori* exclusions. The negotiations shall take fully into account the special needs and interests of developing and least-developed country participants, including through less than full reciprocity in reduction commitments, in accordance with the relevant provisions of Article XXVIII *bis* of GATT 1994 and the provisions cited in paragraph 50 below. To this end, the modalities to be agreed will include appropriate studies and capacity-building measures to assist least-developed countries to participate effectively in the negotiations.

TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS

17. We stress the importance we attach to implementation and interpretation of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) in a manner supportive of public health, by promoting both access to existing medicines and research and development into new medicines and, in this connection, are adopting a separate Declaration.

18. With a view to completing the work started in the Council for Trade-Related Aspects of Intellectual Property Rights (Council for TRIPS) on the implementation of Article 23.4, we agree to negotiate the establishment of a multilateral system of notification and registration of geographical indications for wines and spirits by the Fifth Session of the Ministerial Conference. We note that issues related to the extension of the protection of geographical indications provided for in Article 23 to products other than wines and spirits will be addressed in the Council for TRIPS pursuant to paragraph 12 of this Declaration.

19. We instruct the Council for TRIPS, in pursuing its work programme including under the review of Article 27.3(b), the review of the implementation of the TRIPS Agreement under Article 71.1 and the work foreseen pursuant to paragraph 12 of this Declaration, to examine, *inter alia*, the relationship between the TRIPS Agreement and the Convention on Biological Diversity, the protection of traditional knowledge and folklore, and other relevant new developments raised by Members pursuant to Article 71.1. In undertaking this work, the TRIPS Council shall be guided by the objectives and principles set out in Articles 7 and 8 of the TRIPS Agreement and shall take fully into account the development dimension.

RELATIONSHIP BETWEEN TRADE AND INVESTMENT

20. Recognizing the case for a multilateral framework to secure transparent, stable and predictable conditions for long-term cross-border investment, particularly foreign direct investment, that will contribute to the expansion of trade, and the need for enhanced technical assistance and capacity-building in this area as referred to in paragraph 21, we agree that negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations.

21. We recognize the needs of developing and least-developed countries for enhanced support for technical assistance and capacity building in this area, including policy analysis and development so that they may better evaluate the implications of closer multilateral cooperation for their development policies and objectives, and human and institutional development. To this end, we shall work in cooperation with other relevant intergovernmental organisations, including UNCTAD, and through appropriate regional and bilateral channels, to provide strengthened and adequately resourced assistance to respond to these needs.

22. In the period until the Fifth Session, further work in the Working Group on the Relationship Between Trade and Investment will focus on the clarification of: scope and definition; transparency; non-discrimination; modalities for pre-establishment commitments based on a GATS-type, positive list approach; development provisions; exceptions and balance-of-payments safeguards; consultation and the settlement of disputes between Members. Any framework should reflect in a balanced manner the interests of home and host countries, and take due account of the development policies and objectives of host governments as well as their right to regulate in the public interest. The special development, trade and financial needs of developing and least-developed countries should be taken into account as an integral part of any framework, which should enable Members to undertake obligations and commitments commensurate with their individual needs and circumstances. Due regard should be paid to other relevant WTO provisions. Account should be taken, as appropriate, of existing bilateral and regional arrangements on investment.

INTERACTION BETWEEN TRADE AND COMPETITION POLICY

23. Recognizing the case for a multilateral framework to enhance the contribution of competition policy to international trade and development, and the need for enhanced technical assistance and capacity-building in this area as referred to in paragraph 24, we agree that negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations.

24. We recognize the needs of developing and least-developed countries for enhanced support for technical assistance and capacity building in this area, including policy analysis and development so that they may better evaluate the implications of closer multilateral cooperation for their development policies and objectives, and human and institutional development. To this end, we shall work in cooperation with other relevant intergovernmental organisations, including UNCTAD, and through appropriate regional and bilateral channels, to provide strengthened and adequately resourced assistance to respond to these needs.

25. In the period until the Fifth Session, further work in the Working Group on the Interaction between Trade and Competition Policy will focus on the clarification of: core principles, including transparency, non-discrimination and procedural fairness, and provisions on hardcore cartels; modalities for voluntary cooperation; and support for progressive reinforcement of competition institutions in developing countries through capacity building. Full account shall be taken of the needs of developing and least-developed country participants and appropriate flexibility provided to address them.

TRANSPARENCY IN GOVERNMENT PROCUREMENT

26. Recognizing the case for a multilateral agreement on transparency in government procurement and the need for enhanced technical assistance and capacity building in this area, we agree that negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations. These negotiations will build on the progress made in the Working Group on Transparency in Government Procurement by that time and take into account participants' development priorities, especially those of least-developed country participants. Negotiations shall be limited to the transparency aspects and therefore will not restrict the scope for countries to give preferences to domestic supplies and suppliers. We commit ourselves to ensuring adequate technical assistance and support for capacity building both during the negotiations and after their conclusion.

TRADE FACILITATION

27. Recognizing the case for further expediting the movement, release and clearance of goods, including goods in transit, and the need for enhanced technical assistance and capacity building in this area, we agree that negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations. In the period until the Fifth Session, the Council for Trade in Goods shall review and as appropriate, clarify and improve relevant aspects of Articles V, VIII and X of the GATT 1994 and identify the trade facilitation needs and priorities of Members, in particular developing and least-developed countries. We commit ourselves to ensuring adequate technical assistance and support for capacity building in this area.

WTO RULES

28. In the light of experience and of the increasing application of these instruments by Members, we agree to negotiations aimed at clarifying and improving disciplines under the Agreements on Implementation of Article VI of the GATT 1994 and on Subsidies and Countervailing Measures, while preserving the basic concepts, principles and effectiveness of these Agreements and their instruments and objectives, and taking into account the needs of developing and least-developed participants. In the initial phase of the negotiations, participants will indicate the provisions, including disciplines on trade distorting practices, that they seek to clarify and improve in the subsequent phase. In the context of these negotiations, participants shall also aim to clarify and improve WTO disciplines on fisheries subsidies, taking into account the importance of this sector to developing countries. We note that fisheries subsidies are also referred to in paragraph 31.

29. We also agree to negotiations aimed at clarifying and improving disciplines and procedures under the existing WTO provisions applying to regional trade agreements. The negotiations shall take into account the developmental aspects of regional trade agreements.

DISPUTE SETTLEMENT UNDERSTANDING

30. We agree to negotiations on improvements and clarifications of the Dispute Settlement Understanding. The negotiations should be based on the work done thus far as well as any additional proposals by Members, and aim to agree on improvements and clarifications not later than May 2003, at which time we will take steps to ensure that the results enter into force as soon as possible thereafter.

TRADE AND ENVIRONMENT

31. With a view to enhancing the mutual supportiveness of trade and environment, we agree to negotiations, without prejudging their outcome, on:

- (i) the relationship between existing WTO rules and specific trade obligations set out in multilateral environmental agreements (MEAs). The negotiations shall be limited in scope to the applicability of such existing WTO rules as among parties to the MEA in question. The negotiations shall not prejudice the WTO rights of any Member that is not a party to the MEA in question;
- (ii) procedures for regular information exchange between MEA Secretariats and the relevant WTO committees, and the criteria for the granting of observer status;
- (iii) the reduction or, as appropriate, elimination of tariff and non-tariff barriers to environmental goods and services.

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We note that fisheries subsidies form part of the negotiations provided for in paragraph 28.

32. We instruct the Committee on Trade and Environment, in pursuing work on all items on its agenda within its current terms of reference, to give particular attention to:

- (i) the effect of environmental measures on market access, especially in relation to developing countries, in particular the least-developed among them, and those situations in which the elimination or reduction of trade restrictions and distortions would benefit trade, the environment and development;
- (ii) the relevant provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights; and
- (iii) labelling requirements for environmental purposes.

Work on these issues should include the identification of any need to clarify relevant WTO rules. The Committee shall report to the Fifth Session of the Ministerial Conference, and make recommendations, where appropriate, with respect to future action, including the desirability of negotiations. The outcome of this work as well as the negotiations carried out under paragraph 31(i) and (ii) shall be compatible with the open and non-discriminatory nature of the multilateral

trading system, shall not add to or diminish the rights and obligations of Members under existing WTO agreements, in particular the Agreement on the Application of Sanitary and Phytosanitary Measures, nor alter the balance of these rights and obligations, and will take into account the needs of developing and least-developed countries.

33. We recognize the importance of technical assistance and capacity building in the field of trade and environment to developing countries, in particular the least-developed among them. We also encourage that expertise and experience be shared with Members wishing to perform environmental reviews at the national level. A report shall be prepared on these activities for the Fifth Session.

ELECTRONIC COMMERCE

34. We take note of the work which has been done in the General Council and other relevant bodies since the Ministerial Declaration of 20 May 1998 and agree to continue the Work Programme on Electronic Commerce. The work to date demonstrates that electronic commerce creates new challenges and opportunities for trade for Members at all stages of development, and we recognize the importance of creating and maintaining an environment which is favourable to the future development of electronic commerce. We instruct the General Council to consider the most appropriate institutional arrangements for handling the Work Programme, and to report on further progress to the Fifth Session of the Ministerial Conference. We declare that Members will maintain their current practice of not imposing customs duties on electronic transmissions until the Fifth Session.

SMALL ECONOMIES

35. We agree to a work programme, under the auspices of the General Council, to examine issues relating to the trade of small economies. The objective of this work is to frame responses to the trade-related issues identified for the fuller integration of small, vulnerable economies into the multilateral trading system, and not to create a sub-category of WTO Members. The General Council shall review the work programme and make recommendations for action to the Fifth Session of the Ministerial Conference.

TRADE, DEBT AND FINANCE

36. We agree to an examination, in a Working Group under the auspices of the General Council, of the relationship between trade, debt and finance, and of any possible recommendations on steps that might be taken within the mandate and competence of the WTO to enhance the capacity of the multilateral trading system to contribute to a durable solution to the problem of external indebtedness of developing and least-developed countries, and to strengthen the coherence of international trade and financial policies, with a view to safeguarding the multilateral trading system from the effects of financial and monetary instability. The General Council shall report to the Fifth Session of the Ministerial Conference on progress in the examination.

TRADE AND TRANSFER OF TECHNOLOGY

37. We agree to an examination, in a Working Group under the auspices of the General Council, of the relationship between trade and transfer of technology, and of any possible recommendations on steps that might be taken within the mandate of the WTO to increase flows of technology to developing countries. The General Council shall report to the Fifth Session of the Ministerial Conference on progress in the examination.

TECHNICAL COOPERATION AND CAPACITY BUILDING

38. We confirm that technical cooperation and capacity building are core elements of the development dimension of the multilateral trading system, and we welcome and endorse the New Strategy for WTO Technical Cooperation for Capacity Building, Growth and Integration. We instruct the Secretariat, in coordination with other relevant agencies, to support domestic efforts for mainstreaming trade into national plans for economic development and strategies for poverty reduction. The delivery of WTO technical assistance shall be designed to assist developing and least-developed countries and low-income countries in transition to adjust to WTO rules and disciplines, implement obligations and exercise the rights of membership, including drawing on the benefits of an open, rules-based multilateral trading system. Priority shall also be accorded to small, vulnerable, and transition economies, as well as to Members and Observers without representation in Geneva. We reaffirm our support for the valuable work of the International Trade Centre, which should be enhanced.

39. We underscore the urgent necessity for the effective coordinated delivery of technical assistance with bilateral donors, in the OECD Development Assistance Committee and relevant international and regional intergovernmental institutions, within a coherent policy framework and timetable. In the coordinated delivery of technical assistance, we instruct the Director-General to consult with the relevant agencies, bilateral donors and beneficiaries, to identify ways of enhancing and rationalizing the Integrated Framework for Trade-Related Technical Assistance to Least-Developed Countries and the Joint Integrated Technical Assistance Programme (JITAP).

40. We agree that there is a need for technical assistance to benefit from secure and predictable funding. We therefore instruct the Committee on Budget, Finance and Administration to develop a plan for adoption by the General Council in December 2001 that will ensure long-term funding for WTO technical assistance at an overall level no lower than that of the current year and commensurate with the activities outlined above.

41. We have established firm commitments on technical cooperation and capacity building in various paragraphs in this Ministerial Declaration. We reaffirm these specific commitments contained in paragraphs 16, 21, 24, 26, 27, 33, 38-40, 42 and 43, and also reaffirm the understanding in paragraph 2 on the important role of sustainably financed technical assistance and capacity-building programmes. We instruct the Director-General to report to the Fifth Session of the Ministerial Conference, with an interim report to the General Council in December 2002 on the implementation and adequacy of these commitments in the identified paragraphs.

LEAST-DEVELOPED COUNTRIES

42. We acknowledge the seriousness of the concerns expressed by the least-developed countries (LDCs) in the Zanzibar Declaration adopted by their Ministers in July 2001. We

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

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

SPECIAL AND DIFFERENTIAL TREATMENT

44. We reaffirm that provisions for special and differential treatment are an integral part of the WTO Agreements. We note the concerns expressed regarding their operation in addressing specific constraints faced by developing countries, particularly least-developed countries. In that connection, we also note that some Members have proposed a Framework Agreement on Special and Differential Treatment (WT/GC/W/442). We therefore agree that all special and differential treatment provisions shall be reviewed with a view to strengthening them and making them more precise, effective and operational. In this connection, we endorse the work programme on special and differential treatment set out in the Decision on Implementation-Related Issues and Concerns.

ORGANIZATION AND MANAGEMENT OF THE WORK PROGRAMME

45. The negotiations to be pursued under the terms of this Declaration shall be concluded not later than 1 January 2005. The Fifth Session of the Ministerial Conference will take stock of progress in the negotiations, provide any necessary political guidance, and take decisions as necessary. When the results of the negotiations in all areas have been established, a Special Session of the Ministerial Conference will be held to take decisions regarding the adoption and implementation of those results.

46. The overall conduct of the negotiations shall be supervised by a Trade Negotiations Committee under the authority of the General Council. The Trade Negotiations Committee shall hold its first meeting not later than 31 January 2002. It shall establish appropriate negotiating mechanisms as required and supervise the progress of the negotiations.

47. With the exception of the improvements and clarifications of the Dispute Settlement Understanding, the conduct, conclusion and entry into force of the outcome of the negotiations shall be treated as parts of a single undertaking. However, agreements reached at an early stage may be implemented on a provisional or a definitive basis. Early agreements shall be taken into account in assessing the overall balance of the negotiations.

48. Negotiations shall be open to:

- (i) all Members of the WTO; and
- (ii) States and separate customs territories currently in the process of accession and those that inform Members, at a regular meeting of the General Council, of their intention to negotiate the terms of their membership and for whom an accession working party is established.

Decisions on the outcomes of the negotiations shall be taken only by WTO Members.

49. The negotiations shall be conducted in a transparent manner among participants, in order to facilitate the effective participation of all. They shall be conducted with a view to ensuring benefits to all participants and to achieving an overall balance in the outcome of the negotiations.

50. The negotiations and the other aspects of the Work Programme shall take fully into account the principle of special and differential treatment for developing and least-developed countries embodied in: Part IV of the GATT 1994; the Decision of 28 November 1979 on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries; the Uruguay Round Decision on Measures in Favour of Least-Developed Countries; and all other relevant WTO provisions.

51. The Committee on Trade and Development and the Committee on Trade and Environment shall, within their respective mandates, each act as a forum to identify and debate developmental and environmental aspects of the negotiations, in order to help achieve the objective of having sustainable development appropriately reflected.

52. Those elements of the Work Programme which do not involve negotiations are also accorded a high priority. They shall be pursued under the overall supervision of the General Council, which shall report on progress to the Fifth Session of the Ministerial Conference.

WORLD TRADE ORGANIZATION

WT/MIN(01)/DEC/2
20 November 2001

(01-5860)

MINISTERIAL CONFERENCE
Fourth Session
Doha, 9 - 14 November 2001

DECLARATION ON THE TRIPS AGREEMENT AND PUBLIC HEALTH

Adopted on 14 November 2001

1. We recognize the gravity of the public health problems afflicting many developing and least-developed countries, especially those resulting from HIV/AIDS, tuberculosis, malaria and other epidemics.
2. We stress the need for the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) to be part of the wider national and international action to address these problems.
 - 1.3
3. We recognize that intellectual property protection is important for the development of new medicines. We also recognize the concerns about its effects on prices.
4. We agree that the TRIPS Agreement does not and should not prevent Members from taking measures to protect public health. Accordingly, while reiterating our commitment to the TRIPS Agreement, we affirm that the Agreement can and should be interpreted and implemented in a manner supportive of WTO Members' right to protect public health and, in particular, to promote access to medicines for all.

In this connection, we reaffirm the right of WTO Members to use, to the full, the provisions in the TRIPS Agreement, which provide flexibility for this purpose.

5. Accordingly and in the light of paragraph 4 above, while maintaining our commitments in the TRIPS Agreement, we recognize that these flexibilities include:
 - (a) In applying the customary rules of interpretation of public international law, each provision of the TRIPS Agreement shall be read in the light of the object and purpose of the Agreement as expressed, in particular, in its objectives and principles.
 - (b) Each Member has the right to grant compulsory licences and the freedom to determine the grounds upon which such licences are granted.

- (c) Each Member has the right to determine what constitutes a national emergency or other circumstances of extreme urgency, it being understood that public health crises, including those relating to HIV/AIDS, tuberculosis, malaria and other epidemics, can represent a national emergency or other circumstances of extreme urgency.
- (d) The effect of the provisions in the TRIPS Agreement that are relevant to the exhaustion of intellectual property rights is to leave each Member free to establish its own regime for such exhaustion without challenge, subject to the MFN and national treatment provisions of Articles 3 and 4.

6. We recognize that WTO Members with insufficient or no manufacturing capacities in the pharmaceutical sector could face difficulties in making effective use of compulsory licensing under the TRIPS Agreement. We instruct the Council for TRIPS to find an expeditious solution to this problem and to report to the General Council before the end of 2002.

7. We reaffirm the commitment of developed-country Members to provide incentives to their enterprises and institutions to promote and encourage technology transfer to least-developed country Members pursuant to Article 66.2. We also agree that the least-developed country Members will not be obliged, with respect to pharmaceutical products, to implement or apply Sections 5 and 7 of Part II of the TRIPS Agreement or to enforce rights provided for under these Sections until 1 January 2016, without prejudice to the right of least-developed country Members to seek other extensions of the transition periods as provided for in Article 66.1 of the TRIPS Agreement. We instruct the Council for TRIPS to take the necessary action to give effect to this pursuant to Article 66.1 of the TRIPS Agreement.

WORLD TRADE ORGANIZATION

WT/MIN(01)/17
20 November 2001

(01-5858)

MINISTERIAL CONFERENCE
Fourth Session
Doha, 9 - 14 November 2001

IMPLEMENTATION-RELATED ISSUES AND CONCERNS

Decision of 14 November 2001

The Ministerial Conference,

Having regard to Articles IV.1, IV.5 and IX of the Marrakesh Agreement Establishing the World Trade Organization (WTO);

Mindful of the importance that Members attach to the increased participation of developing countries in the multilateral trading system, and of the need to ensure that the system responds fully to the needs and interests of all participants;

Determined to take concrete action to address issues and concerns that have been raised by many developing-country Members regarding the implementation of some WTO Agreements and Decisions, including the difficulties and resource constraints that have been encountered in the implementation of obligations in various areas;

Recalling the 3 May 2000 Decision of the General Council to meet in special sessions to address outstanding implementation issues, and to assess the existing difficulties, identify ways needed to resolve them, and take decisions for appropriate action not later than the Fourth Session of the Ministerial Conference;

Noting the actions taken by the General Council in pursuance of this mandate at its Special Sessions in October and December 2000 (WT/L/384), as well as the review and further discussion undertaken at the Special Sessions held in April, July and October 2001, including the referral of additional issues to relevant WTO bodies or their chairpersons for further work;

Noting also the reports on the issues referred to the General Council from subsidiary bodies and their chairpersons and from the Director-General, and the discussions as well as the clarifications provided and understandings reached on implementation issues in the intensive informal and formal meetings held under this process since May 2000;

Decides as follows:

1. General Agreement on Tariffs and Trade 1994 (GATT 1994)

- 1.1 Reaffirms that Article XVIII of the GATT 1994 is a special and differential treatment provision for developing countries and that recourse to it should be less onerous than to Article XII of the GATT 1994.
- 1.2 Noting the issues raised in the report of the Chairperson of the Committee on Market Access (WT/GC/50) concerning the meaning to be given to the phrase "substantial interest" in paragraph 2(d) of Article XIII of the GATT 1994, the Market Access Committee is directed to give further consideration to the issue and make recommendations to the General Council as expeditiously as possible but in any event not later than the end of 2002.

2. Agreement on Agriculture

- 2.1 Urges Members to exercise restraint in challenging measures notified under the green box by developing countries to promote rural development and adequately address food security concerns.
- 2.2 Takes note of the report of the Committee on Agriculture (G/AG/11) regarding the implementation of the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries, and approves the recommendations contained therein regarding (i) food aid; (ii) technical and financial assistance in the context of aid programmes to improve agricultural productivity and infrastructure; (iii) financing normal levels of commercial imports of basic foodstuffs; and (iv) review of follow-up.
- 2.3 Takes note of the report of the Committee on Agriculture (G/AG/11) regarding the implementation of Article 10.2 of the Agreement on Agriculture, and approves the recommendations and reporting requirements contained therein.
- 2.4 Takes note of the report of the Committee on Agriculture (G/AG/11) regarding the administration of tariff rate quotas and the submission by Members of addenda to their notifications, and endorses the decision by the Committee to keep this matter under review.

3. Agreement on the Application of Sanitary and Phytosanitary Measures

- 3.1 Where the appropriate level of sanitary and phytosanitary protection allows scope for the phased introduction of new sanitary and phytosanitary measures, the phrase "longer time-frame for compliance" referred to in Article 10.2 of the Agreement on the Application of Sanitary and Phytosanitary Measures, shall be understood to mean normally a period of not less than 6 months. Where the appropriate level of sanitary and phytosanitary protection does not allow scope for the phased introduction of a new measure, but specific problems are identified by a Member, the Member applying the measure shall upon request enter into consultations with the country with a view to finding a mutually satisfactory solution to the problem while continuing to achieve the importing Member's appropriate level of protection.

- 3.2 Subject to the conditions specified in paragraph 2 of Annex B to the Agreement on the Application of Sanitary and Phytosanitary Measures, the phrase "reasonable interval" shall be understood to mean normally a period of not less than 6 months. It is understood that timeframes for specific measures have to be considered in the context of the particular circumstances of the measure and actions necessary to implement it. The entry into force of measures which contribute to the liberalization of trade should not be unnecessarily delayed.
- 3.3 Takes note of the Decision of the Committee on Sanitary and Phytosanitary Measures (G/SPS/19) regarding equivalence, and instructs the Committee to develop expeditiously the specific programme to further the implementation of Article 4 of the Agreement on the Application of Sanitary and Phytosanitary Measures.
- 3.4 Pursuant to the provisions of Article 12.7 of the Agreement on the Application of Sanitary and Phytosanitary Measures, the Committee on Sanitary and Phytosanitary Measures is instructed to review the operation and implementation of the Agreement on Sanitary and Phytosanitary Measures at least once every four years.
- 3.5 (i) Takes note of the actions taken to date by the Director-General to facilitate the increased participation of Members at different levels of development in the work of the relevant international standard setting organizations as well as his efforts to coordinate with these organizations and financial institutions in identifying SPS-related technical assistance needs and how best to address them; and
- (ii) urges the Director-General to continue his cooperative efforts with these organizations and institutions in this regard, including with a view to according priority to the effective participation of least-developed countries and facilitating the provision of technical and financial assistance for this purpose.
- 3.6 (i) Urges Members to provide, to the extent possible, the financial and technical assistance necessary to enable least-developed countries to respond adequately to the introduction of any new SPS measures which may have significant negative effects on their trade; and
- (ii) urges Members to ensure that technical assistance is provided to least-developed countries with a view to responding to the special problems faced by them in implementing the Agreement on the Application of Sanitary and Phytosanitary Measures.

4. Agreement on Textiles and Clothing

Reaffirms the commitment to full and faithful implementation of the Agreement on Textiles and Clothing, and agrees:

- 4.1 that the provisions of the Agreement relating to the early integration of products and the elimination of quota restrictions should be effectively utilised.

- 4.2 that Members will exercise particular consideration before initiating investigations in the context of antidumping remedies on textile and clothing exports from developing countries previously subject to quantitative restrictions under the Agreement for a period of two years following full integration of this Agreement into the WTO.
- 4.3 that without prejudice to their rights and obligations, Members shall notify any changes in their rules of origin concerning products falling under the coverage of the Agreement to the Committee on Rules of Origin which may decide to examine them.

Requests the Council for Trade in Goods to examine the following proposals:

- 4.4 that when calculating the quota levels for small suppliers for the remaining years of the Agreement, Members will apply the most favourable methodology available in respect of those Members under the growth-on-growth provisions from the beginning of the implementation period; extend the same treatment to least-developed countries; and, where possible, eliminate quota restrictions on imports of such Members;
- 4.5 that Members will calculate the quota levels for the remaining years of the Agreement with respect to other restrained Members as if implementation of the growth-on-growth provision for stage 3 had been advanced to 1 January 2000;
- and make recommendations to the General Council by 31 July 2002 for appropriate action.

5. Agreement on Technical Barriers to Trade

- 5.1 Confirms the approach to technical assistance being developed by the Committee on Technical Barriers to Trade, reflecting the results of the triennial review work in this area, and mandates this work to continue.
- 5.2 Subject to the conditions specified in paragraph 12 of Article 2 of the Agreement on Technical Barriers to Trade, the phrase "reasonable interval" shall be understood to mean normally a period of not less than 6 months, except when this would be ineffective in fulfilling the legitimate objectives pursued.
- 5.3 (i) Takes note of the actions taken to date by the Director-General to facilitate the increased participation of Members at different levels of development in the work of the relevant international standard setting organizations as well as his efforts to coordinate with these organizations and financial institutions in identifying TBT-related technical assistance needs and how best to address them; and
- (ii) urges the Director-General to continue his cooperative efforts with these organizations and institutions, including with a view to according priority to the effective participation of least-developed countries and facilitating the provision of technical and financial assistance for this purpose.

- 5.4 (i) Urges Members to provide, to the extent possible, the financial and technical assistance necessary to enable least-developed countries to respond adequately to the introduction of any new TBT measures which may have significant negative effects on their trade; and
- (ii) urges Members to ensure that technical assistance is provided to least-developed countries with a view to responding to the special problems faced by them in implementing the Agreement on Technical Barriers to Trade.

6 Agreement on Trade-Related Investment Measures

- 6.1 Takes note of the actions taken by the Council for Trade in Goods in regard to requests from some developing-country Members for the extension of the five-year transitional period provided for in Article 5.2 of Agreement on Trade-Related Investment Measures.
- 6.2 Urges the Council for Trade in Goods to consider positively requests that may be made by least-developed countries under Article 5.3 of the TRIMs Agreement or Article IX.3 of the WTO Agreement, as well as to take into consideration the particular circumstances of least-developed countries when setting the terms and conditions including time-frames.

7. Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994

- 7.1 Agrees that investigating authorities shall examine with special care any application for the initiation of an anti-dumping investigation where an investigation of the same product from the same Member resulted in a negative finding within the 365 days prior to the filing of the application and that, unless this pre-initiation examination indicates that circumstances have changed, the investigation shall not proceed.
- 7.2 Recognizes that, while Article 15 of the Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 is a mandatory provision, the modalities for its application would benefit from clarification. Accordingly, the Committee on Anti-Dumping Practices is instructed, through its working group on Implementation, to examine this issue and to draw up appropriate recommendations within twelve months on how to operationalize this provision.
- 7.3 Takes note that Article 5.8 of the Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 does not specify the time-frame to be used in determining the volume of dumped imports, and that this lack of specificity creates uncertainties in the implementation of the provision. The Committee on Anti-Dumping Practices is instructed, through its working group on Implementation, to study this issue and draw up recommendations within 12 months, with a view to ensuring the maximum possible predictability and objectivity in the application of time frames.

- 7.4 Takes note that Article 18.6 of the Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 requires the Committee on Anti-Dumping Practices to review annually the implementation and operation of the Agreement taking into account the objectives thereof. The Committee on Anti-dumping Practices is instructed to draw up guidelines for the improvement of annual reviews and to report its views and recommendations to the General Council for subsequent decision within 12 months.

8. Agreement on the Implementation of Article VII of the General Agreement on Tariffs and Trade 1994

- 8.1 Takes note of the actions taken by the Committee on Customs Valuation in regard to the requests from a number of developing-country Members for the extension of the five-year transitional period provided for in Article 20.1 of Agreement on the Implementation of Article VII of the General Agreement on Tariffs and Trade 1994.
- 8.2 Urges the Council for Trade in Goods to give positive consideration to requests that may be made by least-developed country Members under paragraphs 1 and 2 of Annex III of the Customs Valuation Agreement or under Article IX.3 of the WTO Agreement, as well as to take into consideration the particular circumstances of least-developed countries when setting the terms and conditions including time-frames.
- 8.3 Underlines the importance of strengthening cooperation between the customs administrations of Members in the prevention of customs fraud. In this regard, it is agreed that, further to the 1994 Ministerial Decision Regarding Cases Where Customs Administrations Have Reasons to Doubt the Truth or Accuracy of the Declared Value, when the customs administration of an importing Member has reasonable grounds to doubt the truth or accuracy of the declared value, it may seek assistance from the customs administration of an exporting Member on the value of the good concerned. In such cases, the exporting Member shall offer cooperation and assistance, consistent with its domestic laws and procedures, including furnishing information on the export value of the good concerned. Any information provided in this context shall be treated in accordance with Article 10 of the Customs Valuation Agreement. Furthermore, recognizing the legitimate concerns expressed by the customs administrations of several importing Members on the accuracy of the declared value, the Committee on Customs Valuation is directed to identify and assess practical means to address such concerns, including the exchange of information on export values and to report to the General Council by the end of 2002 at the latest.

9. Agreement on Rules of Origin

- 9.1 Takes note of the report of the Committee on Rules of Origin (G/RO/48) regarding progress on the harmonization work programme, and urges the Committee to complete its work by the end of 2001.

- 9.2 Agrees that any interim arrangements on rules of origin implemented by Members in the transitional period before the entry into force of the results of the harmonisation work programme shall be consistent with the Agreement on Rules of Origin, particularly Articles 2 and 5 thereof. Without prejudice to Members' rights and obligations, such arrangements may be examined by the Committee on Rules of Origin.
10. Agreement on Subsidies and Countervailing Measures
- 10.1 Agrees that Annex VII(b) to the Agreement on Subsidies and Countervailing Measures includes the Members that are listed therein until their GNP per capita reaches US \$1,000 in constant 1990 dollars for three consecutive years. This decision will enter into effect upon the adoption by the Committee on Subsidies and Countervailing Measures of an appropriate methodology for calculating constant 1990 dollars. If, however, the Committee on Subsidies and Countervailing Measures does not reach a consensus agreement on an appropriate methodology by 1 January 2003, the methodology proposed by the Chairman of the Committee set forth in G/SCM/38, Appendix 2 shall be applied. A Member shall not leave Annex VII(b) so long as its GNP per capita in current dollars has not reached US \$1000 based upon the most recent data from the World Bank.
- 10.2 Takes note of the proposal to treat measures implemented by developing countries with a view to achieving legitimate development goals, such as regional growth, technology research and development funding, production diversification and development and implementation of environmentally sound methods of production as non-actionable subsidies, and agrees that this issue be addressed in accordance with paragraph 13 below. During the course of the negotiations, Members are urged to exercise due restraint with respect to challenging such measures.
- 10.3 Agrees that the Committee on Subsidies and Countervailing Measures shall continue its review of the provisions of the Agreement on Subsidies and Countervailing Measures regarding countervailing duty investigations and report to the General Council by 31 July 2002.
- 10.4 Agrees that if a Member has been excluded from the list in paragraph (b) of Annex VII to the Agreement on Subsidies and Countervailing Measures, it shall be re-included in it when its GNP per capita falls back below US\$ 1,000.
- 10.5 Subject to the provisions of Articles 27.5 and 27.6, it is reaffirmed that least-developed country Members are exempt from the prohibition on export subsidies set forth in Article 3.1(a) of the Agreement on Subsidies and Countervailing Measures, and thus have flexibility to finance their exporters, consistent with their development needs. It is understood that the eight-year period in Article 27.5 within which a least-developed country Member must phase out its export subsidies in respect of a product in which it is export-competitive begins from the date export competitiveness exists within the meaning of Article 27.6.
- 10.6 Having regard to the particular situation of certain developing-country Members, directs the Committee on Subsidies and Countervailing Measures to extend the

transition period, under the rubric of Article 27.4 of the Agreement on Subsidies and Countervailing Measures, for certain export subsidies provided by such Members, pursuant to the procedures set forth in document G/SCM/39. Furthermore, when considering a request for an extension of the transition period under the rubric of Article 27.4 of the Agreement on Subsidies and Countervailing Measures, and in order to avoid that Members at similar stages of development and having a similar order of magnitude of share in world trade are treated differently in terms of receiving such extensions for the same eligible programmes and the length of such extensions, directs the Committee to extend the transition period for those developing countries, after taking into account the relative competitiveness in relation to other developing-country Members who have requested extension of the transition period following the procedures set forth in document G/SCM/39.

11. Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)

11.1 The TRIPS Council is directed to continue its examination of the scope and modalities for complaints of the types provided for under subparagraphs 1(b) and 1(c) of Article XXIII of GATT 1994 and make recommendations to the Fifth Session of the Ministerial Conference. It is agreed that, in the meantime, Members will not initiate such complaints under the TRIPS Agreement.

11.2 Reaffirming that the provisions of Article 66.2 of the TRIPS Agreement are mandatory, it is agreed that the TRIPS Council shall put in place a mechanism for ensuring the monitoring and full implementation of the obligations in question. To this end, developed-country Members shall submit prior to the end of 2002 detailed reports on the functioning in practice of the incentives provided to their enterprises for the transfer of technology in pursuance of their commitments under Article 66.2. These submissions shall be subject to a review in the TRIPS Council and information shall be updated by Members annually.

12. Cross-cutting Issues

12.1 The Committee on Trade and Development is instructed:

(i) to identify those special and differential treatment provisions that are already mandatory in nature and those that are non-binding in character, to consider the legal and practical implications for developed and developing Members of converting special and differential treatment measures into mandatory provisions, to identify those that Members consider should be made mandatory, and to report to the General Council with clear recommendations for a decision by July 2002;

(ii) to examine additional ways in which special and differential treatment provisions can be made more effective, to consider ways, including improved information flows, in which developing countries, in particular the least-developed countries, may be assisted to make best use of special and differential treatment provisions, and to report to the General Council with clear recommendations for a decision by July 2002; and

- (iii) to consider, in the context of the work programme adopted at the Fourth Session of the Ministerial Conference, how special and differential treatment may be incorporated into the architecture of WTO rules.

The work of the Committee on Trade and Development in this regard shall take fully into consideration previous work undertaken as noted in WT/COMTD/W/77/Rev.1. It will also be without prejudice to work in respect of implementation of WTO Agreements in the General Council and in other Councils and Committees.

- 12.2 Reaffirms that preferences granted to developing countries pursuant to the Decision of the Contracting Parties of 28 November 1979 ("Enabling Clause")¹ should be generalised, non-reciprocal and non-discriminatory.

13. Outstanding Implementation Issues²

Agrees that outstanding implementation issues be addressed in accordance with paragraph 12 of the Ministerial Declaration (WT/MIN(01)/DEC/1).

14. Final Provisions

Requests the Director-General, consistent with paragraphs 38 to 43 of the Ministerial Declaration (WT/MIN(01)/DEC/1), to ensure that WTO technical assistance focuses, on a priority basis, on assisting developing countries to implement existing WTO obligations as well as on increasing their capacity to participate more effectively in future multilateral trade negotiations. In carrying out this mandate, the WTO Secretariat should cooperate more closely with international and regional intergovernmental organisations so as to increase efficiency and synergies and avoid duplication of programmes.

¹ BISD 26S/203.

²A list of these issues is compiled in document Job(01)/152/Rev.1.

Doha Work Programme

Decision Adopted by the General Council on 1 August 2004

1. The General Council reaffirms the Ministerial Declarations and Decisions adopted at Doha and the full commitment of all Members to give effect to them. The Council emphasizes Members' resolve to complete the Doha Work Programme fully and to conclude successfully the negotiations launched at Doha. Taking into account the Ministerial Statement adopted at Cancún on 14 September 2003, and the statements by the Council Chairman and the Director-General at the Council meeting of 15-16 December 2003, the Council takes note of the report by the Chairman of the Trade Negotiations Committee (TNC) and agrees to take action as follows:

a. Agriculture: the General Council adopts the framework set out in Annex A to this document.

b. Cotton: the General Council reaffirms the importance of the Sectoral Initiative on Cotton and takes note of the parameters set out in Annex A within which the trade-related aspects of this issue will be pursued in the agriculture negotiations. The General Council also attaches importance to the development aspects of the Cotton Initiative and wishes to stress the complementarity between the trade and development aspects. The Council takes note of the recent Workshop on Cotton in Cotonou on 23-24 March 2004 organized by the WTO Secretariat, and other bilateral and multilateral efforts to make progress on the development assistance aspects and instructs the Secretariat to continue to work with the development community and to provide the Council with periodic reports on relevant developments.

Members should work on related issues of development multilaterally with the international financial institutions, continue their bilateral programmes, and all developed countries are urged to participate. In this regard, the General Council instructs the Director General to consult with the relevant international organizations, including the Bretton Woods Institutions, the Food and Agriculture Organization and the International Trade Centre to direct effectively existing programmes and any additional resources towards development of the economies where cotton has vital importance.

c. Non-agricultural Market Access: the General Council adopts the framework set out in Annex B to this document.

d. Development:

Principles: development concerns form an integral part of the Doha Ministerial Declaration. The General Council rededicates and recommits Members to fulfilling the development

dimension of the Doha Development Agenda, which places the needs and interests of developing and least-developed countries at the heart of the Doha Work Programme. The Council reiterates the important role that enhanced market access, balanced rules, and well targeted, sustainably financed technical assistance and capacity building programmes can play in the economic development of these countries.

Special and Differential Treatment: the General Council reaffirms that provisions for special and differential (S&D) treatment are an integral part of the WTO Agreements. The Council recalls Ministers' decision in Doha to review all S&D treatment provisions with a view to strengthening them and making them more precise, effective and operational. The Council recognizes the progress that has been made so far. The Council instructs the Committee on Trade and Development in Special Session to expeditiously complete the review of all the outstanding Agreement-specific proposals and report to the General Council, with clear recommendations for a decision, by July 2005. The Council further instructs the Committee, within the parameters of the Doha mandate, to address all other outstanding work, including on the cross-cutting issues, the monitoring mechanism and the incorporation of S&D treatment into the architecture of WTO rules, as referred to in TN/CTD/7 and report, as appropriate, to the General Council.

The Council also instructs all WTO bodies to which proposals in Category II have been referred to expeditiously complete the consideration of these proposals and report to the General Council, with clear recommendations for a decision, as soon as possible and no later than July 2005. In doing so these bodies will ensure that, as far as possible, their meetings do not overlap so as to enable full and effective participation of developing countries in these discussions.

Technical Assistance: the General Council recognizes the progress that has been made since the Doha Ministerial Conference in expanding Trade-Related Technical Assistance (TRTA) to developing countries and low-income countries in transition. In furthering this effort the Council affirms that such countries, and in particular least-developed countries, should be provided with enhanced TRTA and capacity building, to increase their effective participation in the negotiations, to facilitate their implementation of WTO rules, and to enable them to adjust and diversify their economies. In this context the Council welcomes and further encourages the improved coordination with other agencies, including under the Integrated Framework for TRTA for the LDCs (IF) and the Joint Integrated Technical Assistance Programme (JITAP).

Implementation: concerning implementation-related issues, the General Council reaffirms the mandates Ministers gave in paragraph 12 of the Doha Ministerial Declaration and the Doha Decision on Implementation-Related Issues and Concerns, and renews Members' determination to find appropriate solutions to outstanding issues. The Council instructs the Trade Negotiations Committee, negotiating bodies and other WTO bodies concerned to redouble their efforts to find appropriate solutions as a priority. Without prejudice to the positions of Members, the Council requests the Director-General to continue with his consultative process on all outstanding implementation issues under paragraph 12(b) of the Doha Ministerial Declaration, including on issues related to the extension of the protection of geographical indications provided for in Article 23 of the TRIPS Agreement to products other than wines and spirits, if need be by appointing Chairpersons of concerned WTO bodies as his Friends and/or by holding dedicated consultations. The Director-General shall report to the TNC and the General Council no later than May 2005. The Council shall review progress and take any appropriate action no later than July 2005.

Other Development Issues: in the ongoing market access negotiations, recognising the fundamental principles of the WTO and relevant provisions of GATT 1994, special attention shall be given to the specific trade and development related needs and concerns of developing countries, including capacity constraints. These particular concerns of developing countries, including relating to food security, rural development, livelihood, preferences, commodities and net food imports, as well as prior unilateral liberalisation, should be taken into consideration, as appropriate, in the course of the Agriculture and NAMA negotiations. The trade-related issues identified for the fuller integration of small, vulnerable economies into the multilateral trading system, should also be addressed, without creating a sub-category of Members, as part of a work programme, as mandated in paragraph 35 of the Doha Ministerial Declaration.

Least-Developed Countries: the General Council reaffirms the commitments made at Doha concerning least-developed countries and renews its determination to fulfil these commitments. Members will continue to take due account of the concerns of least-developed countries in the negotiations. The Council confirms that nothing in this Decision shall detract in any way from the special provisions agreed by Members in respect of these countries.

e. Services: the General Council takes note of the report to the TNC by the Special Session of the Council for Trade in Services³ and reaffirms Members' commitment to progress in this area of the negotiations in line with the Doha mandate. The Council adopts the recommendations agreed by the Special Session, set out in Annex C to this document, on the basis of which further progress in the services negotiations will be pursued. Revised offers should be tabled by May 2005.

f. Other negotiating bodies:

Rules, Trade & Environment and TRIPS: the General Council takes note of the reports to the TNC by the Negotiating Group on Rules and by the Special Sessions of the Committee on Trade and Environment and the TRIPS Council.⁴ The Council reaffirms Members' commitment to progress in all of these areas of the negotiations in line with the Doha mandates.

Dispute Settlement: the General Council takes note of the report to the TNC by the Special Session of the Dispute Settlement Body⁵ and reaffirms Members' commitment to progress in this area of the negotiations in line with the Doha mandate. The Council adopts the TNC's recommendation that work in the Special Session should continue on the basis set out by the Chairman of that body in his report to the TNC.

g. Trade Facilitation: taking note of the work done on trade facilitation by the Council for Trade in Goods under the mandate in paragraph 27 of the Doha Ministerial Declaration and the work carried out under the auspices of the General Council both prior to the Fifth Ministerial Conference and after its conclusion, the General Council decides by explicit consensus to commence negotiations on the basis of the modalities set out in Annex D to this document.

³ This report is contained in document TN/S/16.

⁴ The reports to the TNC referenced in this paragraph are contained in the following documents: Negotiating Group on Rules - TN/RL/9; Special Session of the Committee on Trade and Environment - TN/TE/9; Special Session of the Council for TRIPS - TN/IP/10.

⁵ This report is contained in document TN/DS/10.

Relationship between Trade and Investment, Interaction between Trade and Competition Policy and Transparency in Government Procurement: the Council agrees that these issues, mentioned in the Doha Ministerial Declaration in paragraphs 20-22, 23-25 and 26 respectively, will not form part of the Work Programme set out in that Declaration and therefore no work towards negotiations on any of these issues will take place within the WTO during the Doha Round.

h. Other elements of the Work Programme: the General Council reaffirms the high priority Ministers at Doha gave to those elements of the Work Programme which do not involve negotiations. Noting that a number of these issues are of particular interest to developing-country Members, the Council emphasizes its commitment to fulfil the mandates given by Ministers in all these areas. To this end, the General Council and other relevant bodies shall report in line with their Doha mandates to the Sixth Session of the Ministerial Conference. The moratoria covered by paragraph 11.1 of the Doha Ministerial Decision on Implementation-related Issues and Concerns and paragraph 34 of the Doha Ministerial Declaration are extended up to the Sixth Ministerial Conference.

2. The General Council agrees that this Decision and its Annexes shall not be used in any dispute settlement proceeding under the DSU and shall not be used for interpreting the existing WTO Agreements.

3. The General Council calls on all Members to redouble their efforts towards the conclusion of a balanced overall outcome of the Doha Development Agenda in fulfilment of the commitments Ministers took at Doha. The Council agrees to continue the negotiations launched at Doha beyond the timeframe set out in paragraph 45 of the Doha Declaration, leading to the Sixth Session of the Ministerial Conference. Recalling its decision of 21 October 2003 to accept the generous offer of the Government of Hong Kong, China to host the Sixth Session, the Council further agrees that this Session will be held in December 2005.

Annex A

Framework for Establishing Modalities in Agriculture

1. The starting point for the current phase of the agriculture negotiations has been the mandate set out in Paragraph 13 of the Doha Ministerial Declaration. This in turn built on the long-term objective of the Agreement on Agriculture to establish a fair and market-oriented trading system through a programme of fundamental reform. The elements below offer the additional precision required at this stage of the negotiations and thus the basis for the negotiations of full modalities in the next phase. The level of ambition set by the Doha mandate will continue to be the basis for the negotiations on agriculture.

2. The final balance will be found only at the conclusion of these subsequent negotiations and within the Single Undertaking. To achieve this balance, the modalities to be developed will need to incorporate operationally effective and meaningful provisions for special and differential treatment for developing country Members. Agriculture is of critical importance to the economic development of developing country Members and they must be able to pursue agricultural policies that are supportive of their development goals, poverty reduction strategies, food security and livelihood concerns. Non-trade concerns, as referred to in Paragraph 13 of the Doha Declaration, will be taken into account.

3. The reforms in all three pillars form an interconnected whole and must be approached in a balanced and equitable manner.

4. The General Council recognizes the importance of cotton for a certain number of countries and its vital importance for developing countries, especially LDCs. It will be addressed ambitiously, expeditiously, and specifically, within the agriculture negotiations. The provisions of this framework provide a basis for this approach, as does the sectoral initiative on cotton. The Special Session of the Committee on Agriculture shall ensure appropriate prioritization of the cotton issue independently from other sectoral initiatives. A subcommittee on cotton will meet periodically and report to the Special Session of the Committee on Agriculture to review progress. Work shall encompass all trade-distorting policies affecting the sector in all three pillars of market access, domestic support, and export competition, as specified in the Doha text and this Framework text.

5. Coherence between trade and development aspects of the cotton issue will be pursued as set out in paragraph 1.b of the text to which this Framework is annexed.

DOMESTIC SUPPORT

6. The Doha Ministerial Declaration calls for "substantial reductions in trade-distorting domestic support". With a view to achieving these substantial reductions, the negotiations in this pillar will ensure the following:

- Special and differential treatment remains an integral component of domestic support. Modalities to be developed will include longer implementation periods and lower reduction coefficients for all types of trade-distorting domestic support and continued access to the provisions under Article 6.2.

- There will be a strong element of harmonisation in the reductions made by developed Members. Specifically, higher levels of permitted trade-distorting domestic support will be subject to deeper cuts.
- Each such Member will make a substantial reduction in the overall level of its trade-distorting support from bound levels.
- As well as this overall commitment, Final Bound Total AMS and permitted *de minimis* levels will be subject to substantial reductions and, in the case of the Blue Box, will be capped as specified in paragraph 15 in order to ensure results that are coherent with the long-term reform objective. Any clarification or development of rules and conditions to govern trade distorting support will take this into account.

Overall Reduction: A Tiered Formula

7. The overall base level of all trade-distorting domestic support, as measured by the Final Bound Total AMS plus permitted *de minimis* level and the level agreed in paragraph 8 below for Blue Box payments, will be reduced according to a tiered formula. Under this formula, Members having higher levels of trade-distorting domestic support will make greater overall reductions in order to achieve a harmonizing result. As the first instalment of the overall cut, in the first year and throughout the implementation period, the sum of all trade-distorting support will not exceed 80 per cent of the sum of Final Bound Total AMS plus permitted *de minimis* plus the Blue Box at the level determined in paragraph 15.

8. The following parameters will guide the further negotiation of this tiered formula:
- This commitment will apply as a minimum overall commitment. It will not be applied as a ceiling on reductions of overall trade-distorting domestic support, should the separate and complementary formulae to be developed for Total AMS, *de minimis* and Blue Box payments imply, when taken together, a deeper cut in overall trade-distorting domestic support for an individual Member.
 - The base for measuring the Blue Box component will be the higher of existing Blue Box payments during a recent representative period to be agreed and the cap established in paragraph 15 below.

Final Bound Total AMS: A Tiered Formula

9. To achieve reductions with a harmonizing effect:
- Final Bound Total AMS will be reduced substantially, using a tiered approach.
 - Members having higher Total AMS will make greater reductions.
 - To prevent circumvention of the objective of the Agreement through transfers of unchanged domestic support between different support categories, product-specific AMSs will be capped at their respective average levels according to a methodology to be agreed.

- Substantial reductions in Final Bound Total AMS will result in reductions of some product-specific support.

10. Members may make greater than formula reductions in order to achieve the required level of cut in overall trade-distorting domestic support.

De Minimis

11. Reductions in *de minimis* will be negotiated taking into account the principle of special and differential treatment. Developing countries that allocate almost all *de minimis* support for subsistence and resource-poor farmers will be exempt.

12. Members may make greater than formula reductions in order to achieve the required level of cut in overall trade-distorting domestic support.

Blue Box

13. Members recognize the role of the Blue Box in promoting agricultural reforms. In this light, Article 6.5 will be reviewed so that Members may have recourse to the following measures:

- Direct payments under production-limiting programmes if:
 - such payments are based on fixed and unchanging areas and yields; or
 - such payments are made on 85% or less of a fixed and unchanging base level of production; or
 - livestock payments are made on a fixed and unchanging number of head.

Or

- Direct payments that do not require production if:
 - such payments are based on fixed and unchanging bases and yields; or
 - livestock payments made on a fixed and unchanging number of head; and
 - such payments are made on 85% or less of a fixed and unchanging base level of production.

14. The above criteria, along with additional criteria will be negotiated. Any such criteria will ensure that Blue Box payments are less trade-distorting than AMS measures, it being understood that:

- Any new criteria would need to take account of the balance of WTO rights and obligations.
- Any new criteria to be agreed will not have the perverse effect of undoing ongoing reforms.

15. Blue Box support will not exceed 5% of a Member's average total value of agricultural production during an historical period. The historical period will be established in the negotiations. This ceiling will apply to any actual or potential Blue Box user from the beginning of the implementation period. In cases where a Member has placed an exceptionally large percentage of its trade-distorting support in the Blue Box, some flexibility will be provided on a

basis to be agreed to ensure that such a Member is not called upon to make a wholly disproportionate cut.

Green Box

16. Green Box criteria will be reviewed and clarified with a view to ensuring that Green Box measures have no, or at most minimal, trade-distorting effects or effects on production. Such a review and clarification will need to ensure that the basic concepts, principles and effectiveness of the Green Box remain and take due account of non-trade concerns. The improved obligations for monitoring and surveillance of all new disciplines foreshadowed in paragraph 48 below will be particularly important with respect to the Green Box.

EXPORT COMPETITION

17. The Doha Ministerial Declaration calls for "reduction of, with a view to phasing out, all forms of export subsidies". As an outcome of the negotiations, Members agree to establish detailed modalities ensuring the parallel elimination of all forms of export subsidies and disciplines on all export measures with equivalent effect by a credible end date.

End Point

18. The following will be eliminated by the end date to be agreed:

- Export subsidies as scheduled.
- Export credits, export credit guarantees or insurance programmes with repayment periods beyond 180 days.
- Terms and conditions relating to export credits, export credit guarantees or insurance programmes with repayment periods of 180 days and below which are not in accordance with disciplines to be agreed. These disciplines will cover, *inter alia*, payment of interest, minimum interest rates, minimum premium requirements, and other elements which can constitute subsidies or otherwise distort trade.
- Trade distorting practices with respect to exporting STEs including eliminating export subsidies provided to or by them, government financing, and the underwriting of losses. The issue of the future use of monopoly powers will be subject to further negotiation.
- Provision of food aid that is not in conformity with operationally effective disciplines to be agreed. The objective of such disciplines will be to prevent commercial displacement. The role of international organizations as regards the provision of food aid by Members, including related humanitarian and developmental issues, will be addressed in the negotiations. The question of providing food aid exclusively in fully grant form will also be addressed in the negotiations.

19. Effective transparency provisions for paragraph 18 will be established. Such provisions, in accordance with standard WTO practice, will be consistent with commercial confidentiality considerations.

Implementation

20. Commitments and disciplines in paragraph 18 will be implemented according to a schedule and modalities to be agreed. Commitments will be implemented by annual instalments. Their phasing will take into account the need for some coherence with internal reform steps of Members.

21. The negotiation of the elements in paragraph 18 and their implementation will ensure equivalent and parallel commitments by Members.

Special and Differential Treatment

22. Developing country Members will benefit from longer implementation periods for the phasing out of all forms of export subsidies.

23. Developing countries will continue to benefit from special and differential treatment under the provisions of Article 9.4 of the Agreement on Agriculture for a reasonable period, to be negotiated, after the phasing out of all forms of export subsidies and implementation of all disciplines identified above are completed.

24. Members will ensure that the disciplines on export credits, export credit guarantees or insurance programs to be agreed will make appropriate provision for differential treatment in favour of least-developed and net food-importing developing countries as provided for in paragraph 4 of the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries. Improved obligations for monitoring and surveillance of all new disciplines as foreshadowed in paragraph 48 will be critically important in this regard. Provisions to be agreed in this respect must not undermine the commitments undertaken by Members under the obligations in paragraph 18 above.

25. STEs in developing country Members which enjoy special privileges to preserve domestic consumer price stability and to ensure food security will receive special consideration for maintaining monopoly status.

Special Circumstances

26. In exceptional circumstances, which cannot be adequately covered by food aid, commercial export credits or preferential international financing facilities, ad hoc temporary financing arrangements relating to exports to developing countries may be agreed by Members. Such agreements must not have the effect of undermining commitments undertaken by Members in paragraph 18 above, and will be based on criteria and consultation procedures to be established.

MARKET ACCESS

27. The Doha Ministerial Declaration calls for "substantial improvements in market access". Members also agreed that special and differential treatment for developing Members would be an integral part of all elements in the negotiations.

The Single Approach: a Tiered Formula

28. To ensure that a single approach for developed and developing country Members meets all the objectives of the Doha mandate, tariff reductions will be made through a tiered formula that takes into account their different tariff structures.

29. To ensure that such a formula will lead to substantial trade expansion, the following principles will guide its further negotiation:

- Tariff reductions will be made from bound rates. Substantial overall tariff reductions will be achieved as a final result from negotiations.
- Each Member (other than LDCs) will make a contribution. Operationally effective special and differential provisions for developing country Members will be an integral part of all elements.
- Progressivity in tariff reductions will be achieved through deeper cuts in higher tariffs with flexibilities for sensitive products. Substantial improvements in market access will be achieved for all products.

30. The number of bands, the thresholds for defining the bands and the type of tariff reduction in each band remain under negotiation. The role of a tariff cap in a tiered formula with distinct treatment for sensitive products will be further evaluated.

Sensitive Products

Selection

31. Without undermining the overall objective of the tiered approach, Members may designate an appropriate number, to be negotiated, of tariff lines to be treated as sensitive, taking account of existing commitments for these products.

Treatment

32. The principle of ‘substantial improvement’ will apply to each product.

33. ‘Substantial improvement’ will be achieved through combinations of tariff quota commitments and tariff reductions applying to each product. However, balance in this negotiation will be found only if the final negotiated result also reflects the sensitivity of the product concerned.

34. Some MFN-based tariff quota expansion will be required for all such products. A base for such an expansion will be established, taking account of coherent and equitable criteria to be developed in the negotiations. In order not to undermine the objective of the tiered approach, for all such products, MFN based tariff quota expansion will be provided under specific rules to be negotiated taking into account deviations from the tariff formula.

Other Elements

35. Other elements that will give the flexibility required to reach a final balanced result include reduction or elimination of in-quota tariff rates, and operationally effective improvements in tariff quota administration for existing tariff quotas so as to enable Members, and particularly

developing country Members, to fully benefit from the market access opportunities under tariff rate quotas.

36. Tariff escalation will be addressed through a formula to be agreed.

37. The issue of tariff simplification remains under negotiation.

38. The question of the special agricultural safeguard (SSG) remains under negotiation.

Special and differential treatment

39. Having regard to their rural development, food security and/or livelihood security needs, special and differential treatment for developing countries will be an integral part of all elements of the negotiation, including the tariff reduction formula, the number and treatment of sensitive products, expansion of tariff rate quotas, and implementation period.

40. Proportionality will be achieved by requiring lesser tariff reduction commitments or tariff quota expansion commitments from developing country Members.

41. Developing country Members will have the flexibility to designate an appropriate number of products as Special Products, based on criteria of food security, livelihood security and rural development needs. These products will be eligible for more flexible treatment. The criteria and treatment of these products will be further specified during the negotiation phase and will recognize the fundamental importance of Special Products to developing countries.

42. A Special Safeguard Mechanism (SSM) will be established for use by developing country Members.

43. Full implementation of the long-standing commitment to achieve the fullest liberalisation of trade in tropical agricultural products and for products of particular importance to the diversification of production from the growing of illicit narcotic crops is overdue and will be addressed effectively in the market access negotiations.

44. The importance of long-standing preferences is fully recognised. The issue of preference erosion will be addressed. For the further consideration in this regard, paragraph 16 and other relevant provisions of TN/AG/W/1/Rev.1 will be used as a reference.

LEAST- DEVELOPED COUNTRIES

45. Least-Developed Countries, which will have full access to all special and differential treatment provisions above, are not required to undertake reduction commitments. Developed Members, and developing country Members in a position to do so, should provide duty-free and quota-free market access for products originating from least-developed countries.

46. Work on cotton under all the pillars will reflect the vital importance of this sector to certain LDC Members and we will work to achieve ambitious results expeditiously.

RECENTLY ACCEDED MEMBERS

47. The particular concerns of recently acceded Members will be effectively addressed through specific flexibility provisions.

MONITORING AND SURVEILLANCE

48. Article 18 of the Agreement on Agriculture will be amended with a view to enhancing monitoring so as to effectively ensure full transparency, including through timely and complete notifications with respect to the commitments in market access, domestic support and export competition. The particular concerns of developing countries in this regard will be addressed.

OTHER ISSUES

49. Issues of interest but not agreed: sectoral initiatives, differential export taxes, GIs.

50. Disciplines on export prohibitions and restrictions in Article 12.1 of the Agreement on Agriculture will be strengthened.

Annex B

Framework for Establishing Modalities in Market Access for Non-Agricultural Products

1. This Framework contains the initial elements for future work on modalities by the Negotiating Group on Market Access. Additional negotiations are required to reach agreement on the specifics of some of these elements. These relate to the formula, the issues concerning the treatment of unbound tariffs in indent two of paragraph 5, the flexibilities for developing-country participants, the issue of participation in the sectorial tariff component and the preferences. In order to finalize the modalities, the Negotiating Group is instructed to address these issues expeditiously in a manner consistent with the mandate of paragraph 16 of the Doha Ministerial Declaration and the overall balance therein.

2. We reaffirm that negotiations on market access for non-agricultural products shall aim to reduce or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs, and tariff escalation, as well as non-tariff barriers, in particular on products of export interest to developing countries. We also reaffirm the importance of special and differential treatment and less than full reciprocity in reduction commitments as integral parts of the modalities.

3. We acknowledge the substantial work undertaken by the Negotiating Group on Market Access and the progress towards achieving an agreement on negotiating modalities. We take note of the constructive dialogue on the Chair's Draft Elements of Modalities (TN/MA/W/35/Rev.1) and confirm our intention to use this document as a reference for the future work of the Negotiating Group. We instruct the Negotiating Group to continue its work, as mandated by paragraph 16 of the Doha Ministerial Declaration with its corresponding references to the relevant provisions of Article XXVIII *bis* of GATT 1994 and to the provisions cited in paragraph 50 of the Doha Ministerial Declaration, on the basis set out below.

4. We recognize that a formula approach is key to reducing tariffs, and reducing or eliminating tariff peaks, high tariffs, and tariff escalation. We agree that the Negotiating Group should continue its work on a non-linear formula applied on a line-by-line basis which shall take fully into account the special needs and interests of developing and least-developed country participants, including through less than full reciprocity in reduction commitments.

5. We further agree on the following elements regarding the formula:

- product coverage shall be comprehensive without *a priori* exclusions;
- tariff reductions or elimination shall commence from the bound rates after full implementation of current concessions; however, for unbound tariff lines, the basis for commencing the tariff reductions shall be [two] times the MFN applied rate in the base year;
- the base year for MFN applied tariff rates shall be 2001 (applicable rates on 14 November);
- credit shall be given for autonomous liberalization by developing countries provided that the tariff lines were bound on an MFN basis in the WTO since the conclusion of the Uruguay Round;

- all non-*ad valorem* duties shall be converted to *ad valorem* equivalents on the basis of a methodology to be determined and bound in *ad valorem* terms;
- negotiations shall commence on the basis of the HS96 or HS2002 nomenclature, with the results of the negotiations to be finalized in HS2002 nomenclature;
- the reference period for import data shall be 1999-2001.

6. We furthermore agree that, as an exception, participants with a binding coverage of non-agricultural tariff lines of less than [35] percent would be exempt from making tariff reductions through the formula. Instead, we expect them to bind [100] percent of non-agricultural tariff lines at an average level that does not exceed the overall average of bound tariffs for all developing countries after full implementation of current concessions.

7. We recognize that a sectorial tariff component, aiming at elimination or harmonization is another key element to achieving the objectives of paragraph 16 of the Doha Ministerial Declaration with regard to the reduction or elimination of tariffs, in particular on products of export interest to developing countries. We recognize that participation by all participants will be important to that effect. We therefore instruct the Negotiating Group to pursue its discussions on such a component, with a view to defining product coverage, participation, and adequate provisions of flexibility for developing-country participants.

8. We agree that developing-country participants shall have longer implementation periods for tariff reductions. In addition, they shall be given the following flexibility:

- a) applying less than formula cuts to up to [10] percent of the tariff lines provided that the cuts are no less than half the formula cuts and that these tariff lines do not exceed [10] percent of the total value of a Member's imports; or
- b) keeping, as an exception, tariff lines unbound, or not applying formula cuts for up to [5] percent of tariff lines provided they do not exceed [5] percent of the total value of a Member's imports.

We furthermore agree that this flexibility could not be used to exclude entire HS Chapters.

9. We agree that least-developed country participants shall not be required to apply the formula nor participate in the sectorial approach, however, as part of their contribution to this round of negotiations, they are expected to substantially increase their level of binding commitments.

10. Furthermore, in recognition of the need to enhance the integration of least-developed countries into the multilateral trading system and support the diversification of their production and export base, we call upon developed-country participants and other participants who so decide, to grant on an autonomous basis duty-free and quota-free market access for non-agricultural products originating from least-developed countries by the year [...].

11. We recognize that newly acceded Members shall have recourse to special provisions for tariff reductions in order to take into account their extensive market access commitments undertaken as part of their accession and that staged tariff reductions are still being implemented in many cases. We instruct the Negotiating Group to further elaborate on such provisions.

12. We agree that pending agreement on core modalities for tariffs, the possibilities of supplementary modalities such as zero-for-zero sector elimination, sectorial harmonization, and request & offer, should be kept open.

13. In addition, we ask developed-country participants and other participants who so decide to consider the elimination of low duties.

14. We recognize that NTBs are an integral and equally important part of these negotiations and instruct participants to intensify their work on NTBs. In particular, we encourage all participants to make notifications on NTBs by 31 October 2004 and to proceed with identification, examination, categorization, and ultimately negotiations on NTBs. We take note that the modalities for addressing NTBs in these negotiations could include request/offer, horizontal, or vertical approaches; and should fully take into account the principle of special and differential treatment for developing and least-developed country participants.

15. We recognize that appropriate studies and capacity building measures shall be an integral part of the modalities to be agreed. We also recognize the work that has already been undertaken in these areas and ask participants to continue to identify such issues to improve participation in the negotiations.

16. We recognize the challenges that may be faced by non-reciprocal preference beneficiary Members and those Members that are at present highly dependent on tariff revenue as a result of these negotiations on non-agricultural products. We instruct the Negotiating Group to take into consideration, in the course of its work, the particular needs that may arise for the Members concerned.

17. We furthermore encourage the Negotiating Group to work closely with the Committee on Trade and Environment in Special Session with a view to addressing the issue of non-agricultural environmental goods covered in paragraph 31 (iii) of the Doha Ministerial Declaration.

Annex C

Recommendations of the Special Session of the Council for Trade in Services

- (a) Members who have not yet submitted their initial offers must do so as soon as possible.
- (b) A date for the submission of a round of revised offers should be established as soon as feasible.
- (c) With a view to providing effective market access to all Members and in order to ensure a substantive outcome, Members shall strive to ensure a high quality of offers, particularly in sectors and modes of supply of export interest to developing countries, with special attention to be given to least-developed countries.
- (d) Members shall aim to achieve progressively higher levels of liberalization with no a priori exclusion of any service sector or mode of supply and shall give special attention to sectors and modes of supply of export interest to developing countries. Members note the interest of developing countries, as well as other Members, in Mode 4.
- (e) Members must intensify their efforts to conclude the negotiations on rule-making under GATS Articles VI:4, X, XIII and XV in accordance with their respective mandates and deadlines.
- (f) Targeted technical assistance should be provided with a view to enabling developing countries to participate effectively in the negotiations.
- (g) For the purpose of the Sixth Ministerial meeting, the Special Session of the Council for Trade in Services shall review progress in these negotiations and provide a full report to the Trade Negotiations Committee, including possible recommendations.

Annex D

Modalities for Negotiations on Trade Facilitation

1. Negotiations shall aim to clarify and improve relevant aspects of Articles V, VIII and X of the GATT 1994 with a view to further expediting the movement, release and clearance of goods, including goods in transit.⁶ Negotiations shall also aim at enhancing technical assistance and support for capacity building in this area. The negotiations shall further aim at provisions for effective cooperation between customs or any other appropriate authorities on trade facilitation and customs compliance issues.
2. The results of the negotiations shall take fully into account the principle of special and differential treatment for developing and least-developed countries. Members recognize that this principle should extend beyond the granting of traditional transition periods for implementing commitments. In particular, the extent and the timing of entering into commitments shall be related to the implementation capacities of developing and least-developed Members. It is further agreed that those Members would not be obliged to undertake investments in infrastructure projects beyond their means.
3. Least-developed country Members will only be required to undertake commitments to the extent consistent with their individual development, financial and trade needs or their administrative and institutional capabilities.
4. As an integral part of the negotiations, Members shall seek to identify their trade facilitation needs and priorities, particularly those of developing and least-developed countries, and shall also address the concerns of developing and least-developed countries related to cost implications of proposed measures.
5. It is recognized that the provision of technical assistance and support for capacity building is vital for developing and least-developed countries to enable them to fully participate in and benefit from the negotiations. Members, in particular developed countries, therefore commit themselves to adequately ensure such support and assistance during the negotiations.⁷
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.

⁶ 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.

⁷ In connection with this paragraph, Members note that paragraph 38 of the Doha Ministerial Declaration addresses relevant technical assistance and capacity building concerns of Members.

7. Members agree to review the effectiveness of the support and assistance provided and its ability to support the implementation of the results of the negotiations.

8. In order to make technical assistance and capacity building more effective and operational and to ensure better coherence, Members shall invite relevant international organizations, including the IMF, OECD, UNCTAD, WCO and the World Bank to undertake a collaborative effort in this regard.

9. Due account shall be taken of the relevant work of the WCO and other relevant international organizations in this area.

10. Paragraphs 45-51 of the Doha Ministerial Declaration shall apply to these negotiations. At its first meeting after the July session of the General Council, the Trade Negotiations Committee shall establish a Negotiating Group on Trade Facilitation and appoint its Chair. The first meeting of the Negotiating Group shall agree on a work plan and schedule of meetings.

AMENDMENT OF THE TRIPS AGREEMENT

Decision of 6 December 2005

The General Council;

Having regard to paragraph 1 of Article X of the Marrakesh Agreement Establishing the World Trade Organization ("the WTO Agreement");

Conducting the functions of the Ministerial Conference in the interval between meetings pursuant to paragraph 2 of Article IV of the WTO Agreement;

Noting the Declaration on the TRIPS Agreement and Public Health (WT/MIN(01)/DEC/2) and, in particular, the instruction of the Ministerial Conference to the Council for TRIPS contained in paragraph 6 of the Declaration to find an expeditious solution to the problem of the difficulties that WTO Members with insufficient or no manufacturing capacities in the pharmaceutical sector could face in making effective use of compulsory licensing under the TRIPS Agreement;

Recognizing, where eligible importing Members seek to obtain supplies under the system set out in the proposed amendment of the TRIPS Agreement, the importance of a rapid response to those needs consistent with the provisions of the proposed amendment of the TRIPS Agreement;

Recalling paragraph 11 of the General Council Decision of 30 August 2003 on the Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health;

Having considered the proposal to amend the TRIPS Agreement submitted by the Council for TRIPS (IP/C/41);

Noting the consensus to submit this proposed amendment to the Members for acceptance;

Decides as follows:

1. The Protocol amending the TRIPS Agreement attached to this Decision is hereby adopted and submitted to the Members for acceptance.
2. The Protocol shall be open for acceptance by Members until 1 December 2007 or such later date as may be decided by the Ministerial Conference.

3. The Protocol shall take effect in accordance with the provisions of paragraph 3 of Article X of the WTO Agreement.

ATTACHMENT

PROTOCOL AMENDING THE TRIPS AGREEMENT

Members of the World Trade Organization;

Having regard to the Decision of the General Council in document WT/L/641, adopted pursuant to paragraph 1 of Article X of the Marrakesh Agreement Establishing the World Trade Organization ("the WTO Agreement");

Hereby agree as follows:

- The Agreement on Trade-Related Aspects of Intellectual Property Rights (the "TRIPS Agreement") shall, upon the entry into force of the Protocol pursuant to paragraph 4, be amended as set out in the Annex to this Protocol, by inserting Article 31*bis* after Article 31 and by inserting the Annex to the TRIPS Agreement after Article 73.
- Reservations may not be entered in respect of any of the provisions of this Protocol without the consent of the other Members.
- This Protocol shall be open for acceptance by Members until 1 December 2007 or such later date as may be decided by the Ministerial Conference.
- This Protocol shall enter into force in accordance with paragraph 3 of Article X of the WTO Agreement.
- This Protocol shall be deposited with the Director-General of the World Trade Organization who shall promptly furnish to each Member a certified copy thereof and a notification of each acceptance thereof pursuant to paragraph 3.
- This Protocol shall be registered in accordance with the provisions of Article 102 of the Charter of the United Nations.

Done at Geneva this sixth day of December two thousand and five, in a single copy in the English, French and Spanish languages, each text being authentic.

ANNEX TO THE PROTOCOL AMENDING THE TRIPS AGREEMENT

Article 31bis

1. The obligations of an exporting Member under Article 31(f) shall not apply with respect to the grant by it of a compulsory licence to the extent necessary for the purposes of production of a pharmaceutical product(s) and its export to an eligible importing Member(s) in accordance with the terms set out in paragraph 2 of the Annex to this Agreement.

2. Where a compulsory licence is granted by an exporting Member under the system set out in this Article and the Annex to this Agreement, adequate remuneration pursuant to Article 31(h) shall be paid in that Member taking into account the economic value to the importing Member of the use that has been authorized in the exporting Member. Where a compulsory licence is granted for the same products in the eligible importing Member, the obligation of that Member under Article 31(h) shall not apply in respect of those products for which remuneration in accordance with the first sentence of this paragraph is paid in the exporting Member.

3. With a view to harnessing economies of scale for the purposes of enhancing purchasing power for, and facilitating the local production of, pharmaceutical products: where a developing or least-developed country WTO Member is a party to a regional trade agreement within the meaning of Article XXIV of the GATT 1994 and the Decision of 28 November 1979 on Differential and More Favourable Treatment Reciprocity and Fuller Participation of Developing Countries (L/4903), at least half of the current membership of which is made up of countries presently on the United Nations list of least-developed countries, the obligation of that Member under Article 31(f) shall not apply to the extent necessary to enable a pharmaceutical product produced or imported under a compulsory licence in that Member to be exported to the markets of those other developing or least-developed country parties to the regional trade agreement that share the health problem in question. It is understood that this will not prejudice the territorial nature of the patent rights in question.

4. Members shall not challenge any measures taken in conformity with the provisions of this Article and the Annex to this Agreement under subparagraphs 1(b) and 1(c) of Article XXIII of GATT 1994.

5. This Article and the Annex to this Agreement are without prejudice to the rights, obligations and flexibilities that Members have under the provisions of this Agreement other than paragraphs (f) and (h) of Article 31, including those reaffirmed by the Declaration on the TRIPS Agreement and Public Health (WT/MIN(01)/DEC/2), and to their interpretation. They are also without prejudice to the extent to which pharmaceutical products produced under a compulsory licence can be exported under the provisions of Article 31(f).

ANNEX TO THE TRIPS AGREEMENT

1. For the purposes of Article 31*bis* and this Annex:
 - (a) "pharmaceutical product" means any patented product, or product manufactured through a patented process, of the pharmaceutical sector needed to address the public health problems as recognized in paragraph 1 of the Declaration on the TRIPS Agreement and Public Health (WT/MIN(01)/DEC/2). It is understood that active ingredients necessary for its manufacture and diagnostic kits needed for its use would be included⁸;
 - (b) "eligible importing Member" means any least-developed country Member, and any other Member that has made a notification⁹ to the Council for TRIPS of its intention to use the system set out in Article 31*bis* and this Annex ("system") as an importer, it being understood that a Member may notify at any time that it will use the system in whole or in a limited way, for example only in the case of a national emergency or other circumstances of extreme urgency or in cases of public non-commercial use. It is noted that some Members will not use the system as importing Members¹⁰ and that some other Members have stated that, if they use the system, it would be in no more than situations of national emergency or other circumstances of extreme urgency;
 - (c) "exporting Member" means a Member using the system to produce pharmaceutical products for, and export them to, an eligible importing Member.
2. The terms referred to in paragraph 1 of Article 31*bis* are that:
 - (a) the eligible importing Member(s)¹¹ has made a notification² to the Council for TRIPS, that:
 - (i) specifies the names and expected quantities of the product(s) needed¹²;
 - (ii) confirms that the eligible importing Member in question, other than a least-developed country Member, has established that it has insufficient or no manufacturing capacities in the pharmaceutical sector for the product(s) in question in one of the ways set out in the Appendix to this Annex; and
 - (iii) confirms that, where a pharmaceutical product is patented in its territory, it has granted or intends to grant a compulsory licence in accordance

⁸ This subparagraph is without prejudice to subparagraph 1(b).

⁹ It is understood that this notification does not need to be approved by a WTO body in order to use the system.

¹⁰ Australia, Canada, the European Communities with, for the purposes of Article 31*bis* and this Annex, its member States, Iceland, Japan, New Zealand, Norway, Switzerland, and the United States.

¹¹ Joint notifications providing the information required under this subparagraph may be made by the regional organizations referred to in paragraph 3 of Article 31*bis* on behalf of eligible importing Members using the system that are parties to them, with the agreement of those parties.

¹² The notification will be made available publicly by the WTO Secretariat through a page on the WTO website dedicated to the system.

with Articles 31 and 31*bis* of this Agreement and the provisions of this Annex¹³;

- (b) the compulsory licence issued by the exporting Member under the system shall contain the following conditions:
- (i) only the amount necessary to meet the needs of the eligible importing Member(s) may be manufactured under the licence and the entirety of this production shall be exported to the Member(s) which has notified its needs to the Council for TRIPS;
 - (ii) products produced under the licence shall be clearly identified as being produced under the system through specific labelling or marking. Suppliers should distinguish such products through special packaging and/or special colouring/shaping of the products themselves, provided that such distinction is feasible and does not have a significant impact on price; and
 - (iii) before shipment begins, the licensee shall post on a website¹⁴ the following information:
 - the quantities being supplied to each destination as referred to in indent (i) above; and
 - the distinguishing features of the product(s) referred to in indent (ii) above;
- (c) the exporting Member shall notify¹⁵ the Council for TRIPS of the grant of the licence, including the conditions attached to it.¹⁶ The information provided shall include the name and address of the licensee, the product(s) for which the licence has been granted, the quantity(ies) for which it has been granted, the country(ies) to which the product(s) is (are) to be supplied and the duration of the licence. The notification shall also indicate the address of the website referred to in subparagraph (b)(iii) above.

3. In order to ensure that the products imported under the system are used for the public health purposes underlying their importation, eligible importing Members shall take reasonable measures within their means, proportionate to their administrative capacities and to the risk of trade diversion to prevent re-exportation of the products that have actually been imported into their territories under the system. In the event that an eligible importing Member that is a developing country Member or a least-developed country Member experiences difficulty in implementing this provision, developed country Members shall provide, on request and on mutually agreed terms and conditions, technical and financial cooperation in order to facilitate its implementation.

¹³ This subparagraph is without prejudice to Article 66.1 of this Agreement.

¹⁴ The licensee may use for this purpose its own website or, with the assistance of the WTO Secretariat, the page on the WTO website dedicated to the system.

¹⁵ It is understood that this notification does not need to be approved by a WTO body in order to use the system.

¹⁶ The notification will be made available publicly by the WTO Secretariat through a page on the WTO website dedicated to the system.

4. Members shall ensure the availability of effective legal means to prevent the importation into, and sale in, their territories of products produced under the system and diverted to their markets inconsistently with its provisions, using the means already required to be available under this Agreement. If any Member considers that such measures are proving insufficient for this purpose, the matter may be reviewed in the Council for TRIPS at the request of that Member.

5. With a view to harnessing economies of scale for the purposes of enhancing purchasing power for, and facilitating the local production of, pharmaceutical products, it is recognized that the development of systems providing for the grant of regional patents to be applicable in the Members described in paragraph 3 of Article 31*bis* should be promoted. To this end, developed country Members undertake to provide technical cooperation in accordance with Article 67 of this Agreement, including in conjunction with other relevant intergovernmental organizations.

6. Members recognize the desirability of promoting the transfer of technology and capacity building in the pharmaceutical sector in order to overcome the problem faced by Members with insufficient or no manufacturing capacities in the pharmaceutical sector. To this end, eligible importing Members and exporting Members are encouraged to use the system in a way which would promote this objective. Members undertake to cooperate in paying special attention to the transfer of technology and capacity building in the pharmaceutical sector in the work to be undertaken pursuant to Article 66.2 of this Agreement, paragraph 7 of the Declaration on the TRIPS Agreement and Public Health and any other relevant work of the Council for TRIPS.

7. The Council for TRIPS shall review annually the functioning of the system with a view to ensuring its effective operation and shall annually report on its operation to the General Council.

APPENDIX TO THE ANNEX TO THE TRIPS AGREEMENT

Assessment of Manufacturing Capacities in the Pharmaceutical Sector

Least-developed country Members are deemed to have insufficient or no manufacturing capacities in the pharmaceutical sector.

For other eligible importing Members insufficient or no manufacturing capacities for the product(s) in question may be established in either of the following ways:

(i) the Member in question has established that it has no manufacturing capacity in the pharmaceutical sector;

or

(ii) where the Member has some manufacturing capacity in this sector, it has examined this capacity and found that, excluding any capacity owned or controlled by the patent owner, it is currently insufficient for the purposes of meeting its needs. When it is established that such capacity has become sufficient to meet the Member's needs, the system shall no longer apply.

WORLD TRADE ORGANIZATION

WT/MIN(05)/DEC
22 December 2005

(05-6248)

MINISTERIAL CONFERENCE
Sixth Session
Hong Kong, 13 - 18 December 2005

DOHA WORK PROGRAMME

Ministerial Declaration

Adopted on 18 December 2005

1. We reaffirm the Declarations and Decisions we adopted at Doha, as well as the Decision adopted by the General Council on 1 August 2004, and our full commitment to give effect to them. We renew our resolve to complete the Doha Work Programme fully and to conclude the negotiations launched at Doha successfully in 2006.

2. We emphasize the central importance of the development dimension in every aspect of the Doha Work Programme and recommit ourselves to making it a meaningful reality, in terms both of the results of the negotiations on market access and rule-making and of the specific development-related issues set out below.

3. In pursuance of these objectives, we agree as follows:

*Agriculture
negotiations*

4. We reaffirm our commitment to the mandate on agriculture as set out in paragraph 13 of the Doha Ministerial Declaration and to the Framework adopted by the General Council on 1 August 2004. We take note of the report by the Chairman of the Special Session on his own responsibility (TN/AG/21, contained in Annex A). We welcome the progress made by the Special Session of the Committee on Agriculture since 2004 and recorded therein.

5. On domestic support, there will be three bands for reductions in Final Bound Total AMS and in the overall cut in trade-distorting domestic support, with higher linear cuts in higher bands. In both cases, the Member with the highest level of permitted support will be in the top band, the two Members with the second and third highest levels of support will be in the middle band and all other Members, including all developing country Members, will be in the bottom band. In addition, developed country Members in the lower bands with high relative levels of Final Bound Total AMS will make an additional effort in AMS reduction. We also note that there has been some convergence concerning the reductions in Final Bound Total AMS, the overall cut in trade-distorting domestic support and in both product-specific and non product-specific *de minimis* limits. Disciplines will be developed to achieve effective cuts in trade-distorting domestic support consistent with the Framework. The overall reduction in trade-distorting domestic support will still

need to be made even if the sum of the reductions in Final Bound Total AMS, *de minimis* and Blue Box payments would otherwise be less than that overall reduction. Developing country Members with no AMS commitments will be exempt from reductions in *de minimis* and the overall cut in trade-distorting domestic support. Green Box criteria will be reviewed in line with paragraph 16 of the Framework, *inter alia*, to ensure that programmes of developing country Members that cause not more than minimal trade-distortion are effectively covered.

6. We agree to ensure the parallel elimination of all forms of export subsidies and disciplines on all export measures with equivalent effect to be completed by the end of 2013. This will be achieved in a progressive and parallel manner, to be specified in the modalities, so that a substantial part is realized by the end of the first half of the implementation period. We note emerging convergence on some elements of disciplines with respect to export credits, export credit guarantees or insurance programmes with repayment periods of 180 days and below. We agree that such programmes should be self-financing, reflecting market consistency, and that the period should be of a sufficiently short duration so as not to effectively circumvent real commercially-oriented discipline. As a means of ensuring that trade-distorting practices of STEs are eliminated, disciplines relating to exporting STEs will extend to the future use of monopoly powers so that such powers cannot be exercised in any way that would circumvent the direct disciplines on STEs on export subsidies, government financing and the underwriting of losses. On food aid, we reconfirm our commitment to maintain an adequate level and to take into account the interests of food aid recipient countries. To this end, a "safe box" for bona fide food aid will be provided to ensure that there is no unintended impediment to dealing with emergency situations. Beyond that, we will ensure elimination of commercial displacement. To this end, we will agree effective disciplines on in-kind food aid, monetization and re-exports so that there can be no loop-hole for continuing export subsidization. The disciplines on export credits, export credit guarantees or insurance programmes, exporting state trading enterprises and food aid will be completed by 30 April 2006 as part of the modalities, including appropriate provision in favour of least-developed and net food-importing developing countries as provided for in paragraph 4 of the Marrakesh Decision. The date above for the elimination of all forms of export subsidies, together with the agreed progressivity and parallelism, will be confirmed only upon the completion of the modalities. Developing country Members will continue to benefit from the provisions of Article 9.4 of the Agreement on Agriculture for five years after the end-date for elimination of all forms of export subsidies.

7. On market access, we note the progress made on *ad valorem* equivalents. We adopt four bands for structuring tariff cuts, recognizing that we need now to agree on the relevant thresholds – including those applicable for developing country Members. We recognize the need to agree on treatment of sensitive products, taking into account all the elements involved. We also note that there have been some recent movements on the designation and treatment of Special Products and elements of the Special Safeguard Mechanism. Developing country Members will have the flexibility to self-designate an appropriate number of tariff lines as Special Products guided by indicators based on the criteria of food security, livelihood security and rural development. Developing country Members will also have the right to have recourse to a Special Safeguard Mechanism based on import quantity and price triggers, with precise arrangements to be further defined. Special Products

and the Special Safeguard Mechanism shall be an integral part of the modalities and the outcome of negotiations in agriculture.

8. On other elements of special and differential treatment, we note in particular the consensus that exists in the Framework on several issues in all three pillars of domestic support, export competition and market access and that some progress has been made on other special and differential treatment issues.

9. We reaffirm that nothing we have agreed here compromises the agreement already reflected in the Framework on other issues including tropical products and products of particular importance to the diversification of production from the growing of illicit narcotic crops, long-standing preferences and preference erosion.

10. However, we recognize that much remains to be done in order to establish modalities and to conclude the negotiations. Therefore, we agree to intensify work on all outstanding issues to fulfil the Doha objectives, in particular, we are resolved to establish modalities no later than 30 April 2006 and to submit comprehensive draft Schedules based on these modalities no later than 31 July 2006.

Cotton 11. We recall the mandate given by the Members in the Decision adopted by the General Council on 1 August 2004 to address cotton ambitiously, expeditiously and specifically, within the agriculture negotiations in relation to all trade-distorting policies affecting the sector in all three pillars of market access, domestic support and export competition, as specified in the Doha text and the July 2004 Framework text. We note the work already undertaken in the Sub-Committee on Cotton and the proposals made with regard to this matter. Without prejudice to Members' current WTO rights and obligations, including those flowing from actions taken by the Dispute Settlement Body, we reaffirm our commitment to ensure having an explicit decision on cotton within the agriculture negotiations and through the Sub-Committee on Cotton ambitiously, expeditiously and specifically as follows:

- All forms of export subsidies for cotton will be eliminated by developed countries in 2006.
- On market access, developed countries will give duty and quota free access for cotton exports from least-developed countries (LDCs) from the commencement of the implementation period.
- Members agree that the objective is that, as an outcome for the negotiations, trade distorting domestic subsidies for cotton production be reduced more ambitiously than under whatever general formula is agreed and that it should be implemented over a shorter period of time than generally applicable. We commit ourselves to give priority in the negotiations to reach such an outcome.

12. With regard to the development assistance aspects of cotton, we welcome the Consultative Framework process initiated by the Director-General to implement the decisions on these aspects pursuant to paragraph 1.b of the Decision adopted by the General Council on 1 August 2004. We take note of his Periodic Reports and the positive evolution of development assistance noted therein. We urge the Director-General to further intensify his consultative efforts with bilateral donors and with multilateral and regional institutions, with emphasis on improved coherence,

coordination and enhanced implementation and to explore the possibility of establishing through such institutions a mechanism to deal with income declines in the cotton sector until the end of subsidies. Noting the importance of achieving enhanced efficiency and competitiveness in the cotton producing process, we urge the development community to further scale up its cotton-specific assistance and to support the efforts of the Director-General. In this context, we urge Members to promote and support South-South cooperation, including transfer of technology. We welcome the domestic reform efforts by African cotton producers aimed at enhancing productivity and efficiency, and encourage them to deepen this process. We reaffirm the complementarity of the trade policy and development assistance aspects of cotton. We invite the Director-General to furnish a third Periodic Report to our next Session with updates, at appropriate intervals in the meantime, to the General Council, while keeping the Sub-Committee on Cotton fully informed of progress. Finally, as regards follow up and monitoring, we request the Director-General to set up an appropriate follow-up and monitoring mechanism.

*NAMA
negotiations*

13. We reaffirm our commitment to the mandate for negotiations on market access for non-agricultural products as set out in paragraph 16 of the Doha Ministerial Declaration. We also reaffirm all the elements of the NAMA Framework adopted by the General Council on 1 August 2004. We take note of the report by the Chairman of the Negotiating Group on Market Access on his own responsibility (TN/MA/16, contained in Annex B). We welcome the progress made by the Negotiating Group on Market Access since 2004 and recorded therein.

14. We adopt a Swiss Formula with coefficients at levels which shall *inter alia*:
- Reduce or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs and tariff escalation, in particular on products of export interest to developing countries; and
 - Take fully into account the special needs and interests of developing countries, including through less than full reciprocity in reduction commitments.

We instruct the Negotiating Group to finalize its structure and details as soon as possible.

15. We reaffirm the importance of special and differential treatment and less than full reciprocity in reduction commitments, including paragraph 8 of the NAMA Framework, as integral parts of the modalities. We instruct the Negotiating Group to finalize its details as soon as possible.

16. In furtherance of paragraph 7 of the NAMA Framework, we recognize that Members are pursuing sectoral initiatives. To this end, we instruct the Negotiating Group to review proposals with a view to identifying those which could garner sufficient participation to be realized. Participation should be on a non-mandatory basis.

17. For the purpose of the second indent of paragraph 5 of the NAMA Framework, we adopt a non-linear mark-up approach to establish base rates for commencing tariff reductions. We instruct the Negotiating Group to finalize its details as soon as possible.

18. We take note of the progress made to convert non *ad valorem* duties to *ad valorem* equivalents on the basis of an agreed methodology as contained in JOB(05)/166/Rev.1.

19. We take note of the level of common understanding reached on the issue of product coverage and direct the Negotiating Group to resolve differences on the limited issues that remain as quickly as possible.

20. As a supplement to paragraph 16 of the NAMA Framework, we recognize the challenges that may be faced by non-reciprocal preference beneficiary Members as a consequence of the MFN liberalization that will result from these negotiations. We instruct the Negotiating Group to intensify work on the assessment of the scope of the problem with a view to finding possible solutions.

21. We note the concerns raised by small, vulnerable economies, and instruct the Negotiating Group to establish ways to provide flexibilities for these Members without creating a sub-category of WTO Members.

22. We note that the Negotiating Group has made progress in the identification, categorization and examination of notified NTBs. We also take note that Members are developing bilateral, vertical and horizontal approaches to the NTB negotiations, and that some of the NTBs are being addressed in other fora including other Negotiating Groups. We recognize the need for specific negotiating proposals and encourage participants to make such submissions as quickly as possible.

23. However, we recognize that much remains to be done in order to establish modalities and to conclude the negotiations. Therefore, we agree to intensify work on all outstanding issues to fulfil the Doha objectives, in particular, we are resolved to establish modalities no later than 30 April 2006 and to submit comprehensive draft Schedules based on these modalities no later than 31 July 2006.

*Balance
between
Agriculture
and NAMA*

24. We recognize that it is important to advance the development objectives of this Round through enhanced market access for developing countries in both Agriculture and NAMA. To that end, we instruct our negotiators to ensure that there is a comparably high level of ambition in market access for Agriculture and NAMA. This ambition is to be achieved in a balanced and proportionate manner consistent with the principle of special and differential treatment.

*Services
negotiations*

25. The negotiations on trade in services shall proceed to their conclusion with a view to promoting the economic growth of all trading partners and the development of developing and least-developed countries, and with due respect for the right of Members to regulate. In this regard, we recall and reaffirm the objectives and principles stipulated in the GATS, the Doha Ministerial Declaration, the Guidelines and Procedures for the Negotiations on Trade in Services adopted by the Special Session of the Council for Trade in Services on 28 March 2001 and the Modalities for the Special Treatment for Least-Developed Country Members in the Negotiations on Trade in Services adopted on 3 September 2003, as well as Annex C of the Decision adopted by the General Council on 1 August 2004.

26. We urge all Members to participate actively in these negotiations towards

achieving a progressively higher level of liberalization of trade in services, with appropriate flexibility for individual developing countries as provided for in Article XIX of the GATS. Negotiations shall have regard to the size of economies of individual Members, both overall and in individual sectors. We recognize the particular economic situation of LDCs, including the difficulties they face, and acknowledge that they are not expected to undertake new commitments.

27. We are determined to intensify the negotiations in accordance with the above principles and the Objectives, Approaches and Timelines set out in Annex C to this document with a view to expanding the sectoral and modal coverage of commitments and improving their quality. In this regard, particular attention will be given to sectors and modes of supply of export interest to developing countries.

Rules negotiations

28. We recall the mandates in paragraphs 28 and 29 of the Doha Ministerial Declaration and reaffirm our commitment to the negotiations on rules, as we set forth in Annex D to this document.

TRIPS negotiations

29. We take note of the report of the Chairman of the Special Session of the Council for TRIPS setting out the progress in the negotiations on the establishment of a multilateral system of notification and registration of geographical indications for wines and spirits, as mandated in Article 23.4 of the TRIPS Agreement and paragraph 18 of the Doha Ministerial Declaration, contained in document TN/IP/14, and agree to intensify these negotiations in order to complete them within the overall time-frame for the conclusion of the negotiations that were foreseen in the Doha Ministerial Declaration.

Environment negotiations

30. We reaffirm the mandate in paragraph 31 of the Doha Ministerial Declaration aimed at enhancing the mutual supportiveness of trade and environment and welcome the significant work undertaken in the Committee on Trade and Environment (CTE) in Special Session. We instruct Members to intensify the negotiations, without prejudging their outcome, on all parts of paragraph 31 to fulfil the mandate.

31. We recognize the progress in the work under paragraph 31(i) based on Members' submissions on the relationship between existing WTO rules and specific trade obligations set out in multilateral environmental agreements (MEAs). We further recognize the work undertaken under paragraph 31(ii) towards developing effective procedures for regular information exchange between MEA Secretariats and the relevant WTO committees, and criteria for the granting of observer status.

32. We recognize that recently more work has been carried out under paragraph 31(iii) through numerous submissions by Members and discussions in the CTE in Special Session, including technical discussions, which were also held in informal information exchange sessions without prejudice to Members' positions. We instruct Members to complete the work expeditiously under paragraph 31(iii).

Trade Facilitation negotiations

33. We recall and reaffirm the mandate and modalities for negotiations on Trade Facilitation contained in Annex D of the Decision adopted by the General Council on 1 August 2004. We note with appreciation the report of the Negotiating Group, attached in Annex E to this document, and the comments made by our delegations on that report as reflected in document TN/TF/M/11. We endorse the

recommendations contained in paragraphs 3, 4, 5, 6 and 7 of the report.

*DSU
negotiations*

34. We take note of the progress made in the Dispute Settlement Understanding negotiations as reflected in the report by the Chairman of the Special Session of the Dispute Settlement Body to the Trade Negotiations Committee (TNC) and direct the Special Session to continue to work towards a rapid conclusion of the negotiations.

*S&D
treatment*

35. We reaffirm that provisions for special and differential (S&D) treatment are an integral part of the WTO Agreements. We renew our determination to fulfil the mandate contained in paragraph 44 of the Doha Ministerial Declaration and in the Decision adopted by the General Council on 1 August 2004, that all S&D treatment provisions be reviewed with a view to strengthening them and making them more precise, effective and operational.

36. We take note of the work done on the Agreement-specific proposals, especially the five LDC proposals. We agree to adopt the decisions contained in Annex F to this document. However, we also recognize that substantial work still remains to be done. We commit ourselves to address the development interests and concerns of developing countries, especially the LDCs, in the multilateral trading system, and we recommit ourselves to complete the task we set ourselves at Doha. We accordingly instruct the Committee on Trade and Development in Special Session to expeditiously complete the review of all the outstanding Agreement-specific proposals and report to the General Council, with clear recommendations for a decision, by December 2006.

37. We are concerned at the lack of progress on the Category II proposals that had been referred to other WTO bodies and negotiating groups. We instruct these bodies to expeditiously complete the consideration of these proposals and report periodically to the General Council, with the objective of ensuring that clear recommendations for a decision are made no later than December 2006. We also instruct the Special Session to continue to coordinate its efforts with these bodies, so as to ensure that this work is completed on time.

38. We further instruct the Special Session, within the parameters of the Doha mandate, to resume work on all other outstanding issues, including on the cross-cutting issues, the monitoring mechanism, and the incorporation of S&D treatment into the architecture of WTO rules, and report on a regular basis to the General Council.

Implementation

39. We reiterate the instruction in the Decision adopted by the General Council on 1 August 2004 to the TNC, negotiating bodies and other WTO bodies concerned to redouble their efforts to find appropriate solutions as a priority to outstanding implementation-related issues. We take note of the work undertaken by the Director-General in his consultative process on all outstanding implementation issues under paragraph 12(b) of the Doha Ministerial Declaration, including on issues related to the extension of the protection of geographical indications provided for in Article 23 of the TRIPS Agreement to products other than wines and spirits and those related to the relationship between the TRIPS Agreement and the Convention on Biological Diversity. We request the Director-General, without prejudice to the positions of Members, to intensify his consultative process on all outstanding implementation issues under paragraph 12(b), if need be by appointing

Chairpersons of concerned WTO bodies as his Friends and/or by holding dedicated consultations. The Director-General shall report to each regular meeting of the TNC and the General Council. The Council shall review progress and take any appropriate action no later than 31 July 2006.

*TRIPS &
Public Health*

40. We reaffirm the importance we attach to the General Council Decision of 30 August 2003 on the Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health, and to an amendment to the TRIPS Agreement replacing its provisions. In this regard, we welcome the work that has taken place in the Council for TRIPS and the Decision of the General Council of 6 December 2005 on an Amendment of the TRIPS Agreement.

*Small
Economies*

41. We reaffirm our commitment to the Work Programme on Small Economies and urge Members to adopt specific measures that would facilitate the fuller integration of small, vulnerable economies into the multilateral trading system, without creating a sub-category of WTO Members. We take note of the report of the Committee on Trade and Development in Dedicated Session on the Work Programme on Small Economies to the General Council and agree to the recommendations on future work. We instruct the Committee on Trade and Development, under the overall responsibility of the General Council, to continue the work in the Dedicated Session and to monitor progress of the small economies' proposals in the negotiating and other bodies, with the aim of providing responses to the trade-related issues of small economies as soon as possible but no later than 31 December 2006. We instruct the General Council to report on progress and action taken, together with any further recommendations as appropriate, to our next Session.

*Trade, Debt &
Finance*

42. We take note of the report transmitted by the General Council on the work undertaken and progress made in the examination of the relationship between trade, debt and finance and on the consideration of any possible recommendations on steps that might be taken within the mandate and competence of the WTO as provided in paragraph 36 of the Doha Ministerial Declaration and agree that, building on the work carried out to date, this work shall continue on the basis of the Doha mandate. We instruct the General Council to report further to our next Session.

*Trade &
Transfer of
Technology*

43. We take note of the report transmitted by the General Council on the work undertaken and progress made in the examination of the relationship between trade and transfer of technology and on the consideration of any possible recommendations on steps that might be taken within the mandate of the WTO to increase flows of technology to developing countries. Recognizing the relevance of the relationship between trade and transfer of technology to the development dimension of the Doha Work Programme and building on the work carried out to date, we agree that this work shall continue on the basis of the mandate contained in paragraph 37 of the Doha Ministerial Declaration. We instruct the General Council to report further to our next Session.

*Doha
paragraph 19*

44. We take note of the work undertaken by the Council for TRIPS pursuant to paragraph 19 of the Doha Ministerial Declaration and agree that this work shall continue on the basis of paragraph 19 of the Doha Ministerial Declaration and the progress made in the Council for TRIPS to date. The General Council shall report on its work in this regard to our next Session.

- TRIPS non-violation and situation complaints* 45. We take note of the work done by the Council for Trade-Related Aspects of Intellectual Property Rights pursuant to paragraph 11.1 of the Doha Decision on Implementation-Related Issues and Concerns and paragraph 1.h of the Decision adopted by the General Council on 1 August 2004, and direct it to continue its examination of the scope and modalities for complaints of the types provided for under subparagraphs 1(b) and 1(c) of Article XXIII of GATT 1994 and make recommendations to our next Session. It is agreed that, in the meantime, Members will not initiate such complaints under the TRIPS Agreement.
- E-commerce* 46. We take note of the reports from the General Council and subsidiary bodies on the Work Programme on Electronic Commerce, and that the examination of issues under the Work Programme is not yet complete. We agree to reinvigorate that work, including the development-related issues under the Work Programme and discussions on the trade treatment, *inter alia*, of electronically delivered software. We agree to maintain the current institutional arrangements for the Work Programme. We declare that Members will maintain their current practice of not imposing customs duties on electronic transmissions until our next Session.
- LDCs* 47. We reaffirm our commitment to effectively and meaningfully integrate LDCs into the multilateral trading system and shall continue to implement the WTO Work Programme for LDCs adopted in February 2002. We acknowledge the seriousness of the concerns and interests of the LDCs in the negotiations as expressed in the Livingstone Declaration, adopted by their Ministers in June 2005. We take note that issues of interest to LDCs are being addressed in all areas of negotiations and we welcome the progress made since the Doha Ministerial Declaration as reflected in the Decision adopted by the General Council on 1 August 2004. Building upon the commitment in the Doha Ministerial Declaration, developed-country Members, and developing-country Members declaring themselves in a position to do so, agree to implement duty-free and quota-free market access for products originating from LDCs as provided for in Annex F to this document. Furthermore, in accordance with our commitment in the Doha Ministerial Declaration, Members shall take additional measures to provide effective market access, both at the border and otherwise, including simplified and transparent rules of origin so as to facilitate exports from LDCs. In the services negotiations, Members shall implement the LDC modalities and give priority to the sectors and modes of supply of export interest to LDCs, particularly with regard to movement of service providers under Mode 4. We agree to facilitate and accelerate negotiations with acceding LDCs based on the accession guidelines adopted by the General Council in December 2002. We commit to continue giving our attention and priority to concluding the ongoing accession proceedings as rapidly as possible. We welcome the Decision by the TRIPS Council to extend the transition period under Article 66.1 of the TRIPS Agreement. We reaffirm our commitment to enhance effective trade-related technical assistance and capacity building to LDCs on a priority basis in helping to overcome their limited human and institutional trade-related capacity to enable LDCs to maximize the benefits resulting from the Doha Development Agenda (DDA).
- Integrated Framework* 48. We continue to attach high priority to the effective implementation of the Integrated Framework (IF) and reiterate our endorsement of the IF as a viable instrument for LDCs' trade development, building on its principles of country

ownership and partnership. We highlight the importance of contributing to reducing their supply side constraints. We reaffirm our commitment made at Doha, and recognize the urgent need to make the IF more effective and timely in addressing the trade-related development needs of LDCs.

49. In this regard, we are encouraged by the endorsement by the Development Committee of the World Bank and International Monetary Fund (IMF) at its autumn 2005 meeting of an enhanced IF. We welcome the establishment of a Task Force by the Integrated Framework Working Group as endorsed by the IF Steering Committee (IFSC) as well as an agreement on the three elements which together constitute an enhanced IF. The Task Force, composed of donor and LDC members, will provide recommendations to the IFSC by April 2006. The enhanced IF shall enter into force no later than 31 December 2006.

50. We agree that the Task Force, in line with its Mandate and based on the three elements agreed to, shall provide recommendations on how the implementation of the IF can be improved, *inter alia*, by considering ways to:

1. provide increased, predictable, and additional funding on a multi-year basis;
2. strengthen the IF in-country, including through mainstreaming trade into national development plans and poverty reduction strategies; more effective follow-up to diagnostic trade integration studies and implementation of action matrices; and achieving greater and more effective coordination amongst donors and IF stakeholders, including beneficiaries;
3. improve the IF decision-making and management structure to ensure an effective and timely delivery of the increased financial resources and programmes.

51. We welcome the increased commitment already expressed by some Members in the run-up to, and during, this Session. We urge other development partners to significantly increase their contribution to the IF Trust Fund. We also urge the six IF core agencies to continue to cooperate closely in the implementation of the IF, to increase their investments in this initiative and to intensify their assistance in trade-related infrastructure, private sector development and institution building to help LDCs expand and diversify their export base.

*Technical
Cooperation*

52. We note with appreciation the substantial increase in trade-related technical assistance since our Fourth Session, which reflects the enhanced commitment of Members to address the increased demand for technical assistance, through both bilateral and multilateral programmes. We note the progress made in the current approach to planning and implementation of WTO's programmes, as embodied in the Technical Assistance and Training Plans adopted by Members, as well as the improved quality of those programmes. We note that a strategic review of WTO's technical assistance is to be carried out by Members, and expect that in future planning and implementation of training and technical assistance, the conclusions and recommendations of the review will be taken into account, as appropriate.

53. We reaffirm the priorities established in paragraph 38 of the Doha Ministerial Declaration for the delivery of technical assistance and urge the Director-General to ensure that programmes focus accordingly on the needs of beneficiary

countries and reflect the priorities and mandates adopted by Members. We endorse the application of appropriate needs assessment mechanisms and support the efforts to enhance ownership by beneficiaries, in order to ensure the sustainability of trade-related capacity building. We invite the Director-General to reinforce the partnerships and coordination with other agencies and regional bodies in the design and implementation of technical assistance programmes, so that all dimensions of trade-related capacity building are addressed, in a manner coherent with the programmes of other providers. In particular, we encourage all Members to cooperate with the International Trade Centre, which complements WTO work by providing a platform for business to interact with trade negotiators, and practical advice for small and medium-sized enterprises (SMEs) to benefit from the multilateral trading system. In this connection, we note the role of the Joint Integrated Technical Assistance Programme (JITAP) in building the capacity of participating countries.

54. In order to continue progress in the effective and timely delivery of trade-related capacity building, in line with the priority Members attach to it, the relevant structures of the Secretariat should be strengthened and its resources enhanced. We reaffirm our commitment to ensure secure and adequate levels of funding for trade-related capacity building, including in the Doha Development Agenda Global Trust Fund, to conclude the Doha Work Programme and implement its results.

*Commodity
Issues*

55. We recognize the dependence of several developing and least-developed countries on the export of commodities and the problems they face because of the adverse impact of the long-term decline and sharp fluctuation in the prices of these commodities. We take note of the work undertaken in the Committee on Trade and Development on commodity issues, and instruct the Committee, within its mandate, to intensify its work in cooperation with other relevant international organizations and report regularly to the General Council with possible recommendations. We agree that the particular trade-related concerns of developing and least-developed countries related to commodities shall also be addressed in the course of the agriculture and NAMA negotiations. We further acknowledge that these countries may need support and technical assistance to overcome the particular problems they face, and urge Members and relevant international organizations to consider favourably requests by these countries for support and assistance.

Coherence

56. We welcome the Director-General's actions to strengthen the WTO's cooperation with the IMF and the World Bank in the context of the WTO's Marrakesh mandate on Coherence, and invite him to continue to work closely with the General Council in this area. We value the General Council meetings that are held with the participation of the heads of the IMF and the World Bank to advance our Coherence mandate. We agree to continue building on that experience and expand the debate on international trade and development policymaking and inter-agency cooperation with the participation of relevant UN agencies. In that regard, we note the discussions taking place in the Working Group on Trade, Debt and Finance on, *inter alia*, the issue of Coherence, and look forward to any possible recommendations it may make on steps that might be taken within the mandate and competence of the WTO on this issue.

Aid for Trade

57. We welcome the discussions of Finance and Development Ministers in various fora, including the Development Committee of the World Bank and IMF,

that have taken place this year on expanding Aid for Trade. Aid for Trade should aim to help developing countries, particularly LDCs, to build the supply-side capacity and trade-related infrastructure that they need to assist them to implement and benefit from WTO Agreements and more broadly to expand their trade. Aid for Trade cannot be a substitute for the development benefits that will result from a successful conclusion to the DDA, particularly on market access. However, it can be a valuable complement to the DDA. We invite the Director-General to create a task force that shall provide recommendations on how to operationalize Aid for Trade. The Task Force will provide recommendations to the General Council by July 2006 on how Aid for Trade might contribute most effectively to the development dimension of the DDA. We also invite the Director-General to consult with Members as well as with the IMF and World Bank, relevant international organisations and the regional development banks with a view to reporting to the General Council on appropriate mechanisms to secure additional financial resources for Aid for Trade, where appropriate through grants and concessional loans.

*Recently-
acceded
Members*

58. We recognize the special situation of recently-acceded Members who have undertaken extensive market access commitments at the time of accession. This situation will be taken into account in the negotiations.

Accessions

59. We reaffirm our strong commitment to making the WTO truly global in scope and membership. We welcome those new Members who have completed their accession processes since our last Session, namely Nepal, Cambodia and Saudi Arabia. We note with satisfaction that Tonga has completed its accession negotiations to the WTO. These accessions further strengthen the rules-based multilateral trading system. We continue to attach priority to the 29 ongoing accessions with a view to concluding them as rapidly and smoothly as possible. We stress the importance of facilitating and accelerating the accession negotiations of least-developed countries, taking due account of the guidelines on LDC accession adopted by the General Council in December 2002.

Annex A

Agriculture

Report by the Chairman of the Special Session of the Committee on Agriculture to the TNC

1. The present report has been prepared on my own responsibility. I have done so in response to the direction of Members as expressed at the informal Special Session of the Committee on Agriculture on 11 November 2005. At that meeting, following the informal Heads of Delegation meeting the preceding day, Members made it crystal clear that they sought from me at this point an objective factual summary of where the negotiations have reached at this time. It was clear from that meeting that Members did not expect or desire anything that purported to be more than that. In particular, it was clear that, following the decision at the Heads of Delegation meeting that full modalities will not be achieved at Hong Kong, Members did not want anything that suggested implicit or explicit agreement where it did not exist.

2. This is not, of course, the kind of paper that I would have chosen or preferred to have prepared at this point. Ideally, my task should have been to work with Members to generate a draft text of modalities. But this text reflects the reality of the present situation. There will be – because there must be if we are to conclude these negotiations – such a draft text in the future. I look at this now as a task postponed, but the precise timing of this is in the hands of Members.

3. As for this paper, it is precisely what it is described to be. No more, no less. It is the Chairman's report and, as such, it goes from me to the TNC. It is not anything more than my personal report – in particular, it is not in any sense an agreed text of Members. It does not, therefore, in any way prejudge or prejudice the positions of Members on any matter within it or outside of it. And, it certainly does not bind Members in any way. It should go without saying that the agreed basis of our work is, and shall remain, the Doha Mandate itself and the Framework in the Decision adopted by the General Council on 1 August 2004.

4. As to the character of the paper, I have endeavoured to reflect what I discerned as the wishes of Members when they directed me to prepare this paper. I have tried to capture as clearly as I can such conditional progress and convergence as has developed in the post-July 2004 period. In doing so, I have not tried to brush under the carpet divergences that remain, and the paper tries to be just as clear on those points. Of course, it is a summary report. As such, it cannot – and does not – recapitulate each and every detail on each and every issue. But I took from Members' comments that they would prefer a paper which could 'orient' further discussion.

5. In that regard, I hope that anyone reading this paper would be able to get a pretty clear idea of what it is that remains to be done. Members made it clear that it was not my task as Chair to prescribe what is to be done next in a programmatic way. My task was to register where we are now, but I confess to having done so with an eye to genuinely clarifying where key convergences exist or key divergences remain, rather than obscuring or overcomplicating matters.

6. My own sense, when I review this myself, is the compelling urgency of seizing the moment and driving the process to a conclusion as rapidly as possible. We have made – particularly since August of this year – genuine and material progress. Indeed, it has come at a relatively rapid pace. It is also clear to me that it has been the product of a genuinely negotiating process. In other words, it has been a case of making proposals and counterproposals. That is why the matters covered in this report have an essentially conditional character. As I see it, the reality is that we have yet to find that last bridge to agreement that we need to secure modalities. But it would be a grave error, in my view, to imagine that we can take much time to find that bridge. As Chair, I am convinced that we must maintain momentum.

You don't close divergences by taking time off to have a cup of tea. If you do so, you will find that everyone has moved backwards in the meantime. That, it seems to me, is a profound risk to our process. I would like to believe that this report at least underlines to us that there is indeed something real and important still within our grasp and we ought not to risk losing it. Our over-riding challenge and responsibility is to meet the development objective of the Doha Development Agenda. To meet this challenge and achieve this goal, we must act decisively and with real urgency.

7. The future life of this paper, if any, is a matter entirely in the hands of TNC Members to decide. This, as I see it, is the proper safeguard of the integrity of what has come to be described as a "bottom-up" process.

DOMESTIC SUPPORT

8. There has been very considerable potential convergence, albeit on a manifestly conditional basis.

Overall Cut

- There is a working hypothesis of three bands for overall cuts by developed countries. There is a strongly convergent working hypothesis that the thresholds for the three bands be US\$ billion 0-10; 10-60; >60. On this basis, the European Communities would be in the top band, the United States and Japan in the second band, and all other developed countries at least in the third band. For developing countries, there is a view that either developing countries are assigned to the relevant integrated band (the bottom) or that there is a separate band for them.¹⁷
- Based on post-July 2005 proposals, there has been an undeniably significant convergence on the range of cuts. Of course, this has been conditional. But subject to that feature, a great deal of progress has been made since the bare bones of the July 2004 Framework. The following matrix provides a snapshot:

Bands	Thresholds (US\$ billion)	Cuts
1	0-10	31%-70%
2	10-60	53%-75%
3	> 60	70%-80%

De Minimis

- On product-specific *de minimis* and non-product-specific *de minimis*, there is a zone of engagement for cuts between 50% and 80% for developed countries.
- As regards developing countries, there are still divergences to be bridged. In addition to the exemption specifically provided for in the Framework, there is a view that, for all developing countries, there should be no cut in *de minimis* at all. Alternatively, at least for those with no

¹⁷ On the proposed basis that cut remains to be determined for those developing countries with an AMS. In any case, there is a view (not shared by all) that cuts for developing countries should be less than 2/3 of the cut for developed countries.

AMS, there should be no cut and, in any case, any cut for those with an AMS should be less than 2/3 of the cut for developed countries.

Blue Box

9. There is important and significant convergence on moving beyond (i.e. further constraining) Blue Box programme payments envisaged in the July 2004 Framework. However, the technique for achieving this remains to be determined. One proposal is to shrink the current 5% ceiling to 2.5%.¹⁸ Another proposal rejects this in favour of additional criteria disciplining the so-called "new" Blue Box only. Others favour a combination of both, including additional disciplines on the "old" Blue Box.

AMS

- There is a working hypothesis of three bands for developed countries.
- There is close (but not full) convergence on the thresholds for those bands. There appears to be convergence that the top tier should be US\$25 billion and above. There is some remaining divergence over the ceiling for the bottom band: between US\$12 billion and 15 billion.
- There has been an undeniably significant convergence on the range of cuts. Of course, this has been conditional. But, that understood, a great deal of progress has been made since the bare bones of the July 2004 Framework. The following matrix¹⁹ provides a snapshot:

Bands	Thresholds (US\$ billion)	Cuts
1	0-12/15	37-60%
2	12/15-25	60-70%
3	>25	70-83%

- There is therefore working hypothesis agreement that the European Communities should be in the top tier, and the United States in the second tier. However, while the basis for Japan's placement as between these two tiers has been narrowed, it remains to be finally resolved.
- For developed countries in the bottom band, with a relatively high level of AMS relative to total value of agriculture production, there is emerging consensus that their band-related reduction should be complemented with an additional effort.
- What is needed now is a further step to bridge the remaining gap in positions – particularly as regards the United States and the European Communities, it being understood that this is not a matter to be resolved in isolation from the other elements in this pillar and beyond.

¹⁸ The exact extent of the flexibility to be provided pursuant to paragraph 15 of the July 2004 Framework remains to be agreed.

¹⁹ Of course, this needs to be viewed as illustrative rather than overly literally, if for no other reason than that these are conditional figures. For instance, while the European Communities has indicated it could be prepared to go as far as 70% in the top tier, they make it clear that this is acceptable only if the United States will go to 60% in the second tier. The United States for its part, however, has only indicated preparedness to go to that 60% if the European Communities is prepared to go as high as 83% - which it has not indicated it is prepared to do.

- On the base period for product-specific caps, certain proposals (such as for 1995-2000 and 1999-2001) are on the table. This needs to be resolved appropriately, including the manner in which special and differential treatment should be applied.

Green Box

10. The review and clarification commitment has not resulted in any discernible convergence on operational outcomes. There is, on the one side, a firm rejection of anything that is seen as departing from the existing disciplines while there is, on the other, an enduring sense that more could be done to review the Green Box without undermining ongoing reform. Beyond that there is, however, some tangible openness to finding appropriate ways to ensure that the Green Box is more "development friendly" i.e. better tailored to meet the realities of developing country agriculture but in a way that respects the fundamental requirement of at most minimal trade distortion.

EXPORT COMPETITION

End Date

11. While concrete proposals²⁰ have been made on the issue of an end date for elimination of all forms of export subsidies, there is at this stage no convergence. There are suggestions for the principle of front-loading or accelerated elimination for specific products, including particularly cotton.

Export Credits

12. Convergence has been achieved on a number of elements of disciplines with respect to export credits, export credit guarantee or insurance programmes with repayment periods of 180 days and below. However, a number of critical issues remain.²¹

Exporting State Trading Enterprises

13. There has been material convergence on rules to address trade-distorting practices identified in the July 2004 Framework text, although there are still major differences regarding the scope of practices to be covered by the new disciplines. Fundamentally opposing positions remain, however, on the issue of the future use of monopoly powers. There have been concrete drafting proposals on such matters as definition of entities and practices to be addressed as well as transparency. But there has been no genuine convergence in such areas.

Food Aid

²⁰ One Member has proposed the year 2010 for "export subsidies", with accelerated elimination for "specific" products. Another group of Members have proposed a period "no longer than five years" for all forms of export subsidies, with "direct" export subsidies subject to front-loading within that period.

²¹ This includes, but is not limited to: exemptions, if any, to the 180 day rule; whether the disciplines should allow for pure cover only or also permit direct financing; the appropriate period for programmes to fully recover their costs and losses through the premia levied from the exporters (principle of self-financing - there needs to be convergence between position which range from one year to fifteen years); the disciplines regarding special circumstances; and the question of special and differential treatment, including whether, as some Members argue, developing countries should be allowed longer repayment terms for export credits extended by them to other developing countries and the specifics of differential treatment in favour of least-developed and net food-importing developing countries.

14. There is consensus among Members that the WTO shall not stand in the way of the provision of genuine food aid. There is also consensus that what is to be eliminated is commercial displacement. There have been detailed and intensive discussions, some of which have even been text-based, but not to a point where a consolidated draft text could be developed. This has been precluded by Members clinging to fundamentally disparate conceptual premises. There are proposals that in the disciplines a distinction should be made between at least two types of food aid: emergency food aid and food aid to address other situations. However, there is not yet a common understanding where emergency food aid ends and other food aid begins, reflecting concerns that this distinction should not become a means to create a loophole in disciplines. A fundamental sticking point is whether, except in exceptional, genuine emergency situations, Members should (albeit gradually) move towards untied, in-cash food aid only, as some Members propose but other Members strongly oppose.²²

Special and Differential Treatment

15. Framework provisions for special and differential treatment, including with respect to the monopoly status of state trading enterprises in developing countries and an extended lifetime for Article 9.4, have been uncontroversial, but details remain to be established.

Special Circumstances

16. Work on the criteria and consultation procedures to govern any ad hoc temporary financing arrangements relating to exports to developing countries in exceptional circumstances is not much developed.

MARKET ACCESS

Tiered Formula

- We have progressed on *ad valorem* equivalents.²³ This has successfully created a basis for allocating items into bands for the tiered formula.
- We have a working hypothesis of four bands for structuring tariff cuts.
- There has been very considerable convergence on adopting a linear-based approach for cuts within those bands. Members have, of course, by no means formally abandoned positions that are even more divergent.²⁴ We need now to narrow the extent of divergence that remains. This will include whether or not to include any "pivot" in any band.
- Members have made strong efforts to promote convergence on the size of actual cuts to be undertaken within those bands. But, even though genuine efforts have been made to move

²² This fundamental divergence has effectively precluded convergence on such matters as what disciplines, if any, should be established with respect to monetization of food aid or the question of the provision of food aid in fully grant form only. The importance of operationally effective transparency requirements is generally acknowledged, but details have still to be developed, particularly those relating to the role of the WTO in this context. Further work is required to clarify the role of recipient countries and relevant international organizations or other entities in triggering or providing food aid.

²³ The method for calculating the AVEs for the sugar lines is still to be established.

²⁴ At one end of the spectrum, as it were, a "harmonisation" formula within the bands; at the other end "flexibility" within the formula.

from formal positions (which of course remain), major gaps are yet to be bridged. Somewhat greater convergence has been achieved as regards the thresholds for the bands. Substantial movement is clearly essential to progress.²⁵

- Some Members continue to reject completely the concept of a tariff cap. Others have proposed²⁶ a cap between 75-100%.

Sensitive Products

- Members have been prepared to make concrete - albeit conditional - proposals on the number of sensitive products. But, in a situation where proposals extend from as little as 1% to as much as 15% of tariff lines, further bridging this difference is essential to progress.
- The fundamental divergence over the basic approach to treatment of sensitive products needs to be resolved.²⁷ Beyond that, there needs to be convergence on the consequential extent of liberalisation for such products.

Special and Differential Treatment

- Just as for developed countries, there is a working hypothesis of four bands for developing countries. There is no disagreement on lesser cuts within the bands. A certain body of opinion is open to considering cuts of two-thirds of the amount of the cuts for developed countries as a plausible zone in which to search more intensively for convergence.²⁸ But

²⁵ The matrix below is an illustrative table that portrays the extent of divergences that remain, even on the basis of post-August 2005 proposals. This does not entirely cover all the subtleties of those proposals to utilize a "pivot" (although most are in fact within the ranges tabulated), but is intended to convey a snapshot of the status of average cuts proposed post-August.

	Thresholds	Range of cuts (%)
Band 1	0% - 20/30%	20-65
Band 2	20/30% - 40/60%	30-75
Band 3	40/60% - 60/90%	35-85
Band 4	>60/90%	42-90

²⁶ As an element in certain conditional proposals on overall market access, tabled post-July 2005.

²⁷ Some see this as being tariff quota based and expressed as a percentage of domestic consumption, with proposals of up to 10%. Others propose *pro rata* expansion on an existing trade basis, including taking account of current imports. Some also propose no new TRQs, with sensitivity in such cases to be provided through other means, e.g. differential phasing. There is also a proposal for a "sliding scale" approach.

²⁸ In this pillar, as well as in the other two, there is general convergence on the point that developing countries will have entitlement to longer implementation periods, albeit that concrete precision remains to be determined.

significant disagreement on that remains, and divergence is, if anything, somewhat more marked on the connected issue of higher thresholds for developing countries.²⁹

- Some Members continue to reject completely the concept of a tariff cap for developing countries. Others have proposed³⁰ a cap at 150%.
- For sensitive products, there is no disagreement that there should be greater flexibility for developing countries, but the extent of this needs to be further defined.³¹

Special Products

- Regarding *designation* of special products, there has been a clear divergence between those Members which consider that, prior to establishment of schedules, a list of non-exhaustive and illustrative criteria-based indicators should be established and those Members which are looking for a list which would act as a filter or screen for the selection of such products. Latterly, it has been proposed (but not yet discussed with Members as a whole) that a developing country Member should have the right to designate at least 20 per cent of its agricultural tariff lines as Special Products, and be further entitled to designate an SP where, for that product, an AMS has been notified and exports have taken place. This issue needs to be resolved as part of modalities so that there is assurance of the basis upon which Members may designate special products.
- Some moves toward convergence on *treatment* of Special Products have been made recently. Some Members had considered that special products should be fully exempt from any new market access commitments whatsoever and have automatic access to the SSM. Others had argued there should be some degree of market opening for these products, albeit reflecting

²⁹ The matrix below is an illustrative table that portrays the extent of divergences that remain, just on the basis of post-August 2005 proposals.

	Thresholds	Range of cuts (%)
Band 1	0% - 20/50%	15-25*
Band 2	20/50% - 40/100%	20-30*
Band 3	40/100% - 60/150%	25-35*
Band 4	>60-150%	30-40*

*There is also a proposal that cuts for developing countries should be "slightly lesser" than the upper tariff cuts for developed countries shown in the preceding table (i.e.: "slightly lesser" than 65, 75, 85 and 90%).

³⁰ As an element in certain conditional proposals on overall market access, tabled post-July 2005.

³¹ While the eventual zone of convergence for developed countries undoubtedly has a bearing in this area, it has been proposed by a group of Members that the principles of sensitive products generally and for TRQs specifically should be different for developing countries. Another group of Members has proposed, in the post-August period, an entitlement for developing countries of at least 50% more than the maximum number of lines used by any developed Member. This would (based on developed country proposals) amount to a potential variation between 1.5% and 22.5% of tariff lines. This latter group has also proposed that products relating to long-standing preferences shall be designated as sensitive and that any TRQ expansion should not be "at the detriment of existing ACP quotas". This particular view has been, however, strongly opposed by other Members which take the firm position that tropical and diversification products should not at all be designated as sensitive products.

more flexible treatment than for other products. In the presence of this fundamental divergence, it had clearly been impossible to undertake any definition of what such flexibility would be. Genuine convergence is obviously urgently needed. There is now a new proposal for a tripartite categorization of Special Products involving limited tariff cuts for at least a proportion of such products which remains to be fully discussed. It remains to be seen whether this discussion can help move us forward.

Special Safeguard Mechanism

- There is agreement that there would be a special safeguard mechanism and that it should be tailored to the particular circumstances and needs of developing countries. There is no material disagreement with the view that it should have a quantity trigger. Nor is there disagreement with the view that it should at least be capable of addressing effectively what might be described as import "surges". Divergence remains over whether, or if so how, situations that are lesser than "surge" are to be dealt with. There is, however, agreement that any remedy should be of a temporary nature. There remains strong divergence however on whether, or if so how, a special safeguard should be "price-based" to deal specifically with price effects.
- There is some discernible openness, albeit at varying levels, to at least consider coverage of products that are likely to undergo significant liberalisation effects, and/or are already bound at low levels and/or are special products. Beyond that, however, there remains a fundamental divergence between those considering all products should be eligible for such a mechanism and those opposing such a blanket approach.

Other Elements

17. There has been no further material convergence on the matters covered by paragraphs 35 and 37 of the July 2004 Framework text. The same may be said for paragraph 36 on tariff escalation, albeit that there is full agreement on the need for this to be done, and a genuine recognition of the particular importance of this for commodities exporters. Certain concrete proposals have been made on paragraph 38 (SSG) and met with opposition from some Members.

18. Concrete proposals have been made and discussed on how to implement paragraph 43 of the July 2004 Framework on tropical and diversification products. But there remains divergence over the precise interpretation of this section of the July Framework³² and no common approach has been established.

19. The importance of long-standing preferences pursuant to paragraph 44 of the July 2004 Framework is fully recognised and concrete proposals regarding preference erosion have been made and discussed.³³ There seems not to be inherent difficulty with a role for capacity building. However, while there is some degree of support for e.g. longer implementation periods for at least certain products in order to facilitate adjustment, there is far from convergence on even this. Some argue it is not sufficient or certainly not in all cases, while others that it is not warranted at all.

³² It is argued by some Members that this is to be interpreted as meaning full duty- and tariff quota-free access, but by others as less than that.

³³ Note 15 above refers.

LEAST-DEVELOPED COUNTRIES

20. There is no questioning of the terms of paragraph 45 of the July Framework agreement, which exempts least-developed countries from any reduction requirement. The stipulation that "developed Members, and developing country Members in a position to do so, should provide duty-free and quota-free market access for products originating from least-developed countries" is not at this point concretely operational for all Members. At this stage, several Members have made undertakings. Proposals for this to be bound remain on the table.³⁴

COTTON

21. While there is genuine recognition of the problem to be addressed and concrete proposals have been made, Members remain at this point short of concrete and specific achievement that would be needed to meet the July Framework direction to address this matter ambitiously, expeditiously and specifically. There is no disagreement with the view that all forms of export subsidies are to be eliminated for cotton although the timing and speed remains to be specified. Proposals to eliminate them immediately or from day one of the implementation period are not at this point shared by all Members. In the case of trade distorting support, proponents seek full elimination with "front-loaded" implementation.³⁵ There is a view that the extent to which this can occur, and its timing, can only be determined in the context of an overall agreement. Another view is that there could be at least substantial and front-loaded reduction on cotton specifically from day one of implementation, with the major implementation achieved within twelve months, and the remainder to be completed within a period shorter than the overall implementation period for agriculture.³⁶

RECENTLY-ACCEDED MEMBERS

22. Concrete proposals have been made and discussed, but no specific flexibility provisions have commanded consensus.

MONITORING AND SURVEILLANCE

23. A proposal has been made but there is no material advance at this point.

OTHER ISSUES

24. On paragraph 49 (sectoral initiatives, differential export taxes, GIs) certain positions and proposals have been tabled and/or referred to. They are issues that remain of interest but not agreed.

³⁴ It is also proposed that this should be accompanied by simple and transparent rules of origin and other measures to address non-tariff barriers.

³⁵ Concrete proposals have been made, with a three-step approach: 80% on day one, an additional 10% after 12 months and the last 10% a year later.

³⁶ A Member has indicated that it is prepared to implement all its commitments from day one and, in any case, to autonomously ensure that its commitments on eliminating the most trade-distorting domestic support, eliminating all forms of export subsidies and providing mfn duty- and quota-free access for cotton will take place from 2006.

25. At this point, proposals on paragraph 50 have not advanced materially.
26. In the case of small and vulnerable economies, a concrete proposal has been made recently. It has not yet been subject to consultation.
27. There is openness to the particular concerns of commodity-dependent developing and least-developed countries facing long-term decline and/or sharp fluctuations in prices. There is, at this point (where, overall, precise modalities are still pending), support for the view that such modalities should eventually be capable of addressing effectively key areas for them.³⁷

³⁷ This would appear to include in particular such a matter as tariff escalation, where it discourages the development of processing industries in the commodity producing countries. The idea of a review and clarification of what the current status is of GATT 1994 provisions relating to the stabilisation of prices through the adoption of supply management systems by producing countries, and the use of export taxes and restrictions under such systems is also on the table. Proponents would seek something more than this such as more concrete undertakings in the area of non-tariff measures and actual revision of existing provisions. There is, at this point, no consensus in these latter areas, but an appreciation at least of the underlying issues at stake.

Annex B

Market Access for Non-Agricultural Products

Report by the Chairman of the Negotiating Group on Market Access to the TNC

B. INTRODUCTION

1. A Chairman's commentary of the state of play of the NAMA negotiations was prepared in July 2005 and circulated in document JOB(05)/147 and Add.1 (hereinafter referred to as the "Chairman's commentary"). The current report, made on my responsibility, reflects the state of play of the NAMA negotiations at this juncture of the Doha Development Agenda, and supplements that commentary.

2. With an eye on the forthcoming Ministerial, Section B of this report attempts to highlight those areas of convergence and divergence on the elements of Annex B of Decision adopted by the General Council on 1 August 2004, (hereinafter referred to as the "NAMA framework"), and to provide some guidance as to what may be a possible future course of action with respect to some of the elements. Section C of the report provides some final remarks about possible action by Ministers at Hong Kong.

3. In preparing this report, use has been made of documents provided by Members (as listed in TN/MA/S/16/Rev.2) as well as the discussions in the open-ended sessions of the Group, plurilateral meetings and bilateral contacts, as long as they were not in the nature of confessionals.

C. SUMMARY OF THE STATE OF PLAY

4. Full modalities must have detailed language and, where required, final numbers on all elements of the NAMA framework. Such an agreement should also contain a detailed work plan concerning the process after the establishment of full modalities for the purpose of the submission, verification and annexation of Doha Schedules to a legal instrument. While acknowledging that progress has been made since the adoption of the NAMA framework, the establishment of full modalities is, at present, a difficult prospect given the lack of agreement on a number of elements in the NAMA framework including the formula, paragraph 8 flexibilities and unbound tariffs.

5. Regarding the structure of this section, generally Members recognize that the issues identified in the preceding paragraph are the three elements of the NAMA framework on which solutions are required as a matter of priority, and that there is a need to address them in an interlinked fashion. So, this report will commence with these three subjects before moving on to the other elements of the NAMA framework in the order in which they are presented therein.

Formula (paragraph 4 of the NAMA framework)

6. On the non-linear formula, there has been movement since the adoption of the NAMA framework. There is a more common understanding of the shape of the formula that Members are willing to adopt in these negotiations. In fact, Members have been focusing on a Swiss formula. During the past few months, much time and effort has been spent examining the impact of such a formula from both a defensive and offensive angle. In terms of the specifics of that formula, there are basically two variations on the table: a formula with a limited number of negotiated coefficients and a formula where the value of each country's coefficient would be based essentially on the tariff average of bound rates of that Member, resulting in multiple coefficients.

7. In order to move beyond a debate on the merits of the two options (and in recognition of the fact that what matters in the final analysis is the level of the coefficient) more recently Members have engaged in a discussion of numbers. Such a debate has been particularly helpful, especially as it demonstrated in a quantifiable manner to what extent the benchmarks established in paragraph 16 of the Doha Ministerial Declaration would be achieved. While it is evident that one of the characteristics of such a formula is to address tariff peaks, tariff escalation and high tariffs (as it brings down high tariffs more than low tariffs), one benchmark which has been the subject of differences of opinion has been that of "less than full reciprocity in reduction commitments" and how it should be measured. Some developing Members are of the view that this means less than average percentage cuts i.e. as translated through a higher coefficient in the formula, than those undertaken by developed country Members. However, the latter have indicated that there are other measurements of less than full reciprocity in reduction commitments including the final rates after the formula cut which in their markets would be less than in developing country markets. Also, in their view, such a measurement of less than full reciprocity in reduction commitments has to take into account not only the additional effort made by them in all areas but also of paragraph 8 flexibilities and the fact that several developing Members and the LDCs would be exempt from formula cuts.

8. Other objectives put forward by developed Members and some developing Members as being part of the Doha NAMA mandate are: harmonization of tariffs between Members; cuts into applied rates; and improvement of South-South trade. However, these objectives have been challenged by other developing Members who believe that, on the contrary, they are not part of that mandate.

9. During the informal discussions, many Members engaged in an exchange on the basis of an approach with two coefficients. In the context of such debates, the coefficients which were mentioned for developed Members fell generally within the range of 5 to 10, and for developing Members within the range of 15 to 30, although some developing Members did propose lower coefficients for developed Members and higher coefficients for developing Members. In addition, a developing country coefficient of 10 was also put forward by some developed Members. However, while this discussion of numbers is a positive development, the inescapable reality is that the range of coefficients is wide and reflects the divergence that exists as to Members' expectations regarding the contributions that their trading partners should be making.

Flexibilities for developing Members subject to a formula (paragraph 8 of the NAMA framework)

10. A central issue concerning the paragraph 8 flexibilities has been the question of linkage or non-linkage between these flexibilities and the coefficient in the formula. A view was expressed that the flexibilities currently provided for in paragraph 8 are equivalent to 4-5 additional points to the coefficient in the formula, and as a result there was need to take this aspect into account in the developing country coefficient. In response, the argument has been made by many developing Members that those flexibilities are a stand alone provision as reflected in the language of that provision, and should not be linked to the coefficient. Otherwise, this would amount to re-opening the NAMA framework. Some of those Members have also expressed the view that the numbers currently within square brackets are the minimum required for their sensitive tariff lines, and have expressed concern about the conditions attached to the use of such flexibilities, such as the capping of the import value. In response, the point has been made by developed Members that they are not seeking to remove the flexibilities under paragraph 8, and therefore are not re-opening the NAMA framework. They further point out that the numbers in paragraph 8 are within square brackets precisely to reflect the fact that they are not fixed and may need to be adjusted downwards depending on the level of the coefficient. In addition, the need for more transparency and predictability with regard to the tariff lines which would be covered by paragraph 8 flexibilities has been raised by some of these Members. Some developing Members have also advanced the idea that there should be the option for those developing Members not wanting to use paragraph 8 flexibilities to have recourse to a higher coefficient in the formula in the interest of having a balanced outcome.

Unbound Tariff Lines (paragraph 5, indent two of the NAMA framework)

11. There has been progress on the discussion of unbound tariff lines. There is an understanding that full bindings would be a desirable objective of the NAMA negotiations, and a growing sense that unbound tariff lines should be subject to formula cuts provided there is a pragmatic solution for those lines with low applied rates. However, some Members have stressed that their unbound tariff lines with high applied rates are also sensitive and due consideration should be given to those lines. There now appears to be a willingness among several Members to move forward on the basis of a non-linear mark-up approach to establish base rates, and in the case of some of these Members, provided that such an approach yields an equitable result. A non-linear mark-up approach envisages the addition of a certain number of percentage points to the applied rate of the unbound tariff line in order to establish the base rate on which the formula is to be applied. There are two variations of such an approach. In one case, a constant number of percentage points are added to the applied rate in order to establish the base rate. The other variation consists of having a different number of percentage points depending on the level of the applied rate. In other words, the lower the applied rate the higher the mark-up and the higher the applied rate, the lower the mark-up. There is also one proposal on the table of a target average approach where an average is established through the use of a formula, with the unbound tariff lines expected to have final bindings around that average.

12. On a practical level, in their discussions on unbound tariff lines, Members have been referring mostly to the constant mark-up methodology to establish base rates. In the context of such discussions, the number for the mark-up has ranged from 5 to 30 percentage points. Once again the gap between the two figures is wide, but Members have displayed willingness to be flexible.

Other elements of the formula (paragraph 5 of the NAMA framework)

13. Concerning product coverage (indent 1), Members have made good progress to establish a list of non-agricultural products as reflected in document JOB(05)/226/Rev.2. The main issue is whether the outcome of this exercise should be an agreed list or guidelines. It would appear that several Members are in favour of the former outcome, however, some have expressed their preference for the latter. In any event, there are only a limited number of items (17) on which differences exist and Members should try and resolve these differences as quickly as possible.

14. On ad valorem equivalents (indent 5), agreement was reached to convert non *ad valorem* duties to *ad valorem* equivalents on the basis of the methodology contained in JOB(05)/166/Rev.1 and to bind them in *ad valorem* terms. To date, four Members have submitted their preliminary AVE calculations, but there are many more due. Those Members would need to submit this information as quickly as possible so as to allow sufficient time for the multilateral verification process.

15. The subject of how credit is to be given for autonomous liberalization (indent 4) by developing countries provided that the tariff lines are bound on an MFN basis in the WTO since the conclusion of the Uruguay Round has not been discussed in detail since the adoption of the NAMA framework. However, this issue may be more usefully taken up once there is a clearer picture of the formula.

16. All the other elements of the formula such as tariff cuts commencing from bound rates after full implementation of current commitments (indent 2), the base year (indent 3), the nomenclature (indent 6) and reference period for import data (indent 7) have not been discussed any further since July 2004, as they were acceptable to Members as currently reflected in the NAMA framework.

Other flexibilities for developing Members

Members with low binding coverage (paragraph 6 of the NAMA framework)

17. A submission by a group of developing Members, covered under paragraph 6 provisions, was made in June 2005. The paper proposed that Members falling under this paragraph should be encouraged to substantially increase their binding coverage, and bind tariff lines at a level consistent with their individual development, trade, fiscal and strategic needs. A preliminary discussion of this proposal revealed that there were concerns about this proposal re-opening this paragraph by seeking to enhance the flexibilities contained therein. Further discussion of this proposal is required. However, it appears that the issue of concern to some of the paragraph 6 Members is not related so much to the full binding coverage, but rather to the average level at which these Members would be required to bind their tariffs.

Flexibilities for LDCs (paragraph 9 of the NAMA framework)

18. There appears to be a common understanding that LDCs will be the judge of the extent and level of the bindings that they make. At the same time, Members have indicated that this substantial increase of the binding commitments which LDCs are expected to undertake should be done with a good faith effort. In this regard, some yardsticks for this effort were mentioned including the coverage and level of bindings made in the Uruguay Round by other LDCs as well as the more recently acceded LDCs.

Small, vulnerable economies

19. A paper was submitted recently by a group of Members which proposes *inter alia* lesser and linear cuts to Members identified by a criterion using trade share. While some developing and developed Members were sympathetic to the situation of such Members, concerns were expressed with respect to the threshold used to establish eligibility, and also the treatment envisaged. Other developing Members expressed serious reservations about this proposal which in their view appeared to be creating a new category of developing Members, and to be further diluting the ambition of the NAMA negotiations. The sponsors of this proposal stressed that the small, vulnerable economies had characteristics which warranted special treatment.

20. This is an issue on which there is a serious divergence of opinion among developing Members. This subject will need to be debated further. Discussions may be facilitated through additional statistical analysis.

Sectorals (paragraph 7 of the NAMA framework)

21. It appears that good progress is being made on the sectoral tariff component of the NAMA negotiations. Work which is taking place in an informal Member-driven process has focused on *inter alia* identification of sectors, product coverage, participation, end rates and adequate provisions of flexibilities for developing countries. Besides the sectorals based on a critical mass approach identified in the Chairman's commentary – bicycles, chemicals, electronics/electrical equipment, fish, footwear, forest products, gems and jewellery, pharmaceuticals and medical equipment, raw materials and sporting goods – I understand that work is ongoing on other sectors namely apparel, auto/auto parts and textiles.

22. While this component of the NAMA negotiations is recognized in the NAMA framework to be a key element to delivering on the objectives of paragraph 16 of the Doha NAMA mandate, some developing Members have questioned the rationale of engaging in sectoral negotiations before having the formula finalized. Many have also re-iterated their view that sectorals are voluntary in nature. The point has also been made by other developing Members that sectorals harm smaller developing Members due to an erosion of their preferences. However, the proponents of such initiatives have argued that sectorals are another key element of the NAMA negotiations and an important modality for delivering on the elimination of duties as mandated in paragraph 16 of the Doha Ministerial Declaration. In addition, they

have pointed out that some of the sectorals were initiated by developing Members. Moreover, such initiatives require substantive work and were time-consuming to prepare. Concerning preference erosion, this was a cross-cutting issue.

23. Members will need to begin considering time-lines for the finalization of such work, and the submission of the outcomes which will be applied on an MFN basis.

Market Access for LDCs (paragraph 10 of the NAMA framework)

24. In the discussions on this subject, it was noted that the Committee on Trade and Development in Special Session is examining the question of duty-free and quota-free access for non-agricultural products originating from LDCs. Consequently, there is recognition by Members that the discussions in that Committee would most probably have an impact on this element of the NAMA framework, and would need to be factored in at the appropriate time.

Newly Acceded Members (paragraph 11 of the NAMA framework)

25. Members recognize the extensive market access commitments made by the NAMs at the time of their accession. From the discussions held on this subject, it was clarified that those NAMs which are developing Members have access to paragraph 8 flexibilities. As special provisions for tariff reductions for the NAMs, some Members are willing to consider longer implementation periods than those to be provided to developing Members. Other proposals such as a higher coefficient and "grace periods" for the NAMs were also put forward, but a number of Members have objected to these ideas. There has also been a submission by four low-income economies in transition who have requested to be exempt from formula cuts in light of their substantive contributions at the time of their WTO accession and the current difficult state of their economies. While some Members showed sympathy for the situation of these Members, they expressed the view that other solutions may be more appropriate. Some developing Members also expressed concern about this proposal creating a differentiation between Members. Further discussion is required on these issues.

NTBs (paragraph 14 of the NAMA framework)

26. Since adoption of the July 2004 framework, Members have been focusing their attention on non-tariff barriers in recognition of the fact that they are an integral and equally important part of the NAMA negotiations. Some Members claim that they constitute a greater barrier to their exports than tariffs. The Group has spent a considerable amount of time identifying, categorizing and examining the notified NTBs. Members are using bilateral, vertical and horizontal approaches to the NTB negotiations. For example, many Members are raising issues bilaterally with their trading partners. Vertical initiatives are ongoing on automobiles, electronic products and wood products. There have been some proposals of a horizontal nature concerning export taxes, export restrictions and remanufactured products. On export taxes, some Members have expressed the view that such measures fall outside the mandate of the NAMA negotiations. Some Members have also raised in other Negotiating Groups some of the NTBs they had notified initially in the context of the NAMA negotiations. For example, a number of trade facilitation measures are now being examined in the Negotiating Group on Trade Facilitation. Some other Members have also indicated their intention to bring issues to the regular WTO Committees. NTBs currently proposed for negotiation in the NAMA Group are contained in document JOB(05)/85/Rev.3.

27. Some proposals have been made of a procedural nature in order to expedite the NTB work, including a suggestion to hold dedicated NTB sessions. Further consideration will need to be given to this and other proposals. Members will also need to begin considering some time-lines for the submission of specific negotiating proposals and NTB outcomes.

Appropriate Studies and Capacity Building Measures (paragraph 15 of the NAMA framework)

28. There has been no discussion as such on this element as it is an ongoing and integral part of the negotiating process. Several papers have been prepared by the Secretariat during the course of the negotiations and capacity building activities by the Secretariat have increased considerably since the launch of the Doha Development Agenda. Such activities will need to continue taking into account the evolution of the negotiations.

Non-reciprocal preferences (paragraph 16 of the NAMA framework)

29. In response to calls by some Members for a better idea of the scope of the problem, the ACP Group circulated an indicative list of products (170 HS 6-digit tariff lines) vulnerable to preference erosion in the EC and US markets as identified through a vulnerability index. Simulations were also submitted by the African Group. Some developing Members expressed concern that the tariff lines listed covered the majority of their exports, or covered critical exports to those markets and were also precisely the lines on which they sought MFN cuts. As a result, for these Members, it was impossible to entertain any solution which related to less than full formula cuts or longer staging. In this regard, concern was expressed by them that non-trade solutions were not being examined. For the proponents of the issue, a trade solution was necessary as this was a trade problem. According to them, their proposal would not undermine trade liberalization because they were seeking to manage such liberalization on a limited number of products.

30. This subject is highly divisive precisely because the interests of the two groups of developing Members are in direct conflict. Additionally, it is a cross-cutting issue which makes it even more sensitive. While, the aforementioned list of products has been helpful in providing a sense of the scope of the problem and may help Members to engage in a more focused discussion, it is clear that pragmatism will need to be shown by all concerned.

Environmental Goods (paragraph 17 of the NAMA framework)

31. Since the adoption of the July framework in 2004, limited discussions have been held on this subject in the Group. However, it is noted that much work under paragraph 31(iii) of the Doha Ministerial Declaration has been undertaken by the Committee on Trade and Environment in Special Session. There would need to be close coordination between the two negotiating groups and a stock taking of the work undertaken in that Committee would be required at the appropriate time by the NAMA Negotiating Group.

Other elements of the NAMA framework

32. On the other elements of the NAMA framework, such as supplementary modalities (paragraph 12), elimination of low duties (paragraph 13) and tariff revenue dependency (paragraph 16) the Group has not had a substantive debate. This has in part to do with the nature of the issue or because more information is required from the proponents. Regarding supplementary modalities, such modalities will become more relevant once the formula has been finalized. On elimination of low duties, this issue may be more suitable to consider once there is a better sense of the likely outcome of the NAMA negotiations. On tariff revenue dependency, more clarity is required from the proponents on the nature and scope of the problem.

D. FINAL REMARKS

33. As may be observed from the above report, Members are far away from achieving full modalities. This is highly troubling. It will take a major effort by all if the objective of concluding the NAMA negotiations by the end of 2006 is to be realized.

34. To this end, I would highlight as a critical objective for Hong Kong a common understanding on the formula, paragraph 8 flexibilities and unbound tariffs. It is crucial that Ministers move decisively on these elements so that the overall outcome is acceptable to all. This will give the necessary impetus to try and fulfil at a date soon thereafter the objective of full modalities for the NAMA negotiations.

35. Specifically, Ministers should:

- Obtain agreement on the final structure of the formula and narrow the range of numbers.
- Resolve their basic differences over paragraph 8 flexibilities.
- Clarify whether the constant mark-up approach is the way forward, and if so, narrow the range of numbers.

Annex C

Services

Objectives

1. In order to achieve a progressively higher level of liberalization of trade in services, with appropriate flexibility for individual developing country Members, we agree that Members should be guided, to the maximum extent possible, by the following objectives in making their new and improved commitments:

- (a) Mode 1
 - (i) commitments at existing levels of market access on a non-discriminatory basis across sectors of interest to Members
 - (ii) removal of existing requirements of commercial presence
- (b) Mode 2
 - (i) commitments at existing levels of market access on a non-discriminatory basis across sectors of interest to Members
 - (ii) commitments on mode 2 where commitments on mode 1 exist
- (c) Mode 3
 - (i) commitments on enhanced levels of foreign equity participation
 - (ii) removal or substantial reduction of economic needs tests
 - (iii) commitments allowing greater flexibility on the types of legal entity permitted
- (d) Mode 4
 - (i) new or improved commitments on the categories of Contractual Services Suppliers, Independent Professionals and Others, de-linked from commercial presence, to reflect *inter alia*:
 - removal or substantial reduction of economic needs tests
 - indication of prescribed duration of stay and possibility of renewal, if any
 - (ii) new or improved commitments on the categories of Intra-corporate Transferees and Business Visitors, to reflect *inter alia*:
 - removal or substantial reduction of economic needs tests
 - indication of prescribed duration of stay and possibility of renewal, if any
- (e) MFN Exemptions

- (i) removal or substantial reduction of exemptions from most-favoured-nation (MFN) treatment
 - (ii) clarification of remaining MFN exemptions in terms of scope of application and duration
- (f) Scheduling of Commitments
 - (i) ensuring clarity, certainty, comparability and coherence in the scheduling and classification of commitments through adherence to, *inter alia*, the Scheduling Guidelines pursuant to the Decision of the Council for Trade in Services adopted on 23 March 2001
 - (ii) ensuring that scheduling of any remaining economic needs tests adheres to the Scheduling Guidelines pursuant to the Decision of the Council for Trade in Services adopted on 23 March 2001.

2. As a reference for the request-offer negotiations, the sectoral and modal objectives as identified by Members may be considered.³⁸

3. Members shall pursue full and effective implementation of the Modalities for the Special Treatment for Least-Developed Country Members in the Negotiations on Trade in Services (LDC Modalities) adopted by the Special Session of the Council for Trade in Services on 3 September 2003, with a view to the beneficial and meaningful integration of LDCs into the multilateral trading system.

4. Members must intensify their efforts to conclude the negotiations on rule-making under GATS Articles X, XIII, and XV in accordance with their respective mandates and timelines:

- (a) Members should engage in more focused discussions in connection with the technical and procedural questions relating to the operation and application of any possible emergency safeguard measures in services.
- (b) On government procurement, Members should engage in more focused discussions and in this context put greater emphasis on proposals by Members, in accordance with Article XIII of the GATS.
- (c) On subsidies, Members should intensify their efforts to expedite and fulfil the information exchange required for the purpose of such negotiations, and should engage in more focused discussions on proposals by Members, including the development of a possible working definition of subsidies in services.

5. Members shall develop disciplines on domestic regulation pursuant to the mandate under Article VI:4 of the GATS before the end of the current round of negotiations. We call upon Members to develop text for adoption. In so doing, Members shall consider proposals and the illustrative list of possible elements for Article VI:4 disciplines.³⁹

³⁸ As attached to the Report by the Chairman to the Trade Negotiations Committee on 28 November 2005, contained in document TN/S/23. This attachment has no legal standing.

³⁹ As attached to the Report of the Chairman of the Working Party on Domestic Regulation to the Special Session of the Council for Trade in Services on 15 November 2005, contained in document JOB(05)/280.

Approaches

6. Pursuant to the principles and objectives above, we agree to intensify and expedite the request-offer negotiations, which shall remain the main method of negotiation, with a view to securing substantial commitments.

7. In addition to bilateral negotiations, we agree that the request-offer negotiations should also be pursued on a plurilateral basis in accordance with the principles of the GATS and the Guidelines and Procedures for the Negotiations on Trade in Services. The results of such negotiations shall be extended on an MFN basis. These negotiations would be organized in the following manner:

- (a) Any Member or group of Members may present requests or collective requests to other Members in any specific sector or mode of supply, identifying their objectives for the negotiations in that sector or mode of supply.
- (b) Members to whom such requests have been made shall consider such requests in accordance with paragraphs 2 and 4 of Article XIX of the GATS and paragraph 11 of the Guidelines and Procedures for the Negotiations on Trade in Services.
- (c) Plurilateral negotiations should be organised with a view to facilitating the participation of all Members, taking into account the limited capacity of developing countries and smaller delegations to participate in such negotiations.

8. Due consideration shall be given to proposals on trade-related concerns of small economies.

9. Members, in the course of negotiations, shall develop methods for the full and effective implementation of the LDC Modalities, including expeditiously:

- (a) Developing appropriate mechanisms for according special priority including to sectors and modes of supply of interest to LDCs in accordance with Article IV:3 of the GATS and paragraph 7 of the LDC Modalities.
- (b) Undertaking commitments, to the extent possible, in such sectors and modes of supply identified, or to be identified, by LDCs that represent priority in their development policies in accordance with paragraphs 6 and 9 of the LDC Modalities.
- (c) Assisting LDCs to enable them to identify sectors and modes of supply that represent development priorities.
- (d) Providing targeted and effective technical assistance and capacity building for LDCs in accordance with the LDC Modalities, particularly paragraphs 8 and 12.
- (e) Developing a reporting mechanism to facilitate the review requirement in paragraph 13 of the LDC Modalities.

10. Targeted technical assistance should be provided through, *inter alia*, the WTO Secretariat, with a view to enabling developing and least-developed countries to participate effectively in the negotiations. In particular and in accordance with paragraph 51 on Technical Cooperation of this Declaration, targeted technical assistance should be given to all developing countries allowing them to fully engage in the negotiation. In addition, such assistance should be provided on, *inter alia*, compiling and analyzing statistical data on trade in services, assessing interests in and gains from services trade, building regulatory capacity, particularly on those services sectors where liberalization is being undertaken by developing countries.

Timelines

11. Recognizing that an effective timeline is necessary in order to achieve a successful conclusion of the negotiations, we agree that the negotiations shall adhere to the following dates:

- (a) Any outstanding initial offers shall be submitted as soon as possible.
- (b) Groups of Members presenting plurilateral requests to other Members should submit such requests by 28 February 2006 or as soon as possible thereafter.
- (c) A second round of revised offers shall be submitted by 31 July 2006.
- (d) Final draft schedules of commitments shall be submitted by 31 October 2006.
- (e) Members shall strive to complete the requirements in 9(a) before the date in 11(c).

Review of Progress

12. The Special Session of the Council for Trade in Services shall review progress in the negotiations and monitor the implementation of the Objectives, Approaches and Timelines set out in this Annex.

Annex D

Rules

I. Anti-Dumping and Subsidies and Countervailing Measures including Fisheries Subsidies

We:

1. *acknowledge* that the achievement of substantial results on all aspects of the Rules mandate, in the form of amendments to the Anti-Dumping (AD) and Subsidies and Countervailing Measures (SCM) Agreements, is important to the development of the rules-based multilateral trading system and to the overall balance of results in the DDA;
2. *aim* to achieve in the negotiations on Rules further improvements, in particular, to the transparency, predictability and clarity of the relevant disciplines, to the benefit of all Members, including in particular developing and least-developed Members. In this respect, the development dimension of the negotiations must be addressed as an integral part of any outcome;
3. *call on* Participants, in considering possible clarifications and improvements in the area of anti-dumping, to take into account, *inter alia*, (a) the need to avoid the unwarranted use of anti-dumping measures, while preserving the basic concepts, principles and effectiveness of the instrument and its objectives where such measures are warranted; and (b) the desirability of limiting the costs and complexity of proceedings for interested parties and the investigating authorities alike, while strengthening the due process, transparency and predictability of such proceedings and measures;
4. *consider* that negotiations on anti-dumping should, as appropriate, clarify and improve the rules regarding, *inter alia*, (a) determinations of dumping, injury and causation, and the application of measures; (b) procedures governing the initiation, conduct and completion of antidumping investigations, including with a view to strengthening due process and enhancing transparency; and (c) the level, scope and duration of measures, including duty assessment, interim and new shipper reviews, sunset, and anti-circumvention proceedings;
5. *recognize* that negotiations on anti-dumping have intensified and deepened, that Participants are showing a high level of constructive engagement, and that the process of rigorous discussion of the issues based on specific textual proposals for amendment to the AD Agreement has been productive and is a necessary step in achieving the substantial results to which Ministers are committed;
6. *note* that, in the negotiations on anti-dumping, the Negotiating Group on Rules has been discussing in detail proposals on such issues as determinations of injury/causation, the lesser duty rule, public interest, transparency and due process, interim reviews, sunset, duty assessment, circumvention, the use of facts available, limited examination and all others rates, dispute settlement, the definition of dumped imports, affiliated parties, product under consideration, and the initiation and completion of investigations, and that this process of discussing proposals before the Group or yet to be submitted will continue after Hong Kong;
7. *note*, in respect of subsidies and countervailing measures, that while proposals for amendments to the SCM Agreement have been submitted on a number of issues, including the definition of a subsidy, specificity, prohibited subsidies, serious prejudice, export credits and guarantees, and the

allocation of benefit, there is a need to deepen the analysis on the basis of specific textual proposals in order to ensure a balanced outcome in all areas of the Group's mandate;

8. *note* the desirability of applying to both anti-dumping and countervailing measures any clarifications and improvements which are relevant and appropriate to both instruments;
9. *recall* our commitment at Doha to enhancing the mutual supportiveness of trade and environment, *note* that there is broad agreement that the Group should strengthen disciplines on subsidies in the fisheries sector, including through the prohibition of certain forms of fisheries subsidies that contribute to overcapacity and over-fishing, and *call on* Participants promptly to undertake further detailed work to, *inter alia*, establish the nature and extent of those disciplines, including transparency and enforceability. Appropriate and effective special and differential treatment for developing and least-developed Members should be an integral part of the fisheries subsidies negotiations, taking into account the importance of this sector to development priorities, poverty reduction, and livelihood and food security concerns;
10. *direct* the Group to intensify and accelerate the negotiating process in all areas of its mandate, on the basis of detailed textual proposals before the Group or yet to be submitted, and complete the process of analysing proposals by Participants on the AD and SCM Agreements as soon as possible;
11. *mandate* the Chairman to prepare, early enough to assure a timely outcome within the context of the 2006 end date for the Doha Development Agenda and taking account of progress in other areas of the negotiations, consolidated texts of the AD and SCM Agreements that shall be the basis for the final stage of the negotiations.

II. Regional Trade Agreements

1. We welcome the progress in negotiations to clarify and improve the WTO's disciplines and procedures on regional trade agreements (RTAs). Such agreements, which can foster trade liberalization and promote development, have become an important element in the trade policies of virtually all Members. Transparency of RTAs is thus of systemic interest as are disciplines that ensure the complementarity of RTAs with the WTO.

2. We commend the progress in defining the elements of a transparency mechanism for RTAs, aimed, in particular, at improving existing WTO procedures for gathering factual information on RTAs, without prejudice to the rights and obligations of Members. We instruct the Negotiating Group on Rules to intensify its efforts to resolve outstanding issues, with a view to a provisional decision on RTA transparency by 30 April 2006.

3. We also note with appreciation the work of the Negotiating Group on Rules on WTO's disciplines governing RTAs, including *inter alia* on the "substantially all the trade" requirement, the length of RTA transition periods and RTA developmental aspects. We instruct the Group to intensify negotiations, based on text proposals as soon as possible after the Sixth Ministerial Conference, so as to arrive at appropriate outcomes by end 2006.

Annex E

Trade Facilitation

Report by the Negotiating Group on Trade Facilitation to the TNC

1. Since its establishment on 12 October 2004, the Negotiating Group on Trade Facilitation met eleven times to carry out work under the mandate contained in Annex D of the Decision adopted by the General Council on 1 August 2004. The negotiations are benefiting from the fact that the mandate allows for the central development dimension of the Doha negotiations to be addressed directly through the widely acknowledged benefits of trade facilitation reforms for all WTO Members, the enhancement of trade facilitation capacity in developing countries and LDCs, and provisions on special and differential treatment (S&DT) that provide flexibility. Based on the Group's Work Plan (TN/TF/1), Members contributed to the agreed agenda of the Group, tabling 60 written submissions sponsored by more than 100 delegations. Members appreciate the transparent and inclusive manner in which the negotiations are being conducted.

2. Good progress has been made in all areas covered by the mandate, through both verbal and written contributions by Members. A considerable part of the Negotiating Group's meetings has been spent on addressing the negotiating objective of improving and clarifying relevant aspects of GATT Articles V, VIII and X, on which about 40 written submissions⁴⁰ have been tabled by Members representing the full spectrum of the WTO's Membership. Through discussions on these submissions and related questions and answers (JOB(05)/222), Members have advanced their understanding of the measures in question and are working towards common ground on many aspects of this part of the negotiating mandate. Many of these submissions also covered the negotiating objective of enhancing technical assistance and support for capacity building on trade facilitation, as well as the practical application of the principle of S&DT. The Group also discussed other valuable submissions dedicated to these issues.⁴¹ Advances have also been made on the objective of arriving at provisions for effective cooperation between customs or any other appropriate authorities on trade facilitation and customs compliance issues, where two written proposals have been discussed.⁴² Members have also made valuable contributions on the identification of trade facilitation needs and priorities, development aspects, cost implications and inter-agency cooperation.⁴³

3. Valuable input has been provided by a number of Members in the form of national experience papers⁴⁴ describing national trade facilitation reform processes. In appreciation of the value to developing countries and LDCs of this aspect of the negotiations, the Negotiating Group recommends that Members be encouraged to continue this information sharing exercise.

4. Building on the progress made in the negotiations so far, and with a view to developing a set of multilateral commitments on all elements of the mandate, the Negotiating Group recommends that it continue to intensify its negotiations on the basis of Members' proposals, as reflected currently in document TN/TF/W/43/Rev.4, and any new proposals to be presented. Without prejudice to individual Member's positions on individual proposals, a list of (I) proposed measures to improve and clarify GATT Articles V, VIII and X; (II) proposed provisions for effective cooperation between customs and other

⁴⁰ TN/TF/W/6-W/15, W/17-W/26, W/28, W/30-W32, W/34-36, W/38-W/40, W/42, W/44-W/49, W/53, W/55, W/58, W/60-W/62, W/64-W/67, W/69, W/70.

⁴¹ TN/TF/W/33, W/41, W/56, W/63, W/73 and W/74.

⁴² TN/TF/W/57 and W/68.

⁴³ TN/TF/W/29, W/33, W/41, W/62 and W/63.

⁴⁴ TN/TF/W/48, W/50, W/53, W/55, W/58, W/60, W/61, W/65, W/69 and W/75.

authorities on trade facilitation and customs compliance; and, (III) cross-cutting submissions; is provided below to facilitate further negotiations. In carrying out this work and in tabling further proposals, Members should be mindful of the overall deadline for finishing the negotiations and the resulting need to move into focussed drafting mode early enough after the Sixth Ministerial Conference so as to allow for a timely conclusion of text-based negotiations on all aspects of the mandate.

5. Work needs to continue and broaden on the process of identifying individual Member's trade facilitation needs and priorities, and the cost implications of possible measures. The Negotiating Group recommends that relevant international organizations be invited to continue to assist Members in this process, recognizing the important contributions being made by them already, and be encouraged to continue and intensify their work more generally in support of the negotiations.

6. In light of the vital importance of technical assistance and capacity building to allow developing countries and LDCs to fully participate in and benefit from the negotiations, the Negotiating Group recommends that the commitments in Annex D's mandate in this area be reaffirmed, reinforced and made operational in a timely manner. To bring the negotiations to a successful conclusion, special attention needs to be paid to support for technical assistance and capacity building that will allow developing countries and LDCs to participate effectively in the negotiations, and to technical assistance and capacity building to implement the results of the negotiations that is precise, effective and operational, and reflects the trade facilitation needs and priorities of developing countries and LDCs. Recognizing the valuable assistance already being provided in this area, the Negotiating Group recommends that Members, in particular developed ones, continue to intensify their support in a comprehensive manner and on a long-term and sustainable basis, backed by secure funding.

7. The Negotiating Group also recommends that it deepen and intensify its negotiations on the issue of S&DT, with a view to arriving at S&DT provisions that are precise, effective and operational and that allow for necessary flexibility in implementing the results of the negotiations. Reaffirming the linkages among the elements of Annex D, the Negotiating Group recommends that further negotiations on S&DT build on input presented by Members in the context of measures related to GATT Articles V, VIII and X and in their proposals of a cross-cutting nature on S&DT.

PROPOSED MEASURES TO IMPROVE AND CLARIFY GATT ARTICLES V, VIII AND X

A. PUBLICATION AND AVAILABILITY OF INFORMATION

- Publication of Trade Regulations
- Publication of Penalty Provisions
- Internet Publication
 - (a) of elements set out in Article X of GATT 1994
 - (b) of specified information setting forth procedural sequence and other requirements for importing goods
- Notification of Trade Regulations
- Establishment of Enquiry Points/SNFP/Information Centres
- Other Measures to Enhance the Availability of Information

B. TIME PERIODS BETWEEN PUBLICATION AND IMPLEMENTATION

- Interval between Publication and Entry into Force

C. CONSULTATION AND COMMENTS ON NEW AND AMENDED RULES

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

D. ADVANCE RULINGS

- Provision of Advance Rulings

E. APPEAL PROCEDURES

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

F. OTHER MEASURES TO ENHANCE IMPARTIALITY AND NON-DISCRIMINATION

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

G. FEES AND CHARGES CONNECTED WITH IMPORTATION AND EXPORTATION

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

H. FORMALITIES CONNECTED WITH IMPORTATION AND EXPORTATION

- Disciplines on Formalities/Procedures and Data/Documentation Requirements Connected with Importation and Exportation
 - (a) Non-discrimination
 - (b) Periodic Review of Formalities and Requirements
 - (c) Reduction/Limitation of Formalities and Documentation Requirements
 - (d) Use of International Standards
 - (e) Uniform Customs Code
 - (f) Acceptance of Commercially Available Information and of Copies
 - (g) Automation
 - (h) Single Window/One-time Submission
 - (i) Elimination of Pre-Shipment Inspection

(j) Phasing out Mandatory Use of Customs Brokers

I. CONSULARIZATION

- Prohibition of Consular Transaction Requirement

J. BORDER AGENCY COOPERATION

- Coordination of Activities and Requirement of all Border Agencies

K. RELEASE AND CLEARANCE OF GOODS

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

L. TARIFF CLASSIFICATION

- Objective Criteria for Tariff Classification

M. MATTERS RELATED TO GOODS TRANSIT

- Strengthened Non-discrimination
- Disciplines on Fees and Charges
 - (a) Publication of Fees and Charges and Prohibition of Unpublished ones
 - (b) Periodic Review of Fees and Charges
 - (c) More effective Disciplines on Charges for Transit
 - (d) Periodic Exchange Between Neighbouring Authorities
- Disciplines on Transit Formalities and Documentation Requirements
 - (a) Periodic Review
 - (b) Reduction/Simplification
 - (c) Harmonization/Standardization
 - (d) Promotion of Regional Transit Arrangements
 - (e) Simplified and Preferential Clearance for Certain Goods
 - (f) Limitation of Inspections and Controls
 - (g) Sealing
 - (h) Cooperation and Coordination on Document Requirements
 - (i) Monitoring
 - (j) Bonded Transport Regime/Guarantees
- Improved Coordination and Cooperation
 - (a) Amongst Authorities
 - (b) Between Authorities and the Private Sector
- Operationalization and Clarification of Terms

II. PROPOSED PROVISIONS FOR EFFECTIVE COOPERATION BETWEEN CUSTOMS AND OTHER AUTHORITIES ON TRADE FACILITATION AND CUSTOMS COMPLIANCE

- Multilateral Mechanism for the Exchange and Handling of Information

III. CROSS-CUTTING SUBMISSIONS

1. Needs and Priorities Identification

- General tool to assess needs and priorities and current levels of trade facilitation
- Take result of assessment as one basis for establishing trade facilitation rules, arranging S&D treatment and providing technical assistance and capacity building support

2. Technical Assistance and Capacity Building

- Technical Assistance and Capacity Building in the Course of the Negotiations

- Identification of Needs and Priorities
- Compilation of Needs and Priorities of Individual Members
- Support for Clarification and Educative Process Including Training

- Technical Assistance and Capacity Building Beyond the Negotiations Phase

- Implementation of the Outcome
- Coordination Mechanisms for Implementing Needs and Priorities as well as Commitments

3. Multiple-Areas

- Identification of Trade Facilitation Needs and Priorities of Members
- Cost Assessment
- Inter-Agency Cooperation
- Links and Inter-relationship between the Elements of Annex D
- Inventory of Trade Facilitation Measures
- Assessment of the Current Situation
- Timing and Sequencing of Measures

Annex F

Special and Differential Treatment

LDC Agreement-specific Proposals

23) Understanding in Respect of Waivers of Obligations under the GATT 1994

- (i) We agree that requests for waivers by least-developed country Members under Article IX of the WTO Agreement and the Understanding in respect of Waivers of Obligations under the GATT 1994 shall be given positive consideration and a decision taken within 60 days.
- (ii) When considering requests for waivers by other Members exclusively in favour of least-developed country Members, we agree that a decision shall be taken within 60 days, or in exceptional circumstances as expeditiously as possible thereafter, without prejudice to the rights of other Members.

36) Decision on Measures in Favour of Least-Developed Countries

We agree that developed-country Members shall, and developing-country Members declaring themselves in a position to do so should:

- (a) (i) Provide duty-free and quota-free market access on a lasting basis, for all products originating from all LDCs by 2008 or no later than the start of the implementation period in a manner that ensures stability, security and predictability.
- (ii) Members facing difficulties at this time to provide market access as set out above shall provide duty-free and quota-free market access for at least 97 per cent of products originating from LDCs, defined at the tariff line level, by 2008 or no later than the start of the implementation period. In addition, these Members shall take steps to progressively achieve compliance with the obligations set out above, taking into account the impact on other developing countries at similar levels of development, and, as appropriate, by incrementally building on the initial list of covered products.
- (iii) Developing-country Members shall be permitted to phase in their commitments and shall enjoy appropriate flexibility in coverage.
- (b) Ensure that preferential rules of origin applicable to imports from LDCs are transparent and simple, and contribute to facilitating market access.

Members shall notify the implementation of the schemes adopted under this decision every year to the Committee on Trade and Development. The Committee on Trade and Development shall annually review the steps taken to provide duty-free and quota-free market access to the LDCs and report to the General Council for appropriate action.

We urge all donors and relevant international institutions to increase financial and technical support aimed at the diversification of LDC economies, while providing additional financial and technical assistance through appropriate delivery mechanisms to meet their implementation obligations, including fulfilling SPS and TBT requirements, and to assist them in managing their adjustment processes, including those necessary to face the results of MFN multilateral trade liberalisation.

38) Decision on Measures in Favour of Least-Developed Countries

It is reaffirmed that least-developed country Members will only be required to undertake commitments and concessions to the extent consistent with their individual development, financial or trade needs, or their administrative and institutional capacities.

Within the context of coherence arrangements with other international institutions, we urge donors, multilateral agencies and international financial institutions to coordinate their work to ensure that LDCs are not subjected to conditionalities on loans, grants and official development assistance that are inconsistent with their rights and obligations under the WTO Agreements.

84) Agreement on Trade-Related Investment Measures

LDCs shall be allowed to maintain on a temporary basis existing measures that deviate from their obligations under the TRIMs Agreement. For this purpose, LDCs shall notify the Council for Trade in Goods (CTG) of such measures within two years, starting 30 days after the date of this declaration. LDCs will be allowed to maintain these existing measures until the end of a new transition period, lasting seven years. This transition period may be extended by the CTG under the existing procedures set out in the TRIMs Agreement, taking into account the individual financial, trade, and development needs of the Member in question.

LDCs shall also be allowed to introduce new measures that deviate from their obligations under the TRIMs Agreement. These new TRIMs shall be notified to the CTG no later than six months after their adoption. The CTG shall give positive consideration to such notifications, taking into account the individual financial, trade, and development needs of the Member in question. The duration of these measures will not exceed five years, renewable subject to review and decision by the CTG.

Any measures incompatible with the TRIMs Agreement and adopted under this decision shall be phased out by year 2020.

88) Decision on Measures in Favour of Least-Developed Countries–Paragraph 1

Least-developed country Members, whilst reaffirming their commitment to the fundamental principles of the WTO and relevant provisions of GATT 1994, and while complying with the general rules set out in the aforesaid instruments, will only be required to undertake commitments and concessions to the extent consistent with their individual development, financial and trade needs, and their administrative and institutional capabilities. Should a least-developed country Member find that it is not in a position to comply with a specific obligation or commitment on these grounds, it shall bring the matter to the attention of the General Council for examination and appropriate action.

We agree that the implementation by LDCs of their obligations or commitments will require further technical and financial support directly related to the nature and scope of such obligations or commitments, and direct the WTO to coordinate its efforts with donors and relevant agencies to significantly increase aid for trade-related technical assistance and capacity building.

**U.S. SUBMISSIONS TO THE WTO IN SUPPORT
OF THE DOHA DEVELOPMENT AGENDA**
(WTO Document Symbol in Parentheses)

Committee on Agriculture, Special Session

- Export Competition, Market Access and Domestic Support (JOB(02)/122)
- Joint EC-US Paper on Agriculture (JOB(03)/157)
- Proposal for Tariff Rate Quota Reform (G/AG/NG/W/58)
- Proposal for Comprehensive Long-Term Agricultural Trade Reform (G/AG/NG/W/15)
- Note on Domestic Support Reform (G/AG/NG/W/16)
- Tariff Quota Administration (JOB(06)/188)
- Domestic Support Simulations – Simulations (JOB(06)/186)
- Tariff Quota Administration - Communication by the United States (JOB(06)/184)
- Comments on Food Aid (JOB(06)/183)
- Agriculture Domestic Support Simulations – Simulations (JOB(06)/151)
- Applied Tariff Simulations - Agriculture - Summary of Results (JOB(06)/152)
- United States Communication on Special Products (JOB(06)/137)
- United States Communication on Export Credits, Export Credit Guarantees or Insurance Programs (JOB(06)/119)
- United States Communication on State Trading Export Enterprises (JOB(06)/79)
- United States Communication on Domestic Support - Annex 2 - Domestic Support: The Basis for Exemption from the Reduction Commitments (JOB(06)/80)
- United States' Communication on Food Aid (JOB(06)/78)
- Market Access Simulations – Simulations (JOB(06)/63)

Council on Trade in Services, Special Session

- Framework for Negotiation (S/CSS/W/4)
- Proposals for Negotiation (JOB(00)/8376)
- Accounting Services (S/CSS/W/20)
- Audiovisual and Related Services (S/CSS/W/21)
- Distribution Services (S/CSS/W/22)
- Higher (Tertiary) Education, Adult Education and Training (S/CSS/W/23)
- Energy Services (S/CSS/W/24)
- Environmental Services (S/CSS/W/25)
- Express Delivery Services (S/CSS/W/26)
- Financial Services (S/CSS/W/27)
- Legal Services (S/CSS/W/28)
- Movement of Natural Persons (S/CSS/W/29)
- Market Access in Telecommunications and Complementary Services (S/CSS/W/30)
- Tourism and Hotels (S/CSS/W/31)
- Transparency in Domestic Regulation (S/CSS/W/102)
- Advertising and Related Services (S/CSS/W/100)
- Desirability of a Safeguard Mechanism for Services: Promoting Liberalization of Trade in Services (S/WPGR/W/37)
- Modalities for the Special Treatment For Least-Developed Country Members in the Negotiations on Trade In Services – JOB(03)/133
- U.S. Government Points of Contact in Least-Developed Country Members (JOB (03)/33)
- Proposed Guide for Scheduling Commitments on Energy Services in the WTO (JOB(03)/89)

- Small and Medium Sized Enterprises (TN/S/W/5)
- Initial Offer (TN/S/O/USA)
- An Assessment of Services Trade and Liberalization in the United States and Developing Economies (TN/S/W/12)
- Joint Statement on Market Access in Services (JOB(04)/176)
- U.S. Proposal for Transparency Disciplines in Domestic Regulation: Building on Existing International Disciplines and Proposals (JOB(04)/128)
- Communication from the United States: Horizontal Transparency Disciplines in Domestic Regulation (JOB(06)/182)
- Outline of the U.S. position on a Draft Consolidated Text in the WPDR (JOB(06)/223)
- Classification in the Telecommunications Sector under the WTO-GATS Framework (TN/S/W/35 and S/CSC/W/45)
- Guidelines for Scheduling Commitments Concerning Postal and Courier Services, including Express Delivery (TN/S/W/30)
- Joint Statement on Liberalization of Logistics Services (TN/S/W/34)
- Joint Statement on Legal Services (TN/S/W/37 and S/CSC/W/46)
- Legal Services – Objectives for Further Liberalisation and Limitations to be Removed (JOB(05)/276)
- Joint Statement on Liberalization of Construction and Related Engineering Services (JOB(05)/130)
- Joint Statement on Liberalization of Financial Services (JOB(05)/17)
- Working Toward a Productive Information Exchange (in the Working Party on GATS Rules) (JOB(05)/5)
- Statement on Services of Common Interest in the Energy Sector (JOB(06)/17)
- Implementation of the Modalities for the Special Treatment for Least Developed Country Members in the Trade in Services Negotiations (JOB(06)/77)
- Revised Services Offer (TN/S/O/USA/Rev.1)

Negotiating Group on Market Access

- Tariffs & Trade Data Needs Assessment (TN/MA/W/2)
- Negotiations on Environmental Goods (TN/MA/W/3 and TN/TE/W/8)
- Modalities Proposal (TN/MA/W/18)
- Proposal on Modalities for Addressing Non-Tariff Barriers (NTBs) (TN/MA/W/18/Add.1)
- Revenue Implications of Trade Liberalization (TN/MA/W/18/Add.2)
- Vertical NTB Modality (TN/MA/W/18/Add.3)
- Contribution on an Environmental Goods Modality (TN/TE/W/38) & (TN/MA/W/18/Add.5)
- Liberalizing Trade in Environmental Goods (TN/MA/W/3, TN/MA/W/18/Add.4, Add.5, and Add.7)
- Non-Tariff Barrier Notifications (TN/MA/W/46/Add.8)
- Non-Tariff Barrier Notifications – Revision (TN/MA/W/46/Add.8/Rev.1)
- Non-Agricultural Market Access: Modalities (TN/MA/W/44)
- Contribution by Canada, European Communities and United States, Non-Agricultural Market Access: Modalities (JOB(03)/163)
- Progress Report: Discussions on Forestry NTBs (TN/MA/W/48/Add.1)
- Negotiating NTBs Related to Remanufacturing and Refurbishing (TN/MA/W/18/Add.11)
- A View To Harmonize Textile, Apparel, and Footwear Labeling Requirements (TN/MA/W/18/Add.12)
- Progress Report: WTO NAMA Discussions on Autos NTBs (TN/MA/W/18/Add.9)
- Tariff Elimination in the Gems and Jewelry Sector (TN/MA/W/61)
- Tariff Liberalization in the Forest Products Sector (TN/MA/W/64)
- Tariff Elimination in the Electronics/Electrical Sector (TN/MA/W/59)

- Initial List of Environmental Goods (TN/MA/W/18/Add.7 or TN/TE/W/52)
- Treatment of Non Ad Valorem Technical Tariffs (TN/MA/W/18/Add.8)
- Tariff Liberalization in the Chemicals Sector (TN/MA/W/58)
- How to Create a Critical Mass Sectoral Initiative (TN/MA/W/55)
- U.S. Proposal on Negotiating NTBs Related to the Auto Sector (TN/MA/W/18/Add.6)
- Non-Tariff Barriers Building Codes and the Wood Products Sector (TN/MA/W/48)
- Non-Tariff Barriers – Requests (TN/MA/NTR/3)
- Tariff Elimination in the Electronics/Electrical Sector (TN/MA/W/69)
- Open Access to Enhanced Healthcare (JOB(06)/35)
- Progress Report: NTB Discussions Related to Remanufactured and Refurbished Goods (TN/MA/W/18/Add.10) and (TN/MA/W/18/Add.10/Corr.1)
- Tariff Liberalisation in the Forest Products Sector1 (TN/MA/W/75)
- Negotiating Text on Textiles, Apparel, Footwear and Travel Goods Labeling Requirements (TN/MA/W/18/Add.14)
- Tariff Liberalization in the Chemicals Sector (TN/MA/W/72)
- Progress Report: Sectoral Discussions on Tariff Elimination in the Chemicals Sector (TN/MA/W/18/Add.1)
- Tariff Elimination in the Electronics/Electrical Sector JOB(06)/85
- Negotiating Proposal on Tariff Liberalisation in the Forest Products Sector JOB(06)/128
- Market Access for Environmental Goods TN/MA/W/70
- Negotiating Proposal on Tariff Elimination in the Gems and Jewellery Sector TN/MA/W/61/Add.2
- Swiss Dual proposal JOB(05)/36
- Analytical Contributions June 2005 JOB(05)/97
- Room Document for Simulation Presentation March 06. Actual doc # unknown.

Negotiating Group on Rules

- Fisheries Subsidies -- Joint communication from the United States, Australia, Chile, Ecuador, Iceland, New Zealand, Peru, and the Philippines (TN/RL/W/3)
- Fisheries Subsidies (TN/RL/W/21)
- OECD Steel Paper (TN/RL/W/24)
- Questions on Papers Submitted to Rules Negotiating Group (TN/RL/W/25)
- Basic Concepts of the Trade Remedies Rules (TN/RL/W/27)
- Special and Differential Treatment and the Subsidies Agreement (TN/RL/W/33)
- Second Set of Questions from the United States on Papers Submitted to the Rules Negotiating Group (TN/RL/W/34)
- Investigatory Procedures Under The Antidumping and Subsidies Agreements (TN/RL/W/35)
- Communication From The United States Attaching A Communiqué From The Organization For Economic Cooperation And Development (OECD) (TN/RL/W/49)
- Circumvention (TN/RL/W/50)
- Replies To Questions Presented To The United States On Submission TN/RI/W/27 (TN/RL/W/53)
- Third Set Of Questions From The United States On Papers Submitted To The Rules Negotiating Group (TN/RL/W/54)
- Responses By The United States To Questions From Australia On Investigatory Procedures Under The Anti-Dumping And Subsidies Agreements (TN/RL/W/71)
- Identification Of Certain Major Issues Under The Anti-Dumping And Subsidies Agreements (TN/RL/W/72)
- Possible Approaches To Improved Disciplines On Fisheries Subsidies (TN/RL/W/77)
- Subsidies Disciplines Requiring Clarification And Improvement (TN/RL/W/78)

- Elements Of A Steel Subsidies Agreement (TN/RL/W/95)
- Identification of Additional Issues under the Anti-dumping and Subsidies Agreements (TN/RL/W/98)
- Fourth Set Of Questions From The United States On Papers Submitted To The Rules Negotiating Group (TN/RL/W/103)
- Further Issues Identified Under The Anti-Dumping And Subsidies Agreements For Discussion By the Negotiating Group On Rules (TN/RL/W/130)
- Replies to the Questions from India on TN/RL/W/35 (TN/RL/W/147)
- Three Issues Identified by the United States (TN/RL/W/153)
- Accrual of Interest (TN/RL/W/168)
- Additional Views on the Structure of the Fisheries Subsidies Negotiations (TN/RL/W/169)
- Fisheries Subsidies (TN/RL/W/196) (co-sponsored with Brazil, Chile, Colombia, Ecuador, Iceland, New Zealand, Pakistan and Peru)
- Allocation of Subsidy Benefits Over Time (TN/RL/GEN/4)
- Exchange Rates (TN/RL/W/GEN/5)
- New Shipper Reviews (TN/RL/GEN/11)
- Allocation Periods for Subsidy Benefits (TN/RL/GEN/12)
- Prompt Access to Non-Confidential Information (TN/RL/GEN/13)
- Conduct of Verifications (TN/RL/GEN/15)
- All-Others Rate (TN/RL/GEN/16)
- Expensing Versus Allocating Subsidy Benefits (TN/RL/GEN/17/Rev.1)
- Preliminary Determinations (TN/RL/GEN/25)
- Circumvention (TN/RL/GEN/29)
- Fisheries Subsidies – Programmes for Decommissioning of Vessels and Licence Retirement (TN/RL/GEN/41)
- Further Submission on When and How to Allocate Subsidy Benefits Over Time (TN/RL/GEN/45)
- Further Comments on Lesser Duty Proposals (TN/RL/GEN/58)
- Causation (TN/RL/GEN/59)
- Submission on Circumvention (TN/RL/GEN/71)
- Identification of Parties (TN/RL/GEN/89) (co-sponsored with Brazil)
- Access to Non-Confidential Information (TN/RL/GEN/90)
- New Shipper Reviews (TN/RL/GEN/91)
- Expanding the Prohibited “Red Light“ Subsidy Category (TN/RL/GEN/94)
- Further Submission on Facts Available (TN/RL/GEN/105)
- Circumvention (TN/RL/GEN/106)
- Exchange Rates (TN/RL/GEN/107)
- Disclosure of Essential Preliminary Legal and Factual Considerations (Mandatory Preliminary Determinations) (TN/RL/GEN/108)
- Fisheries Subsidies (TN/RL/GEN/127)
- Causation (TN/RL/GEN/128)
- (Definition of Domestic Industry for Perishable, Seasonal Agricultural Products (TN/RL/GEN/129)
- Allocation and Expensing of Subsidies Benefits (TN/RL/GEN/130)
- Collection of Anti-Dumping Duties under Article 9.3 (TN/RL/GEN/131)
- Conduct of On-the-Spot Investigations (TN/RL/GEN/132)
- Disclosure of Calculations in Preliminary and Final Determinations (TN/RL/GEN/133)

Committee on Antidumping Practices

- Proposal for Operationalization of Art. 15 (G/ADP/AHG/W/138)
- Draft Recommendation on Operationalizing Art. 15 (G/ADP/AHG/W/143)

- Para. 7.4: Annual Reviews of the Antidumping Agreement (G/ADP/W/427)

Committee on Subsidies and Countervailing Measures

- Approval of Qualifying Requests under SCM Article. 27.4, Joint communication from the United States, Australia, Canada, the EU, Japan and Switzerland (G/SCM/W/521)

1.

Dispute Settlement Body, Special Session

- Contribution of the United States to the Improvement of the Dispute Settlement Understanding of the WTO-Related to Transparency (TN/DS/W/13)
- Negotiations on Improvements And Clarifications of the Dispute Settlement Understanding on Improving Flexibility and Member Control in WTO Dispute Settlement (TN/DS/W/28)
- Further Contribution of The United States to The Improvement of The Dispute Settlement Understanding of the WTO Related to Transparency (TN/DS/W/46)
- Negotiations on Improvements and Clarifications of the Dispute Settlement Understanding on Improving Flexibility and Member Control in WTO Dispute Settlement, Joint communication from United States and Chile (TN/DS/W/52)
- Some Questions for Consideration on Item(f) (TN/DS/W/74)
- Contribution of the United States on Some Practical Considerations in Improving the Dispute Settlement Understanding of the WTO Related to Transparency and Open Meetings (TN/DS/W/79)
- Further Contribution of the United States on Improving Flexibility and Member Control in WTO Dispute Settlement (TN/DS/W/82)
- Further Contribution of the United States on Improving Flexibility and Member Control in WTO Dispute Settlement, Addendum (TN/DS/W/82/Add.1)
- Further Contribution of the United States on Improving Flexibility and Member Control in WTO Dispute Settlement, Addendum, Corrigendum (TN/DS/W/82/Add.1/Corr.1)
- Further Contribution of the United States to the Improvement of the Dispute Settlement Understanding of the WTO Related to Transparency - Revised Legal Drafting (TN/DS/W/86)
- Dispute Settlement Body - Special Session - Negotiations on Improvements and Clarifications of the Dispute Settlement Understanding - Further Contribution of the United States on Improving Flexibility and Member Control - Addendum (TN/DS/W/82/Add.2)

Trade Facilitation

- Article VIII - Fees and Formalities (G/C/W/384)
- Article X - Publication and Administration (G/C/W/400)
- Integrated and Comprehensive Approach to Special and Differential Treatment (G/C/W/451)
- Communication on Trade Facilitation (JOB(04)/103)
- Introduction to Proposals by the United States of America (TN/TF/W/11)
- Advance Binding Rulings (TN/TF/W/12)
- Proposal on Transparency and Publication (TN/TF/W/13)
- Communication from the United States (TN/TF/W/14)
- Express Shipments (TN/TF/W/15)
- Release of Goods (TN/TF/W/21)
- Consularization - Proposal from Uganda and the United States (TN/TF/W/22)
- Multilateral Mechanism - Proposal from India and the United States (TN/TF/W/57)
- United States Assistance on Trade Facilitation (TN/TF/W/71)
- Communication from Australia, Canada and the United States - Draft Text on Advance Rulings (TN/TF/W/125)

- Communication from Uganda and the United States – Consularization (TN/TF/W/104 and Add.1)
- Communication from the United States - Express Shipments (TN/TF/W/91)
- Communication from Chile, Peru, and the United States - Internet Publication (TN/TF/W/89)
- Communication from Australia, Canada, and the United States - Common Elements of Advance Rulings (TN/TF/W/80)

Committee on Trade and Environment, Regular and Special Session

- Sub-Paragraph 31 (i) of the Doha Declaration – Relationship between existing WTO rules and specific trade obligations set out in Multilateral Environmental Agreements (MEAs) (TN/TE/W/20 and TN/TE/W/40)
- Sub-Paragraph 31 (ii) of the Doha Declaration - Procedures for information exchange between MEA Secretariats and relevant WTO committees and criteria for granting MEA observer status (TN/TE/W/5)
- Sub-Paragraph 31(iii) of the Doha Declaration – Market access for environmental goods and services (TN/TE/W/8, TN/TE/W/34, TN/TE/W/38, TN/TE/W/52, TN/TE/W/64, TN/TE/W/65, JOB(06)140 and JOB(06)169)
- Paragraph 33 of the Doha Declaration (WT/CTE/W/227)

Five dual submissions on Environmental Goods to the Committee on Trade and Environment Special Session and the Negotiating Group on Market Access are also listed under the Negotiating Group on Market Access.

Council on TRIPS, Regular & Special Session

- Questions and Answers: Comparison of Proposals (TN/IP/W/1)
- Issues for Discussion, Article 23.4 (TN/IP/W/2)
- Proposal for a Multilateral System of Registration and Protection of Geographic Indications for Wine & Spirits Based on Article 23.4 of the TRIPS Agreement (TN/IP/W/5)
- Multilateral System of Registration and Protection of Geographic Indications for Wine & Spirits (TN/IP/W/6)
- Paragraph 6 of the Doha Declaration on TRIPS and Public Health (IP/C/W/340)
- Second Submission on Paragraph 6 of the Doha Declaration on TRIPS and Public Health (IP/C/W/358)
- Implications of Article 23 Extension (IP/C/W/386)
- Moratorium to Address Needs of Developing and Least-Developed Members with No or Insufficient Manufacturing Capacities in the Pharmaceutical Sector (IP/C/W/396)
- Joint Proposal for a Multilateral System of Notification and Registration of Geographical Indications for Wines and Spirits (TN/IP/W/9)
- Article 27.3(B), Relationship between the TRIPS Agreement and the CBD, and the Protection of Traditional Knowledge and Folklore (IP/C/W/434)
- Technology Transfer Practices of the U.S. National Cancer Institute's Departmental Therapeutics Program (IP/C/W/341)
- Access to Genetic Resources: Regime of the United States' National Parks (IP/C/W/393)
- Proposed Draft TRIPS Council Decision on the Establishment of a Multilateral System of Notification and Registration of Geographical Indications for Wines and Spirits (TN/IP/W/10 and Add.1)
- Article 27.3(B), Relationship between the TRIPS Agreement and the CBD and the Protection of Traditional Knowledge and Folklore (IP/C/W/449)

- Comments on Implementation of the 30 August 2003 Agreement (Solution) on the TRIPS Agreement and Public Health (IP/C/W/444)
- Relationship between the Trips Agreement and the CBD, and the Protection of Traditional Knowledge and Folklore (IP/C/W/469)

Committee on Trade and Development, Special Session

- Remarks on the Review of Special and Differential Treatment (TN/CTD/W/9)
- Monitoring Mechanism (TN/CTD/W/19)
- Approach to Agreement-Specific Proposals (TN/CTD/W/27)

Working Group on Transparency in Government Procurement

- Capacity Building Questions (WT/WGTGP/W/34)
- Workplan Proposal (WT/WGTGP/W/35)
- Considerations Related to Enforcement of an Agreement on Transparency in Government Procurement (WT/WGTGP/W/38)

Work Program on Electronic Commerce

- Work Program on Electronic Commerce (WT/GC/W/493/Rev.1)

Working Group on the Relationship between Trade and Investment

- Covering FDI & Portfolio Investment in an Agreement (WT/WGTI/W/142)

Working Group on the Interaction between Trade and Competition Policy

- Technical Assistance (WT/WGTCP/W/185)
- Hardcore Cartels (WT/WGTCP/W/203)
- Voluntary Cooperation (WT/WGTCP/W/204)
- Transparency & Non-discrimination (WT/WGTCP/W/218)
- Procedural Fairness (WT/WGTCP/W/219)
- The Benefits of Peer Review in the WTO Competition Context (WT/WGTCP/W/233)

Updated: 13 Oct 2006

WTO Affinity Groups in the DDA
(As of October 2006)

G-20	G-33	G-10	NAMA-11	LDCs in WTO
Argentina	Antigua- Barbuda	Chinese Taipei	Argentina	Angola
Bolivia	Barbados	Iceland	Brazil**	Bangladesh**
Brazil**	Belize	Israel	Egypt	Benin
Chile	Benin	Japan	India**	Burkina Faso
China	Bolivia	Korea	Indonesia	Burundi
Cuba	Botswana	Liechtenstein	Namibia	Cambodia
Ecuador	China	Mauritius	Philippines	Central Africa Rep
Egypt	Congo	Norway	South Africa**	Chad
Guatemala	Cote d'Ivoire	Switzerland**	Tunisia	Congo, DRC
India	Cuba		Venezuela	Djibouti
Indonesia	Dominica			Gambia
Mexico	Dominican Rep.			Guinea
Nigeria	El Salvador			Guinea Bissau
Pakistan	Grenada			Haiti
Paraguay	Guatemala			Lesotho
Peru	Guyana			Madagascar
Philippines	Haiti			Malawi
South Africa	Honduras			Maldives
Tanzania	India			Mali
Thailand	Indonesia**			Mauritania
Uruguay	Jamaica			Mozambique
Venezuela	Kenya			Myanmar (Burma)
Zimbabwe	Korea			Nepal
	Mauritius			Niger
	Mongolia			Rwanda
	Montserrat			Senegal
	Mozambique			Sierra Leone
	Nicaragua			Solomon Islands
	Nigeria			Tanzania
	Pakistan			Togo
	Panama			Uganda
	Peru			Zambia
	Philippines			
	St. Kitts & Nevis			LDCs acceding:
	St. Lucia			Bhutan
	St. Vincent & Grenadines			Cape Verde
	Senegal			Ethiopia
	Sri Lanka			Laos
	Suriname			Samoa
	Tanzania			Sudan
	Trinidad & Tobago			Vanuatu
	Turkey			Yemen
	Uganda			
	Venezuela			WTO Observers:
	Zambia			Equatorial Guinea
	Zimbabwe			Sao Tome & Principe

** = Group Coordinator

MEMBERSHIP OF THE WORLD TRADE ORGANIZATION

as of January 1, 2007 (149 Members)

Government	Entry into Force/ Membership	Government	Entry into Force/ Membership
Albania	September 8, 2000	Democratic Republic of the Congo	January 1, 1997
Angola	November 23, 1996	Denmark	January 1, 1995
Antigua and Barbuda	January 1, 1995	Djibouti	May 31, 1995
Argentina	January 1, 1995	Dominica	January 1, 1995
Armenia	February 5, 2003	Dominican Republic	March 9, 1995
Australia	January 1, 1995	Ecuador	January 21, 1996
Austria	January 1, 1995	Egypt	June 30, 1995
Bahrain	January 1, 1995	El Salvador	May 7, 1995
Bangladesh	January 1, 1995	Estonia	November 13, 1999
Barbados	January 1, 1995	European Union	January 1, 1995
Belgium	January 1, 1995	Fiji	January 14, 1996
Belize	January 1, 1995	Finland	January 1, 1995
Benin	February 22, 1996	France	January 1, 1995
Bolivia	September 12, 1995	Gabon	January 1, 1995
Botswana	May 31, 1995	Georgia	June 14, 2000
Brazil	January 1, 1995	Germany	January 1, 1995
Brunei Darussalam	January 1, 1995	Ghana	January 1, 1995
Bulgaria	December 1, 1996	Greece	January 1, 1995
Burkina Faso	June 3, 1995	Grenada	February 22, 1996
Burundi	July 23, 1995	Guatemala	July 21, 1995
Cambodia	October 12, 2004	Guinea	October 25, 1995
Cameroon	December 13, 1995	Guinea Bissau	May 31, 1995
Canada	January 1, 1995	Guyana	January 1, 1995
Central African Republic	May 31, 1995	Haiti	January 30, 1996
Chad	October 19, 1996	Honduras	January 1, 1995
Chile	January 1, 1995	Hong Kong, China	January 1, 1995
China	December 11, 2001	Hungary	January 1, 1995
Colombia	April 30, 1995	Iceland	January 1, 1995
Congo	March 27, 1997	India	January 1, 1995
Costa Rica	January 1, 1995	Indonesia	January 1, 1995
Côte d'Ivoire	January 1, 1995	Ireland	January 1, 1995
Croatia	November 30, 2000	Israel	April 21, 1995
Cuba	April 20, 1995	Italy	January 1, 1995
Cyprus	July 30, 1995	Jamaica	March 9, 1995
Czech Republic	January 1, 1995	Japan	January 1, 1995

MEMBERSHIP OF THE WORLD TRADE ORGANIZATION (cont.)

Government	Entry into Force/ Membership	Government	Entry into Force/ Membership
Jordan	April 11, 2000	Norway	January 1, 1995
Kenya	January 1, 1995	Oman	November 9, 2000
Korea, Republic of	January 1, 1995	Pakistan	January 1, 1995
Kuwait	January 1, 1995	Panama	September 6, 1997
Kyrgyz Republic	December 20, 1998	Papua New Guinea	June 9, 1996
Latvia	February 10, 1999	Paraguay	January 1, 1995
Lesotho	May 31, 1995	Peru	January 1, 1995
Liechtenstein	September 1, 1995	Philippines	January 1, 1995
Lithuania	May 31, 2001	Poland	July 1, 1995
Luxembourg	January 1, 1995	Portugal	January 1, 1995
Macao, China	January 1, 1995	Qatar	January 13, 1996
Macedonia	April 4, 2003	Romania	January 1, 1995
Madagascar	November 17, 1995	Rwanda	May 22, 1996
Malawi	May 31, 1995	Saint Kitts and Nevis	February 21, 1996
Malaysia	January 1, 1995	Saint Lucia	January 1, 1995
Maldives	May 31, 1995	Saint Vincent and the Grenadines	January 1, 1995
Mali	May 31, 1995	Saudi Arabia	December 11, 2005
Malta	January 1, 1995	Senegal	January 1, 1995
Mauritania	May 31, 1995	Sierra Leone	July 23, 1995
Mauritius	January 1, 1995	Singapore	January 1, 1995
Mexico	January 1, 1995	Slovak Republic	January 1, 1995
Moldova	July 26, 2001	Slovenia	July 30, 1995
Mongolia	January 29, 1997	Solomon Islands	July 26, 1996
Morocco	January 1, 1995	South Africa	January 1, 1995
Mozambique	August 26, 1995	Spain	January 1, 1995
Myanmar	January 1, 1995	Sri Lanka	January 1, 1995
Namibia	January 1, 1995	Suriname	January 1, 1995
Nepal	April 14, 2003	Swaziland	January 1, 1995
Netherlands - For the Kingdom in Europe and Netherlands Antilles	January 1, 1995	Sweden	January 1, 1995
New Zealand	January 1, 1995	Switzerland	July 1, 1995
Nicaragua	September 3, 1995	Taiwan (referred to in the WTO as Chinese Taipei)	January 1, 2002
Niger	December 13, 1996	Tanzania	January 1, 1995
Nigeria	January 1, 1995	Thailand	January 1, 1995

MEMBERSHIP OF THE WORLD TRADE ORGANIZATION (cont.)

Government	Entry into Force/ Membership	Government	Entry into Force/ Membership
The Gambia	October 23, 1996	United Kingdom	January 1, 1995
Togo	May 31, 1995	United States	January 1, 1995
Trinidad and Tobago	March 1, 1995	Uruguay	January 1, 1995
Tunisia	March 29, 1995	Venezuela	January 1, 1995
Turkey	March 26, 1995	Zambia	January 1, 1995
Uganda	January 1, 1995	Zimbabwe	March 5, 1995
United Arab Emirates	April 10, 1996		

PROPOSED REVISED SCALE OF CONTRIBUTIONS FOR 2007

(Minimum contribution of 0.015 per cent)

MEMBERS	2006 Contribution CHF	2007 Contribution		Interest earned CHF ⁴⁵	2007 net Contribution CHF
		CHF	%		
Albania	29,529	34,295	0.019	41	34,254
Angola	137,223	182,305	0.101	213	182,092
Antigua and Barbuda	26,055	27,075	0.015	1	27,074
Argentina	625,320	608,285	0.337	0	608,285
Armenia	26,055	27,075	0.015	24	27,051
Australia	1,933,281	2,019,795	1.119	4,026	2,015,769
Austria	2,400,534	2,530,610	1.402	4,967	2,525,643
Bahrain	135,486	142,595	0.079	159	142,436
Bangladesh	182,385	187,720	0.104	124	187,596
Barbados	31,266	30,685	0.017	44	30,641
Belgium	4,549,203	4,757,980	2.636	3,927	4,754,053
Belize	26,055	27,075	0.015	35	27,040
Benin	26,055	27,075	0.015	0	27,075
Bolivia	39,951	41,515	0.023	0	41,515
Botswana	57,321	57,760	0.032	90	57,670
Brazil	1,509,453	1,573,960	0.872	1,798	1,572,162
Brunei Darussalam	62,532	74,005	0.041	0	74,005
Bulgaria	187,596	216,600	0.120	342	216,258
Burkina Faso	26,055	27,075	0.015	46	27,029
Burundi	26,055	27,075	0.015	0	27,075
Cambodia	50,373	63,175	0.035	0	63,175
Cameroon	53,847	52,345	0.029	0	52,345
Canada	6,652,710	6,638,790	3.678	14,021	6,624,769
Central African Republic	26,055	27,075	0.015	0	27,075
Chad	26,055	27,075	0.015	0	27,075
Chile	501,993	534,280	0.296	275	534,005
China, People's Republic of	7,102,593	8,528,625	4.725	0	8,528,625
Colombia	338,715	346,560	0.192	123	346,437
Congo	39,951	37,905	0.021	0	37,905
Costa Rica	170,226	166,060	0.092	81	165,979
Côte d'Ivoire	104,220	108,300	0.060	0	108,300
Croatia	253,602	281,580	0.156	429	281,151
Cuba	100,746	102,885	0.057	185	102,700
Cyprus	118,116	122,740	0.068	218	122,522
Czech Republic	974,457	1,104,660	0.612	1,759	1,102,901

⁴⁵ Interest earned in 2005 under the Early Payment Encouragement Scheme (L/6384) and to be deducted from the 2007 contribution.

MEMBERS	2006 Contribution CHF	2007 Contribution		Interest earned CHF ⁴⁵	2007 net Contribution CHF
		CHF	%		
Democratic Republic of the Congo	26,055	27,075	0.015	0	27,075
Denmark	1,684,890	1,759,875	0.975	3,484	1,756,391
Djibouti	26,055	27,075	0.015	0	27,075
Dominica	26,055	27,075	0.015	0	27,075
Dominican Republic	206,703	196,745	0.109	0	196,745
Ecuador	138,960	148,010	0.082	168	147,842
Egypt	420,354	433,200	0.240	279	432,921
El Salvador	105,957	106,495	0.059	154	106,341
Estonia	119,853	135,375	0.075	254	135,121
European Communities	0	-	0.000	0	0
Fiji	26,055	27,075	0.015	46	27,029
Finland	1,056,096	1,095,635	0.607	2,328	1,093,307
Former Yugoslavia Republic of Macedonia	41,688	43,320	0.024	0	43,320
France	8,723,214	8,943,775	4.955	15,063	8,928,712
Gabon	52,110	50,540	0.028	0	50,540
Gambia	26,055	27,075	0.015	0	27,075
Georgia	26,055	28,880	0.016	0	28,880
Germany	15,297,759	15,871,365	8.793	31,229	15,840,136
Ghana	69,480	70,395	0.039	41	70,354
Greece	812,916	871,815	0.483	1,281	870,534
Grenada	26,055	27,075	0.015	1	27,074
Guatemala	112,905	115,520	0.064	228	115,292
Guinea	26,055	27,075	0.015	0	27,075
Guinea-Bissau	26,055	27,075	0.015	0	27,075
Guyana	26,055	27,075	0.015	9	27,066
Haiti	26,055	27,075	0.015	9	27,066
Honduras	66,006	66,785	0.037	114	66,671
Hong Kong, China	5,301,324	5,463,735	3.027	11,818	5,451,917
Hungary	915,399	1,021,630	0.566	1,813	1,019,817
Iceland	74,691	77,615	0.043	158	77,457
India	1,585,881	1,498,150	0.830	1,611	1,496,539
Indonesia	1,314,909	1,395,265	0.773	577	1,394,688
Ireland	2,148,669	2,306,790	1.278	4,717	2,302,073
Israel	951,876	956,650	0.530	1,332	955,318
Italy	6,939,315	7,201,950	3.990	9,249	7,192,701
Jamaica	90,324	88,445	0.049	24	88,421
Japan	10,326,465	10,429,290	5.778	16,562	10,412,728
Jordan	109,431	119,130	0.066	170	118,960
Kenya	72,954	75,810	0.042	90	75,720

Korea, Republic of	4,264,335	4,566,650	2.530	6,502	4,560,148
Kuwait	347,400	382,660	0.212	252	382,408
Kyrgyz Republic	26,055	27,075	0.015	36	27,039
Latvia	92,061	102,885	0.057	190	102,695
Lesotho	26,055	27,075	0.015	50	27,025
Liechtenstein	43,425	43,320	0.024	87	43,233
Lithuania	156,330	180,500	0.100	43	180,457
Luxembourg	625,320	664,240	0.368	1,127	663,113
Macao, China	114,642	129,960	0.072	124	129,836
Madagascar	26,055	27,075	0.015	20	27,055
Malawi	26,055	27,075	0.015	0	27,075
Malaysia	2,211,201	2,279,715	1.263	4,311	2,275,404
Maldives	26,055	27,075	0.015	44	27,031
Mali	26,055	27,075	0.015	2	27,073
Malta	79,902	79,420	0.044	172	79,248
Mauritania	26,055	27,075	0.015	0	27,075
Mauritius	64,269	63,175	0.035	125	63,050
Mexico	3,975,993	3,999,880	2.216	7,120	3,992,760
Moldova	26,055	27,075	0.015	45	27,030
Mongolia	26,055	27,075	0.015	57	27,018
Morocco	274,446	288,800	0.160	346	288,454
Mozambique	27,792	32,490	0.018	46	32,444
Myanmar, Union of	55,584	55,955	0.031	49	55,906
Namibia	36,477	37,905	0.021	40	37,865
Nepal	31,266	30,685	0.017	41	30,644
Netherlands	5,805,054	6,059,385	3.357	11,117	6,048,268
New Zealand	429,039	453,055	0.251	875	452,180
Nicaragua	36,477	37,905	0.021	72	37,833
Niger	26,055	27,075	0.015	0	27,075
Nigeria	298,764	400,710	0.222	43	400,667
Norway	1,460,817	1,521,615	0.843	2,920	1,518,695
Oman	203,229	216,600	0.120	192	216,408
Pakistan	265,761	285,190	0.158	518	284,672
Panama	173,700	169,670	0.094	159	169,511
Papua New Guinea	46,899	41,515	0.023	63	41,452
Paraguay	62,532	61,370	0.034	0	61,370
Peru	210,177	220,210	0.122	0	220,210
Philippines	863,289	866,400	0.480	0	866,400
Poland	1,297,539	1,449,415	0.803	2,699	1,446,716

Portugal	951,876	976,505	0.541	311	976,194
Qatar	187,596	214,795	0.119	166	214,629
Romania	357,822	422,370	0.234	140	422,230
Rwanda	26,055	27,075	0.015	0	27,075
Saint Lucia	26,055	27,075	0.015	27	27,048
Saudi Arabia, Kingdom of	1,304,487	1,431,365	0.793	0	1,431,365
Senegal	36,477	36,100	0.020	69	36,031
Sierra Leone	26,055	27,075	0.015	0	27,075
Singapore	3,621,645	3,790,500	2.100	7,345	3,783,155
Slovak Republic	383,877	362,805	0.201	625	362,180
Slovenia	279,657	301,435	0.167	549	300,886
Solomon Islands	26,055	27,075	0.015	1	27,074
South Africa	809,442	877,230	0.486	1,332	875,898
Spain	4,352,922	4,629,825	2.565	5,409	4,624,416
Sri Lanka	152,856	151,620	0.084	113	151,507
St. Kitts and Nevis	26,055	27,075	0.015	54	27,021
St. Vincent and the Grenadines	26,055	27,075	0.015	38	27,037
Suriname	26,055	27,075	0.015	0	27,075
Swaziland	26,055	34,295	0.019	54	34,241
Sweden	2,336,265	2,413,285	1.337	2,767	2,410,518
Switzerland	2,471,751	2,537,830	1.406	5,359	2,532,471
Chinese Taipei	3,289,878	3,489,065	1.933	7,111	3,481,954
Tanzania	38,214	43,320	0.024	44	43,276
Thailand	1,719,630	1,824,855	1.011	3,680	1,821,175
Togo	26,055	27,075	0.015	0	27,075
Trinidad and Tobago	86,850	90,250	0.050	149	90,101
Tunisia	220,599	229,235	0.127	372	228,863
Turkey	1,231,533	1,369,995	0.759	1,805	1,368,190
Uganda	26,055	27,075	0.015	28	27,047
United Arab Emirates	1,099,521	1,037,875	0.575	520	1,037,355
United Kingdom	9,664,668	9,896,815	5.483	20,034	9,876,781
United States	26,767,170	26,807,860	14.852	4,978	26,802,882
Uruguay	74,691	70,395	0.039	153	70,242
Venezuela	531,522	545,110	0.302	66	545,044
Zambia	26,055	27,075	0.015	23	27,052
Zimbabwe	50,373	46,930	0.026	0	46,930
TOTAL	173,700,000	180,500,000	100.000	238,546	180,261,454

**2006 PROPOSED CONSOLIDATED REVISED BUDGET FOR THE WTO
SECRETARIAT AND THE APPELLATE BODY AND ITS SECRETARIAT**
(in Swiss francs)

Part	Section	Line	Original Proposal 2006	Reductions 2006	Revised Proposal 2006
A	Sect 1 Work Years	(a) Salary	80,058,200	(30,700)	80,027,500
		(b) Pension	15,959,000	(6,200)	15,952,800
(c) Common Staff Costs		15,159,200	-	15,159,200	
(d) Restructuring Plan		1,500,000	(1,000,000)	500,000	
	Sect 2 Temporary Assistance		14,550,400	(760,000)	13,790,400
B	Sect 3 Communications	(a) Telecommunications	724,500	(10,000)	714,500
		(b) Postal Charges	1,315,000	-	1,315,000
	Sect 4 Building Facilities	(a) Rental	345,000	-	345,000
		(b) Utilities	1,684,000	(17,000)	1,667,000
		(c) Maintenance and Insurance	1,443,000	-	1,443,000
		(d) Building Maintenance Fund	0	-	-
	Sect 5 Permanent Equipment		3,012,000	(145,000)	2,867,000
	Sect 6 Expendable		1,240,500	(40,000)	1,200,500
	Sect 7 Contractual Serv.	(a) Reproduction	1,415,000	-	1,415,000
		(b) Office Automation	2,665,200	(88,000)	2,577,200
(c) Other		257,000	-	257,000	
(d) Security Outsourcing		2,837,000	-	2,837,000	
C	Sect 8 Staff Overheads	(a) Training	1,000,000	(300,000)	700,000
		(b) Insurance	2,071,500	-	2,071,500
		(c) Joint Services	212,000	-	212,000
		(d) Miscellaneous	32,000	-	32,000
	Sect 9 Missions	(a) Missions Official	1,246,000	-	1,246,000
		(b) Missions Technical	1,443,000	-	1,443,000
	Sect 10 TPTC		3,671,000	(130,000)	3,541,000
	Sect 11 Various	(a) Representation and Hospitality	284,000	-	284,000
		(b) Dispute Settlement Panels	1,467,000	(150,000)	1,317,000
		(c) Experts	50,000	-	50,000
		(d) Appellate Body Members	688,100	-	688,100
		(e) Library	609,000	(5,300)	603,700
		(f) Publications	520,000	(50,000)	470,000
(g) Public Information Activities		340,000	(20,000)	320,000	
(h) External Auditors		40,000	-	40,000	
(i) Ministerial Operating Fund		600,000	-	600,000	
(j) ISO		57,000	-	57,000	
(k) Other		77,000	-	77,000	
(l) Appellate Body Operating Fund	1,100,000	-	1,100,000		
(m) Security Enhancement Programme	796,000	-	796,000		
Sect 12 Unforeseen		100,000	-	100,000	
D	Sect 13 ITC		17,341,500	(157,750)	17,183,750
Grand Total			177,910,100	(2,909,950)	175,000,150

2006 PROPOSED REVISED BUDGET FOR THE WTO SECRETARIAT

(in Swiss francs)

Part	Section	Line	Original Proposal 2006	Reductions 2006	Revised Proposal 2006
A	Sect 1 Work Years	(a) Salary	78,100,700	(29,700)	78,071,000
		(b) Pension	15,567,500	(6,000)	15,561,500
		(c) Common Staff Costs	14,790,200	-	14,790,200
		(d) Restructuring Plan	1,500,000	(1,000,000)	500,000
	Sect 2 Temporary Assistance		14,484,800	(760,000)	13,724,800
B	Sect 3 Communications	(a) Telecommunications	718,000	(10,000)	708,000
		(b) Postal Charges	1,315,000	-	1,315,000
	Sect 4 Building Facilities	(a) Rental	345,000	-	345,000
		(b) Utilities	1,671,000	(17,000)	1,654,000
		(c) Maintenance and Insurance	1,438,000	-	1,438,000
		(d) Building Maintenance Fund	0	-	-
	Sect 5 Permanent Equipment		2,976,000	(145,000)	2,831,000
	Sect 6 Expendable		1,220,500	(40,000)	1,180,500
	Sect 7 Contractual Serv.	(a) Reproduction	1,400,000	-	1,400,000
		(b) Office Automation	2,665,200	(88,000)	2,577,200
		(c) Other	257,000	-	257,000
		(d) Security Outsourcing	2,837,000	-	2,837,000
C	Sect 8 Staff Overheads	(a) Training	975,000	(300,000)	675,000
		(b) Insurance	2,059,500	-	2,059,500
		(c) Joint Services	212,000	-	212,000
		(d) Miscellaneous	30,000	-	30,000
	Sect 9 Missions	(a) Missions Official	1,236,000	-	1,236,000
		(b) Missions Technical	1,443,000	-	1,443,000
	Sect 10 TPTC		3,671,000	(130,000)	3,541,000
	Sect 11 Various	(a) Representation and Hospitality	283,000	-	283,000
		(b) Dispute Settlement Panels	1,467,000	(150,000)	1,317,000
		(c) Experts	50,000	-	50,000
		(e) Library	599,000	(5,300)	593,700
		(f) Publications	520,000	(50,000)	470,000
		(g) Public Information Activities	340,000	(20,000)	320,000
(h) External Auditors		40,000	-	40,000	
(i) Ministerial Operating Fund		600,000	-	600,000	
(j) ISO		57,000	-	57,000	
(k) Other	77,000	-	77,000		
(m) Security Enhancement Programme	796,000	-	796,000		
Sect 12 Unforeseen		100,000	-	100,000	
D	Sect 13 ITC		17,341,500	(157,750)	17,183,750
Grand Total			173,182,900	(2,908,750)	170,274,150

**2006 PROPOSED REVISED BUDGET FOR THE APPELLATE BODY AND ITS
SECRETARIAT**
(in Swiss francs)

Part	Section	Line	Original Proposal 2006	Reductions 2006	Revised Proposal 2006	
A	Sect 1 Work Years	(a)Salary	1,957,500	(1,000)	1,956,500	
		(b)Pension	391,500	(200)	391,300	
		(c)Common Staff Costs	369,000	-	369,000	
	Sect 2 Temporary Assistance		65,600	-	65,600	
B	Sect 3 Communications	(a) Telecommunications	6,500	-	6,500	
	Sect 4 Building Facilities	(b) Utilities	13,000	-	13,000	
		(c) Maintenance and Insurance	5,000	-	5,000	
	Sect 5 Permanent Equipment		36,000	-	36,000	
	Sect 6 Expendable		20,000	-	20,000	
C	Sect 7 Contractual Serv.	(a) Reproduction	15,000	-	15,000	
		Sect 8 Staff Overheads	(a) Training	25,000	-	25,000
			(b) Insurance	12,000	-	12,000
		(d) Miscellaneous	2,000	-	2,000	
	Sect 9 Missions	(a)Missions Official	10,000	-	10,000	
	Sect 11 Various	(a) Representation and Hospitality	1,000	-	1,000	
		(d) Appellate Body Members	688,100	-	688,100	
(e) Library		10,000	-	10,000		
	(l) Appellate Body Operating Fund	1,100,000	-	1,100,000		
Grand Total			4,727,200	(1,200)	4,726,000	

**2007 PROPOSED CONSOLIDATED REVISED BUDGET FOR THE WTO
SECRETARIAT AND THE APPELLATE BODY AND ITS SECRETARIAT**

(in Swiss francs)

Part	Section	Line	Original Budget 2007	Adjustments (Revision)	Revised Proposal 2007
A	Sect 1 Work Years	(a) Salary	83,454,100	1,087,300	84,541,400
		(b) Pension	16,613,000	403,400	17,016,400
		(c) Common Staff Costs	16,001,100	133,600	16,134,700
		(d) Restructuring Plan	1,000,000	0	1,000,000
	Sect 2 Temporary Assistance		13,815,400	0	13,815,400
B	Sect 3 Communications	(a) Telecommunications	734,500	0	734,500
		(b) Postal Charges	1,305,000	0	1,305,000
	Sect 4 Building Facilities	(a) Rental	345,000	0	345,000
		(b) Utilities	1,675,000	0	1,675,000
		(c) Maintenance and Insurance	1,661,000	0	1,661,000
	Sect 5 Permanent Equipment		2,359,100	0	2,359,100
	Sect 6 Expendable		1,185,500	0	1,185,500
	Sect 7 Contractual Services	(a) Reproduction	1,415,000	0	1,415,000
		(b) Office Automation	2,577,200	0	2,577,200
		(c) Other	257,000	0	257,000
(d) Security Outsourcing		2,880,000	0	2,880,000	
C	Sect 8 Staff Overheads	(a) Training	1,050,000	0	1,050,000
		(b) Insurance	2,304,500	0	2,304,500
		(c) Joint Services	212,000	0	212,000
		(d) Miscellaneous	32,000	0	32,000
Sect 9 Missions	(a) Missions Official	1,306,000	0	1,306,000	
	(b) Missions Technical	1,503,000	0	1,503,000	
Sect 10 Trade Policy Courses		3,541,000	0	3,541,000	
Sect 11 Various	(a) Representation and Hospitality	284,000	0	284,000	
	(b) Dispute Settlement Panels	1,317,000	0	1,317,000	
	(c) Experts	50,000	0	50,000	
	(d) Appellate Body Members	688,100	0	688,100	
	(e) Library	623,700	0	623,700	
	(f) Publications	470,000	0	470,000	
	(g) Public Information Activities	320,000	0	320,000	
	(h) External Auditors	40,000	0	40,000	
	(i) Ministerial Operating Fund	600,000	0	600,000	
	(j) ISO	57,000	0	57,000	
	(k) Other	80,000	0	80,000	
(l) Appellate Body Operating Fund	1,400,000	0	1,400,000		
(m) Security Enhancement Programme	330,000	0	330,000		
Sect 12 Unforeseen		100,000	0	100,000	
D	Sect 13 ITC		16,765,950	0	16,765,950
Grand Total			180,352,150	1,624,300	181,976,450
Percentage increase/decrease					0.90%

2007 PROPOSED REVISED BUDGET FOR THE WTO SECRETARIAT
(in Swiss francs)

Part	Section	Line	Original Budget 2007	Adjustments (Revision)	Revised Proposal 2007
A	Sect 1 Work Years	(a) Salary	81,417,600	1,110,800	82,528,400
		(b) Pension	16,206,100	403,800	16,609,900
(c) Common Staff Costs		15,632,000	123,200	15,755,200	
(d) Restructuring Plan		1,000,000	0	1,000,000	
	Sect 2 Temporary Assistance		13,749,800	0	13,749,800
B	Sect 3 Communications	(a) Telecommunications	728,000	0	728,000
		(b) Postal Charges	1,305,000	0	1,305,000
	Sect 4 Building Facilities	(a) Rental	345,000	0	345,000
		(b) Utilities	1,662,000	0	1,662,000
		(c) Maintenance and Insurance	1,656,000	0	1,656,000
	Sect 5 Permanent Equipment		2,320,100	0	2,320,100
	Sect 6 Expendable		1,165,500	0	1,165,500
Sect 7 Contractual Services	(a) Reproduction	1,400,000	0	1,400,000	
	(b) Office Automation	2,577,200	0	2,577,200	
	(c) Other	257,000	0	257,000	
	(d) Security Outsourcing	2,880,000	0	2,880,000	
C	Sect 8 Staff Overheads	(a) Training	1,025,000	0	1,025,000
		(b) Insurance	2,292,500	0	2,292,500
		(c) Joint Services	212,000	0	212,000
		(d) Miscellaneous	30,000	0	30,000
Sect 9 Missions	(a) Missions Official	1,296,000	0	1,296,000	
	(b) Missions Technical	1,503,000	0	1,503,000	
Sect 10 Trade Policy Courses		3,541,000	0	3,541,000	
Sect 11 Various	(a) Representation and Hospitality	283,000	0	283,000	
	(b) Dispute Settlement Panels	1,317,000	0	1,317,000	
	(c) Experts	50,000	0	50,000	
	(e) Library	613,700	0	613,700	
	(f) Publications	470,000	0	470,000	
	(g) Public Information Activities	320,000	0	320,000	
	(h) External Auditors	40,000	0	40,000	
	(i) Ministerial Operating Fund	600,000	0	600,000	
	(j) ISO	57,000	0	57,000	
	(k) Other	80,000	0	80,000	
	(m) Security Enhancement Programme	330,000	0	330,000	
Sect 12 Unforeseen		100,000	0	100,000	
D	Sect 13 ITC		16,765,950	0	16,765,950
Grand Total			175,227,450	1,637,800	176,865,250
Percentage increase/decrease					0.93%

**2007 PROPOSED REVISED BUDGET FOR THE APPELLATE BODY AND ITS
SECRETARIAT**
(in Swiss francs)

Part	Section	Line	Original Budget 2007	Adjustments (Revision)	Revised Proposal 2007
A	Sect 1 Work Years	(a) Salary	2,036,500	(23,500)	2,013,000
		(b) Pension	406,900	(400)	406,500
		(c) Common Staff Costs	369,100	10,400	379,500
	Sect 2 Temporary Assistance		65,600	0	65,600
B	Sect 3 Communications	(a) Telecommunications	6,500	0	6,500
	Sect 4 Building Facilities		13,000	0	13,000
		(c) Maintenance and Insurance	5,000	0	5,000
	Sect 5 Permanent Equipment		39,000	0	39,000
	Sect 6 Expendable		20,000	0	20,000
	Sect 7 Contractual Services	(a) Reproduction	15,000	0	15,000
C	Sect 8 Staff Overheads	(a) Training	25,000	0	25,000
		(b) Insurance	12,000	0	12,000
		(d) Miscellaneous	2,000	0	2,000
		(a) Missions Official	10,000	0	10,000
	Sect 11 Various	(a) Representation and Hospitality	1,000	0	1,000
	(d) Appellate Body Members	688,100	0	688,100	
	(e) Library	10,000	0	10,000	
	(l) Appellate Body Operating Fund	1,400,000	0	1,400,000	
Grand Total			5,124,700	(13,500)	5,111,200
Percentage increase/decrease					(0.26%)

WAIVERS CURRENTLY IN FORCE
(As of 17 January 2007)

WAIVERS	GRANTED	EXPIRY	DECISION
Canada – CARIBCAN	15 December 2006	31 December 2011	WT/L/677
Preferential Tariff Treatment for Least-Developed Countries	15 June 1999	30 June 2009	WT/L/304
EC – Autonomous Preferential Treatment to the Countries of the Western Balkans	28 July 2006	31 December 2011	WT/L/654
EC – The ACP-EC Partnership Agreement	14 November 2001	31 December 2007	WT/L/436
Cuba – Article XV:6 of GATT 1994	15 December 2006	31 December 2011	WT/L/678
LDCs – Article 70.9 of the TRIPS Agreement with respect to pharmaceutical products	8 July 2002	1 January 2016	WT/L/478
Australia, Botswana, Brazil, Canada, Croatia, India, Israel, Japan, Korea, Mauritius, Mexico, Norway, Philippines, Sierra Leone, Chinese Taipei, Thailand, United Arab Emirates and the United States, Venezuela - Kimberley Process Certification Scheme for rough diamonds	15 December 2006	31 December 2012	WT/L/676
Albania - Implementation of Specific Concessions – Extension of the staging period of implementation for a number of products	26 May 2005	1 January 2007 or 1 January 2009 for Part A of the Annex	WT/L/610
Senegal – Waiver on minimum values in regard to the Agreement on the Implementation of Article VII of the GATT 1994	28 July 2006	30 June 2007	W/T/L/655
Panama - Introduction of Harmonized System 1996 Changes into WTO Schedules of Tariff Concessions	28 July 2006	30 April 2007	WT/L/652
Argentina - Introduction of Harmonized System 1996 Changes into WTO Schedules of Tariff Concessions	28 July 2006	30 April 2007	WT/L/653
Argentina; Australia; Brazil; Canada; China; Costa Rica; Croatia; El Salvador; European Communities; Guatemala, Honduras, Hong Kong, India; Republic of Korea; Macao, China; Malaysia; New Zealand; Nicaragua; Norway; Switzerland; United States; Uruguay - Introduction of Harmonized System 2007 Changes into WTO Schedules of Tariff Concessions	15 December 2006	31 December 2007	W/T/L/675
Argentina; Australia; Brazil; Bulgaria; Canada; China; Costa Rica; Croatia; El Salvador; European Communities; Hong Kong, China; Iceland; India; Republic of Korea; Macao, China; Mexico; New Zealand; Nicaragua; Norway; Romania; Singapore; Switzerland; Chinese Taipei; Thailand; United States; Uruguay - Introduction of Harmonized System 2002 Changes into WTO Schedules of Tariff Concessions	15 December 2006	31 December 2007	WT/L/674

Number of Staff Members by Job Category on 1 January 2007

Country	Senior	Professional	Support	Total
Argentina		4	3	7
Australia		5	3	8
Austria		4		4
Bangladesh		1		1
Belgium		2	3	5
Benin		1		1
Bolivia		2	1	3
Brazil		6	2	8
Bulgaria		2		2
Canada		21	3	24
Chile	1	1	3	5
China		8		8
Colombia		6	2	8
Congo, The Democratic Republic of the		1		1
Costa Rica		3		3
Cote d'Ivoire			1	1
Cuba		1	1	2
Denmark		1	1	2
Ecuador		1		1
Egypt		6		6
Estonia		1		1
Finland		2	2	4
France	1	49	142	192
Germany		15	3	18
Ghana		2		2
Greece		3	1	4
Honduras			1	1
Hong Kong		1		1
Hungary		1		1
India	1	9	3	13
Ireland		5	8	13
Italy		10	4	14
Japan		3		3
Korea, Republic of		2		2
Lesotho		1		1
Malawi		1		1
Malaysia		2	1	3
Mauritius		1	1	2
Mexico		6		6
Morocco		2	1	3
Netherlands		5	1	6
New Zealand		3	1	4
Nigeria		1		1

Country	Senior	Professional	Support	Total
Norway		1	1	2
Pakistan		1		1
Paraguay			1	1
Peru		1	6	7
Philippines		7	1	8
Poland		3	2	5
Portugal			1	1
Romania		1	1	2
Rwanda	1	1		2
Saint Lucia		1		1
Senegal			2	2
Slovenia		1		1
South Africa		1		1
Spain		21	23	44
Sri Lanka		2	2	4
Sweden		3	1	4
Switzerland		22	14	36
Tanzania		1		1
Thailand		2		2
Trinidad and Tobago		1		1
Tunisia		3	2	5
Turkey		3		3
Uganda		1		1
United Kingdom		27	52	79
United States	1	23	5	29
Uruguay		4	3	7
Venezuela		4		4
Zimbabwe		1	1	2
Total	5	337	310	652

Note: Senior Management includes the Director-General and Deputies Director-General

Annual Average Base Salary
Senior Management **267,145 CHF**
Professional staff **154,644 CHF**
Support staff **93,417 CHF**

Source: WTO Secretariat as of December 31, 2006

WTO ACCESSION APPLICATIONS AND STATUS (as of 1-01-06)¹

Applicant	Status of Multilateral and Bilateral Work
Afghanistan* (2004)	Application for accession to the WTO accepted at December 2004 General Council meeting; has not yet submitted initial documentation to activate the accession negotiations. The United States is providing technical assistance through the United States Agency for International Development (USAID), including drafting documentation, training, legal drafting, and institution building.
Algeria (1987)	Last Working Party (WP) meeting held October 21, 2005 to review draft WP report and status of market access negotiations. Next meeting planned for 2007, but dates have not been set. The United States is providing technical assistance through the Commercial Development Law Program (CLDP) of the Department of Commerce for legislative review and training, as well as drafting and translating documentation for the negotiations.
Andorra (1997)	Dormant. WP meeting on October 13, 1999 reviewed legislative implementation schedule and goods and services market access offers. Awaiting information on legislative implementation and circulation of revised market access offers.
Azerbaijan (1997)	Fourth WP meeting held in March 2006 to review additional documentation and conduct market access negotiations for goods and services. Through the end of 2006, the United States provided technical assistance (through the Trade Development Administration) in the form of a resident advisor for drafting documentation, training, legal drafting, and institution building in the areas of customs, licensing, intellectual property, standards and sanitary measures, to facilitate the accession process. TDA is reviewing this program.
Bahamas (2001)	Application accepted at July 2001 General Council meeting; has not yet submitted initial documentation to activate the accession negotiations.
Belarus (1993)	A stocktaking in October 2005 and subsequent Chairman's consultation in 2006 determined that further review of outstanding issues would depend on fresh documentation from Belarus and substantially improved offers on goods and services market access. Next meeting not scheduled.
Bosnia and Herzegovina (1999)	Second WP meeting held December 6, 2004 to review additional documentation and initiate work on market access commitments. Next meeting planned for 2007. The United States is providing technical assistance through CLDP in drafting documentation, training, legal drafting, and institution building.
Bhutan * (1999)	Third WP meeting held October 20, 2006 to continue review of the trade regime and conduct bilateral negotiations on revised market access offers on goods and services. Next meeting likely in second half of 2007.
Cape Verde * (2000)	Last WP meeting held in late 2005. Market access negotiations and draft Working Party report text substantially completed. Next WP meeting likely to take place in Spring 2007 after additional technical work and review of revised draft Working Party report. The United States has provided technical assistance (through USAID) to support Cape Verde's accession process.
Ethiopia* (2003)	Memorandum on the Foreign Trade Regime (MFTR) submitted at the end of 2006, formally activating the accession negotiations. The United States provides technical assistance through USAID in the form of a resident advisor for drafting documentation, training, legal drafting, and institution building in the areas of customs, licensing, intellectual property, standards and sanitary measures.
Iraq (2004)	MFTR circulated in September 2005. Responses to WTO Members' questions submitted at the end of 2006. First meeting of the WP likely in early 2007. The United States provides technical assistance in the form of a team of resident advisors funded through USAID, to help with drafting documentation, training, legal drafting, and institution building.
Iran (2005)	Application for accession to the WTO accepted by the General Council in May 2005. MFTR submitted at the end of 2006, formally activating the accession negotiations.

* Designates "least developed country" applicant.

¹ "Applicant" column includes date the Working Party was formed. Pre-1995 dates indicate that the original WP was formed under the GATT 1947, but was reformed as a WTO Working Party in 1995.

Applicant	Status of Multilateral and Bilateral Work
Kazakhstan (1996)	Ninth WP meeting held in November 2006 to continue review of the draft Working Party report text and legislative implementation and action plans for removal of WTO-inconsistent measures. Scheduling of next WP meeting pending. Revised goods and services market access offers expected soon, reflecting progress achieved in bilaterals with United States and others in latter part of 2006. Through USAID, the United States provides technical assistance in the form of an advisor resident in Bishkek, for drafting documentation, training, legal drafting, and institution building. Specific assistance has been provided in the areas of customs, licensing, intellectual property, standards and sanitary measures.
Laos * (1998)	Second WP meeting held November 30, 2006 to continue review of the trade regime and conduct bilateral negotiations on initial market access offers for goods. No market access for services to date. Next WP possible in second half of 2007.
Lebanon (1999)	Fourth WP meeting held March 2006 to review legislative implementation and plans for removal of WTO-inconsistent measures. Next WP meeting contemplated for sometime in 2007. Through USAID, the United States is providing technical assistance in the form of a long-term advisor. Assistance provided in drafting documentation, training, legal drafting, and institution building, with specific focus on customs, intellectual property, and standards.
Libya (2004)	Application accepted at July 2004 General Council meeting. No documentation or market access offers circulated to date.
Montenegro (2005)	Second Working Party held in July 2006 to review additional documentation and conduct market access negotiations for goods and services. Next WP meeting contemplated for early 2007. The United States has provided technical assistance to Montenegro in the form of an advisor resident in Belgrade, drafting documentation, training, legal drafting, and institution building in the areas of customs, licensing, intellectual property, standards and sanitary measures.
Russia (1993)	Third revised draft WP report text issued October 15, 2004 and reviewed by Working Parties in six WP meetings through March 2006. Bilateral market access negotiations with WTO Members largely completed after reaching agreement with the United States in November 2006. Intensive multilateral work on draft Working Party report text, Protocol, and commitments on agricultural supports and subsidies continues. Russia's legislative implementation ongoing. United States provides technical assistance on specific issues and ongoing assistance for WTO outreach programs to the public, Duma, Federation Council, regional governments, and the private sector.
Samoa * (1998)	Informal WP meeting held in December 2006 to review revised draft WP report and continue negotiations on revised market access offers on goods and services. Next meetings likely during Geneva week in Spring 2007 with a view to preparing accession package for Council approval during 2007.
Sao Tome and Principe (2005)	Application accepted at May 2005 General Council meeting; has not yet submitted initial documentation to activate the accession negotiations.
Serbia (2005)	Third WP meeting held in December 2006 to review additional documentation and review legislative implementation. Next WP meeting scheduled for mid to late 2007. The United States has provided technical assistance to Serbia in the form of an advisor resident in Belgrade, drafting documentation, training, legal drafting, and institution building in the areas of customs, licensing, intellectual property, standards and sanitary measures.
Seychelles (1995)	Dormant. WP meeting held in March 1998. No recent activity recorded in WP, legislative implementation, or bilateral goods and services negotiations.
Sudan* (1995)	Second WP meeting held March 10, 2004. Revised market access offers for goods and services were tabled in October 2006. Sudan met with a small number of Members at the end of 2006, but has not requested that a WP meeting be scheduled.
Syria	Application for accession to the WTO first circulated in October 2001. No Council review to date.
Tajikistan (2001)	Third WP meeting held in October 2006 to review additional documentation and continue negotiations on revised market access offers on goods and services. Next WP meeting is expected in 2007. The United States provides technical assistance through USAID in the form of an advisor resident in Bishkek, for drafting documentation, training, legal drafting, and institution building.

Applicant	Status of Multilateral and Bilateral Work
Tonga (1995)	Terms of accession were approved at the Sixth Ministerial Meeting in Hong Kong, China in December 2005; Tonga's acceptance of the accession package has been delayed. Tonga will become a Member of the WTO 30 days after it submits its instrument of acceptance of the accession package to the WTO Secretariat, which is contemplated sometime prior to mid-2007.
Ukraine (1993)	Stocktaking in December 2006 reviewed strong legislative progress on WTO implementation. Next WP meeting contemplated in first quarter of 2007, to review substantially revised draft WP report and identify outstanding issues for resolution. U.S. signed bilateral goods and services market access agreement with Ukraine on March 6, 2006, and Ukraine has substantially completed its bilateral market access negotiations. Additional bilateral consultations will address remaining issues of compliance with WTO rules to facilitate progress in multilateral negotiations. The United States provides technical assistance through CLDP in the form of an advisor, and additional short term assistance, through USAID, to help achieve WTO compliance in customs valuation, import licensing, standards and sanitary measures, and intellectual property rights protection.
Uzbekistan (1995)	Third WP meeting held October 2005 to review additional documentation and initial market access offers.
Vanuatu * (1995)	Dormant. Formal WP meeting October 29, 2001 adopted the protocol package. General Council approval delayed pending reconsideration of status by ni-Vanuatu Government.
Vietnam (1995)	General Council approved the terms of accession on November 7, 2006. Vietnam will become the 150 th WTO Member on January 11, 2007.
Yemen * (2000)	Third WP meeting held July 7, 2006 to continue review of trade regime and conduct bilateral negotiations on revised market access offers on goods and services. The United States has provided help with orientation and the development of documentation. Most recently, we have funded a project to reform Yemeni Customs, with emphasis on compliance with the WTO Customs Valuation Code.

**INDICATIVE LIST OF GOVERNMENTAL AND
NON-GOVERNMENTAL PANELISTS**

To assist in the selection of panelists, the DSU provides in Article 8.4 that the Secretariat shall maintain an indicative list of governmental and non-governmental individuals.

In accordance with the proposals for the administration of the indicative list of panelists approved by the DSB on 31 May 1995, the list should be completely updated every two years. For practical purposes, the proposals for the administration of the indicative list approved by the DSB on 31 May 1995 are reproduced as an Annex to this document.

The attached is an updated consolidated list of governmental and non-governmental panelists.⁴⁶ The list contains the names included in the previous indicative list (WT/DSB/19 and Add.1 through Add.5) and takes into account all the modifications made to that list by Members, in accordance with the requirement that the list should be updated every two years. The new names approved by the DSB in the period between 19 December 2002 and 19 February 2003 are also included in the attached list.

⁴⁶Curricula vitae containing more detailed information are available on request from the WTO Secretariat (Council and TNC Division – Room 3105). The curricula vitae which have been submitted on diskette are also available on the Document Dissemination Facility.

COUNTRY	NAME	SECTORAL EXPERIENCE
ARGENTINA	NISCOVOLOS, Mr. L.P.	Trade in Services
	MAKUC, Mr. A.	Trade in Goods and Services
	PÉREZ GABILONDO, Mr. J.L.	Trade in Goods; TRIPS
	RUIZ, Mr. J.A.	Trade in Goods and Services
AUSTRALIA	ARNOTT, Mr. R.J.	Trade in Goods
	CHESTER, Mr. D.O.	TRIPS
	CHURCHE, Mr. M.	Trade in Goods
	GASCOINE, Mr. D.F.	Trade in Goods
	HAWES, Mr. D.C.	Trade in Goods and Services
	HIRD, Miss J.M.	Trade in Goods
	HUSSIN, Mr. P.A.	Trade in Goods
	KENYON, Mr. D.	Trade in Goods and Services
	MAY, Mr. P.H.	Trade in Goods
	O'CONNOR, Mr. P.R.	Trade in Goods
	SMITH, Mr. P.A.	TRIPS
	THOMSON, Mr. G.A.	Trade in Goods and Services
	WAINCYMER, Mr. J.	Trade in Goods
YOUNG, Ms. E.	Trade in Goods	
BRAZIL	ABREU, Mr. M.	Trade in Goods and Services
	ARAUJO, Mr. J.T.	Trade in Goods
	BARRAL, Mr. W.O.	Trade in Goods
	BASSO, Ms. M.	Trade in Goods; TRIPS
	LEMME, Ms. M.C.	Trade in Goods
	MAGALHÃES, Mr. J.C.	Trade in Goods
	MARCONINI, Mr. M.	Trade in Services
	MOTTA VEIGA, Mr. P.L.C.	Trade in Goods and Services
	MOURA ROCHA, Mr. B.	Trade in Services
	NAIDIN, Ms. L.C.	Trade in Goods
OLIVEIRA FILHO, Mr. G.J.	Trade in Goods	

BRAZIL (cont'd)

RIOS, Ms. S.M. Trade in Goods
SOARES, Mr. G.F. TRIPS
THORSTENSEN, Ms. V.H. Trade in Goods

CANADA

BERNIER, Mr. I. Trade in Goods and Services
BRADFORD, Mr. M.V.M. Trade in Goods and Services
BROWN, Ms. C.A. Trade in Goods and Services; TRIPS
CLARK, Mr. P.J. Trade in Goods and Services
CLOSE, Ms. P. Trade in Goods
DE MESTRAL, Mr. A. Trade in Goods
EYTON, Mr. A.T. Trade in Goods
GHERSON, Mr. R. Trade in Goods
GOODWIN, Ms. K.M. Trade in Goods and Services; TRIPS
HALLIDAY, Mr. A.L. Trade in Goods and Services
HERMAN, Mr. L.L. Trade in Goods
HINES, Mr. W.R. Trade in Goods
MACMILLAN, Ms. K.E. Trade in Goods
MCRAE, Mr. D. Trade in Goods
OSTRY, Ms. S. Trade in Goods
RICHIE, Mr. G. Trade in Goods
THOMAS, Mr. J.C. Trade in Goods and Services
WINHAM, Mr. M.M. Trade in Goods

CHILE

BIGGS, Mr. G. Trade in Goods
JARA, Mr. A. Trade in Goods and Services
MATUS, Mr. M. Trade in Goods
PEÑA, Ms. G. Trade in Goods
SAEZ, Mr. S. Trade in Goods and Services
SATELER, Mr. R. TRIPS
TIRONI, Mr. E. Trade in Goods

COLOMBIA

BARBERI, Mr. F. Trade in Goods
CÁRDENAS, Mr. M.J. Trade in Goods and Services; TRIPS

COLOMBIA (cont'd)	IBARRA PARDO, Mr. G.	Trade in Goods
	JARAMILLO, Mr. F.	Trade in Goods and Services
	LEAL ANGARITA, Mr. M.	Trade in Goods and Services
	OROZCO, Ms. A.M.	Trade in Goods
	OROZCO JARAMILLO, Ms. C.Y.	Trade in Goods
CÔTE D'IVOIRE	GOSSET, Mme. M.	Trade in Goods; TRIPS
CROATIA	ŠARČEVIĆ, Mr. P	Trade in Goods and Services
CUBA	CABALLERO RODRÍGUEZ, Mr. E.	Trade in Goods and Services
	HERNÁNDEZ, Mr. A.	Trade in Goods and Services
	MARZIOTA DELGADO, Mr. E.A	Trade in Goods and Services
CZECH REP.	JUNG, Mr. Z.	Trade in Goods and Services
	PALEČKA, Mr. P.	Trade in Goods and Services
	PRAVDA, Mr. M.	Trade in Goods
	ŠRONĚK, Mr. I.	TRIPS
ECUADOR	PINOARGOTE CEVALLOS, Mr. A.	Trade in Goods
EGYPT	ABOUL-ENEIN, Mr. M.I.M.	Trade in Goods and Services
	HATEM, Mr. S.A.	Trade in Goods and Services
	RIAD, Mr. T.F.	Trade in Goods and Services; TRIPS
	SHAHIN, Ms. M.	Trade in Goods and Services; TRIPS
	SHARAFELDIN, Mr. A.	Trade in Goods; TRIPS
	ZAHRAN, Mr. M.M.	Trade in Goods and Services; TRIPS
EUROPEAN COMMUNITIES		
AUSTRIA	BENEDEK, Mr. W.	Trade in Goods
	MARTINS, Mr. R.	Trade in Goods
	REITERER, Mr. M.G.K.	Trade in Goods and Services; TRIPS
	WAAS, Mr. G.	Trade in Goods and Services; TRIPS

EUROPEAN COMMUNITIES
(cont'd)

AUSTRIA (cont'd)	WEISS, Mr. J.F.	Trade in Goods and Services; TRIPS
	ZEHETNER, Mr. F.	Trade in Goods
BELGIUM	DASSESE, Mr. M.P.A.	Trade in Goods and Services
	DIDIER, Mr. P.	Trade in Goods
	VAN DER BORGHT, Mr. K.	Trade in Goods
	VANDER SCHUEREN, Ms. P.	Trade in Goods and Services
	ZONNEKEYN, Mr. G.A.	Trade in Goods
DENMARK	BOESGAARD, Mr. H.	Trade in Goods
FINLAND	BERGHOLM, Mr. K.A.	Trade in Goods
	JULIN, Mr. J.K.J.	Trade in Goods and Services
	LUOTONEN, Mr. Y.K.D.	Trade in Goods
	PULLINEN, Mr. M.Y.	Trade in Goods
	RANTANEN, Mr. P.I.	Trade in Goods
FRANCE	ARMAIGNAC, Ms. M.-C.	Trade in Services; TRIPS
	BEAURAIN, Mr. C.	Trade in Services
	COMBALDIEU, Mr. J.C.	TRIPS
	DELLEUR, Mr. P.	Trade in Services
	JENNY, Mr. F.Y.	Trade in Goods and Services; TRIPS
	METZGER, Mr. J-M.	Trade in Goods
	PHAN VAN PHI, Mr. R.	Trade in Goods
STERN, Mme. B.	Trade in Goods and Services	
GERMANY	BARTH, Mr. D.	Trade in Services
	BARTKOWSKI, Mr. D.H.H.	Trade in Services
	DELBRÜCK, Mr. K.	Trade in Goods
	HILF, Mr. M.	Trade in Goods and Services
	MENG, Mr. W.	Trade in Goods, TRIPS
	MÖHLER, Mr. R.	Trade in Goods

EUROPEAN COMMUNITIES
(cont'd)

GERMANY (cont'd)

von MÜHLEND AHL, Mr. A. TRIPS
OPPERMANN, Mr. T. Trade in Goods; TRIPS
PETERSMANN, Mr. E-U Trade in Goods and Services; TRIPS
TANGERMANN, Mr. S. Trade in Goods
WITT, Mr. P.J. Trade in Goods

GREECE

MYROGIANNIS, Mr. G. Trade in Goods
STANGOS, Mr. P.N. Trade in Goods and Services; TRIPS

IRELAND

LONG, Mr. R. Trade in Goods; TRIPS
MATTHEWS, Mr. A.H. Trade in Goods
MOCKLER, Mr. T.F. Trade in Goods

ITALY

GERBINO, Mr. M. Trade in Goods
GIARDINA, Mr. A. Trade in Goods and Services
SCHIRATTI, Mr. G. Trade in Goods

NETHERLANDS

BLOKKER, Mr. N.M. Trade in Goods
BRONCKERS, Mr. M. Trade in Goods and Services; TRIPS
ENGERING, Mr. F.A. Trade in Goods and Services
HOEKMAN, Mr. B.M. Trade in Goods and Services; TRIPS
van de LOCHT, Mr. P. Trade in Goods and Services

SPAIN

CASTILLO URRUTIA, Mr. J.A. Trade in Goods
DÍAZ MIER, Mr. M.Á. Trade in Services
LÓPEZ DE SILANES MARTÍNEZ
Mr. J.P. Trade in Goods and Services

SWEDEN

ANDERSSON, Mr. T.M. Trade in Goods
ANELL, Mr. L. Trade in Goods; TRIPS
FALLENIIUS, Mr. C.H. Trade in Goods

EUROPEAN COMMUNITIES
(cont'd)

SWEDEN (cont'd)

HÅKANSSON, Mr. G.P.-O.	Trade in Services
HOLGERSSON, Mr. J.	Trade in Goods and Services
KLEEN, Mr. P.	Trade in Goods
LINDSTRÖM, Mr. J.M.	Trade in Goods
MANHUSEN, Mr. C.	Trade in Goods and Services
RISINGGÅRD, Mr. A.B.	Trade in Goods
RODIN, Mr. A.	Trade in Goods; TRIPS
STÅLBERG, Mr. L.A.	Trade in Goods

UNITED KINGDOM

ARKELL, Mr. J.	Trade in Services
CROFT, Mr. R.H.F.	Trade in Services
HINDLEY, Mr. B.V.	Trade in Goods and Services
JOHNSON, Mr. M.D.C.	Trade in Goods
MUIR, Mr. T.	Trade in Goods and Services; TRIPS
PLENDER, Mr. R.	Trade in Goods
QURESHI, Mr. A.H.	Trade in Goods
ROBERTS, Mr. C.W.	Trade in Goods and Services
TOULMIN, Mr. J.K.	Trade in Services

HONG KONG, CHINA

CARTLAND, Mr. M.D.	Trade in Goods and Services
CHEUNG, Mr. P.K.F.	TRIPS
LEUNG, Ms. A.K.L.	TRIPS
LITTLE, Mr. D.	Trade in Goods and Services
MILLER, Mr. J.A.	Trade in Goods and Services
SELBY, Mr. S.R.	TRIPS

HUNGARY

FURULYÁS, Mr. F.	Trade in Goods
LAKATOS, Mr. A.	Trade in Goods and Services

ICELAND

BJÖRGVINSSON, Mr. D.T.	Trade in Goods and Services
JÓHANNSSON, Mr. E.M.	Trade in Goods
SANDHOLT, Mr. B.	Trade in Goods

INDIA

AGARWAL, Mr. V.K.	Trade in Goods; TRIPS
AGRAWAL, Mr. R.P.	Trade in Goods and Services; TRIPS
BHATTACHARYA, Mr. G.C.	Trade in Goods
CHANDRASEKHAR, Mr. K.M	Trade in Goods and Services; TRIPS
CHAUDHURI, Mr. S.	Trade in Goods and Services; TRIPS
DAS, Mr. B.L.	Trade in Goods
DASGUPTA, Mr. J.	Trade in Goods
GOYAL, Mr. A.	Trade in Services
KAUSHIK, Mr. A.	Trade in Goods; TRIPS
KUMAR, Mr. M.	Trade in Goods and Services
MOHANTY, Mr. P.K.	Trade in Goods
MUKERJI, Mr. A.	Trade in Goods and Services; TRIPS
NARAYANAN, Mr. S.	Trade in Goods; TRIPS
PRABHU, Mr. P.P.	Trade in Goods; TRIPS
PRASAD, Ms. A.	Trade in Goods and Services; TRIPS
RAI, Mr. P.	TRIPS
RAMAKRISHNAN, Mr. N.	Trade in Goods
RAO, Mr. P.S.	Trade in Goods
REGE, Mr. N.V.	Trade in Goods
SAJJANHAR, Mr. A.	Trade in Goods
SHARMA, Mr. L.	Trade in Goods and Services; TRIPS
VENUGOPAL, Mr. K.	Trade in Goods; TRIPS
WATAL, Mrs. J.	TRIPS
ZUTSHI, Mr. B.K.	Trade in Goods and Services; TRIPS

ISRAEL

ALTUVIA, Mr. M.	Trade in Goods
GABAY, Mr. M.	TRIPS
HARAN, Mr. E.F.	Trade in Services
HOROVITZ, Mr. D.	Trade in Goods and Services
POLINER, Mr. H.Z.	TRIPS
SEMADAR, Mr. M.	Trade in Goods
SHATON, Mr. M.	Trade in Goods and Services
TALBAR, Mr. M.A.	Trade in Goods
WEILER, Mr. J.	Trade in Goods

JAPAN

ARAKI, Mr. I	Trade in Goods and Services; TRIPS
ASAKURA, Mr. H.	Trade in Goods
ISHIGURO, Mr. K.	Trade in Goods and Services; TRIPS
IWASAWA, Mr. Y.	Trade in Goods
KANDA, Mr. H.	Trade in Services
KEMMOCHI, Mr. N.	Trade in Goods and Services
KOTERA, Mr. A.	Trade in Goods and Services
OHARA, Mr. Y.	Trade in Goods; TRIPS
SHIMIZU, Mr. A.	Trade in Goods
TAKASE, Mr. T.	Trade in Goods and Services
TSURUOKA, Mr. K.	Trade in Services

KOREA

CHANG, Mr. S.W.	Trade in Goods
CHO, Mr. D.Y.	Trade in Goods and Services
CHO, Mr. T-U	Trade in Goods
CHOI, Mr. B.I.	Trade in Services
KIM, Mr. J.B.	Trade in Goods
LEE, Mr. J.	Trade in Goods
PARK, Mr. N.	Trade in Goods
YUN, Mr. Y. G.	Trade in Goods

MADAGASCAR

ANDRIANARIVONY, Mr. M.	Trade in Goods and Services; TRIPS
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MAURITIUS

BEEKARRY, Mr. N.	Trade in Goods and Services
BHUGLAH, Mr. A.	Trade in Goods and Services

MEXICO

AGUILAR ÁLVAREZ, Mr. G.	Trade in Goods and Services; TRIPS
AMIGO CASTAÑEDA, Mr. J.	TRIPS
DE MATEO VENTURINI, Mr. F.	Trade in Services
JASSO TORRES, Mr. H.	Trade in Goods
ORTEGA GÓMEZ, Mr. A.	Trade in Goods and Services; TRIPS
PEREZCANO DÍAZ, Mr. H.	Trade in Goods and Services; TRIPS
RAMÍREZ HERNÁNDEZ, Mr. R.	Trade in Goods and Services

MEXICO (cont'd)	REYES, Ms. L.H.	Trade in Goods
	TRASLOSHEROS HERNÁNDEZ, Mr. J.G.	Trade in Goods and Services; TRIPS
	ZABLUDOVSKY KUPER, Mr. J.	Trade in Goods and Services; TRIPS
NEW ZEALAND	ARMSTRONG, Mr. W.M.V.	Trade in Goods; TRIPS
	CARSON, Mr. C.B.	Trade in Goods
	FALCONER, Mr. C.D.	Trade in Goods
	FALCONER, Mr. W.J.	Trade in Goods and Services; TRIPS
	FARRELL, Mr. R.	Trade in Goods
	GROSER, Mr. T.	Trade in Goods
	HAMILTON, Mr. P.W	Trade in Goods
	HARVEY, Mr. M.W.	Trade in Goods
	HIGGIE, Ms. D.C.	Trade in Goods
	KENNEDY, Mr. P.D.	Trade in Goods
	MACEY, Mr. A.	Trade in Goods; TRIPS
	MCPHAIL, Mr. A.H.	Trade in Goods
	NOTTAGE, Mr. M.J.	Trade in Goods
	SLADE, Ms. M.	Trade in Goods and Services; TRIPS
	TRAINOR, Mr. M.J.	Trade in Goods; TRIPS
	WALKER, Mr. D.J.	Trade in Goods and Services
WOODFIELD, Mr. E.A.	Trade in Goods	
NIGER	TANKOANO, Mr. A.	Trade in Goods and Services; TRIPS
NORWAY	LILLERUD, Mr. K.	Trade in Goods
	LUNDBY, Mr. O.	Trade in Goods and Services; TRIPS
	SELAND, Mr. H.A.	Trade in Goods and Services; TRIPS
	TØNSETH, Mr. D.	Trade in Goods and Services; TRIPS
PAKISTAN	NAYYAR, Mr. S.I.M.	Trade in Goods; TRIPS
PANAMA	FRANCIS LANUZA, Ms. Y.	Trade in Goods and Services
	GONZALEZ, Mr. C.E.	Trade in Goods and Services

PANAMA (cont'd)	HARRIS ROTKIN, Mr. N.	Trade in Goods and Services
	SALAZAR FONG, Ms. D.	Trade in Goods
PERU	DIEZ LIZARDO, Mr. J.	Trade in Goods
POLAND	PIETRAS, Mr. J.	Trade in Services
QATAR	MAKKI, Mr. F.	Trade in Goods and Services
SRI LANKA	JAYASEKERA, Mr. D.	Trade in Goods; TRIPS
SWITZERLAND	ADDOR, Mr. F.	TRIPS
	BREINING, Ms. Ch.	Trade in Services
	CHAMBOVEY, Mr. D.	Trade in Goods
	COTTIER, Mr. Th.	Trade in Goods and Services; TRIPS
	GETAZ, Mr. H.A.	Trade in Services
	HÄBERLI, Mr. C	Trade in Goods
	INEICHEN-FLEISCH, Ms. M.-G.	Trade in Goods and Services
	KRAFFT, Mr. M-C.	Trade in Goods
	TSCHÄNI, Mr. H.	Trade in Goods
	WASESCHA, Mr. L.	Trade in Goods and Services; TRIPS
WEBER, Mr. R.	Trade in Services	
TURKEY	KAÇAR, Mr. B.	Trade in Goods
UNITED STATES	BIRENBAUM, Mr. D.E.	Trade in Goods
	BROWN-WEISS, Ms. E.	Trade in Goods and Services
	GANTZ, Mr. D.	Trade in Goods
	GORDON, Mr. M.W.	Trade in Goods
	GREENWALD, Mr. J.A.	Trade in Goods; TRIPS
	HELFER, Ms. R.T.	Trade in Services
	HUDEC, Mr. R.E.	Trade in Goods and Services
	KASSINGER, Mr. T.W.	Trade in Goods and Services

UNITED STATES (cont'd)

KIRK, Mr. M.K.	TRIPS
LAYTON, Mr. D.	Trade in Goods
LICHTENSTEIN, Ms. C.C.	Trade in Services
McGINNIS, Mr. J.	Trade in Goods; TRIPS
PARTAN, Mr. D.G.	Trade in Goods
REYNA, Mr. J.V.	Trade in Goods and Services
SHERMAN, Mr. S.	Trade in Goods
VERRILL, Jr. Mr. C.O.	Trade in Goods

URUGUAY

AMORÍN, Mr. C.	Trade in Goods; TRIPS
ROSSELLI, Mr. A.O.	Trade in Goods
VANERIO, Mr. G.	Trade in Goods and Services
WHITELAW, Mr. J.A.	Trade in Goods

VENEZUELA

ESCOBAR, Mr. J.B.	Trade in Services
MARQUEZ, Mr. G.	Trade in Services

ANNEX

Administration of the Indicative List

To assist in the selection of panelists, the DSU provides in Article 8.4 that the Secretariat shall maintain an indicative list of qualified governmental and non-governmental individuals. Accordingly, the Chairman of the DSB proposed at the 10 February meeting that WTO Members review the roster of non-governmental panelists established on 30 November 1984 (BISD 31S/9) (hereinafter referred to as the “1984 GATT Roster”) and submit nominations for the indicative list by mid-June 1995. On 14 March, The United States delegation submitted an informal paper discussing, amongst other issues, what information should accompany the nomination of individuals, and how names might be removed from the list. The DSB further discussed the matter in informal consultations on 15 and 24 March, and at the DSB meeting on 29 March. This note puts forward some proposals for the administration of the indicative list, based on the previous discussions in the DSB.

General DSU requirements

2. The DSU requires that the indicative list initially include “the roster of governmental and non-governmental panelists established on 30 November 1984 (BISD 31S/9) and other rosters and indicative lists established under any of the covered agreements, and shall retain names of persons on those rosters and indicative lists at the time of entry into force of the WTO Agreement” (DSU 8.4). Additions to the indicative list are to be made by Members who may “periodically suggest names of governmental and non-governmental individuals for inclusion on the indicative list, providing relevant information on their knowledge of international trade and of the sectors or subject matter of the covered agreements.” The names “shall be added to the list upon approval by the DSB” (DSU 8.4).

Submission of information

3. As a minimum, the information to be submitted regarding each nomination should clearly reflect the requirements of the DSU. These provide that the list “shall indicate specific areas of experience or expertise of the individuals in the sectors or subject matter of the covered agreements” (DSU 8.4). The DSU also requires that panelists be “well-qualified governmental and/or non-governmental individuals, including persons who have served on or presented a case to a panel, served as a representative of a Member or of a contracting party to GATT 1947 or as a representative to the Council or Committee of any covered agreement or its predecessor agreement, or in the Secretariat, taught or published on international trade law or policy, or served as a senior trade policy official of a Member” (DSU 8.1).

4. The basic information required for the indicative list could best be collected by use of a standardized form. Such a form, which could be called a Summary Curriculum Vitae, would be filled out by all nominees to ensure that relevant information is obtained. This would also permit information on the indicative list to be stored in an electronic database, making the list easily updateable and readily available to Members and the Secretariat. As well as supplying a completed Summary Curriculum Vitae form, persons proposed for inclusion on the indicative list could also, if they wished, supply a full Curriculum Vitae. This would not, however, be entered into the electronic part of the database.

Updating of indicative list

5. The DSU does not specifically provide for the regular updating of the indicative list. In order to maintain the credibility of the list, it should however be completely updated every two years. Within the first month of each two-year period, Members would forward updated Curricula Vitae of persons appearing

on the indicative list. At any time, Members would be free to modify the indicative list by proposing new names for inclusion, or specifically requesting removal of names of persons proposed by the Member who were no longer in a position to serve, or by updating the summary Curriculum Vitae.

6. Names on the 1984 GATT Roster that are not specifically resubmitted, together with up-to-date summary Curriculum Vitae, by a Member before 31 July 1995 would not appear after that date on the indicative list.

Other rosters

7. The Decision on Certain Dispute Settlement Procedures for the GATS (S/L/2 of 4 April 1995), adopted by the Council for Trade in Services on 1 March 1995, provides for a special roster of panelists with sectoral expertise. It states that "panels for disputes regarding sectoral matters shall have the necessary expertise relevant to the specific services sectors which the dispute concerns." It directs the Secretariat to maintain the roster and "develop procedures for its administration in consultation with the Chairman of the Council." A working document (S/C/W/1 of 15 February 1995) noted by the Council for Trade in Services states that "the roster to be established under the GATS pursuant to this Decision would form part of the indicative list referred to in the DSU." The specialized roster of panelists under the GATS should therefore be integrated into the indicative list, taking care that the latter provides for a mention of any service sectoral expertise of persons on the list.

8. A suggested format for the Summary Curriculum Vitae form for the purposes of maintaining the Indicative List is attached as an Annex.

**Summary Curriculum Vitae
for Persons Proposed for the Indicative List**

- | | | |
|------------|--|--|
| 1. | Name: | full name |
| 2. | Sectoral Experience | |
| | | List here any particular sectors of expertise: (e.g. technical barriers, dumping, financial services, intellectual property, etc.) |
| 3. | Nationality(ies) | all citizenships |
| 4. | Nominating Member: | the nominating Member |
| 5. | Date of birth: | full date of birth |
| 6. | Current occupations: | year beginning, employer, title, responsibilities |
| 7. | Post-secondary education | year, degree, name of institution |
| 8. | Professional qualifications | year, title |
| 9. | Trade-related experience in Geneva in the WTO/GATT system | |
| | a. Served as a panelist | year, dispute name, role as chairperson/member |
| | b. Presented a case to a panel | year, dispute name, representing which party |
| | c. Served as a representative of a contracting party or member to a WTO or GATT body, or as an officer thereof | year, body, role |
| | d. Worked for the WTO or GATT Secretariat | year, title, activity |
| 10. | Other trade-related experience | |
| | a. Government trade work | year, employer, activity |
| | b. Private sector trade work | year, employer, activity |
| 11. | Teaching and publications | |
| | a. Teaching in trade law and policy | year, institution, course title |
| | b. Publications in trade law and policy | year, title, name of periodical/book, author/editor (if book) |
-

WORLD TRADE ORGANIZATION

WT/DSB/33/Add.1

27 May 2004

(04-2281)

INDICATIVE LIST OF GOVERNMENTAL AND NON-GOVERNMENTAL PANELISTS

Addendum

At its meetings on 18 March, 15 April, 24 June, 21 July and 29 August 2003 as well as on 17 February, 20 April and 19 May 2004, the Dispute Settlement Body approved the following names for inclusion on the Indicative List of Governmental and Non-Governmental Panelists.⁴⁷

MEMBER	NAME	SECTORAL EXPERIENCE
BRAZIL	BARTHEL-ROSA, Mr. P.	Trade in Goods
BOLIVIA	ZELADA CASTEDO, Mr. A.	Trade in Goods
CHINA	ZENG, Mr. L.	Trade in Goods
	ZHANG, Mr. Y.	Trade in Goods; TRIPS
	ZHU, Ms. L.	Trade in Services; TRIPS
EUROPEAN COMMUNITIES		
SWEDEN	AHNLID, Mr. A.G.	Trade in Goods and Services; TRIPS
	BÄVERBRANT, Mr. J.C.	Trade in Goods and Services; TRIPS
	BECKER, Ms G.M.	Trade in Goods and Services; TRIPS
	DAHLIN, Ms K.E.	Trade in Goods and Services; TRIPS
	OLOFSGÅRD, Ms E.-K.	Trade in Goods and Services; TRIPS

⁴⁷ WT/DSB/33.

MEMBER	NAME	SECTORAL EXPERIENCE
	RAHLEN, Ms Ch.	Trade in Goods and Services; TRIPS
	TAURIAINEN, Mr. T.M.	Trade in Goods and Services; TRIPS
UNITED KINGDOM	ROBERTS, Mr. D.F.	Trade in Goods
LIECHTENSTEIN	Ziegler, Mr. A.R.	Trade in Services; TRIPS
PERU	Belaúnde G., Mr. V.A.	TRIPS
SWITZERLAND	PANNATIER, Mr. S.N.	Trade in Goods
THE SEPARATE CUSTOMS TERRITORY OF TAIWAN, PENGHU, KINMEN AND MATSU	LO, Mr. C.F.	Trade in Goods and Services
	YANG, Ms G.H.	Trade in Goods and Services

WORLD TRADE ORGANIZATION

WT/DSB/33/Add.2
12 January 2005

(05-0132)

INDICATIVE LIST OF GOVERNMENTAL AND NON-GOVERNMENTAL PANELISTS

Addendum

At its meetings on 31 August, 27 September, 24 November and 17 December 2004, the Dispute Settlement Body approved the following names for inclusion on the Indicative List of Governmental and Non-Governmental Panelists.⁴⁸

MEMBER	NAME	SECTORAL EXPERIENCE
EUROPEAN COMMUNITIES		
PORTUGAL	CALHEIROS DA GAMA, Mr. J.S.	TRIPS
NEPAL	SUBEDI, Mr. S.P.	Trade in Goods and Services; TRIPS
	PANDEY, Mr. P.R.	Trade in Goods and Services
NIGERIA	NNONA, Mr. G.C.	Trade in Goods and Services; TRIPS
URUGUAY	CAYRÚS MAURÍN, Mr. H.	Trade in Goods and Services
VENEZUELA	ROJAS PENSO, Mr. J.F.	Trade in Goods and Services

⁴⁸ WT/DSB/33 and Add.1.

WORLD TRADE ORGANIZATION

WT/DSB/33/Add.3
6 December 2005

(05-5802)

INDICATIVE LIST OF GOVERNMENTAL AND NON-GOVERNMENTAL PANELISTS

Addendum

At its meetings on 19 May, 18 October and 28 November 2005, the Dispute Settlement Body approved the following names for inclusion on the Indicative List of Governmental and Non-Governmental Panelists.⁴⁹

MEMBER	NAME	SECTORAL EXPERIENCE
EUROPEAN COMMUNITIES		
SPAIN	PÉREZ, Mr. J.L.	Trade in Goods and Services; TRIPS
	RIGO, Mr. A.	Trade in Services
UNITED KINGDOM	BETHLEHEM, Mr. D.	Trade in Goods and Services; TRIPS
PAKISTAN	MALIK, Mr. R.A.	Trade in Goods

⁴⁹ WT/DSB/33 and Add.1 & 2.

WORLD TRADE ORGANIZATION

WT/DSB/33/Add.4
22 February 2006

(06-0757)

INDICATIVE LIST OF GOVERNMENTAL AND NON-GOVERNMENTAL PANELISTS

Addendum

At its meetings on 20 January and 17 February 2006, the Dispute Settlement Body approved the following names for inclusion on the Indicative List of Governmental and Non-Governmental Panelists.⁵⁰

MEMBER	NAME	SECTORAL EXPERIENCE
PAKISTAN	HUSAIN, Mr. I.	Trade in Services
PERU	LEÓN-THORNE, Mr. R.	Trade in Goods and Services

⁵⁰ WT/DSB/33 and Add.1, 2 & 3.

WORLD TRADE ORGANIZATION

WT/DSB/33/Add.5
10 May 2006

(06-2282)

INDICATIVE LIST OF GOVERNMENTAL AND NON-GOVERNMENTAL PANELISTS

Addendum

At its meeting on 21 April 2006, the Dispute Settlement Body approved the following names for inclusion on the Indicative List of Governmental and Non-Governmental Panelists.⁵¹

MEMBER	NAME	SECTORAL EXPERIENCE
COLOMBIA	TANGARIFE, Mr. M.	Trade in Goods; TRIPS
MEXICO	DE LA PEÑA, Mr. A.	Trade in Goods and Services; TRIPS

⁵¹ WT/DSB/33 and Add.1, 2, 3 & 4.

WORLD TRADE ORGANIZATION

WT/DSB/33/Add.6
26 July 2006

(06-3593)

INDICATIVE LIST OF GOVERNMENTAL AND NON-GOVERNMENTAL PANELISTS

Addendum

At its meetings on 19 June and 19 July 2006, the Dispute Settlement Body approved the following names for inclusion on the Indicative List of Governmental and Non-Governmental Panelists.⁵²

MEMBER	NAME	SECTORAL EXPERIENCE
EUROPEAN COMMUNITIES		
UNITED KINGDOM	SAROOSHI, Mr. D.	Trade in Services
JAPAN	ASAKAI, Mr. K.	Trade in Goods

⁵² WT/DSB/33 and Add.1, 2, 3, 4 & 5.

WORLD TRADE ORGANIZATION

WT/DSB/33/Add.7
11 September 2006

(06-4325)

INDICATIVE LIST OF GOVERNMENTAL AND NON-GOVERNMENTAL PANELISTS

Addendum

At its meeting on 1 September 2006, the Dispute Settlement Body approved the following names for inclusion on the Indicative List of Governmental and Non-Governmental Panelists.⁵³

MEMBER	NAME	SECTORAL EXPERIENCE
JAPAN	SANO, Mr. T.	Trade in Goods
PAKISTAN	HAMID ALI, Mr. M.	Trade in Goods; TRIPS

⁵³ WT/DSB/33 and Add.1, 2, 3, 4, 5 & 6.

WORLD TRADE ORGANIZATION

WT/DSB/33/Add.8
3 November 2006

(06-5296)

INDICATIVE LIST OF GOVERNMENTAL AND NON-GOVERNMENTAL PANELISTS

Addendum

At its meeting on 26 October 2006, the Dispute Settlement Body approved the following names for inclusion on the Indicative List of Governmental and Non-Governmental Panelists.⁵⁴

MEMBER	NAME	SECTORAL EXPERIENCE
CHINA	DONG, Mr. S.	Trade in Goods and Services; TRIPS
	ZHANG, Ms. Y.	Trade in Goods and Services; TRIPS

⁵⁴ WT/DSB/33 and Add.1, 2, 3, 4, 5, 6 & 7.

WORLD TRADE ORGANIZATION

WT/DSB/33/Add.9
21 December 2006

(06-6120)

INDICATIVE LIST OF GOVERNMENTAL AND NON-GOVERNMENTAL PANELISTS

Addendum

At its meeting on 19 December 2006, the Dispute Settlement Body approved the following names for inclusion on the Indicative List of Governmental and Non-Governmental Panelists.⁵⁵

MEMBER	NAME	SECTORAL EXPERIENCE
EUROPEAN COMMUNITIES		
FRANCE	BOISSON DE CHAZOURNES, Mrs. L.	Trade in Goods and Services
NETHERLANDS	BRINKHORST, Mr. L.J.	Trade in Goods and Services
SWITZERLAND	MEYER, Mr. M.	Trade in Goods and Services; TRIPS

⁵⁵ WT/DSB/33 and Add.1, 2, 3, 4, 5, 6, 7 & 8.

MEMBERSHIP OF THE WTO APPELLATE BODY

In 2006, the membership of the WTO Appellate Body was as follows:

Mr. Georges M. Abi-Saab (Egypt),	Professor Luiz Olavo Baptista (Brazil),
Mr. Arumugamangalam V. Ganesan (India),	Professor Merit E. Janow (United States),
Professor Giorgio Sacerdoti (Italy),	Mr. Yasuhei Taniguchi (Japan),
Mr. David Unterhalter (South Africa)	

BIOGRAPHICAL NOTES:

Georges Michel Abi-Saab

Born in Egypt on June 9, 1933, Georges Michel Abi-Saab is Honorary Professor of International Law at the Graduate Institute of International Studies in Geneva (having taught there from 1963 to 2000); Honorary Professor at Cairo University's Faculty of Law; and a Member of the Institute of International Law.

Professor Abi-Saab served as consultant to the Secretary-General of the United Nations for the preparation of two reports on "Respect of Human Rights in Armed Conflicts" (1969 and 1970) and for the report on "Progressive Development of Principles and Norms of International Law Relating to the New International Economic Order" (1984). He represented Egypt in the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law (1974 to 1977), and acted as advocate and Counsel for several governments in cases before the International Court of Justice ("ICJ") as well as in international arbitrations. He has also served twice as judge ad hoc on the ICJ and as Judge on the Appeals Chamber of the International Criminal Tribunals for the Former Yugoslavia and for Rwanda. He is a Commissioner of the United Nations Compensation Commission and a Member of the Administrative Tribunal of the International Monetary Fund and of various international arbitral tribunals.

Professor Abi-Saab is the author of numerous books and articles, including "Les exceptions préliminaires dans la procédure de la Cour internationale: Etude des notions fondamentales de procédure et des moyens de leur mise en oeuvre" (Paris, Pedone, 1967); "International Crises and the Role of Law: The United Nations Operation in Congo 1960-1964" (Oxford University Press, 1978); "The Concept of International Organization" (as editor) (Paris, UNESCO, 1981; French edition, 1980); and of two courses at the Hague Academy of International Law: "Wars of National Liberation in the Geneva Conventions and Protocols" (Recueil des cours, vol. 165 (1979-IV)) and the "General Course of Public International Law" (in French) (Recueil des cours, vol. 207 (1987-VII)).

Luiz Olavo Baptista

Born in Brazil in 1938, Luiz Olavo Baptista is currently Professor of International Trade Law at the University of São Paulo Law School.

He has been a Member of the Permanent Court of Arbitration at The Hague since 1996, and of the International Chamber of Commerce ("ICC") Institute for International Trade Practices and of its Commission on Trade and Investment Policy, since 1999. In addition, he has been one of the arbitrators designated under Mercosur's Protocol of Brasilia since 1993.

Professor Baptista is also senior partner at the L.O. Baptista Law Firm, in São Paulo, Brazil, where he concentrates his practice on corporate law, arbitration and international litigation. He has been practicing

law for almost 40 years advising governments, international organizations and large corporations in Brazil and in other jurisdictions. Professor Baptista has been an arbitrator at the United Nations Compensation Commission (E4A Panel) in several private commercial disputes and State-investor proceedings, as well as in disputes under Mercosur's Protocol of Brasilia. In addition, he has participated as a legal advisor in diverse projects sponsored by the World Bank, the United Nations Conference on Trade and Development, the United Nations Center on Transnational Corporations, and the United Nations Development Programme.

He obtained his law degree from the Catholic University of São Paulo, pursued post-graduate studies at Columbia University Law School and The Hague Academy of International Law, and received a Ph.D. in International Law from the University of Paris II. He was Visiting Professor at the University of Michigan (Ann Arbor) in 1978-1979, and at the University of Paris I and the University of Paris X between 1996 and 2000. Professor Baptista has published extensively on various issues in Brazil and abroad.

Arumugamangalam Venkatachalam Ganesan

Born in Tirunelveli, Tamil Nadu, India on June 7, 1935, Arumugamangalam Venkatachalam Ganesan was a distinguished civil servant of India. He was appointed to the Indian Administrative Service, a premier civil service of India in May 1959, and served in that service until June 1993. In a career spanning over 34 years, he has held a number of high level assignments, including Joint Secretary (Investment), Department of Economic Affairs, Government of India (1977-1980); Inter-Regional Adviser, United Nations Centre on Transnational Corporations, United Nations Headquarters, New York (1980-1985); Additional Secretary, Department of Industrial Development, Government of India (1986-1989); Chief Negotiator of India for the Uruguay Round of Multilateral Trade Negotiations and Special Secretary, Ministry of Commerce, Government of India (1989-1990); Civil Aviation Secretary of the Government of India (1990-1991); and Commerce Secretary of the Government of India (1991-1993). He represented India on numerous occasions in bilateral, regional and multilateral negotiations in the areas of international trade, investment and intellectual property rights. Between 1989 and 1993, he represented India at the various stages of the Uruguay Round of Multilateral Trade Negotiations.

After his retirement from civil service, Mr. Ganesan served as an expert and consultant to various agencies of the United Nations system, including the United Nations Conference on Trade and Development ("UNCTAD"), the United Nations Industrial Development Organization ("UNIDO") and the United Nations Development Programme, in the field of international trade, investment and intellectual property rights. He has also spoken extensively to the business, managerial, scientific and academic communities in India on the scope and substance of the Uruguay Round negotiations and Agreements and their implications. Until his appointment to the Appellate Body of the WTO in 2000, he was a Member of the Government of India's High Level Trade Advisory Committee on Multilateral Trade Negotiations. He was also a Member of the Permanent Group of Experts under the WTO Agreement on Subsidies and Countervailing Measures, and a Member of a Dispute Settlement Panel of the WTO in 1999-2000 in the United States – Section 110(5) of the US Copyright Act case.

Mr. Ganesan has written numerous newspaper articles and monographs dealing with various aspects of the Uruguay Round Agreements and their implications. He is also the author of many papers on trade, investment and intellectual property issues for UNCTAD and UNIDO, and has contributed to books published in India on matters concerning the Uruguay Round, including intellectual property right issues. Mr. Ganesan holds M.A and M.Sc degrees from the University of Madras, India.

Merit E. Janow

Born in the United States on May 13, 1958, Ms. Merit E. Janow has been since 1994 Professor in the Practice of International Economic Law and International Affairs at the School of International and Public Affairs of Columbia University. She teaches advanced law courses in international trade and comparative antitrust law along with courses on international trade policy.

Before joining Columbia's faculty in 1994, Ms. Janow was Deputy Assistant U.S. Trade Representative for Japan and China (1990-1993), and worked as a corporate lawyer specializing in mergers and acquisitions with the law firm Skadden, Arps, Slate, Meagher & Flom in New York (1988-1990).

Ms. Janow is the author of several books and has contributed chapters to more than a dozen books. She grew up in Tokyo, Japan, and speaks Japanese. Ms. Janow served as a WTO panelist from September 2001 to May 2002 in the dispute European Communities – Trade Description of Sardines (WT/DS231).

Giorgio Sacerdoti

Born on March 2, 1943, Giorgio Sacerdoti is Professor of International Law and European Law at Bocconi University, Milan, Italy, since 1986.

Professor Sacerdoti has held various posts in the public sector including Vice-Chairman of the Organisation for Economic Cooperation and Development (“OECD”) Working Group on Bribery in International Business Transactions until 2001 where he was one of the drafters of the “Anticorruption Convention of 1997”. He has acted as consultant to the Council of Europe, the United Nations Conference on Trade and Development (“UNCTAD”) and the World Bank in matters related to foreign investments, trade, bribery, development and good governance. In the private sector, he has often served as arbitrator in international commercial disputes and at the International Centre for Settlement of Investment Disputes. Professor Sacerdoti has published extensively on international trade law, investments, international contracts and arbitration.

After graduating from the University of Milan with a law degree *summa cum laude* in 1965, Professor Sacerdoti gained a Master in Comparative Law from Columbia University Law School as a Fulbright Fellow in 1967. He was admitted to the Milan bar in 1969 and to the Supreme Court of Italy in 1979. He is a Member of the Committee on International Trade Law of the International Law Association.

Yasuhei Taniguchi

Born in Japan on December 26, 1934, Yasuhei Taniguchi is currently Professor of law at Tokyo Keizai University, and Attorney at Law in Tokyo. He obtained a law degree from Kyoto University in 1957 and was fully qualified as a jurist in 1959. His graduate degrees include LL.M., University of California at Berkeley (1963) and J.S.D., Cornell University (1964). He taught at Kyoto University for 39 years and has been Professor Emeritus since 1998. He also has taught as Visiting Professor of Law in the United States (University of Michigan, University of California at Berkeley, Duke University, Stanford University, Georgetown University, Harvard University, New York University, and University of Richmond), in Australia (Murdoch University and University of Melbourne), at the University of Hong Kong and at the University of Paris XII.

Professor Taniguchi is former president of the Japanese Association of Civil Procedure and currently vice-president of the International Association of Procedural Law. He is affiliated with various academic

societies and arbitral organizations as arbitrator, including the International Council for Commercial Arbitration; the International Law Association; the American Law Institute; the Japan Commercial Arbitration Association; the Chartered Institute of Arbitrators; the American Arbitration Association; the Hong Kong International Arbitration Centre; the Chinese International Economic and Trade Arbitration Commission; the Korean Commercial Arbitration Board; and the Cairo Regional Centre of Commercial Arbitration. He has also been an active arbitrator in the International Chamber of Commerce (“ICC”) Court of International Arbitration.

Professor Taniguchi has written numerous books and articles in the fields of civil procedure, arbitration, insolvency, the judicial system and legal profession, as well as comparative and international law related to these fields. His publications have been published in Japanese, Chinese, English, French, Italian, German, and Portuguese.

David Unterhalter

Born in South Africa on November 18, 1958, David Unterhalter holds degrees from Trinity College, Cambridge, the University of the Witwatersrand, and University College Oxford. David Unterhalter has been a Professor of Law at the University of the Witwatersrand in South Africa since 1998, and from 2000 – 2006, he was the Director of the Mandela Institute, University of the Witwatersrand, an institute focusing upon global law.

Mr. Unterhalter is a member of the Johannesburg Bar; as a practicing advocate he has appeared in a large number of cases in the fields of trade law, competition law, constitutional law, and commercial law. His experience includes representing different parties in anti-dumping and countervailing duty cases. He has acted as an advisor to the South African Department of Trade and Industry. In addition, he has served on a number of WTO dispute settlement panels. Mr. Unterhalter has published widely in the fields of public law and competition law.

Source: WTO Secretariat

Where to Find More Information on the WTO

Information about the WTO and trends in international trade is available to the public at the following websites:

The USTR home page: <http://www.ustr.gov>

The WTO home page: <http://www.wto.org>

U.S. submissions are available electronically on the WTO website using Documents Online, which can retrieve an electronic copy by the "document symbol". Electronic copies of U.S. submissions are also available at the USTR website.

Examples of information available on the WTO home page include:

Descriptions of the Structure and Operations of the WTO, such as:

- WTO Organizational Chart
- Biographic backgrounds
- Membership
- General Council activities

WTO News, such as:

- Status of dispute settlement cases
- Press Releases on Appointments to WTO Bodies, Appellate Body Reports and Panel Reports, and others
- Schedules of future WTO meetings
- Summaries of Trade Policy Review Mechanism reports on individual Members' trade practices

Resources including Official Documents, such as:

- Notifications required by the Uruguay Round Agreements
- Working Procedures for Appellate Review
- Special Studies on key WTO issues
- On-line document database where one can find and download official documents
- Legal Texts of the WTO agreements
- WTO Annual Reports

Community/Forums, such as:

- Media and NGOs
- General public news and chat rooms

Trade Topics, such as:

- Briefing Papers on WTO activities in individual sectors, including goods, services, intellectual property, other topics
- Disputes and Dispute Reports

WTO publications may be ordered directly from the following sources:

<p>1. The World Trade Organization Publications Services Centre William Rappard Rue de Lausanne 154 CH - 1211 Geneva 21 Switzerland</p> <p>Tel: (41-22) 739 52 08 / 739 53 08 Fax: (41-22) 739 57 92 email: publications@wto.org</p>	<p>2. Berman Associates 4611-F Assembly Drive Lanham, MD 20706-4391</p> <p>Tel: 301/459-7666 Toll Free: 800/274-4888 fax: 301/459-0056 Toll Free: 800/865-3450 e-mail: query@bernan.com e-mail: order@bernan.com</p>
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ANNEX III

ANNEX III: U.S. TRADE-RELATED AGREEMENTS

I. Agreements That Have Entered Into Force

Following is a list of trade agreements entered into by the United States since 1984 and monitored by the Office of the United States Trade Representative for compliance.

Multilateral Agreements

- ▶ Marrakesh Agreement Establishing the World Trade Organization (signed April 15, 1994) and the Ministerial Decisions and Declarations adopted by the Uruguay Round Trade Negotiations Committee on December 15, 1993
 - a. Multilateral Agreements on Trade in Goods
 - i. General Agreement on Tariffs and Trade 1994
 - ii. Agreement on Agriculture
 - iii. Agreement on the Application of Sanitary and Phytosanitary Measures
 - iv. Agreement on Technical Barriers to Trade
 - v. Agreement on Trade-Related Investment Measures
 - vi. Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994
 - vii. Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994
 - viii. Agreement on Preshipment Inspection
 - ix. Agreement on Rules of Origin
 - x. Agreement on Import Licensing Procedures
 - xi. Agreement on Subsidies and Countervailing Measures
 - xii. Agreement on Safeguards
 - xiii. Information Technology Agreement (ITA) (March 26, 1997)
 - b. General Agreement on Trade in Services
 - i. Basic Telecommunications Services Agreement (February 15, 1997)
 - ii. Financial Services Agreement (March 1, 1999)
 - c. Agreement on Trade-Related Aspects of Intellectual Property Rights
 - d. Plurilateral Trade Agreements
 - i. Agreement on Trade in Civil Aircraft (April 12, 1979; amended in 1986)
 - ii. Agreement on Government Procurement (April 15, 1994)
- ▶ International Tropical Timber Agreement (successor to the 1983 International Tropical Timber Agreement; signed January 26, 1994; entered into force January 1, 1997)

- ▶ International Coffee Agreement (successor to the 1994 International Coffee Agreement; entered into force provisionally October 1, 2001 and definitively May 17, 2005; U.S. Instrument of Accession deposited February 3, 2005)
- ▶ North American Free Trade Agreement (signed December 17, 1992; implementing legislation signed December 8, 1993)
 - i. Agreement with Mexico and Canada to a first round of NAFTA Accelerated Tariff Elimination (March 26, 1997)
 - ii. Agreement with Mexico and Canada to a second round of NAFTA Accelerated Tariff Elimination (July 27, 1998)
 - iii. Agreement with Mexico to a third round of NAFTA Accelerated Tariff Elimination (November 29, 2000)
 - iv. Agreement with Mexico to a fourth round of NAFTA Accelerated Tariff Elimination (December 5, 2001)
 - v. Agreement with Mexico and Canada on adjustments to the NAFTA Rules of Origin (November 27, 2002)
 - vi. Agreement with Mexico and Canada on adjustments to the NAFTA Rules of Origin (October 8, 2004)
 - vii. Agreement with Mexico and Canada on adjustments to the NAFTA Rules of Origin (March 8, 2006)
- ▶ North American Agreement on Environmental Cooperation (1993)
- ▶ North American Agreement on Labor Cooperation (1993)
- ▶ Statement Concerning Semiconductors by the European Commission and the Governments of the United States, Japan, and Korea. (June 10, 1999)
- ▶ Agreement on Mutual Acceptance of Oenological Practices (December 18, 2001)
- ▶ The Dominican Republic-Central America-United States Free Trade Agreement (signed August 4, 2004 with Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and the Dominican Republic; entered into force with: El Salvador (March 1, 2006); Guatemala (July 1, 2006); Honduras (April 1, 2006); and Nicaragua (April 1, 2006)

Bilateral Agreements

Albania

- ▶ Agreement on Bilateral Trade Relations (May 14, 1992)
- ▶ Bilateral Investment Treaty (January 4, 1998)

Argentina

- ▶ Private Courier Mail Agreement (May 25, 1989)
- ▶ Bilateral Investment Treaty (October 20, 1994)

Armenia

- ▶ Agreement on Bilateral Trade Relations (April 7, 1992)
- ▶ Bilateral Investment Treaty (March 29, 1996)

Australia

- ▶ Settlement on Leather Products Trade (November 25, 1996)
- ▶ Understanding on Automotive Leather Subsidies (June 20, 2000)
- ▶ Agreement to Implement Phase I of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (October 19, 2002)
- ▶ U.S.-Australia Agreement on the Establishment of a Free Trade Area (signed May 18, 2004; entry into force January 1, 2005)

Azerbaijan

- ▶ Agreement on Bilateral Trade Relations (April 21, 1995)
- ▶ Bilateral Investment Treaty (August 2, 2001)

Bahrain

- ▶ Bilateral Investment Treaty (May 30, 2001)
- ▶ United States-Bahrain Agreement on the Establishment of a Free Trade Area (August 1, 2006)

Bangladesh

- ▶ Bilateral Investment Treaty (July 25, 1989)

Belarus

- ▶ Agreement on Bilateral Trade Relations (February 16, 1993)

Bolivia

- ▶ Bilateral Investment Treaty (June 6, 2001)

Brazil

- ▶ Memorandum of Understanding between the Government of Brazil and the Government of the United States Concerning Trade Measures in the Automotive Sector (March 16, 1998)

Bulgaria

- ▶ Agreement on Trade Relations (November 22, 1991)
- ▶ Bilateral Investment Treaty (June 2, 1994)
- ▶ Agreement Concerning Intellectual Property Rights (July 6, 1994)

Cambodia

- ▶ Agreement Between the United States of America and the Kingdom of Cambodia on Trade Relations and Intellectual Property Rights Protection (October 8, 1996)
- ▶ Exchange of notes extending bilateral agreement on Trade in Textiles and Textile Products (December 31, 2001)

Cameroon

- ▶ Bilateral Investment Treaty (April 6, 1989)

Canada

- ▶ Agreement on Salmon & Herring (May 11, 1993)
- ▶ Agreement Regarding Tires (May 25, 1993)

- ▶ Memorandum of Understanding on Provincial Beer Marketing Practices (August 5, 1993)
- ▶ Agreement on Ultra-High Temperature Milk (September 1993)
- ▶ Agreement on Beer Market Access in Quebec and British Columbia Beer Antidumping Cases (April 4, 1994)
- ▶ Agreement on Salmon & Herring (April 1994)
- ▶ Agreement on Barley Tariff-Rate Quota (September 8, 1997)
- ▶ Record of Understanding on Agriculture (December 1998)
- ▶ Agreement on Magazines (Periodicals) (May 1999)
- ▶ Agreement on Implementation of the WTO Decision on Canada's Dairy Support Programs (December 1999)
- ▶ Agreement to Implement Phase I of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (January 17, 2002)
- ▶ Agreement to Implement Phase II of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (January 28, 2003)
- ▶ U.S.-Canada Understanding on Implementation of the Decision of the WTO General Council of August 30, 2003, on "Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health" as Interpreted by the Accompanying Statement of the Chairman of the General Council of the Same Date (July 16, 2004)
- ▶ Softwood Lumber Agreement Between the Government of the United States of America and the Government of Canada (SLA 2006) (October 12, 2006)

Chile

- ▶ United States-Chile Free Trade Agreement (January 1, 2004)

China

- ▶ Accord on Industrial and Technological Cooperation (January 12, 1984)
- ▶ Memorandum of Understanding on the Protection of Intellectual Property Rights (January 17, 1992)

- ▶ Memorandum of Understanding on Prohibiting Import and Export in Prison Labor Products (June 18, 1992)
- ▶ Memorandum of Understanding Concerning Market Access (October 10, 1992)
- ▶ Agreement on Trade Relations Between the United States of America and the People's Republic of China (signed July 7, 1979; entered into force February 1, 1980; renewed February 1, 2001)
- ▶ Agreement on Providing Intellectual Property Rights Protection (February 26, 1995)
- ▶ Report on China's Measures to Enforce Intellectual Property Protections and Other Measures (June 17, 1996)
- ▶ Interim Agreement on Market Access for Foreign Financial Information Companies (Xinhua) (October 24, 1997)
- ▶ Bilateral Agriculture Agreement (April 10, 1999)
- ▶ Memorandum of Understanding Between China and the United States Regarding China's Value-Added Tax on Integrated Circuits (July 14, 2004)
- ▶ Memorandum of Understanding between the Governments of the United States of America and the People's Republic of China Concerning Trade in Textile and Apparel Products (November 8, 2005)

Colombia

- ▶ Memorandum of Understanding on Trade in Bananas (January 9, 1996)

Congo, Democratic Republic of the (formerly Zaire)

- ▶ Bilateral Investment Treaty (July 28, 1989)

Congo, Republic of the

- ▶ Bilateral Investment Treaty (August 13, 1994)

Costa Rica

- ▶ Memorandum of Understanding on Trade in Bananas (January 9, 1996)

Croatia

- ▶ Memorandum of Understanding on Intellectual Property Rights (May 26, 1998)

- ▶ Bilateral Investment Treaty (June 20, 2001)

Czech Republic

- ▶ Bilateral Investment Treaty (December 19, 1992)

Ecuador

- ▶ Agreement on Intellectual Property Rights Protection (October 15, 1993)
- ▶ Bilateral Investment Treaty (May 11, 1997)

Egypt

- ▶ Bilateral Investment Treaty (June 27, 1992)

Estonia

- ▶ Bilateral Investment Treaty (February 16, 1997)

European Economic Area – European Free Trade Association (EEA EFTA States -- Norway, Iceland, and Liechtenstein)

- ▶ Agreement on Mutual Recognition Between the United States of America and the EEA EFTA States (signed October 17, 2005); entered into force March 1, 2006).
- ▶ Agreement Between the United States of America and the EEA EFTA States on the Mutual Recognition of Certificates of Conformity for Marine Equipment (signed October 17, 2005); entered into force March 1, 2006)

European Union

- ▶ Wine Accord (July 1983)
- ▶ Agreement for the Conclusion of Negotiations Between the United States and the European Community under GATT Article XXIV:6 (January 30, 1987)
- ▶ Agreement on Exports of Pasta with Settlement, Annex and Related Letter (September 15, 1987)
- ▶ Agreement on Canned Fruit (updated) (April 14, 1992)
- ▶ Agreement Concerning the Application of the GATT Agreement on Trade in Civil Aircraft (July 17, 1992)

- ▶ Agreement on Meat Inspection Standards (November 13, 1992)
- ▶ Corn Gluten Feed Exchange of Letters (December 4 and 8, 1992)
- ▶ Malt-Barley Sprouts Exchange of Letters (December 4 and 8, 1992)
- ▶ Oilseeds Agreement (December 4 and 8, 1992)
- ▶ Agreement on Recognition of Bourbon Whiskey and Tennessee Whisky as Distinctive U.S. Products (March 28, 1994)
- ▶ Memorandum of Understanding on Government Procurement (April 15, 1994)
- ▶ Letter on Financial Services Confirming Assurances to Provide Full MFN and National Treatment (July 14, 1995)
- ▶ Agreement on EU Grains Margin of Preference (signed July 22, 1996; retroactively effective December 30, 1995)
- ▶ Exchange of Letters Concerning Implementation of the Marrakesh Agreement Establishing the World Trade Organization and Related Matters (June 26, 1996)
- ▶ Exchange of Letters between the United States of America and the European Community on a Settlement for Cereals and Rice, and Accompanying Exchange of Letters on Rice Prices (July 22, 1996)
- ▶ Agreement for the Conclusion of Negotiations between the United States of America and the European Community under GATT Article XXIV:6, and Accompanying Exchange of Letters (signed July 22, 1996; retroactively effective December 30, 1995)
- ▶ Tariff Initiative on Distilled Spirits (February 28, 1997)
- ▶ Agreement on Global Electronic Commerce (December 9, 1997)
- ▶ Agreed Minute on Humane Trapping Standards (December 18, 1997)
- ▶ Agreement on Mutual Recognition Between the United States of America and the European Community (signed May 18, 1997; entered into force December 1, 1998)
- ▶ Agreement between the United States and the European Community on Sanitary Measure to Protect Public and Animal Health in Trade in Live Animals and Animal Products (July 20, 1999)
- ▶ Understanding on Bananas (April 11, 2001)

- ▶ Agreement on the Mutual Acceptance of Oenological Practices (December 18, 2001)
- ▶ Agreement between the United States of America and the European Community on the Mutual Recognition of Certificates of Conformity for Marine Equipment (July 1, 2004)
- ▶ Agreement in the Form of an Exchange of Letters Between the United States and the European Community Relating to the Method of Calculation of Applied Duties for Husked Rice (June 30, 2005; retroactively effective March 1, 2005)
- ▶ Agreement Between the United States and European Community on Trade in Wine (March 10, 2006)
- ▶ Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia, and the Slovak Republic to the European Union (exchange of letters was finalized on March 22, 2006)
- ▶ Agreement for the Conclusion of Negotiations between the United States of America and the European Community under GATT Article XXIV:6, and Accompanying Exchange of Letters (signed March 22, 2006)

Georgia

- ▶ Agreement on Bilateral Trade Relations (August 13, 1993)
- ▶ Bilateral Investment Treaty (August 17, 1997)

Grenada

- ▶ Bilateral Investment Treaty (March 3, 1989)

Hong Kong

- ▶ Agreement to Implement Phase I and Phase II of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (April 4, 2005)
- ▶ Memorandum of Understanding Between the United States of America and the Hong Kong Special Administrative Region Concerning Cooperation in Trade in Textile and Apparel Goods (August 1, 2005)

Honduras

- ▶ Memorandum of Understanding on Worker Rights (November 15, 1995)

- ▶ Bilateral Investment Treaty (July 11, 2001)
- ▶ Exchanges of Letters on Trade in Textiles and Apparel Goods (March 7, 2006)

Hungary

- ▶ Agreement on Trade Relations (July 7, 1978)
- ▶ Agreement on Intellectual Property Rights Protection (September 29, 1993)

India

- ▶ Agreement Regarding Indian Import Policy for Motion Pictures (February 5, 1992)
- ▶ Reduction of Tariffs on In-Shell Almonds (May 27, 1992)
- ▶ Agreement on Intellectual Property Rights Protection (March 1993)
- ▶ Agreement on Import Restrictions (December 28, 1999)
- ▶ Agreement on Textile Tariff Bindings (September 15, 2000)

Indonesia

- ▶ Conditions for Market Access for Films and Videos into Indonesia (April 1992)

Israel

- ▶ United States-Israel Free Trade Agreement (August 19, 1985)
- ▶ United States-Israel Agreement on Trade in Agriculture (December 4, 1996)
- ▶ United States-Israel Agreement on Almonds and Certain Other Agricultural Trade Issues (November 30, 1997)
- ▶ United States-Israel Agreement Concerning Certain Aspects of Trade in Agricultural Products (July 27, 2004)

Jamaica

- ▶ Agreement on Intellectual Property (February 1994)
- ▶ Bilateral Investment Treaty (March 7, 1997)

Japan

- ▶ Market-Oriented Sector-Selective (MOSS) Agreement on Medical Equipment and Pharmaceuticals (January 9, 1986)
- ▶ Exchange of Letters Regarding Tobacco (October 6, 1986)
- ▶ Science and Technology Agreement (June 20, 1988; extended June 16, 1993)
- ▶ Measures Concerning Cellular Telephone and Third Party Radio System Telecommunications Issues (June 28, 1989)
- ▶ Procedures to Introduce Supercomputers (June 15, 1990)
- ▶ Measures Relating to Wood Products (June 15, 1990)
- ▶ Policies and Procedures Regarding Satellite Research and Development/Procurement (June 15, 1990)
- ▶ Policies and Procedures Regarding International Value-Added Network Services and Network Channel Terminating Equipment (July 31, 1990)
- ▶ Joint Announcement on Amorphous Metals (September 21, 1990)
- ▶ Measures Further to 1990 Policies and Procedures regarding International Value-Added Network Services (April 27, 1991)
- ▶ Measures Regarding International Value-Added Network Services Investigation Mechanisms (June 25, 1991)
- ▶ United States-Japan Major Projects Arrangement (July 31, 1991; originally negotiated 1988)
- ▶ Measures Related to Japanese Public Sector Procurement of Computer Products and Services (January 22, 1992)
- ▶ United States-Japan Framework for a New Economic Partnership (July 10, 1993)
- ▶ Exchange of Letters Regarding Apples (September 13, 1993)
- ▶ United States-Japan Public Works Agreement (January 18, 1994)
- ▶ Mutual Understanding on Intellectual Property Rights between the Japanese Patent Office and the U.S. Patent and Trademark Office (January 20, 1994)

- ▶ Exchange of Letters Regarding Implementation of the Measures Regarding Cellular Telephone and Third-Party Radio Systems (March 12, 1994)
- ▶ Rice (April 15, 1994)
- ▶ Harmonized Chemical Tariffs (April 15, 1994)
- ▶ Copper (April 15, 1994)
- ▶ Market Access (April 15, 1994)
- ▶ Actions to be Taken by the Japanese Patent Office and the U.S. Patents and Trademark Office pursuant to the January 20, 1994, Mutual Understanding on Intellectual Property Rights (August 16, 1994)
- ▶ Measures by the Government of the United States and the Government of Japan Regarding Insurance (October 11, 1994)
- ▶ Measures on Japanese Public Sector Procurement of Telecommunications Products and Services (November 1, 1994)
- ▶ Measures Related to Japanese Public Sector Procurement of Medical Technology Products and Services (November 1, 1994)
- ▶ Measures Regarding Financial Services (February 13, 1995)
- ▶ Policies and Measures Regarding Inward Direct Investment and Buyer-Supplier Relationships (June 20, 1995)
- ▶ Exchange of Letters on Financial Services (July 26 and 27, 1995)
- ▶ Interim Understanding for the Continuation of Japan-U.S. Insurance Talks (September 30, 1996)
- ▶ United States-Japan Insurance Agreement (December 24, 1996)
- ▶ Japan's Recognition of U.S.-Graded Lumber (January 13, 1997)
- ▶ Resolution of WTO dispute with Japan on Sound Recordings (January 13, 1997)
- ▶ National Policy Agency Procurement of VHF Radio Communications System (March 31, 1997)
- ▶ United States-Japan Enhanced Initiative on Deregulation and Competition Policy (June 19, 1997)

- ▶ United States-Japan Agreement on Distilled Spirits (December 17, 1997)
- ▶ First Joint Status Report on Deregulation and Competition Policy (May 29, 1998)
- ▶ United States-Japan Joint Report on Investment (April 28, 1999)
- ▶ Second Joint Status Report on Deregulation and Competition Policy (May 3, 1999)
- ▶ United States-Japan Agreement on NTT Procurement Procedures (July 1, 1999)
- ▶ Third Joint Status Report on Deregulation and Competition Policy (July 19, 2000)
- ▶ Fourth Joint Status Report on Deregulation and Competition Policy (June 30, 2001)
- ▶ United States-Japan Economic Partnership for Growth (June 30, 2001)
- ▶ First Report to the Leaders on the U.S.-Japan Regulatory Reform and Competition Policy Initiative (June 25, 2002)
- ▶ Second Report to the Leaders on the U.S.-Japan Regulatory Reform and Competition Policy Initiative (May 23, 2003)
- ▶ Third Report to the Leaders on the U.S.-Japan Regulatory Reform and Competition Policy Initiative (June 8, 2004)

Jordan

- ▶ Agreement Between U.S. and Hashemite Kingdom of Jordan on the Establishment of a Free Trade Area (December 17, 2001)
- ▶ Bilateral Investment Treaty (June 12, 2003)

Kazakhstan

- ▶ Agreement on Bilateral Trade Relations (February 18, 1993)
- ▶ Bilateral Investment Treaty (January 12, 1994)

Korea

- ▶ Record of Understanding on Intellectual Property Rights (August 28, 1986)
- ▶ Agreement on Access of U.S. Firms to Korea's Insurance Markets (August 28, 1986)

- ▶ Record of Understanding Concerning Market Access for Cigarettes (May 27, 1988; amended October 16, 1989)
- ▶ Agreement Concerning the Korean Capital Market Promotion Law (September 1, 1988)
- ▶ Agreement on the Importation and Distribution of Foreign Motion Pictures (December 30, 1988)
- ▶ Agreement on Market Access for Wine and Wine Products (January 18, 1989)
- ▶ Investment Agreement (May 19, 1989)
- ▶ Agreement on Liberalization of Agricultural Imports (May 25, 1989)
- ▶ Record of Understanding on Telecommunications (January 23, 1990)
- ▶ Record of Understanding on Telecommunications (February 15, 1990)
- ▶ Exchange of Letters Regarding the 1986 Intellectual Property Rights Agreement: Product Pipeline Protection (February 22, 1990)
- ▶ Record of Understanding on Beef (March 21, 1990)
- ▶ Exchange of Letters on Beef (April 26 and 27, 1990)
- ▶ Agreement on Wine Access (December 19, 1990)
- ▶ Record of Understanding on Telecommunications (February 7, 1991)
- ▶ Agreement on International Value-Added Services (June 20, 1991)
- ▶ Understanding on Telecommunications (February 17, 1992)
- ▶ Exchange of Letters Relating to Korea Telecom Company's Procurement of AT&T Switches (March 31, 1993)
- ▶ Beef Agreements (June 26, 1993; December 29, 1993)
- ▶ Record of Understanding on Agricultural Market Access in the Uruguay Round (December 13, 1993)
- ▶ Exchange of Letters on Telecommunications Issues Relating to Equipment Authorization and Korea Telecom Company's Procurement (March 29, 1995)
- ▶ Agreement on Steel (July 14, 1995)

- ▶ Shelf-Life Agreement (July 20, 1995)
- ▶ Revised Cigarette Agreement (August 25, 1995)
- ▶ Memorandum of Understanding to Increase Market Access for Foreign Passenger Vehicles in Korea (September 28, 1995)
- ▶ Exchange of Letters on Implementation of the 1992 Telecommunications Agreement (April 12, 1996)
- ▶ Korean Commitments on Trade in Telecommunications Goods and Services (July 23, 1997)
- ▶ Agreement on Korean Motor Vehicle Market (October 20, 1998)
- ▶ Exchange of Letters Regarding Tobacco Sector Related Issues (June 14, 2001)
- ▶ Exchange of Letters on Data Protection (March 12, 2002)
- ▶ Record of Understanding between the Governments of the United States and the Republic of Korea Regarding the Extension of Special Treatment for Rice (February 2005)
- ▶ Agreement to Implement Phase I of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (May 10, 2005)
- ▶ Agreement on Duty-Free Treatment of Multi-Chips Integrated Circuits (MCPs) (January 18, 2006)

Latvia

- ▶ Agreement on Bilateral Trade Relations (August 21, 1992)
- ▶ Bilateral Investment Treaty (January 12, 1994)
- ▶ Agreement on Trade & Intellectual Property Rights Protection (January 20, 1995)
- ▶ Bilateral Investment Treaty (December 26, 1996)

Lithuania

- ▶ Bilateral Investment Treaty (November 22, 2001)

Laos

- ▶ Bilateral Trade Agreement (entered into force February 4, 2005)

Macedonia

- ▶ Exchange of notes extending bilateral agreement on Trade in Textiles and Textile Products (June 2, 2000)
- ▶ Memorandum of Understanding Establishing Outward Processing Program (September 17, 1999)

Mexico

- ▶ Agreement with Mexico on Tire Certification (March 8, 1996)
- ▶ Memorandum of Understanding Between the United States and Mexico Regarding Areas of Food and Agriculture Trade (April 4, 2002)
- ▶ U.S.-Mexico Exchange of Letters Regarding Mexico's NAFTA Safeguard on Certain Poultry Products (July 24-25, 2003)
- ▶ Understanding Regarding the Implementation of the WTO Decision on Mexico's Telecommunications Services (June 1, 2004)
- ▶ Agreement between USTR and Secretaria de Economia of the United Mexican State on Trade in Tequila (January 17, 2006)
- ▶ Agreement between USTR and Secretaria de Economia of the United Mexican State on Trade in Cement (April 3, 2006).

Moldova

- ▶ Agreement on Bilateral Trade Relations (July 2, 1992)
- ▶ Bilateral Investment Treaty (November 25, 1994)

Mongolia

- ▶ Agreement on Bilateral Trade Relations (January 23, 1991)
- ▶ Bilateral Investment Treaty (January 1, 1997)

Morocco

- ▶ Bilateral Investment Treaty (May 29, 1991)
- ▶ United States- Morocco Free Trade Agreement (agreement signed on May 18, 2004; entered into force January 1, 2006)

Mozambique

- ▶ Bilateral Investment Treaty (March 2, 2005)

Nicaragua

- ▶ Bilateral Intellectual Property Rights Agreement with Nicaragua (December 22, 1997)
- ▶ Exchange of Letters between U.S. and Nicaragua on Trade in Textile and Apparel Goods (March 24, 2006)

Norway

- ▶ Agreement on Procurement of Toll Equipment (April 26, 1990)

Panama

- ▶ Bilateral Investment Treaty (May 30, 1991)
- ▶ Agreement on Bilateral Trade Relations (1994)

Paraguay

- ▶ Memorandum of Understanding on Intellectual Property Rights (March 30, 2004; renewed May 2006)

Peru

- ▶ Memorandum of Understanding on Intellectual Property Rights (May 23, 1997)

Philippines

- ▶ Protection and Enforcement of Intellectual Property Rights (April 6, 1993)
- ▶ Agreement regarding Pork and Poultry Meat (February 13, 1998)

Poland

- ▶ Business and Economic Treaty (August 6, 1994)

- ▶ Bilateral Investment Treaty (August 6, 1994)

Romania

- ▶ Agreement on Bilateral Trade Relations (April 3, 1992)
- ▶ Bilateral Investment Treaty (January 15, 1994)
- ▶ Memorandum of Understanding Establishing Outward Processing Program (September 10, 1999)

Russia

- ▶ Trade Agreement Concerning Most Favored Nation and Nondiscriminatory Treatment (June 17, 1992)
- ▶ Joint Memorandum of Understanding on Market Access for Aircraft (January 30, 1996)
- ▶ Agreed Minutes regarding exports of poultry products from the United States to Russia (March 15, March 25, and March 29, 1996)
- ▶ Protocol of the Negotiations between the Experts of Russia and the United States of America on the Issue of U.S. Poultry Meat Imports into the Russian Federation (March 31, 2002)
- ▶ Agreement on Russian Firearms & Ammunition (April 3, 1996)

Senegal

- ▶ Bilateral Investment Treaty (October 25, 1990)

Singapore

- ▶ Agreement on Intellectual Property Rights Protection (April 27, 1987)
- ▶ Agreement to Implement Phase I and Phase II of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (October 8, 2003)
- ▶ United States-Singapore Free Trade Agreement (signed May 6, 2003, entered into force January 1, 2004)

Slovakia

- ▶ Agreement on Bilateral Trade Relations (April 12, 1990)

- ▶ Bilateral Investment Treaty (December 19, 1992)

Sri Lanka

- ▶ Agreement on the Protection and Enforcement of Intellectual Property Rights (September 20, 1991)
- ▶ Bilateral Investment Treaty (May 1, 1993)

Suriname

- ▶ Agreement on Bilateral Trade Relations (1993)

Switzerland

- ▶ Exchange of Letters on Financial Services (November 9 and 27, 1995)

Taiwan

- ▶ Agreement on Customs Valuation (August 22, 1986)
- ▶ Agreement on Export Performance Requirements (August 1986)
- ▶ Agreement Concerning Beer, Wine, and Cigarettes (1987)
- ▶ Agreement on Turkeys and Turkey Parts (March 16, 1989)
- ▶ Agreement on Beef (June 18, 1990)
- ▶ Agreement on Intellectual Property Protection (June 5, 1992)
- ▶ Agreement on Intellectual Property Protection (Trademark) (April 1993)
- ▶ Agreement on Intellectual Property Protection (Copyright) (July 16, 1993)
- ▶ Agreement on Market Access (April 27, 1994)
- ▶ Telecommunications Liberalization by Taiwan (July 19, 1996)
- ▶ U.S.-Taiwan Medical Device Issue: List of Principles (September 30, 1996)
- ▶ Agreement on Market Access (February 20, 1998)
- ▶ Agreement to Implement Phase I of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (March 16, 1999)
- ▶ Understanding on Government Procurement (August 23, 2001)

Tajikistan

- ▶ Agreement on Bilateral Trade Relations (November 24, 1993)

Thailand

- ▶ Agreement on Cigarette Imports (November 23, 1990)
- ▶ Agreement on Intellectual Property Protection and Enforcement (December 19, 1991)

Trinidad and Tobago

- ▶ Agreement on Intellectual Property Protection and Enforcement (September 26, 1994)
- ▶ Bilateral Investment Treaty (December 26, 1996)

Tunisia

- ▶ Bilateral Investment Treaty (February 7, 1993)

Turkey

- ▶ Bilateral Investment Treaty (May 18, 1990)
- ▶ WTO Settlement Concerning Taxation of Foreign Film Revenues (July 14, 1997)

Turkmenistan

- ▶ Agreement on Bilateral Trade Relations (October 25, 1993)

Ukraine

- ▶ Agreement on Bilateral Trade Relations (June 23, 1992)
- ▶ Bilateral Investment Treaty (November 16, 1996)
- ▶ Agreement on Trade in Textiles and Textile Products (January 15, 2001)

Uruguay

- ▶ Bilateral Investment Treaty (November 1, 2006)

Uzbekistan

- ▶ Agreement on Bilateral Trade Relations (January 13, 1994)

Vietnam

- ▶ Agreement between the United States and Vietnam on Trade Relations (December 10, 2001)

- ▶ Copyright Agreement (June 27, 1997)
- ▶ Agreement on Trade in Textiles and Textile Products (July 17, 2003; renewed December 9, 2005)
- ▶ Exchange of Letters on Equivalence of Food Safety Inspection Systems (May 31, 2006)
- ▶ Exchange of Letters on Beef (May 31, 2006)
- ▶ Exchange of Letters on Biotechnology (May 31, 2006)
- ▶ Exchange of Letters on Energy Services (May 31, 2006)
- ▶ Exchange of Letters on Elimination of Prohibited Subsidies to Textile and Garment Sector (May 31, 2006)
- ▶ Bilateral Agreement on Export Duties on Ferrous and Nonferrous Scrap Metals (May 31, 2006)
- ▶ Exchange of Letters on Shelf Life (May 31, 2006)

II. Agreements that have been Negotiated but have not yet Entered into Force

Following is a list of trade agreements concluded by the United States since 1984 that have not yet entered into force.

Multilateral Agreements

- ▶ OECD Agreement on Shipbuilding (December 21, 1994; interested parties evaluating implementing legislation)
- ▶ International Tropical Timber Agreement (concluded January 27, 2006; when entered into force, this will replace the International Tropical Timber Agreement, 1997)

Bilateral Agreements

Belarus

- ▶ Bilateral Investment Treaty (signed January 15, 1994; pending exchange of instruments)

Colombia

- ▶ United States-Colombia Trade Promotion Agreement (signed November 22, 2006; pending approval)

Dominican Republic/Central America

- ▶ The Dominican Republic - Central America - United States Free Trade Agreement (signed August 5, 2004; pending with Costa Rica and the Dominican Republic)

El Salvador

- ▶ Bilateral Investment Treaty (signed March 10, 1999; pending exchange of instruments)

Estonia

- ▶ Trade and Intellectual Property Rights Agreement (April 19, 1994; requires approval by Estonian legislature)

Lithuania

- ▶ Trade and Intellectual Property Rights Agreement (April 26, 1994; requires approval by Lithuanian legislature)

Nicaragua

- ▶ Bilateral Investment Treaty (signed July 1, 1995; pending ratification by United States and exchange of instruments of ratification.)

Peru

- ▶ United States-Peru Trade Promotion Agreement (signed April 12, 2006; pending approval)

Russia

- ▶ Bilateral Investment Treaty (signed June 17, 1992; pending approval by Russian Parliament and exchange of instruments of ratification)

Uzbekistan

- ▶ Bilateral Investment Treaty (signed December 16, 1994; pending exchange of instruments)

III. Other Traded-Related Agreements and Declarations

Following is a list of other trade-related agreements and declarations negotiated by the Office of the United States Trade Representative from January 1993 through May 2005. These documents provide the framework for negotiations leading to future trade agreements or establish mechanisms for structured dialogue in order to develop specific steps and strategies for addressing and resolving trade, investment, intellectual property and other issues among the signatories.

Multilateral Agreements and Declarations

- ▶ Second Ministerial of the World Trade Organization, Ministerial Declaration on Global Electronic Commerce (May 20, 1998)
- ▶ WTO Guidelines for the Negotiation of Mutual Recognition Agreements on Accountancy (May 29, 1997)
- ▶ Free Trade Area of the Americas
 - ▶ First Summit of the Americas, Declaration of Principles and Plan of Action, Miami, Florida (December 11, 1994)
 - ▶ Trade Ministerial Joint Declaration, Denver, USA (June 30, 1995)
 - ▶ Second Ministerial Trade Meeting Joint Declaration, Cartagena, Colombia (March 21, 1996)
 - ▶ Third Trade Ministerial Meeting Joint Declaration, Belo Horizonte, Brazil (May 16, 1997)
 - ▶ Fourth Trade Ministerial Joint Declaration, San Jose, Costa Rica (March 19, 1998)
 - ▶ Second Summit of the Americas Declaration of Principles and Plan of Action, Santiago, Chile (April 19, 1998)
 - ▶ Fifth Trade Ministerial Meeting, Declaration of Ministers, Toronto, Canada (November 4, 1999)
 - ▶ Sixth Meeting of Ministers of Trade of the Hemisphere Ministerial Declaration, Buenos Aires, Argentina (April 7, 2001)
 - ▶ Third Summit of the Americas Declaration of Principles and Plan of Action, Quebec City, Canada (April 22, 2001)
 - ▶ Seventh Meeting of Ministers of Trade of the Hemisphere Ministerial Declaration, Quito, Ecuador (November 1, 2002)

- ▶ Eighth Ministerial Meeting, Ministerial Declaration, Miami, USA (November 20, 2003)
- ▶ Fourth Summit of the Americas Declaration of Mar Del Plata and Plan of Action, Mar del Plata, Argentina (November 5, 2005)
- ▶ Asia Pacific Economic Cooperation
 - ▶ Declaration of Common Resolve (November 15, 1994)
 - ▶ Declaration for Action (November 19, 1995)
 - ▶ Declaration on an APEC Framework for Strengthening Economic Cooperation and Development (November 22-23, 1996)
 - ▶ Declaration on Connecting the APEC Community (November 25, 1997)
 - ▶ Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunication Agreement (June 5, 1998)
 - ▶ Declaration on Strengthening the Foundations for Growth (November 18, 1998)
 - ▶ Declaration: the Auckland Challenge (September 13, 1999)
 - ▶ Declaration: Delivering to the Community (November 16, 2000)
 - ▶ Declaration: Meeting New Challenges in the New Century (October 21, 2001)
 - ▶ Declaration: Leaders Declaration (October 27, 2002)
 - ▶ Declaration: Partnership for the Future (October 21, 2003)
- ▶ Organization of American States (OAS), Inter-American Telecommunications Commission (CITEL) Mutual Recognition Agreement for Conformity Assessment of Telecommunications Equipment (October 29, 1999)
- ▶ United States-Andean Community Trade and Investment Council Agreement (October 30, 1998)
- ▶ United States-Central American Regional Trade and Investment Framework Agreement (March 20, 1998)

- ▶ United States-Association of Southeast Asian Nations Trade and Investment Framework Arrangement (August 25, 2006)

Bilateral Agreements and Declarations

Afghanistan

- ▶ United States-Afghanistan Trade and Investment Framework Agreement (September 21, 2004)

Algeria

- ▶ United States-Algeria Trade and Investment Framework Agreement (July 13, 2001)

Bahrain

- ▶ United States-Bahrain Trade and Investment Framework Agreement (June 18, 2002)

Brunei Darussalam

- ▶ United States-Brunei Darussalam Trade and Investment Framework Agreement (December 16, 2002)

Cambodia

- ▶ United States-Cambodia Trade and Investment Framework Agreement (July 14, 2006)

Caribbean Common Market

- ▶ United States-Caribbean Common Market Trade and Investment Framework Agreement (1991)

Central Asian Economies

- ▶ United States-Central Asian Trade and Investment Framework Agreement (June 1, 2004)

Chile

- ▶ U.S.-Chile Joint Commission on Trade and Investment (May 19, 1998)

China

- ▶ United States-China Joint Commission on Commerce and Trade Agreements (April 21, 2004)

- ▶ United States-China Joint Commission on Commerce and Trade Agreements (July 11, 2005)

Common Market for Eastern and Southern Africa

- ▶ United States-Common Market for Eastern and Southern Africa Trade and Investment Framework Agreement (October, 2001)

Egypt

- ▶ United States-Egypt Trade and Investment Framework Agreement (July 1, 1999)

European Union

- ▶ United States-EU Transatlantic Economic Partnership (May 18, 1998)
- ▶ United States-EU Joint Action Plan for the Transatlantic Economic Partnership (November 9, 1998)

Ghana

- ▶ United States-Ghana Trade and Investment Framework Agreement (February 26, 1999)

Indonesia

- ▶ United States-Indonesia Understanding on a Trade and Investment Council (1996)
- ▶ Memorandum of Understanding on Combating Illegal Logging and Associated Trade (November 16, 2006)

Iraq

- ▶ United States-Iraq Trade and Investment Framework Agreement (July 11, 2005)

Japan

- ▶ United States-Japan Joint Statement on the Bilateral Steel Dialogue (September 24, 1999)

Kuwait

- ▶ United States-Kuwait Trade and Investment Framework Agreement (February 6, 2004)

Lebanon

- ▶ United States-Lebanon Trade and Investment Framework Agreement (November 30, 2006)

Malaysia

- ▶ United States-Malaysia Trade and Investment Framework Agreement (May 10, 2004)

Mauritius

- ▶ United States-Mauritius Trade and Investment Framework agreement (September 18, 2006)

Mongolia

- ▶ United States-Mongolia Trade and Investment Framework Agreement (July 15, 2004)

Morocco

- ▶ United States-Morocco Trade and Investment Framework Agreement (March 16, 1995)

Mozambique

- ▶ United States-Mozambique Trade and Investment Framework Agreement (June 21, 2005)

Nigeria

- ▶ United States-Nigeria Trade and Investment Framework Agreement (February 16, 2000)

Oman

- ▶ United States-Oman Trade and Investment Framework Agreement (July 7, 2004)

Pakistan

- ▶ United States-Pakistan Trade and Investment Framework Agreement (July 25, 2003)

Philippines

- ▶ United States-Philippines Trade and Investment Framework Agreement (1989)

Qatar

- ▶ United States-Qatar Trade and Investment Framework Agreement (March 19, 2004)

Rwanda

- ▶ United States-Rwanda Trade and Investment Framework Agreement (June 7, 2006)

Saudi Arabia

- ▶ United States-Saudi Arabia Trade and Investment Framework Agreement (July 31, 2003)

South Africa

- ▶ United States-South Africa Trade and Investment Framework Agreement (February 18, 1999)

Sri Lanka

- ▶ United States-Sri Lanka Trade and Investment Framework Agreement (July 25, 2002)

Switzerland

- ▶ United States-Switzerland Trade and Investment Cooperation Forum Agreement (May 25, 2006)

Taiwan

- ▶ United States-Taiwan Trade and Investment Framework Agreement (September 19, 1994)

Thailand

- ▶ United States-Thailand Trade and Investment Framework Agreement (October 23, 2002)

Tunisia

- ▶ United States-Tunisia Trade and Investment Framework Agreement (October 2, 2002)

Turkey

- ▶ United States-Turkey Trade and Investment Framework Agreement (September 29, 1999)

United Arab Emirates (UAE)

- ▶ United States-United Arab Emirates Trade and Investment Framework Agreement (March 15, 2004)

Uruguay

- ▶ United States-Uruguay Bilateral and Commercial Trade Review (May 20, 1999)
- ▶ United States-Uruguay Trade and Investment Framework Agreement (January 25, 2007)

West African Economic and Monetary Union

- ▶ United States-West African Economic and Monetary Union Trade and Investment Framework Agreement (April 24, 2002)

Yemen

- ▶ United States-Yemen Trade and Investment Framework Agreement (February 6, 2004)