

**2011 Trade Policy Agenda
and
2010 Annual Report**
of the President of the United States
on the Trade Agreements Program



Ambassador Ronald Kirk
Office of the United States Trade Representative

Foreword

The 2011 Trade Policy Agenda and 2010 Annual Report of the President of the United States on the Trade Agreements Program are submitted to the Congress pursuant to Section 163 of the Trade Act of 1974, as amended (19 U.S.C. 2213). Chapter II and Annex II of this document meet the requirements of Sections 122 and 124 of the Uruguay Round Agreements Act with respect to the World Trade Organization. In addition, the report also includes an annex listing trade agreements entered into by the United States since 1984. Trade data for 2010, where listed, are annualized based on January to November data. Services data by country are only available through 2009.

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LIST OF FREQUENTLY USED ACRONYMS

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

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

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**THE PRESIDENT'S 2011 TRADE POLICY
AGENDA**

I. THE PRESIDENT'S TRADE AGENDA

Bringing Trade's Benefits Home to American Families and Businesses

The global economy has started to grow again and with it, trade is increasing. Under President Obama's leadership, the United States is leading efforts to shape the global trading system, both to support growth and to obtain for Americans the jobs and economic benefits that will accompany trade's resurgence. In 2010, the Administration's extensive work to open world markets and enforce our rights under trade agreements delivered clear results for America's families and businesses. U.S. manufacturers sold more "Made in America" goods in markets from Indonesia to Israel; our farmers resumed sales of poultry in Russia and pork in China; and our companies and workers experienced significant growth in services trade.

The United States' efforts to expand and level the playing field for American producers have enhanced trade around the world. We have upheld science-based standards for agricultural exports. We have increased the protection of intellectual property against counterfeiting and piracy. We have insisted that foreign governments not unfairly advantage their own manufacturing industries in key sectors, from aerospace to clean energy.

In 2011, the Administration's trade policy will continue to provide leadership for the global economy and help American manufacturers, service providers, farmers, and ranchers sell more goods and services around the world, supporting more jobs here at home.

The President's Trade Policy Agenda for 2011 outlines an ambitious scope of work to meet these goals. Across the global stage, we will advance market-opening negotiations with our trading partners and bolster existing ties. We will continue to actively enforce U.S. rights under our trade agreements. We will conduct these efforts based on high standards that reflect American values on labor and on the environment, and on public engagement and transparency.

We look forward to working with Congress and with the American people to build broad support for this agenda. Our country's global competitiveness and the prosperity of our citizens depend on our shared effort.

Trade as a Source of Better Jobs and Greater Economic Strength

Two-way trade is essential to American economic growth and success. Ninety-five percent of consumers reside beyond our borders, and the International Monetary Fund forecasts that nearly 83 percent of world growth over the next five years will take place outside of the United States. To reach our full potential for employment and economic growth, America must engage globally to sell more goods and services abroad.

Expanding American exports supports jobs here at home. Every \$1 billion in goods exports supports more than 6,000 jobs, and every \$1 billion of services exports supports more than 4,500 jobs. Agriculture exports alone support nearly one million American jobs on and off the farm. Jobs supported by goods exports pay up to 18 percent more than the national average. Export-supported jobs in America's services sector – which employs 80 percent of America's private sector workforce – run the gamut from contractors to cargo handlers, and expanding America's highly competitive services companies into new markets will support more of these jobs here at home.

Imports can also play a positive role, serving as inputs to value-added U.S. production and supporting well-paying jobs here in the United States. Imports also offer U.S. consumers variety and affordability as they look to get the most out of their household budgets.

Global stability requires that the world's major economies share responsibility for sustaining overall demand for goods and services. Countries that have traditionally relied on greater trade surpluses for growth must expand domestic consumption and domestic investment. Conversely, the United States must rely less on household consumption, gradually increase national savings, and moderate our trade imbalance through export expansion. Continuing America's shift toward exports will help our own economy recover and will put the global economy on a more solid, balanced foundation for future growth.

With the goal of better jobs for more Americans, we will craft new trade initiatives to increase our country's and our citizens' ability to compete in the global marketplace. Policies that support education, infrastructure, innovation, and investment here at home will also support our export strategy and its expected dividend of better job growth here at home. As the President underscored in his 2011 State of the Union address, "... these investments – in innovation, education, and infrastructure – will make America a better place to do business and create jobs."

Our Policy Priorities

Enhance American Economic Growth and Employment

As an engine of economic growth and better jobs, trade has numerous benefits – among them, that the jobs and economic stimulus flowing from increased exports can be obtained without massive direct government spending. To further restore our country's economic stability and support jobs for more Americans, the expansion of smart, responsible trade must remain a central element of our economic agenda. The Administration is undertaking a number of key initiatives toward this end.

The National Export Initiative

In 2010, the Administration launched the National Export Initiative (NEI), an ambitious effort that has put the United States on course to double exports by 2015 – supporting millions of additional American jobs. The NEI's success will require a vigorous trade policy that opens markets and creates commercial opportunities for American firms. The President's Export Promotion Cabinet, comprised of Cabinet members and senior administration officials whose work affects exports, has developed and begun to implement 70 recommendations relating to enhanced export assistance, increased trade finance, and assertive policies to expand trade opportunities. Key elements include increased government outreach to facilitate exports by America's small- and medium-sized businesses, more export assistance, including with regard to untapped "next tier" markets, more aggressive commercial advocacy, and additional export financing.

As we have marshaled public resources for the NEI, we have recognized that America's private sector is our country's primary driver for innovation and job growth. A reinvigorated President's Export Council is a forum for strategic advice and expertise from business and labor leaders about opportunities, trends, and challenges to the competitiveness of U.S. exports. Recently, the Administration also created the President's Council on Jobs and Competitiveness to explore ways to invest in America's businesses, prepare our workers to compete internationally, and attract the best businesses and jobs to the United States. This comprehensive effort is succeeding. Over the past six quarters of steady economic recovery,

exports have contributed significantly to America's total economic output. By the end of 2010, U.S. exports were up nearly 17 percent over the previous year. This export growth already has supported hundreds of thousands of additional American jobs – directly by the production of goods and services for export, and indirectly through the supply chains and services that attend our exporting firms, factories, farms, and ranches.

In 2011, the Administration will build on this success, continuing to implement the trade promotion and trade policy recommendations of the President's Export Promotion Cabinet. The cabinet also will deliver to Congress the first comprehensive interagency report on our progress in implementing the NEI across trade promotion, export financing, and trade policy. It will show that this effort is growing at a pace that will meet the President's goals.

An important cross-cutting NEI priority is to expand exports by small- and medium-sized businesses. These are significant contributors to economic growth in the United States and globally. Direct and indirect exports by these businesses supported an estimated four million U.S. jobs in 2007, and small- and medium-sized businesses generated approximately 65 percent of all net new private sector jobs between 1992 and 2009.

Federal agencies will continue to collaborate closely in helping these businesses to grow and to support additional jobs through trade. The Administration has expanded outreach to better integrate the concerns and priorities of small businesses into U.S. trade policy activities. In 2010, three new reports requested from the U.S. International Trade Commission by the Office of the United States Trade Representative (USTR) offered critical insights into key trade barriers affecting these businesses. We will continue to seek to reduce these barriers through negotiation and cooperation with our trading partners and through enforcement action when necessary.

In conjunction with the broad, overarching goals of the NEI, the Administration is pursuing several specific, key opportunities to support more American jobs through trade.

The United States-Korea Trade Agreement

On December 3, 2010, President Obama announced that his Administration had successfully negotiated a better deal for America's automotive sector as part of an effort to advance the pending United States-Korea trade agreement. New commitments will give American auto manufacturers and workers improved access to the Korean market and a level playing field to take advantage of that access. The agreement, which is expected to support at least 70,000 American jobs, also strengthens our ability to support manufacturing jobs in the United States; increases export opportunities for American farmers and ranchers; and further opens Korea's \$580 billion services market to American companies. High standards for the protection of workers' rights and the environment are key elements of this agreement.

In working to address concerns with the United States-Korea trade agreement, the Administration obtained an unprecedented level of input from stakeholders, including industry and labor, as well as from Congress. This enhanced engagement led the Administration to obtain strong, enforceable commitments that give U.S. auto companies the opportunity to ramp up their efforts to increase sales to Korea; eliminate non-tariff barriers that severely restricted our automakers' access to the Korean market and raised the cost of producing vehicles for sale in that market; and protect American workers from sudden harmful import surges.

The Administration is continuing its close cooperation with Congress to secure approval of this landmark agreement as soon as possible.

Colombia and Panama Trade Agreements

The Administration is applying these same principles of engagement as we seek additional opportunities to support American jobs through the pending Colombia and Panama trade agreements.

Panama has already made significant progress in reforming its labor regime to achieve consistency with the pending trade agreement. Panama also has taken significant steps to achieve greater tax transparency, including the signature of a tax information exchange agreement with the United States in November 2010. In Colombia, the new Santos Administration has launched several major initiatives addressing the concerns of labor and human rights groups. The Administration is continuing to work to resolve outstanding issues related to each of these agreements, consistent with American values, as quickly as possible this year so that we can move them forward for Congressional consideration immediately thereafter. This is especially important as the Panamanian and Colombian governments pursue trade agreements with other countries, including Canada and the European Union, which could leave U.S. exporters to these markets at a competitive disadvantage.

The Trans-Pacific Partnership

Asia is home to many of the fastest-growing markets in the world. There are now more than 180 preferential trade agreements in force that include Asia-Pacific countries. More are on the way, with more than 20 agreements awaiting implementation and nearly 70 others under negotiation. Only full engagement by the United States in the emerging trade architecture and dynamic markets of the Asia-Pacific will enhance the competitiveness of American exporters to this region, growing the number of American businesses and workers who benefit from U.S. exports.

The Trans-Pacific Partnership (TPP) is a key initiative through which the Administration seeks to advance the United States' multi-faceted trade and investment interests in the Asia-Pacific region, by negotiating an ambitious, 21st-century regional trade agreement along with Australia, Brunei Darussalam, Chile, Malaysia, New Zealand, Peru, Singapore, and Vietnam. The TPP has begun with this initial group of like-minded countries with the goal of creating a platform for regional integration across the Asia-Pacific.

The United States is seeking to construct a broad and deep agreement that builds on the best of existing trade pacts and that more fully addresses new issues of concern for businesses and workers. In addition to the high-standard, market opening elements of current U.S. trade agreements, it will feature cross-cutting issues not tackled in previous trade agreements. These include promoting connectivity to deepen the links of U.S. companies to emerging Asia-Pacific production and distribution networks; increasing the compatibility of regulatory systems of TPP countries so that U.S. companies can operate more seamlessly in these markets; strengthening small- and medium-sized enterprises through greater participation in international trade; and promoting development. The TPP also will include strong disciplines that ensure respect for labor rights and environmental protection.

In 2010, negotiations on the TPP moved forward steadily. As an aggressive U.S. outreach strategy offered unprecedented transparency to stakeholders from business, labor, and nongovernmental organizations, negotiating teams reached agreement on technical details needed to exchange tariff offers and made solid progress in developing the legal texts of the agreement. In an important expansion of the

initial membership, Malaysia joined the talks; Vietnam agreed to participate as a full member; and several other interested countries began preliminary consultations with the United States and other TPP partners.

In 2011, we intend to make significant progress toward the swift conclusion of the TPP. The first of five negotiating rounds planned for this year took place in Santiago, Chile in February, yielding continued progress. The Administration continues to believe that the TPP is the most promising vehicle for achieving economic integration across the Asia-Pacific region and advancing U.S. economic interests with the fastest-growing economies in the world.

U.S. Leadership in 2011 of the Asia-Pacific Economic Cooperation (APEC) Forum

Also key to the United States' robust engagement in the Asia-Pacific is the United States' role as 2011 chair and host of the Asia-Pacific Economic Cooperation (APEC) forum, the premier economic organization in the region. APEC's 21 member economies comprise nearly half the world's population and more than half the global economy, and the U.S. host year presents a historic opportunity to advance a trade and investment agenda that will revitalize economic recovery in the Asia-Pacific and support more jobs here at home.

USTR worked closely with 2010 host economy Japan to achieve real results at the November APEC Leaders Summit in Yokohama and to provide the foundation for a robust U.S. host year. Leaders agreed to take more concrete steps toward achieving a Free Trade Area of the Asia-Pacific, through, for example, regional agreements like the TPP. APEC economies also agreed to reduce the time, cost, and uncertainty of moving goods through the Asia-Pacific region; take steps to prevent the emergence of technical barriers to trade; and eliminate barriers to trade and investment in environmental goods and services.

In 2011, as the United States hosts APEC for the first time since 1993, we will seek practical and ambitious results on the important issues confronting U.S. exporters to the region. To that end, we will prioritize initiatives that can help to build a seamless regional economy, including those related to economic integration and trade expansion, enhanced green growth, and greater regulatory cooperation and convergence.

Doha Development Agenda Negotiations at the World Trade Organization

The United States maintained strong focus at the World Trade Organization (WTO) in 2010 on intensifying market-opening Doha Development Agenda (DDA) negotiations. That focus will continue this year. An ambitious, balanced, and market-opening outcome in the Doha Round negotiations can provide meaningful expansion of world trade and of U.S. exports in agriculture, goods, and services, boosting the world economy, supporting many good jobs, assisting poorer countries, and reinforcing confidence in a rules-based trading system.

The world has changed since the Doha Round negotiations began in 2001. The remarkable growth of emerging economies like China, India, and Brazil has fundamentally changed the landscape – and their growth is projected to continue in the coming years. In a negotiation in which the United States is being asked to significantly cut tariffs on all industrial and agricultural goods, we are asking these emerging economies to accept responsibility commensurate with their expanded roles in the global economy.

As the President stated at the Seoul G-20 meeting in November 2010, “just as emerging economies have gained a greater voice at international financial institutions . . . so, too, must they embrace their responsibilities to open markets to the trade and investment that creates jobs in all our countries.”

The United States, already among the most open markets in the world, has been frank about the importance of obtaining increased access to these markets. Access to emerging economies is also vital for the poorest countries that have been a particular focus of the Doha negotiations. Developing country tariffs are four times higher than those of developed countries, and the poorest countries already have largely open access to major developed economies, like the United States, through trade preference programs.

The global rules for trade need updating to reflect the rise of the emerging economic powers. A successful Doha Round will require a process of balanced and ambitious give-and-take among established or newly emerging trading powers, while giving due consideration to the special interests and circumstances of developing economies.

In 2011, the Administration will intensify efforts to engage key emerging economy partners bilaterally to raise the level of ambition for a final package. President Obama and fellow G-20 leaders have recognized 2011 as a “critical window of opportunity” for advancing towards conclusion of the WTO’s Doha Round negotiations. In addition to progress on agriculture trade and rules, the talks must take a meaningful approach to sectoral liberalization in non-agricultural market access (NAMA) that will correct the ambition deficit currently reflected in the negotiation. Concrete progress is also necessary to show that the Round will produce meaningful new market access for services trade.

For these talks to remain relevant, they must address the world as it is and as it will be in the coming decades. Our requests of key emerging economies will continue to be based on the reasonable proposition that countries with rapidly expanding degrees of global competitiveness and exporting success should be prepared to contribute meaningfully towards trade liberalization. China, for example, should demonstrate tariff-cutting ambition in sectors such as chemicals, information technology and industrial machinery.

It is also essential that work on Doha during 2011 bring about improved packages in services, providing new market access in key sectors such as financial services, information and communications technology, distribution and express delivery. Meaningful progress on reducing non-tariff barriers, which especially concern U.S. exporters and for which the United States has offered both broad and sector-specific proposals, is also key.

Across the board, achieving a successful conclusion to the DDA in 2011 will mean shifting this long-running negotiation towards a clear focus on making markets – for industrial goods, services, and agriculture – much more open.

Bringing Russia and Other Countries into the WTO

The expansion of the WTO to include new members strengthens the global trading system and opens new and more secure markets to American exporters. A key Administration focus at the WTO is on efforts by Russia and others to complete negotiations on WTO accession.

Russia is an important potential market for U.S. exporters, but a trading partner with which we face significant challenges. Russia’s membership in the WTO will benefit U.S. economic interests directly by integrating Russia into a system of fixed rules governing trade behavior, and by providing the means to enforce those rules and Russia’s market access commitments.

The coming year should be significant with respect to Russia's efforts to join the WTO, and the United States will continue to exert leadership in this effort. The Administration has welcomed the energy and focus Russia is bringing to the process. Successful efforts to resolve a number of important outstanding bilateral issues in 2010 have paved the way for conclusion of remaining steps in the multilateral negotiation on Russia's accession. Russia has committed to reduce or eliminate many tariffs and to provide for improved market access for U.S. services, increasing opportunities for U.S. companies, farmers, ranchers, and workers to export and develop economic opportunities in Russia's rapidly growing economy. Recognizing continued progress in these negotiations, the Administration will seek to work with Congress this year to enact legislation terminating the application of the Jackson-Vanik Amendment to Russia and extending permanent normal trade relations status to Russian goods.

Likewise, the Administration expects to exert leadership in the WTO accession efforts of other prospective members in 2011, including Yemen, Kazakhstan, the Lao People's Democratic Republic, and Afghanistan. Advancing bids for WTO membership will encourage greater openness, further development of the rule of law, and economic reform in these and other candidate countries.

Enforce America's Rights and Protect Innovation in a Strong, Rules-Based Trading System

The Administration is committed to securing U.S. rights and benefits under existing international trade agreements. The United States' commitment to expanding markets and opposing protectionism in a multilateral, rules-based global trading system constitutes a central element of the Administration's trade policy agenda.

U.S. rights under trade agreements include the ability to address a wide array of market access barriers to U.S. goods and services, protection of intellectual property, and recourse when necessary to trade remedies. U.S. free trade agreements also include strong disciplines to protect labor rights and the environment.

The Administration has brought a strong, increased focus on ensuring that American workers, farmers, ranchers, and businesses receive the maximum benefit from U.S. trade agreements that are already in place, from multilateral agreements in the World Trade Organization (WTO) to regional agreements such as the North American Free Trade Agreement (NAFTA) and bilateral agreements as well. We have set strategic goals to address trade barriers and failures to adhere to agreements. To identify, monitor, and resolve a full range of issues, and to support more broadly the Administration's market opening agenda, we use a variety of tools, including consultations, negotiations, and litigation in formal dispute settlement proceedings.

In 2010, our approach to enforcement – using all of these resources and methods – proved valuable to the American people in real terms.

Enforcement at the World Trade Organization

Existing WTO rules, and the institutional structures established to ensure that members live up to those rules, provide the United States with critical tools for effectively enforcing America's trade rights, including through a dispute settlement system that has clearly produced value and preserved jobs in the U.S. economy. This system of dispute settlement is a vital avenue for countries to resolve difficult disagreements while maintaining solid working relationships.

We seek to work with our trading partners to build consensus on key issues. When cooperative approaches to resolving trade disputes have not proven successful, however, the Administration has repeatedly shown that it will vigorously pursue U.S. rights through WTO and other trade agreement dispute settlement procedures.

In addition, the Administration has not hesitated to apply trade remedies such as antidumping and countervailing duties consistent with our WTO obligations. We recognize trade remedies as a critical aspect of the rules-based global trading system. At the same time, we reserve the right to challenge any improper imposition of such measures by our trading partners.

More American workers, farmers, ranchers, manufacturers, and service providers realized the full benefits of our trade agreements as the United States prevailed in a range of key dispute settlement cases at the WTO. For example, the United States successfully challenged the EU's application of import duties to three technology products covered by the Information Technology Agreement, helping to ensure that U.S. producers of high-tech products will continue to be able to export those products duty-free to Europe.

The United States secured several key victories at the panel stage of proceedings, which await final adoption by the WTO. In the largest case ever heard by a WTO panel, the United States successfully argued that more than \$18 billion in subsidies conferred on Airbus by the EU and several of its member countries were illegal, harming the U.S. aerospace industry and its workers through lost sales and loss of global market share. The United States continues to vigorously defend these findings against the EU's appeal in a dispute potentially affecting thousands of U.S. jobs.

A WTO panel also agreed that the United States had acted within its WTO rights in taking action to stop a harmful surge of Chinese tire imports into the United States – a decision made by President Obama in September 2009 that has helped to restore U.S. tire industry jobs. Another WTO panel upheld the U.S. application of antidumping and countervailing duties on four dumped and subsidized products from China.

The Administration also initiated new dispute settlement proceedings at the WTO during 2010. The United States challenged China on the imposition of duties that have reduced or blocked exports of important American steel products to that country, threatening American steelworkers' jobs. The United States is also suing China over China's restrictions on electronic payment services and suppliers, which are blocking participation by otherwise competitive American businesses in a thriving and lucrative market. In addition, the United States requested consultations with China regarding wind power equipment subsidies that appear to discriminate unfairly against parts and components made in the United States. The United States also initiated a dispute against the Philippines over its taxes on distilled spirits that appear to discriminate against U.S. exports.

Supporting and Strengthening the Rules-Based System of the WTO

The WTO's enforcement structure is only one part of its significant value to the United States and to the global economy. The WTO remains the key global driver of trade liberalization in a rules-based system, and a bulwark against protectionism.

The ongoing, day-to-day work of the WTO's various committees contributes enormously to promoting transparency of WTO member trade policies, and offers opportunities for agencies across the U.S. government to address barriers affecting U.S. commercial interests. Particularly in areas such as technical

and sanitary and phytosanitary barriers to trade, these WTO committees remain a key venue for defending U.S. economic interests.

In a 2010 review of America's trade policies, WTO members acknowledged the crucial leadership role of the United States in upholding the rules-based multilateral system embodied in the WTO. The United States looks forward to the planned bi-annual Ministerial Conference of the WTO in December 2011 as an opportunity to foster continued strengthening of this vital system.

Expanding Enforcement under U.S. Trade Agreements

USTR also chose to initiate key trade enforcement actions in other fora – not only insisting on the benefits promised under various agreements, but realizing and strengthening the agreements' meaning through the exercise of their enforcement provisions.

Under the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR), the Administration filed the first labor case the United States has ever brought under a trade agreement. Following the Administration's 2009 promise to more vigorously scrutinize foreign labor practices, the case alleges that Guatemala failed to perform labor rights inspections, to take action to address labor law violations and to enforce orders involving labor rights. The Administration will continue to seek specific and effective action from Guatemala to address systemic failures in enforcing its labor laws.

Under the NAFTA, the United States requested that a dispute settlement panel be convened regarding Mexico's failure to move its dispute with the United States regarding "dolphin safe" labeling of tuna products from the WTO to the NAFTA. Mexico's actions appear to violate the "choice of forum" requirements in NAFTA, which are an important element of the NAFTA dispute settlement provisions.

Under the 2006 U.S.-Canada Softwood Lumber Agreement (SLA), the United States requested dispute settlement consultations with Canada over apparent subsidies being provided to producers in British Columbia. The challenged practices appear to be providing timber to Canadian softwood lumber producers at far below market price, thereby harming U.S. firms and workers in the softwood lumber industry. Also under the SLA, the United States won a significant victory in January 2011 in a separate arbitration concerning a number of provincial assistance programs put into place by Quebec and Ontario. Canada's imposition of remedial measures to cure its breach of the SLA will help restore a level playing field for workers and firms in the U.S softwood lumber industry.

Beyond litigation, in 2010 the United States sought and obtained pragmatic resolution of trade disputes to the benefit of American industries and workers. Intense negotiations led to the resumption of U.S. poultry exports to Russia, reopening a key market worth hundreds of millions of dollars to American farmers and processors.

Similarly, finding a path forward in the WTO dispute with Brazil regarding export credit guarantees for U.S. agricultural exports and domestic supports for upland cotton successfully averted Brazil's imposition of more than \$800 million in countermeasures targeting U.S. industrial and agricultural products. Those measures, including more than \$560 million in higher tariffs against U.S. exports such as motor vehicles, medicines, chemicals, and cosmetics, and agricultural products such as wheat, fruits, pork, food preparations, and dairy products – as well as possible additional countermeasures on U.S. intellectual property – could have caused significant economic harm to businesses and workers in the United States. By working cooperatively and constructively with Brazil, we developed a framework aimed at resolving the dispute and facilitating a closer economic relationship. The existence of cooperation with Brazil and

with other trading partners even amidst disputes reflects the high ideals and inherent value of the rules-based system.

Sustained engagement on environmental issues also has allowed the United States and its trading partners to address concerns. For example, U.S. officials continue to work closely with the Government of Peru on the reform of Amazon forest management policies. Peru has increased criminal penalties for illegal logging and other activities, and put enforcement officers throughout Peru.

USTR's delivery of promised comprehensive reports on sanitary and phytosanitary barriers faced by U.S. food and farm exports, as well as on technical barriers impeding American exports worldwide, informed successful efforts to return key American products to key global markets, such as poultry in Russia and pork in China. These new tools were developed through increased coordination between USTR and the Departments of State, Labor, Commerce, Agriculture, and other federal agencies to spot and respond to trade concerns.

In 2011, such pragmatic, cross-cutting enforcement initiatives will continue to be a hallmark of the Administration's trade regime. Of course, we will continue to employ negotiation when possible and litigation when necessary to resolve trade disputes. At the same time, we will expand our capabilities to investigate, analyze, prioritize, and address increasingly complex trade barriers that present systemic problems for U.S. producers of goods and services.

This comprehensive approach will enable us to respond ever more effectively to emerging problems that our producers face in markets around the world. We will ensure that our trading partners' actions are consistent with WTO obligations, including reliance on scientific evidence and internationally accepted guidelines. We will affirm actively this Administration's respect for the environment and for the rights of workers. And we will provide a level playing field for U.S. workers and businesses. As with all of our trade policy efforts, the aim of every enforcement action will be to keep American workers and companies competitive around the world, and to accelerate employment and economic growth here at home.

Protecting American Innovation and Jobs

The United States is the global leader in fostering innovation and improvements in technology. The U.S. Chamber of Commerce estimates that intellectual property (IP)-intensive industries employ 18 million Americans. However, the competitive advantage of those American workers is eroded when piracy, counterfeiting, and other intellectual property theft threaten American brand-name products, copyrighted content, and patented inventions.

Whether American small businesses export and expand is frequently determined by their level of confidence that their intellectual property will not be stolen. Providing more certainty in this regard can embolden these American job-creators to export, and can help to create a global environment that encourages creative, innovative solutions to the world's most pressing problems.

In 2010, the United States made it a priority to engage with trading partners around the world to strengthen global intellectual property rights. Most notably, the Administration fulfilled a pledge to negotiate and enforce effective IP protection to the benefit of American innovators and the public at large. With partner countries representing more than half of global trade, we finalized the text of the Anti-Counterfeiting Trade Agreement (ACTA) – an important new tool to fight counterfeiting and piracy, which threaten American jobs that depend on innovation and creativity. The ACTA will strengthen

international cooperation, enforcement practices, and the legal frameworks for addressing these challenges.

With expanded public input, we also used the Special 301 process – an annual review of the adequacy and effectiveness of intellectual property rights protection and enforcement around the world – to better identify key challenges for American businesses and create better markets for job-supporting American exports. We encouraged significant advances in intellectual property rights protections in countries from the Czech Republic to Saudi Arabia. We also secured a long-sought understanding with Israel that will enable U.S. manufacturers to sell medicine there with assurances that their clinical test data and other intellectual property rights are secure. Improving enforcement of intellectual property rights in these countries makes them more attractive markets for U.S. exports that support American jobs.

Administration efforts to oppose problematic aspects of China’s “indigenous innovation” policies are also helping to protect U.S. intellectual property, technology, and jobs. For example, China agreed at the December 2010 Joint Commission on Commerce and Trade (JCCT) to prevent discrimination against goods or services in government procurement based on where their intellectual property is owned or developed. These and other commitments regarding innovation and intellectual property rights are discussed in more detail later in this report; these accomplishments have helped to anchor a more even-handed environment for U.S. exports to China and U.S. companies invested in China.

In 2011, we will build on these successes, looking forward to the entry into force of the ACTA and utilizing other IP rights enforcement tools to protect and open markets for American innovators and entrepreneurs, especially small businesses. We will continue to pay special attention to IP rights in our trade negotiations and enforcement efforts, while maintaining our commitment to preserving developing countries’ ability to protect public health and, in particular, to promote access to medicines for all consistent with the principles laid out in the WTO Doha Declaration on the TRIPS Agreement and Public Health. We will continue to engage with the public to develop sound, well-balanced IP rights policies and seek new ways to strengthen international support for IP rights.

Strengthen Trade Relationships with Global Partners

America’s export potential and our access to the benefits of two-way trade depend on the strength and health of our trade relationships with economies around the world. Sustained engagement is increasingly important to a number of our dynamic trading relationships, where challenges and opportunities exist across a diverse set of issues. Trade agreements, including free trade agreements and other trade and investment mechanisms, fortify these key relationships. They increase cooperation on shared concerns, enhance dialogue on emerging issues, create opportunities for American businesses overseas, and protect those American interests once they enter foreign markets. Ultimately, well-established trade relationships serve our efforts to grow employment and economic opportunity here at home.

A forward-looking trade policy that supports better American jobs must also aggressively pursue new prospects in emerging high-growth markets. It is imperative to seek out these new markets and develop tools to open them to America’s competitive goods, services, and agriculture products.

The Obama Administration places a high priority on reinforcing and deepening long-standing trade ties with major partners, and on using various trade and investment tools to expand American opportunity in key target markets. Some examples:

The Americas

Significant advances were made in 2010 with Canada and Mexico, our closest neighbors and largest export markets. In February, the United States resolved a key bilateral trade irritant with Canada and won permanent U.S. access to tens of billions of dollars' worth of Canadian provincial and territorial procurement contracts in accordance with the WTO Government Procurement Agreement (GPA). In August, Mexico recognized the equivalence of U.S. and Canadian standards covering certain electrical and electronic products, which will expedite the entry of these products into the Mexican market and reduce the costs for U.S. companies that export these products to Mexico.

In 2011, the NAFTA – both the United States' largest free trade agreement and one of our oldest – will be the basis for further deepening and enhancing these vital trade relationships. Several initiatives will build on work begun over the last two years. The U.S.-Mexico High-Level Regulatory Cooperation Council will identify sectors for more intensive cooperation as regulators develop new and revised frameworks to better protect and inform our citizens while enhancing the competitiveness of our economies. We also plan to sign in 2011 a Mutual Recognition Agreement for Conformity Assessment of Telecommunications Equipment between the United States and Mexico that reflects the agreement announced at the NAFTA Free Trade Commission in January. The three NAFTA partners also will increase cooperative activities to promote participation of small- and medium-sized enterprises in North American trade.

Monitoring and enforcement will remain a focus. The United States and Mexico have begun to negotiate an agreement on implementation of a new cross-border trucking program to resolve a long-standing dispute and end harmful retaliation by Mexico on U.S. exports. With Canada, a new U.S.-requested arbitration to ensure America's rights under the Softwood Lumber Agreement will proceed as the findings of previous arbitral panels are implemented.

As a group, Latin American countries represent one of the largest markets for U.S. exports after North America and the European Union. We are working to expand and diversify our economic relationship with Brazil, our second largest trading partner in Latin America. The two governments met in November 2010 on trade and investment policy matters under the auspices of the U.S.-Brazil Bilateral Consultative Mechanism. We are advancing negotiations on a new framework to build upon common and mutually beneficial interests, including trade facilitation, technical barriers to trade, intellectual property rights protection, and services and investment issues.

We look forward to reenergizing engagement in 2011 with our free trade agreement partners in Central America (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua) and the Dominican Republic and to expanding trade relations with Brazil as well. In February 2011, we held the first Free Trade Commission (FTC) Ministers' meeting under the CAFTA-DR to review its administration and implementation and to expand and broaden the benefits of trade under the agreement. There Ministers endorsed a positive, forward-looking agenda with a focus on trade facilitation and small and medium-sized enterprises.

We also plan to continue engaging bilaterally with our other hemispheric trade agreement partners, including pursuing intellectual property rights concerns with Chile and working to ensure Peru's implementation of its forest sector annex obligations. We also plan to engage with countries such as Uruguay, Paraguay and Ecuador, through established mechanisms for exchanges on trade and investment policy matters.

Europe

Collectively, the 27 countries of the European Union (EU) are America's largest trading partner and biggest investment market. Commerce between the United States and the EU is a critical pillar of U.S., European, and global prosperity. Despite successes in strengthening transatlantic trade and investment, our EU counterparts and we agree that we can do more to make our trade relationship a more productive source of new jobs, growth, and competitive advantage.

In 2010, the United States achieved significant benefits in the EU trade relationship through negotiation and through the enforcement process. By mid-2010, the U.S.-EU beef agreement negotiated by USTR in 2009 had helped American ranchers sell more high-quality American beef to Europe – nearly 10,000 tons valued at \$100 million – than they had since the EU hormone ban went into effect in January 1989.

During 2011, the United States will pursue negotiations and policy initiatives that will help fulfill the promise of the transatlantic economic relationship. We will seek to identify with our EU counterparts potential new approaches to the reduction or elimination of barriers to our goods and services trade and investment. A key focus of this effort will be non-tariff barriers rooted in differences in U.S. and EU regulatory approaches – barriers that now constitute the most significant obstacles to expanded transatlantic trade and investment.

Non-tariff barriers are a concern across U.S. trade policy, and in December 2010 the Transatlantic Economic Council (TEC) – a group of cabinet-level U.S. and EU officials – launched several regulatory cooperation initiatives aimed at reducing existing non-tariff barriers and preventing new ones. Notably, we agreed to identify economically promising emerging technologies or sectors in which the United States and the EU could implement compatible regulatory approaches. We will also seek ways to improve each side's development of regulations and use of standards.

The United States will also intensify cooperation with the EU in addressing common concerns in major third-country markets with respect to market access barriers, intellectual property rights protection, and regulations or product standards that are too trade restrictive or not scientifically justified. We will seek to replicate the successful 2009 resolution of the long-standing U.S.-EU beef dispute with new efforts to resolve lingering WTO cases and other frictions. This will enable U.S. and EU officials to direct more time and attention to promising market-opening initiatives.

Asia

As the United States' third largest goods export market, China presents enormous economic opportunities for American businesses and workers. At the same time, our largest bilateral trade deficit is with China, and China often employs practices that impede trade. Striking an appropriate balance in this complex and challenging trade relationship requires sustained engagement and significant resolve on the part of the United States.

While using the WTO to litigate a number of difficult issues that dialogue could not solve, the United States and China continued important talks on trade and investment in the Strategic and Economic Dialogue (S&ED) and the Joint Commission on Commerce and Trade (JCCT).

The May 2010 S&ED produced near-term results in the trade area, including a commitment by China that its innovation policies will be consistent with the principles of non-discrimination, support for market competition and open international trade and investment, strong IP rights enforcement, and, consistent

with WTO rules, leaving the terms and conditions of technology transfer, production processes, and other proprietary information to agreement between individual enterprises.

After changes to the JCCT including a first-ever mid-year review to ensure strong implementation of past commitments and to focus the work for the upcoming annual meeting, we achieved significant progress on a number of issues of concern. At the 2010 JCCT, the United States secured commitments from China to enforce intellectual property rights that would protect American jobs, including through increased purchase and use of legal software, as well as by addressing Internet piracy and piracy of electronic journals and cracking down on landlords who rent space to counterfeiters in China. China agreed to eliminate discriminatory “indigenous innovation” criteria used to select industrial equipment for preferential treatment, improving access to China’s market for American machinery manufacturers, and committed to open and neutral standards for 3G and future technologies in one of the world’s largest telecommunications markets. The Chinese also committed not to discriminate in government procurement decisions based on where the intellectual property component of the products was developed, or to discriminate against innovative products made by foreign suppliers operating in China.

Other Chinese commitments during the 2010 JCCT included openness, non-discrimination, and transparency in China’s smart grid market, and cooperation on smart grid standards, creating more opportunities in a market that is estimated to be worth \$600 billion. China committed to accelerate its accession to the WTO’s Government Procurement Agreement (GPA), which will help America’s innovators and entrepreneurs continue to support American jobs by selling to the Chinese government. The United States will continue active coordination with China regarding implementation of these JCCT commitments. The United States will also continue to pursue science-based market access for beef and beef products.

In 2011, the Administration will continue working to increase the benefits that the United States derives from trade and economic ties with China. We will focus again on outcome-oriented dialogue at all levels of engagement, while also taking concrete steps to enforce China’s adherence to its international trade obligations. Already in 2011, the United States made important progress with China at the January Summit between President Obama and President Hu Jintao. Specifically, China agreed to delink its innovation policy from the provision of government procurement preferences, to audit its software legalization program and publish the results of those audits, and to cover sub-central entities in its 2011 revised offer to join the GPA.

During the rest of 2011, we will continue to pursue robust formal and informal meetings and dialogues with China. These will include numerous working groups and high-level meetings under the auspices of the S&ED and the JCCT, which will have a particular focus on trade irritants arising in the areas of intellectual property rights, industrial policies, trading rights, agriculture, services and transparency. At the same time, the United States will continue to use actively other tools, including WTO dispute settlement where appropriate on issues left unresolved by dialogue.

Japan is America’s fourth-largest goods trading partner, and was a particularly important source of trade collaboration in 2010. Even as the United States coordinated with Japan on an ambitious APEC agenda, we also agreed on a bilateral basis to launch an Economic Harmonization Initiative that will facilitate trade, address business climate and individual issues, and advance coordination on regional issues of common interest. This important new initiative will begin in early 2011.

Also in 2011, we will continue to address longstanding irritants such as restricted access to Japan’s beef market and level playing field concerns related to Japan Post. The United States will continue to work closely with Japan on addressing common concerns related to third country policies and practices.

As a whole, the 10 member countries of the Association of Southeast Asian Nations (ASEAN) together comprise the fourth largest export market of the United States and its fifth largest two-way trading partner. ASEAN includes Brunei, Burma, Cambodia, Indonesia, Laos, Malaysia, Philippines, Singapore, Thailand, and Vietnam. Our regional work through the U.S.-ASEAN TIFA will be complemented by work under the bilateral TIFAs we have with countries in the region.

In South Asia, India presents one of the most significant markets for growth in U.S. exports and investment. The last decade witnessed a quadrupling of U.S. exports to India and significant growth in Indian investment into the United States. Tapping the tremendous potential for greater bilateral trade and investment between our two countries will require efforts in 2011 to eliminate numerous trade barriers. These include measures prohibiting the entry of several U.S. agricultural products into the Indian market or efforts designed to stimulate domestic industry at the expense of foreign competition; other barriers range from prohibitions and restrictions on foreign investment in key sectors to inadequate protection and enforcement of intellectual property rights. We will continue to use all available mechanisms – including the U.S.-India Trade Policy Forum and the WTO – to promote an open and transparent trade and investment regime in India that will ensure U.S. exporters and investors the opportunities afforded by India's growth.

The Middle East and North Africa

With a large and growing population of 450 million, a regional GDP equivalent to the world's sixth-largest economy, and close to \$1 trillion in reserves, countries in the Middle East and North Africa are becoming significant potential export and investment markets for the United States. Our engagement with countries of this strategically important region in 2010 yielded key achievements. These included Saudi Arabia's removal after 20 years from USTR's Special 301 Watch List for intellectual property concerns, improved intellectual property rights protections for U.S. pharmaceutical exports to Israel, and significant progress in Yemen's WTO accession negotiations. In 2011, we will build on these successes by improving implementation of the U.S. free trade agreements with Israel, Jordan, Morocco, Bahrain, and Oman; by vigorously enforcing obligations; and by promoting the use of these agreements by U.S. firms to increase exports and support American jobs. We will use our various Trade and Investment Framework Agreements (TIFAs) and other forms of engagement to increase trade with non-FTA partners in the region, particularly the NEI priority market of Saudi Arabia. Beyond this, we will identify steps to promote further intra-regional trade integration, which should encourage economic reform, counter political unrest, and increase the region's attractiveness as a destination for U.S. firms and products.

Sub-Saharan Africa

Across sub-Saharan Africa, the African Growth Opportunity Act (AGOA) and other programs continue to increase trade and development by providing expanded duty-free access to 37 beneficiary countries in sub-Saharan Africa. In 2010, the United States hosted the annual AGOA Forum in Washington, D.C. and Kansas City, Missouri on the 10th anniversary of the program, welcoming Trade Ministers and African and U.S. business leaders to discuss ways to enhance U.S.-sub-Saharan African trade and investment. USTR has worked closely with USAID to ensure that ongoing trade capacity building assistance to African nations, through the regional trade hubs as well as bilateral missions, enables them to take advantage of the market access provided by AGOA, and to link U.S. and African businesses – particularly small- and medium-sized enterprises – to expand their trade and investment ties. The United States and Zambia established the U.S.-Zambia Trade Working Group and approved an Action Plan to increase two-way U.S.-Zambian trade, with a special focus on Zambian efforts to diversify exports under the AGOA.

The United States also completed the first round of Bilateral Investment Treaty (BIT) negotiations with Mauritius to strengthen investor protections and encourage the continuation of market-oriented economic reforms.

While AGOA and other programs have helped to expand and diversify U.S.-African trade, there is a growing recognition that unilateral preferences alone are not enough to promote the trade-led economic growth we seek in sub-Saharan Africa. In 2011, the Administration will work with Congress, stakeholders, and our African partners toward next-generation strategies that foster increased U.S.-African two-way trade and investment and spur further economic development in Africa. For example, we will seek to deepen the United States-East African Community (EAC) trade and investment relationship, using the platform of the existing U.S.-EAC TIFA to negotiate trade and investment-related understandings and agreements that complement the preferential market access already granted to EAC countries under AGOA.

We will seek to expand and diversify our two-way trade with sub-Saharan Africa through efforts to improve AGOA utilization and through implementation of detailed TIFA work plans with 11 bilateral and regional partners to address a range of trade-related issues – for example, sanitary and phytosanitary issues in South Africa and import bans in Nigeria. We will work closely with Congress, our African partners, and other stakeholders as these efforts proceed. We look forward to continuing our dialogue on these and other related issues at the 10th annual AGOA Forum in Lusaka, Zambia in June.

Key Promising Markets

Another key focus of our bilateral engagement will be emerging growth opportunities in developing markets with great potential for U.S. exporters and investors. We are working to open markets such as Turkey, Ukraine, South Africa, and Indonesia through an array of trade policy tools, including, where applicable, TIFAs, BITs, Joint Committees on Trade and Investment, and a number of other dialogues and mechanisms.

Notwithstanding their promise, many of these growing markets are still characterized by significant barriers to trade and investment. Obtaining greater access, including by identifying and reducing significant tariff and non-tariff barriers, will expand opportunities for U.S. exporters and help support additional American jobs. Although the immediate gains may be small in comparison to more established markets, enhanced access will pay increasing dividends to the U.S. economy in the years to come. Our efforts today are laying the groundwork for stronger and more beneficial trade relationships.

In Turkey, we will use the new cabinet-level strategic framework and other formal engagements to meet our NEI goals and deepen bilateral commercial ties with that country. Similarly, in Ukraine we are engaging the new government in an effort to improve the business climate for U.S. firms, notably through the recently adopted action plan on enhanced protection of intellectual property rights.

In 2010, we re-activated the U.S.-South Africa TIFA, paving the way for our efforts this year to address bilateral concerns from anti-dumping to sanitary and phytosanitary issues. Our bilateral TIFA with Indonesia provided a basis in 2010 for returning American pork to the Indonesian market and keeping American packaged food products and American films flowing there. This year, we will use the TIFA to seek to address the remaining market access restrictions that block American exporters from Indonesia's agriculture, manufacturing, pharmaceuticals, telecommunications, and express delivery sectors.

The Model Bilateral Investment Treaty

The Administration is committed not only to strengthening trade relationships through the use of trade mechanisms, but to strengthening investment tools to better serve our economic growth and employment goals. For this reason, in 2011, the Administration will build on the substantial progress made in 2009-2010 in the review of the “Model Bilateral Investment Treaty.” Our objective is to produce an updated model that preserves core investor protections without compromising governments’ ability to regulate in the public interest, fosters competitive neutrality in foreign markets dominated by state-owned enterprises, and enhances transparency and labor and environmental protection. Completion of the Model BIT review will enable the intensification of negotiations with key emerging economies from China, India, and Vietnam to Mauritius and others, and the implementation of agreements that will expand American economic opportunity abroad.

Partner with Poor and Developing Countries on Trade and Development Issues

During the past six decades, the liberalization of world trade has moved hundreds of millions of people out of poverty and into the global middle class. However, well over two billion people still live on less than \$2 a day. More than one billion people in the world live on half that. Increased trade holds the promise of boosting economic development and improving lives in poor and developing countries around the world. That is why this Administration is committed to working with our partners around the world to foster a trade-based prosperity that is more widely shared.

To be sure, trade and economic opportunity can reinforce each other in a virtuous growth cycle. Building markets abroad creates more customers for American exporters. In countries where governments are ready to partner with the United States to promote trade and economic development on a level playing field, we will work with their leaders to achieve those objectives and seek markets for American goods and services as well. Where we find unfair barriers to trade, an uneven playing field, or a lack of transparency and accountability, we will work with our partners to resolve those issues.

In 2010, a broad review of the United States’ development goals and existing programs produced the first-ever Presidential Policy Directive (PPD) on Global Development, which includes trade as a critical component of a whole-of-government approach to development policy. A top priority is to build the capacity of developing countries’ governments to drive development and eventually sustain economic growth on their own. As part of this strategy, the President has selected Ghana, the Philippines, Tanzania, and El Salvador to participate in Partnerships for Growth with the United States.

In 2011, the Administration will stress the importance of country ownership and responsibility in trade and development programs. This approach builds on the work of the Millennium Challenge Corporation (MCC), which promotes high standards of transparency, good governance, and accountability in MCC partner countries. Partnership and accountability are essential elements of the U.S. global development strategy.

In the context of this global development strategy, preference programs retain a key role in the United States’ efforts to boost poor and developing economies through enhanced access to the American market. The Generalized System of Preferences (GSP), initiated in 1976, has offered duty-free treatment for as many as 4,800 products from 129 designated countries and territories throughout the world. AGOA is another highly successful program. U.S. preference programs also include the Andean Trade Preference Act (ATPA) program and the Caribbean Basin Initiative (CBI).

U.S. trade preference programs also benefit the American economy. While GSP is designed to promote economic growth across the developing world, U.S. businesses and consumers benefit through cost savings on imports, through access to more goods and services, and through import-supported jobs from docks to manufacturing plants to retail stores. Americans benefit in similar ways from AGOA, ATPA, and other programs. The ATPA also has a positive effect on drug-crop eradication and crop substitution in the Andean region where the raw material for cocaine is grown, as well as job growth in export-oriented industries there.

In December 2010, Congress passed a short-term extension of ATPA but was unable to renew GSP. As a result, authorization of the GSP program expired on December 31, 2010. On February 12, 2011, the short-term ATPA extension expired as well. Failure to renew and extend these programs will undermine the economic development efforts of many poor countries and negatively affect U.S. businesses and consumers. The Administration will work with Congress in 2011 to secure long-term reauthorization of these two essential trade programs.

The Administration will also continue to support special efforts to link trade and economic opportunity for countries that have been particularly ravaged by disaster or violence. In 2010, the U.S. Trade Representative's "Plus One for Haiti" Initiative secured pledges from U.S. brands and retailers to work toward sourcing one percent of their total apparel production from Haiti. In 2011, we will continue to help Haiti to take maximum advantage of opportunities in the U.S. market through efforts like these and the implementation of the Haitian Hemispheric Opportunity through Partnership Encouragement (HOPE II) Act, as amended and extended by the Haiti Economic Lift Program (HELP) Act of 2010. This year, we also will help our Pakistani partners recover from last year's devastating floods by seeking to build economic prosperity through trade. To this end, we will work with Congress to ensure renewal of GSP and to identify other mechanisms, including appropriate preference policies, that can provide Pakistan the opportunities necessary to overcome challenges like the 2010 floods.

U.S. businesses and non-governmental organizations also play an important role in our partnerships with developing countries. Many are actively engaged in capacity building efforts in thousands of communities around the world, helping to foster favorable conditions for economic growth and entrepreneurship. The Administration will continue to seek public-private partnerships that leverage combined resources and expertise to achieve the maximum impact for communities in poor and developing countries.

Looking to the future, the United States stands ready to fulfill our commitment, made at the 2005 WTO ministerial meeting in Hong Kong, to provide broad duty-free and quota-free market access to least developed countries as part of the implementation of a successful conclusion to the WTO's Doha Round. In the meantime, we will champion the WTO's work on trade facilitation to help better integrate developing countries, particularly least developed countries, into global supply networks. We also will continue to support the Aid for Trade initiative and the Enhanced Integrated Framework through bilateral trade capacity building assistance and on-the-ground presence in these countries.

Reflect and Uphold American Values in Trade Policy

The link between increased trade and better jobs, as well as trade's consumer benefits, is well established and on display in American society every day. Yet many Americans still feel strongly that trade's costs outweigh its benefits.

The Administration has deliberately considered the next direction for American trade policy, with the belief that this key component of economic recovery should and could be more responsive to Americans' concerns. We are confident that a trade policy focused on American employment and economic growth, incorporating labor and environmental concerns, and developed with greater transparency and public engagement, can give the American people greater assurance that trade can both serve our interests and reflect our values. We recognize that many job-supporting trade initiatives will only succeed if we orient U.S. trade policy toward these goals.

In 2010, the Administration's approach to trade demonstrated a strong commitment to these values.

Respect for the rights of workers was made evident – and achieved – in negotiations to advance the U.S.-Korea trade agreement, when the Administration obtained a special motor vehicle safeguard for America's auto workers. It was shown in a more responsive enforcement agenda that took up the concerns of American workers and included the first-ever case brought under a U.S. trade agreement for apparent violations of labor commitments.

We continued our effort to limit the impact of dislocations and to support new jobs for workers in transition through Trade Adjustment Assistance (TAA) and other U.S. workforce programs. The expiration in early 2011 of Trade Adjustment Assistance, the first trade priority of this Administration in 2009, needs to be advanced rapidly to protect workers negatively affected by trade. The Administration will continue to work with Congress to secure long-term reauthorization of this key program. We also recognize that the Administration's commitments to promote labor rights internationally must not be limited to ensuring strong protections in our trade agreements.

We remain committed to trade as a vehicle to facilitate progress on energy and environmental goals. We have shown this through our leadership in the WTO Doha negotiations to eliminate barriers to trade in environmental goods and services and to strengthen disciplines on harmful fisheries subsidies, in our ongoing work with Peru to ensure that it fulfills its commitments under the environmental chapter of our bilateral free trade agreement, and in our championing of the fight against illegal logging worldwide. As the host of APEC in 2011, the U.S. will push to address high tariffs and non-tariff barriers that disadvantage U.S. exporters of environmental goods.

The President's Advisory Committee on Trade Policy and Negotiations (ACTPN) was fully reconstituted in 2010 to include more representatives from non-governmental organizations, state and local government, public health, consumer interest, labor and environmental groups, while maintaining robust membership from the U.S. business community. These new ACTPN members will join congressional leaders and other American stakeholders in shaping trade policy that continues to work better for all Americans.

As key trade policies were formed in 2010, the Administration engaged in outreach of unprecedented scale and scope, including consultations with our partners in Congress, with workers, with businesses and with other interested parties nationwide. Efforts to address concerns with the U.S.-Korea trade agreement benefited enormously, as did finalizing the Anti-Counterfeiting Trade Agreement and the Special 301 process to identify barriers to American intellectual property exports. Outreach efforts reached groundbreaking levels in our work to advance the Trans-Pacific Partnership: Members of Congress and stakeholders were included at every stage, from the formulation of negotiating positions and a precedent-setting presence on-site at negotiations to a field hearing in Seattle with key environmental stakeholders and webinars for small business owners and others. These consultations

proved the degree to which expanded consultation can inform and energize talks, especially in addressing and emerging trade issues and the concerns facing U.S. workers and businesses today.

The use of technology underpinned all of our efforts to expand the trade conversation among the American people. After a complete overhaul in 2009, www.ustr.gov was improved with a second re-design and update to better illustrate the impact of trade on communities around the country. A new, comprehensive website, www.export.gov, was launched to centralize for the public all information and resources regarding the National Export Initiative.

The effect of our broader, more responsive approach was apparent at the end of 2010. As a new agreement that will accompany the U.S.-Korea trade pact was announced, acclaim for the negotiations' result and for the Administration's transparent and inclusive process of consultations with a broad range of stakeholders was widespread. In 2011, we intend not only to replicate but also to build on this model of policy success through responsiveness to Americans' trade interests, values, and concerns.

Our pledge to achieve results that respect the rights of workers and that protect the environment will continue to shape our market-opening efforts and enforcement decisions. The input of stakeholders remains essential as we set trade policy priorities and execute them this year.

Close consultation with Congress will continue to be of paramount importance as we define future priorities, as we seek to bring home jobs and economic promise through approval of the U.S.-Korea trade agreement, and as we seek to resolve outstanding concerns and advance the Colombia and Panama trade agreements and WTO accessions. We will seek appropriate Congressional approval as necessary for the authorities to move forward with new and forward-looking pacts, such as TPP.

With regard to TPP, the Administration will also continue to develop its negotiating objectives in partnership with U.S. stakeholders and the Congress. We will continue the practice of inviting stakeholders to provide input directly to negotiators from the United States and the other TPP countries on the margins of formal negotiating rounds, to ensure that their views are fully reflected in the discussions.

Furthermore, we will sustain a high level of public engagement throughout 2011 when the United States hosts APEC. In addition to policy meetings, events will share the benefits of trade with the American public and educate our Asia-Pacific trade partners about the needs and concerns of American stakeholders. In this effort and across our trade agencies' work, we will continue to leverage the latest technology across multiple platforms to uphold high standards for transparency and public communication set by President Obama.

The goal of our labor and environmental efforts and of our outreach to Congress and stakeholders is to strengthen and restructure our country's trade policy. We seek to build a wider base of support that allows America to reach further around the world for the new markets and opportunities that American businesses and workers need to prosper here at home.

Conclusion

Trade is playing a significant role in America's economic recovery. In order to accelerate a job-rich, robust recovery here in America and balanced economic growth around the world, U.S. trade policy must be bold, with an appropriate focus on exports and a strong commitment to enforcing America's rights.

This Administration, the Congress, America's business and labor communities, and other stakeholders must work together. We have a shared responsibility to engage with the world through trade, instilling our values in a trade policy that advances our interests. We must capitalize on every opportunity to open markets and maintain a level playing field on which American manufacturers, farmers, ranchers, service providers, and workers can remain competitive, now and into the future. In doing so, we will support more jobs for hard-working Americans, expand prosperity at home and contribute to growth and development around the world.

Ambassador Ron Kirk
United States Trade Representative
March 1, 2011

**2010 ANNUAL REPORT
OF THE
PRESIDENT OF THE UNITED STATES
ON THE
TRADE AGREEMENTS PROGRAM**

II. THE WORLD TRADE ORGANIZATION

A. Introduction

This chapter outlines the work of the World Trade Organization (WTO) in 2010 and the work anticipated for 2011. This work includes the multilateral trade negotiations launched at Doha, Qatar in November 2001, known as the Doha Development Agenda (DDA or Doha Round). This chapter details the ongoing work under the DDA, as well as that of the WTO Standing Committees and their subsidiary bodies, and provides a review of the implementation and enforcement of the WTO Agreement. The chapter also covers the negotiations to expand the WTO's membership through the accession of governments to this rules-based organization.

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

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

In 2010, WTO Members explored various negotiating formats for advancing work in the Doha Round. Building on ideas advocated by the United States, Members adopted what became known as a "cocktail approach" of meetings in various configurations to promote engagement to bridge gaps on key issues. Reenergized multilateral work was accompanied by consultations by negotiating group chairs, meetings of small groups of ambassadors to the WTO, and direct, bilateral engagement between key Members to close gaps on core issues of market access in industrial goods, agriculture, and services. The United States continued to rally other WTO Members to stay focused on achieving an ambitious market-opening outcome that would yield meaningful new trade flows and economic opportunities worldwide, and the U.S. continued to emphasize the centrality of market access contributions from advanced developing countries to achieving such an outcome. As the year ended, G-20 leaders offered strong political support for intensified work to achieve a balanced and ambitious outcome to the Doha Round.

Throughout 2010, the day-to-day work of the WTO remained instrumental in promoting transparency of WTO Member trade policies and buttressing multilateral efforts to avoid protectionist measures. Members used the WTO's Standing Committees and other bodies to shine a spotlight on individual

Members' actions. Through discussions in these fora, Members sought detailed information on these actions and collectively considered them in light of WTO rules and their impact on individual Members and the system as a whole. The Members whose actions were being considered were then better able to factor trade concerns into domestic policymaking and avoid these concerns when pursuing various initiatives.

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 WTO Committees. In addition, the mandate gives further direction on the WTO's existing work program and implementation of the WTO Agreement. The goal of the DDA is to reduce trade barriers in order to expand global economic growth, development, and opportunity. The main focus of the negotiations under the DDA is in the following areas: agriculture; industrial goods market access; services; trade facilitation; WTO rules (*i.e.*, trade remedies, fisheries subsidies, and regional trade agreements); and development.

The Trade Negotiations Committee (TNC), established at the WTO's Fourth Ministerial Conference in Doha, oversees the agenda and negotiations in cooperation with the WTO General Council. The WTO Director General serves as Chairman of the TNC and worked closely with the Chairman of the General Council for 2010, Ambassador John Gero of Canada. Through formal and informal processes, the Chairman of the General Council, along with the WTO Director General, plays a central role in steering efforts toward progress on the DDA. (*Annex II identifies the various negotiating groups and special bodies responsible for the negotiations, some of which are the responsibility of the WTO General Council.*)

The core challenge of Doha in 2010 remained that of recent years, *i.e.*, whether negotiators could secure the meaningful new market access in agriculture, industrial goods and services necessary – particularly in terms of contributions by advanced developing countries – to fulfill the promise of the Doha Round to create new economic opportunities and contribute to global development and growth. As today's fastest growing economies, advanced developing countries such as China, Brazil, and India are in a very different position in the global economy than they were 10 years ago. They enjoy a new level of influence and each needs to take on an increased level of responsibility; each must make the trade liberalizing decisions and contributions that benefit not only its own economic interests, but also promote global economic growth and development to the benefit of all developing countries – as well as ensuring that the global trading system operates consistent with global economic realities.

2010 witnessed a growing appreciation among WTO Members of the importance (both to the United States and to a successful Doha Round outcome) of an agreement that provides meaningful new market opening, particularly from advanced developing countries. During the July 2010 G-20 Summit in Toronto, President Obama reinforced the message that the market opening currently outlined in draft negotiating texts was not acceptable and that more access to key markets, such as China, Brazil, and India was necessary to ensure new market opportunities not just for the United States, but also for the poorest countries. In pursuit of this goal, the United States in 2010 continued to press for new approaches to bridging the significant gaps on core market access issues, approaches that go beyond the failed attempts of recent years to resolve differences through meetings of small groups of ministers. Here as well, WTO Members increasingly came to appreciate the need for negotiators in Geneva to engage with each other in a variety of formats, rather than relying on high profile events or artificial deadlines. 2010 was thus marked by experimentation with a number of negotiating processes.

Following the March meeting of the TNC, for example, Members pursued an approach of work in the negotiating groups, consultations by the Director General and Chairs, and direct engagement between Members, including direct, bilateral engagement between key Members. The United States advocated such bilateral engagement, in particular with advanced developing countries, as essential to a Doha Round success, and throughout the year undertook a series of intensive meetings with China, Brazil, and India directed at securing greater market access contributions from these Members. From July through November 2010, Members also sought to engage through small group meetings of their ambassadors to the WTO on each area of the negotiations, in order to pursue political-level brainstorming and identification of possible ways forward. Throughout the year, various negotiating groups met in a variety of formats to advance work on technical and substantive issues.

Outside of Geneva, Leaders and Ministers sought to provide political impetus to the work taking place on the ground in Geneva. The United States worked to utilize these opportunities to change the emphasis of ongoing work to substantive give-and-take negotiations, rather than continued discussion of the format or process of the negotiations. At a meeting in Yokohama, Japan in November, APEC Ministers emphasized in their statement “the importance of translating our political commitment into concrete actions” and agreed “to take steps to direct and empower representatives in Geneva and Senior Officials with the necessary flexibilities to further engage in active and substantive negotiations.” The G-20 Leaders, meeting in Toronto, Canada in June and in Seoul, Korea in November, likewise reaffirmed their commitment to a successful Doha Round outcome. The Leaders in Seoul reiterated their “strong commitment to direct our negotiators to engage in across-the-board negotiations to promptly bring the Doha Development Round to a successful, ambitious, comprehensive, and balanced conclusion.” They went on to note that “2011 is a critical window of opportunity, albeit narrow, and that engagement among our representatives must intensify and expand. We now need to complete the end game. Once such an outcome is reached, we commit to seek ratification, where necessary, in our respective systems.”

These political signals helped to trigger a surge of activity in Geneva, and ambitious plans are laid out for the early months of 2011, including a series of meetings of the negotiating groups to begin in January. The United States is approaching upcoming work with an emphasis on engaging in the substantive give-and-take negotiations required to conclude the Doha Round. Speaking at the TNC meeting on November 30, Ambassador Michael Punke emphasized that it would be key “to intensify our engagement in a variety of formats – with the emphasis on the word ‘engagement’ rather than the word ‘format’... [It is] essential to pivot to true negotiating mode.” He went on to note, “In the final analysis, substance trumps process. We need a readiness, without preconditions, to explore options for closing gaps. We need an ambitious and balanced outcome that opens markets, providing new opportunities for growth and development.”

Prospects for 2011

As the negotiations under the DDA continue in 2011, the linchpin to Doha Round success will remain securing meaningful market access commitments in agriculture, industrial goods, and services, particularly from key advanced developing countries that continue to be the fastest growing economies and are increasingly key players in the global economy. To generate the kind of economic growth, development, and poverty alleviation that WTO Members committed to when they launched the Doha Round in 2001, key emerging markets must take on the additional responsibilities that come with their increased influence in the global economy and make commitments that result in meaningful new trade flows.

The United States will continue to play a leadership role and work with other WTO Members in various configurations, including bilateral negotiations with advanced developing countries, in pursuit of a

successful conclusion to the Doha Round that opens new markets and creates new trade flows. The challenge in 2011 will continue to be how to translate the expressions of political will into concrete and specific details that will enable WTO Members to complete the work begun with the launch of negotiations at the Doha Ministerial.

1. Committee on Agriculture, Special Session

Status

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

Major Issues in 2010

Throughout 2010, the United States continued to lead the effort to move the DDA agriculture negotiations forward toward a successful final agreement and to rally other WTO Members to stay focused on achieving an ambitious market-opening outcome that would yield meaningful new trade flows.

Ambassador David Walker, the Chair of the Agriculture Negotiations, chaired meetings throughout 2010 in various formal and informal settings seeking to advance work on technical and substantive issues. Ambassador Walker organized his efforts along two separate tracks: the “template” work on formats for schedules and efforts to resolve the outstanding issues in the draft agriculture text. The template exercise focuses on identifying the precise data sets and specifying the common formats Members will use to prepare the schedules of commitments on domestic supports, export subsidies, and market access. This activity occurred in the broad-based multilateral forum. Ambassador Walker also initiated Senior Official discussions on certain outstanding issues in the December 2008 draft text, specifically on the bracketed elements or elements that the previous Chair explicitly identified as unresolved. Work on both tracks continued through the end of 2010. Throughout the year, U.S. negotiators also undertook a series of bilateral meetings with key agricultural trading partners, including advanced developing countries, focused particularly on securing ambitious market access results for U.S. agricultural exporters.

Prospects for 2011

As the work on scheduling templates and outstanding modality issues continues in 2011, the linchpin to Doha Round success will remain securing meaningful market access commitments in agriculture and other areas, particularly from key advanced developing countries that have been the fastest growing economies and are increasingly key players in the global economy. The challenge in 2011 will continue to be ensuring that any Doha outcome will achieve ambitious and balanced results in agriculture and other areas of the negotiations.

2. Council for Trade in Services, Special Session

Status

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

The 2005 Hong Kong Ministerial Declaration called for the negotiations to proceed to conclusion with a view to promoting the economic growth of all trading partners, with due respect for the right of Members to regulate in their domestic markets. The Hong Kong Declaration provided a framework for intensifying the negotiations, with the goal of encouraging Members to improve their commitments by removing significant limitations and covering a broader range of service sectors and supply channels (*i.e.*, cross-border supply, consumption abroad, commercial presence, and presence of natural persons). To complement the existing bilateral request-offer process, the Hong Kong Declaration also encouraged negotiations to proceed on a plurilateral basis. Members subsequently developed a “plurilateral request process,” through which like-minded Members joined together to develop collective market access requests for more than 20 sectors and issues of interest. The United States joined in co-sponsoring requests in the following areas: accounting, architectural, engineering, and integrated engineering services; audiovisual services; computer and related services; construction and related engineering services; distribution services; private education services; energy services; environmental services; financial services; legal services; Mode 3 (commercial presence); postal/courier services including express delivery; and telecommunication services.

Major Issues in 2010

The Council was relatively inactive during 2010, as the lack of general progress under the Doha Development Agenda affected the level of engagement on services. Members continued to work on the development of a draft waiver from the most-favored-nation obligation that would benefit least-developed countries.

Overall, progress to date in the negotiations has been incremental, such that considerably more work will be needed to achieve the extent of services liberalization necessary for a positive outcome of the negotiations. The United States continues to press for a high level of ambition for services liberalization, particularly from the major emerging markets, in such key areas as: computer and telecommunication services; distribution and express delivery; energy and environmental services; professional services; and financial services. In 2010, the United States and Australia proposed new initiatives in the areas of information and communications technology and logistics and supply chain services. These initiatives were designed to draw attention to the relationships between sectors and the commercial significance of the services negotiations. Despite resistance from some Members, these initiatives did promote some re-engagement and provide a basis for future work.

Prospects for 2011

Progress in 2011 will depend on how the broader effort to intensify the negotiations proceeds. The United States will continue to pursue new ideas and approaches for achieving a successful outcome to the

services negotiations with the dual goals of achieving real liberalization in major markets along with a balanced set of liberalization commitments from a critical-mass of Members in key sectors. In addition, work is likely to continue on the draft waiver for least-developed countries.

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

Status

The United States government’s overarching objective in the Non-Agricultural Market Access (NAMA) negotiations – which cover manufactures, mining, fuels, and fish products – is to secure new market access opportunities for U.S. businesses by negotiating the reduction and removal of tariff and non-tariff barriers to trade in key export markets. USTR negotiators continue to pursue these market access goals through all available negotiating avenues – including multilateral, plurilateral, and bilateral channels – with a particular focus on the important emerging markets, like Brazil, India, and China. Given the changing global economic landscape, namely the emergence of certain new economic powers, securing broad-based liberalization that ensures that major industrial producers and traders compete on a level playing field is crucial.

Trade in non-agricultural goods accounts for more than 90 percent of world merchandise trade¹ and more than 95 percent of total U.S. goods exports. However, many emerging economies still charge very high tariffs on imported industrial goods, with ceiling tariff rates exceeding 150 percent in some cases. Thus, a market-opening outcome in the NAMA negotiations is critical, particularly as it would provide an important opportunity to lower tariff costs on manufactured products and much-needed industrial inputs in the wake of the economic downturn.

Markets	% of Tariffs with WTO Ceiling	WTO Ceiling Tariff Average*	2009 Applied Tariff Average
United States	100%	3.9	3.9
European Union	100%	3.9	4
Brazil	100%	30.7	14.1
China	100%	9.2	8.7
India	69.8%	34.4	10.1

Source: WTO World Tariff Profiles 2010, U.S. International Trade Commission

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

Tariff liberalization achieved through the NAMA negotiations will have a direct and significant development impact. According to the WTO, industrial goods account for some 94 percent of developing countries’ merchandise exports, of which more than 65 percent corresponds to manufactures – an increasing share of which is exported to other developing countries.² Given that roughly 70 percent of the tariffs on goods traded by developing countries are paid to other developing countries, improved market access conditions in the emerging markets would lower costs and confer significant economic welfare gains to poor country traders.

Major Issues in 2010

In 2010, U.S. negotiators intensified their work to advance the NAMA discussions on both tariffs and non-tariff barriers, through both bilateral engagement and the multilateral Negotiating Group.

On tariffs, there are several negotiating elements under discussion that will determine the market opening outcome in NAMA: (1) the tariff-cutting formula and specifics on the level of ambition to be achieved by developed and developing country Members; (2) the scope of exceptions available to developing

¹ WTO, International Trade Statistics 2010.

² WTO document WT/COMTD/W/143/Rev.4.

countries applying the tariff-cutting formula; (3) flexibilities to be provided for least-developed country (LDC) Members and other developing country Members; and (4) a sectoral tariff component.

Over the course of 2010, U.S. negotiators worked to find ways to address the fundamental market access imbalances inherent in the existing draft framework for the NAMA negotiations, particularly with regard to the formula and flexibilities modalities. To this end, the United States held a number of intensive bilateral meetings with Brazil, India, and China in an attempt to build more market access and balance in contributions into the existing NAMA negotiating framework. In particular, the United States is pressing these countries to match the tariff liberalization commitments that other major economies implemented in the Uruguay Round over fifteen years ago – contributions that helped to drive their impressive economic and export growth and the expansion of global trade. Under the draft NAMA modalities³, the United States and other developed countries would be expected to reduce all tariffs to below eight percent, while emerging economies applying the formula⁴ would not only maintain much higher tariff rates, but extensive flexibilities would permit them to avoid making tariff reductions on hundreds of strategic manufactured products. Despite these imbalances, Brazil, India, and China have been reluctant to offer additional market opening commitments.

In 2010, the United States and other Members seeking a more ambitious NAMA result also continued to promote multilateral sectoral tariff elimination initiatives⁵, another key market access modality included in the Doha mandate. Japan introduced a new approach for negotiating the mechanics and substance of sectoral liberalization based on “product baskets”. Under the product basket approach, each sector would maintain comprehensive product coverage but would provide negotiators the ability to explore different tariff treatments for product groupings to better accommodate Members’ interests. At various Small Group meetings in Geneva over the fall, Ambassadors agreed to empower their capital-based and Geneva experts to engage in discussions for exploring how to build sectoral modalities based on product baskets. Sector co-sponsors, including the United States, have initiated more detailed discussions on individual sectors to delve into each Member’s offensive and defensive interests with a view to crafting sectoral modalities that can attract all major producers and traders within each sector. The United States led preliminary discussions on the chemicals sector in November 2010 and aims to intensify these discussions in early 2011. U.S. negotiators also plan to participate in future discussions on other important sectors, including industrial machinery, electronics, forest products, and health care.

In 2010, the Negotiating Group on NAMA focused primarily on advancing the agenda on non-tariff barriers (NTBs), which are an integral and equally important component of the NAMA negotiations. In line with the Hong Kong Ministerial Declaration, WTO Members continued to consider how NTBs could be addressed horizontally across all sectors, vertically within a single sector, and through a bilateral request/offer process. The United States sponsored NTB proposals on: automobiles and automotive products (with Canada); electronics; textiles, apparel, footwear, and travel goods labeling (with the EU, Mauritius, Sri Lanka, and Ukraine); remanufactured goods (with Japan and Switzerland); and transparency in export licensing (with Japan, Chinese Taipei, the Republic of Korea, Ukraine, Chile, and Costa Rica).

³ WTO document TN/MA/W/103/Rev.3

⁴ Argentina; Bahrain; Brazil; Chile; China; Chinese Taipei; Colombia; Costa Rica; Croatia; Egypt; Hong Kong China; India; Indonesia; Israel; Korea; Kuwait; Malaysia; Mexico; Morocco; Oman; Pakistan; Peru; Philippines; Qatar; Singapore; South Africa; Thailand; Tunisia; Turkey; Venezuela; and UAE. There is some discussion on the development status of Chinese Taipei, Korea, and Croatia for the purposes of these negotiations.

⁵ To date, various Members have proposed fourteen sectors that are being considered for such agreements: chemicals; electronics/electrical products; industrial machinery; forest products; health care products; fish and fish products; automobiles and related parts; bicycles and related parts; gems and jewelry; sports equipment; textiles, clothing and footwear; hand tools; raw materials; and toys.

Work throughout the year focused on priority NTB proposals agreed to by Senior Officials in June 2008 and reflected in the NAMA Chair's texts of both July and December 2008. These proposals include automobiles and automotive products, electronics, textiles labeling, remanufactured goods, the "horizontal mechanism" (an additional procedure Members could use after the Doha Round to address NTBs), and chemicals. The Negotiating Group met in February, March, May, July, September, and November 2010. Members engaged in substantive discussion, submitted detailed questions and answers on particular proposals, provided further background documents to support positions, and tabled revised texts. The United States also sponsored a workshop for NAMA delegates with academic experts in the field of remanufacturing. In July, the United States submitted a revised proposal on remanufacturing, which included detailed themes for the proposed work program. Also, in July, the United States and Canada tabled a revised, joint proposal on automobiles and automotive products. In November, the United States and co-sponsors tabled a revised proposal on textiles labeling and on electronics. The EU tabled updates to its proposals on automobiles and electronics, both of which diverge from the U.S. texts in the same sectors. The EU and Argentina/Brazil/India tabled separate new proposals to address chemical NTBs. Throughout the year, Members engaged in detailed technical discussions – both within the negotiating group and domestically with experts and industries – to gain a better understanding on the substance of the proposals and to work towards consensus on them. The United States continues to engage fully in these discussions and remains a major proponent of eliminating or reducing NTBs in the DDA.

Prospects for 2011

In 2011, U.S. negotiators will continue to seek meaningful new market access for U.S. manufactured goods – both in terms of reduced foreign tariffs and non-tariff barriers. The United States will continue to push for more ambition on two tracks. On the bilateral track, U.S. negotiators will continue to engage with Brazil, India, and China in an effort to facilitate real give-and-take negotiations that can ultimately lead to a successful outcome in NAMA. On the multilateral track, the United States will continue efforts to advance sectoral initiatives as well as a robust outcome on non-tariff barriers that result in real disciplines and paths forward to resolve NTBs across broad areas of U.S. production and exports.

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 directed that the negotiations take into account the needs of developing and least-developed country Members. The Doha Round mandate also calls for clarified and improved WTO disciplines on fisheries subsidies.

The Negotiating Group on Rules (the Rules Group) has based its work primarily on written submissions from Members, organizing its work in the following categories: (1) the antidumping remedy, often including procedural and domestic industry injury issues potentially applicable to the countervailing duty remedy; (2) subsidies and the countervailing duty remedy, including fisheries subsidies; and (3) regional trade agreements. In November 2007, the Chairman of the Rules Group issued draft consolidated texts on the antidumping remedy, subsidies and the countervailing duty remedy, and fisheries subsidies.

In December 2008, the Chairman issued revised texts on antidumping, subsidies, and the countervailing duty remedy, as well as a roadmap for fisheries subsidies that identified key questions that need to be addressed in order to advance the negotiations towards a new fisheries text. In keeping with his earlier pronouncements, the draft texts on antidumping and subsidies/countervailing duties reflected a “bottom up” approach, identifying the most contentious issues contained in brackets with no legal text provided. Discussions during 2009 focused on the questions contained in the Chairman’s “roadmap,” geared off of elements of the draft text issued by the Chairman in November 2007. In July 2010, the Rules Group formally elected a new Chair, Ambassador Dennis Francis of Trinidad and Tobago, who replaced Ambassador Guillermo Valles of Uruguay.

The Doha Declaration also directed the Rules Group to clarify and improve disciplines and procedures governing Regional Trade Agreements (RTAs) under the existing WTO provisions. To that end, the General Council in December 2006 adopted a decision for the provisional application of the “Transparency Mechanism for Regional Trade Agreements” to improve the transparency of RTAs. A total of 92 RTAs have been considered under the Transparency Mechanism since then. Pursuant to its mandate, in the past, the Rules Group has explored the establishment of further standards governing the relationship of RTAs to the global trading system. However, such discussions have failed to produce common ground on how to clarify or improve existing RTA rules.

Major Issues in 2010

Antidumping

In March 2010, the Rules group held its first plenary session of the year on antidumping. The group addressed the most controversial issues of zeroing, sunset, lesser duty rule, and public interest test. The end of the March meeting marked the conclusion of the first review of all topics related to the Chair’s 2008 draft text, including bracketed issues (*i.e.*, controversial), unbracketed issues (indicating some degree of consensus among Members), and those issues not reflected in the text. In May 2010, the Rules group convened for the final meeting chaired by Ambassador Valles of Uruguay. There were no substantive discussions on antidumping issues during this meeting; rather, the Chairman made a statement summarizing the work of the group on antidumping (as well as subsidies/countervailing duties and fisheries subsidies) during his tenure since 2004. Due to a delay in finding a chair acceptable to all Members, the group did not meet again until July 2010, under the chairmanship of Ambassador Francis of Trinidad and Tobago. In November and December 2010, Chairman Francis held two plurilateral sessions followed by informal plenary sessions to report to the full membership on the discussions held in the plurilateral sessions. For the most part, Members were constructively engaged in the process, though Members took few new positions. Some progress has been made on technical issues, but there has been no sign of significant convergence on the most contentious issues.

A group calling itself the Friends of Antidumping (or FANs⁶), has been very active in the antidumping area since the beginning of the negotiations, and has generally sought to impose limitations on the use of antidumping remedies. The FANs group has submitted proposals on a variety of issues, some of which are reflected in the Chair’s text and others that are not. Those that are not reflected in the text include: increasing the standing threshold from 25 percent to 50 percent of domestic production; increasing the *de minimis* dumping margin standard from two percent to five percent; increasing the negligible imports threshold for injury purposes by calculating import volumes as a percentage of total domestic consumption rather than import share; including a public interest test; including a mandatory lesser duty rule; and requiring authorities to “separate and distinguish” the effects of dumped imports versus other

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

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

The United States has continued working to build support among Members for proposals it had previously submitted, including those on issues such as offsets for non-dumped comparisons (or “zeroing”), injury causation, anticircumvention, new shipper reviews, facts available, and the definition of domestic industry for perishable, seasonal agricultural products, as well as a number of proposals aimed at improving transparency and due process in antidumping proceedings.

Subsidies/CVD

As in the antidumping negotiations, the issues in subsidies/countervailing duties (CVD) have been categorized as bracketed, unbracketed, and those proposals not reflected in the 2008 draft text. The important bracketed issues included low cost financing (*i.e.*, state-owned bank practices), export credit rules, and a proposed redefinition of export competitiveness. The major unbracketed issues included dual/regulated pricing, subsidy pass-through rules, and subsidy calculation methodologies. In 2010, the Rules Group considered new textual proposals by China and India covering various aspects of countervailing duty investigations, including the use of “facts available.” As a general matter, the United States continued to express concern throughout the year that the 2008 draft text would result in little, if any, strengthening of the current general subsidy disciplines, despite the Doha Rules negotiating mandate to clarify and improve the rules and address trade-distorting practices.

In 2010, the Rules Group also continued the process of considering whether certain provisions in the current Antidumping Agreement and the Chair’s draft antidumping text should be “transposed” into or “harmonized” with the SCM Agreement. The initial phase of this exercise – completed in 2009 – examined whether existing differences between the Antidumping and SCM Agreements are justified by inherent distinctions between the antidumping and countervailing duty remedies, and if not, whether the differences are appropriate topics for possible transposition/harmonization. In 2010, the Rules Group finished its initial discussion of whether the “unbracketed” text in the draft antidumping text was appropriate for transposition/harmonization, although, as with the first phase, no definitive conclusions were reached.

Fisheries Subsidies

In 2010, the United States and the Friends of Fish (Australia, Argentina, Chile, Ecuador, New Zealand, Norway, and Peru) continued to push for a strong level of ambition, including a broad prohibition on subsidies, while Japan, Korea, Chinese Taipei, and the European Union continued to call into question the scope of the prohibition, stressing that not all subsidies contribute to overcapacity and overfishing. Developing countries also stressed the need to focus on special and differential treatment (SDT) exceptions.

The most significant text proposals in 2010 were from: the United States, seeking to clarify the Chair’s text in certain areas through further defining technical and legal terms, as well as emphasizing areas of convergence; Korea, advocating a significantly weakened prohibition and greater reliance on an adverse effects test to address “harm;” and China, Brazil, India, and Mexico on SDT, requesting extremely broad carve outs for developing country fleets without regard to a developing country’s level of development and existing capacity. This issue of appropriate and effective SDT for developing countries continued to be an important focus of the negotiations overall and remained a difficult discussion topic. The potential to create large carve outs, for both developed and developing countries, that could undermine the objective of the negotiations to curb subsidies promoting overcapacity and overfishing remained prevalent.

Procedurally, the new Chair launched an additional process for the fisheries subsidies negotiations, which supplemented the current Rules Group with sessions in plurilateral formation to discuss proposals and concepts in more technical detail among a smaller group of Members. It is expected that these smaller formations will continue in 2011.

Regional Trade Agreements

At the end of 2006, the General Council established, on a provisional basis, a new transparency mechanism for all regional trade agreements (WT/L/671), which was agreed upon in the Negotiating Group on Rules and implemented in 2007. In December 2010, the United States and other Members agreed to launch a review of the provisional transparency mechanism for RTAs with a view to making it permanent. Otherwise, there were no substantive discussions on regional trade agreements in the Rules Group in 2010.

Prospects for 2011

In 2011, the United States will continue to pursue an aggressive affirmative agenda building upon the U.S. proposals submitted thus far with respect to, *inter alia*: preserving the effectiveness of trade remedy rules; improving transparency and due process in trade remedy proceedings; and strengthening existing subsidies rules. Concerning fisheries subsidies, the United States will continue to press for an ambitious outcome and work with others to further improve and refine many of the provisions included in the Chair's draft 2007 text. As in other areas of the Doha Round, new texts in antidumping, subsidies/CVD, and fisheries subsidies are anticipated at the end of the first quarter of 2011.

On RTAs, the transparency mechanism will continue to be applied in the consideration of additional RTAs. The initial substantive review of the mechanism, as foreseen by the Chair of the General Council, will begin with the identification of areas where the mechanism may be improved. The United States will continue to advocate increased transparency and strong substantive standards for RTAs that support and advance the multilateral trading system.

5. Negotiating Group on Trade Facilitation

Status

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

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

Major Issues in 2010

The work of the Negotiating Group on Trade Facilitation (NGTF) continued to have as its hallmark in 2010 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. There continued to be active leadership within the NGTF from Members representing significant emerging markets, including India, Brazil, the Philippines, and China, which by working closely with the United States and other Members, has helped to steer the negotiations forward in a practical, problem-solving manner. The “Colorado Group”, consisting of the United States, Australia, Canada, Chile, Colombia, Costa Rica, the EU, Hong Kong China, Japan, Korea, Morocco, New Zealand, Norway, Paraguay, Singapore, and Switzerland, also continued to play a valuable role in the negotiations.

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

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

The work of the NGTF during 2010 was characterized by intensive, Member-driven, text-based negotiations. The group met in February, May, July, October, and November to refine the draft consolidated negotiating text. Significantly, the text is not a “Chair’s text,” based on the Chair’s perception of Members’ desired outcomes. Rather, the text includes all proposals on the table and modifications to those proposals that Members have suggested. Consistent with the Member-driven, “bottom up” approach that has characterized the NGTF from the outset, the NGTF’s work requires continued engagement of Members with each other to resolve differences. During 2010, that engagement occurred in various formats, both formal and informal, as proponents of various sections of the text stepped forward to lead efforts to close gaps.

The proposals reflected in the draft negotiating text cover each of the areas provided for in the NGTF modalities. There are a number of proposals to promote transparent rules and procedures, including publication requirements, such as a U.S. proposal on internet publication, proposals to promote appeal

procedures and enquiry points, and a U.S. proposal on advance administrative rulings. There are also several proposals to expedite release and clearance of goods, including through pre-arrival processing, separation of release and clearance, and expedited shipment procedures (the latter a U.S. proposal), and to simplify and eliminate fees and formalities, such as through the Uganda-U.S. proposal to eliminate consularization requirements. Likewise the draft consolidated negotiating text includes proposals on transit procedures and customs cooperation. In February 2010, the United States introduced a new proposal providing for disciplines on customs penalties.

During 2010, the NGTF also continued its work on addressing the challenge of implementing the results of the negotiations that will face many developing country Members. The draft consolidated negotiating text includes textual proposals from the United States and other Members on transition provisions for developing and least-developed country Members, intended to provide these Members with the flexibility necessary for them to fully implement the negotiating outcome, as well as the assurance that they will have the time and assistance to do so. In this connection, as part of the substantial assistance already being provided in this area, the WTO and assistance organizations, including the U.S. Agency for International Development, continued training programs with developing country Members to help them undertake assessments of their individual situations regarding capacity and make progress in implementing the proposals submitted. The Member assessments have made it apparent that many of the developing country Members have implemented – or are taking steps to do so – a number of the concrete measures proposed as new WTO commitments. At the same time, it is also clear that a number of developing country Members openly recognize that they have an “offensive” interest in seeking implementation by their neighbors of any future new commitments in this area. This realization has led to broad developed and developing country Member alliances on some of the proposals, such as the U.S. joint proposal with Uganda calling for elimination of consularization formalities and fees. The WTO’s training efforts in 2010 also included regional workshops for senior customs and trade officials of developing country Members to help them gain a deeper understanding of proposed measures and of issues relating to future implementation. U.S. Customs and Border Protection hosted one such regional workshop for English-speaking Caribbean states in San Juan, Puerto Rico in November 2010.

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

Prospects for 2011

In 2011, the NGTF will intensify its efforts to refine the draft consolidated negotiating text in a continuation of the Member-driven, bottom-up process aimed at achieving a timely conclusion of the negotiations. As negotiations toward new and strengthened disciplines move forward, it will remain important that work proceeds in a methodical and practical manner on the issue of how all Members can meet the challenge of implementing the results of the negotiations – including with regard to the issues of special and differential treatment and technical assistance.

6. Committee on Trade and Environment, Special Session

Status

Following the 2001 WTO Ministerial Conference at Doha, the TNC established a Special Session of the Committee on Trade and Environment (CTESS) to implement the mandate in paragraph 31 of the Doha

Declaration. Paragraph 31 of the Doha Declaration includes a mandate to pursue negotiations, without prejudging their outcome, in three areas:

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

Major Issues in 2010

In 2010, the CTESS met informally, and the Chair, Ambassador Teehankee of the Philippines held several small group consultations, which focused on DDA subparagraphs 31(i) and 31(iii) of the negotiating mandate. Specifically, the CTESS continued to work according to the Chair's work program, as originally outlined in the Chair's report to the TNC in July 2008 (TN/TE/18). The work program provides for a detailed work plan under subparagraph 31(iii), which is underway, and which is aimed at identifying a "universe of environmental goods" of interest, as well as crosscutting issues of interest, such as technical assistance and capacity building. The Chair's work program also calls for text-based negotiations to begin under sub-paragraphs 31(i) and 31(ii) based on Members' proposals.

The Chair reported progress in the negotiations to the TNC in March 2010 (TN/TE/19), and his report is publically available on the WTO website. The Chair's report includes the product proposals submitted as of March 2010. The United States has led the way in terms of identifying goods of interest and environmental relevance and looks forward to having more detailed discussions on these and other identified goods.

Multilateral Environmental Agreements (MEAs)

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

In 2010, Switzerland made a new proposal for a result in the 31(i) negotiations focused on environmental expertise in disputes. However, as noted above, there appears to be little opportunity for convergence around proposals relating to dispute settlement. The majority of delegations continue to believe that the CTESS should focus on reflecting national coordination and experience sharing, specific trade obligations discussed in the Committee, and technical assistance and capacity building in an outcome.

Regarding subparagraph 31(ii), discussions have progressed significantly; however, there remain a few outstanding issues that will require further consultations (*e.g.*, a proposal from the EU for automatic

observer status to be granted to a number of MEA Secretariats that have participated in the CTESS' work).

Environmental Goods

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

In advancing the Chair's work program, several Members have come forward with new papers in 2010 and have identified goods for liberalization, including the following: Saudi Arabia identified over 200 goods for liberalization in the clean energy sector; Japan identified energy efficient products; the Philippines identified several goods in the renewable energy area; Qatar identified goods in the clean energy sector; Singapore identified products in the areas of waste management, air pollution control, wastewater management, and renewable energy; Argentina and Brazil proposed a set of "guidelines" for special and differential treatment; and Brazil separately proposed biofuels for liberalization.

Prospects for 2011

In 2011, the CTESS is expected to continue to move toward fulfillment of all aspects of the mandate under Paragraph 31 of the Doha Declaration, according to the Chairman's work program agreed among Senior Officials, and taking into account the progress made in related negotiating groups.

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

Discussions under subparagraph 31(ii) are likely to move to text in conjunction with subparagraph 31(i). Several Members have also noted their interest in exploring linkages between subparagraphs 31(i) and (ii), in light of the view that enhanced cooperation between the WTO and MEA secretariats could contribute to improving both international and national coordination, and could further contribute to a mutually supportive relationship between trade and environment regimes.

Finally, the CTESS is expected to continue to identify environmental goods of interest and related crosscutting issues. The CTESS is also expected to engage in more detailed discussions of the products and other proposals put forward. The United States will continue to show leadership in advancing a robust outcome in the negotiations, including further development of an environmental goods and services agreement (EGSA), which the United States proposed in November 2007 in an effort to open markets for environmental goods and advance Members' environmental and development policies. In addition, the United States will continue to work with other like-minded and ambitious Members to explore approaches to fast-track the elimination of tariffs on goods directly relevant to addressing climate change, such as solar panels and stoves and wind and hydraulic turbines. The United States believes that such action could make an important contribution to both the DDA and the global climate negotiations, which will continue in 2011.

7. Dispute Settlement Body, Special Session

Status

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

Major Issues in 2010

The DSB-SS met five times during 2010 in an effort to implement the Doha mandate. In previous phases of the review of the DSU, Members had engaged in a general discussion of the issues. Following that general discussion, Members tabled proposals to clarify or improve the DSU. Members then reviewed each proposal submitted and requested explanations and posed questions to the Member(s) making the proposal. Members also had an opportunity to discuss each issue raised by the various proposals. The Chair of the review issued a Chair’s text in July 2008 “to take stock of” the work to date and to provide a basis for its continuation. In 2010, Members continued their discussions in light of the Chair’s text. In particular, the Chair started a more intensive process, in which delegations engaged on the basis of the comments received in the previous phase.

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

In addition, the United States and Chile submitted a proposal to help improve the effectiveness of the WTO dispute settlement system in resolving trade disputes among Members. The joint proposal contained specifications aimed at giving parties to a dispute more control over the process and greater flexibility to settle disputes. Under the present dispute settlement system, parties are encouraged to resolve their disputes, but do not always have all the tools with which to do so. As part of this proposal, the United States has also proposed guidance for WTO Members to provide to WTO adjudicative bodies in three particular areas where important questions have arisen in the course of various disputes.

Prospects for 2011

In 2011, Members will continue to work to complete the review of the DSU. Members will be meeting a number of times over the course of 2011.

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

Status

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

Major Issues in 2010

The TRIPS Council Special Session held three formal meetings in 2010, as well as several informal consultations. During that time, there was no significant shift in WTO Members' positions, nor any movement towards bridging sharp differences between competing proposals. Key positions are reflected in a 2005 WTO Secretariat document (TN/IP/W/12), which contains a side-by-side presentation of the three proposals before the Special Session. The Secretariat expanded this document in May 2007, with an addendum that describes the various arguments and that presents questions raised by proponents of the proposals (TN/IP/W/12/Add. 1). In a July 2008 report to the Trade Negotiations Committee (TN/IP/18), the Chair of the TRIPS Council Special Session highlighted, in particular, ongoing divergences with respect to participation in the multilateral register system (*i.e.*, whether the system would apply to all Members or only to those opting to participate in it) and to the nature of the legal obligations provided for in the system (*i.e.*, the extent to which legal effects at the domestic level determine the effect of registration of a GI for a wine or spirit in the system). In 2010, the Register discussions centered on two sub-questions posed by the Chair, with a view to providing Members a better understanding of how Members would implement the various proposals. In December of 2010, the Chairman of the TRIPS Council Special Session made another attempt to reach consensus and provided ideas for future work in the negotiations in 2011.

The United States, together with Argentina, Australia, Canada, Chile, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Japan, Mexico, New Zealand, Nicaragua, Paraguay, and Chinese Taipei continued to support the Joint Proposal under which Members would notify their GIs for wines and spirits for incorporation into a register on the WTO website. During 2008, the Republic of Korea and the Republic of South Africa formally associated themselves as co-sponsors of the Joint Proposal. Several Joint Proposal cosponsors have submitted a Draft TRIPS Council Decision on the Establishment of a Multilateral System of Notification and Registration of Geographical Indications for Wines and Spirits to the Special Session to set out clearly in draft legal form a means by which Members could implement the mandate from paragraph 18 of the Doha Ministerial Declaration and Article 23.4 of the TRIPS Agreement. Members choosing to use the system would agree to consult the system when making any decisions under their domestic laws related to GIs, or in some cases, trademarks.

Implementation of this proposal would not impose any additional obligations – with regard to GIs – on Members that chose not to participate, nor would it place undue burdens on the WTO Secretariat.

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

A third proposal, from Hong Kong, China, remains on the table, although during 2009 and 2010 this proposal was not discussed as extensively as the others.

Prospects for 2011

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 the negotiations can be completed.

9. Committee on Trade and Development, Special Session

Status

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

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

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

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

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

Major Issues in 2010

The Special Session held five formal meetings in March, May, July, November, and December 2010, as well as a large number of informal plurilateral consultations. Work focused on language in the Agreement-specific proposals and on a Chair’s text for a Monitoring Mechanism for special and differential treatment.

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

Prospects for 2011

In 2011, work will continue on the remaining S&D proposals and on the underlying issues inherent in them. As in 2010, much of the practical work on S&D in 2011 is likely to take place in the other Negotiating Groups, such as 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 crosscutting 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 and make recommendations on possible steps, within the mandate and competence of the WTO, to enhance the capacity of the multilateral trading system to contribute to a durable solution to the problem of external indebtedness of developing and least-developed country Members. Ministers further instructed the WGTDF to consider possible steps to strengthen the coherence of international trade and financial policies, with a view to safeguarding the multilateral trading system from the effects of financial and monetary instability.

Major Issues in 2010

The WGTDF held two formal meetings in 2010. The first meeting was held on June 4, 2010. During this meeting, Members raised issues for discussion relating to a WTO Secretariat report, which was based on an earlier Secretariat report on the WTO-hosted Expert Group on Trade Finance that met on May 18, 2010 and other information gathered by G-20 experts on trade finance in preparation for the Toronto G-20 Summit.

The second meeting was held on November 8, 2010. During this meeting, Members discussed issues relating to a WTO Secretariat report based on the WTO-hosted Expert Group on Trade Finance that met on October 22, 2010. In addition, during the second meeting, a representative from the International Chamber of Commerce (ICC) briefed the Working Group on the ICC's efforts to deliver market intelligence, policy advocacy (particularly with respect to regulatory issues), and loss default information on trade finance to support the case of trade finance.

Prospects for 2011

In 2011, the WGTDF will continue to be a forum for discussing trade finance issues. Additionally, the WGTDF will examine the relationship between trade, debt, and finance and may make recommendations on possible steps that might be taken within its mandate and the competence of the WTO to enhance the capacity of the multilateral trading system to contribute to a durable solution to the problem of external indebtedness of developing and LDC Members.

2. Working Group on Trade and Transfer of Technology

Status

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

(WGTTT), under the auspices of the General Council, and tasked the WGTTT to report on its progress to the 2003 Ministerial Conference at Cancun. At that meeting, Ministers extended the time period for the WGTTT's examination. During the 2005 Hong Kong Ministerial Conference, WTO Ministers recognized "the relevance of the relationship between trade and transfer of technology" and further agreed that, "building on the work carried out to date, this work shall continue on the basis of the mandate contained in paragraph 37 of the Doha Ministerial Declaration." The WGTTT met four times in 2010, continuing its work under the Doha Ministerial mandate to examine the relationship between trade and the transfer of technology. Members have not reached consensus on any recommendations.

Major Issues in 2010

In the period since the 2001 Doha Ministerial, the WGTTT has considered submissions from the Secretariat, WTO Members, other WTO bodies, and intergovernmental organizations. During the 2010 period, there was no discussion of the 2003 proposals submitted by a group of Members led by India and Pakistan. Those proposals, based on the assertion that the WTO agreements, particularly provisions relating to intellectual property protection, hinder technology transfer, drew strong opposition from the United States and other Members. Instead, Members focused on a subsequent 2008 submission made by India, Pakistan, and the Philippines, which included a proposal to improve the WTO website to allow Members to search more easily for submissions relating to technology transfer and to establish a forum for governments and the private sector to exchange information about technological needs and offers. The United States has welcomed this more constructive approach to the work of the WGTTT and has requested more information, particularly on the changes proposed for the WTO web site.

During 2010, the working group also continued its discussion of presentations by Members and outside bodies on their experience and research regarding technology transfer. The working group continued the discussion begun last year on a report by the Food and Agriculture Organization on "The Linkage between Technology Transfer and Productivity Gains in Agriculture." This report focused on the improved productivity brought about through new technologies and methods in agriculture. In response, the United States noted the importance of this subject and the need for tools beyond technology transfer mechanisms to manage growing demand, such as post-harvest techniques, private sector growth, support for small- and woman-owned farming, increasing trade flows, and good governance. The working group also considered a presentation by UNCTAD on their "Technology and Innovation Report 2010: Enhancing Food Security in Africa through Science, Technology, and Innovation." Members welcomed the information provided and some of the highlighted areas of focus, such as the need for building innovation capabilities and the recommendations for strengthening policymaking capacity and building national, regional, and international linkages.

Prospects for 2011

No WGTTT meetings have been scheduled yet for 2011. It is expected that, in response to a request from the Chairman of the Group, developing country Members will make presentations on their national experience with technology transfer. The group will also welcome additional presentations by outside organizations and will continue its examination of issues raised in the 2008 India/Pakistan/Philippines paper.

3. Work Program on Electronic Commerce

Status

Pursuant to the Hong Kong Ministerial Declaration, Members continue to explore ways to advance the Work Program on Electronic Commerce. To that end, at the 2009 Ministerial Conference, Ministers issued a decision to reinvigorate the Work Program by addressing development-related issues and the trade treatment, *inter alia*, of electronically delivered software. In addition, Members extended the moratorium on imposing customs duties on electronic transmission, first agreed to in 1998, until the next Ministerial Conference, scheduled for 2011. Ministers also instructed the General Council to hold periodic reviews of the progress on the Work Program in its sessions in July 2010 and December 2010. The General Council reviewed the results of the informal Work Program meeting in December 2010, but no such review took place in July 2010. It is expected that additional reviews will occur in 2011.

Major Issues in 2010

No formal work has yet taken place. However, an informal session of the Work Program was held in November 2010 to consult with Members on their interests. Some Members, including the United States, signaled that they would prepare submissions to the Work Program in early 2011.

Prospects for 2011

The United States continues to support examining issues under the Work Program, ensuring that trade rules relevant to electronic commerce help maintain a liberal trade environment for electronically traded goods and services, including for electronically delivered products. The United States will continue to work with other Members to advance important trade-related issues associated with electronic commerce.

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.

Only the Ministerial Conference and the General Council have the authority to adopt authoritative interpretations of the WTO Agreements, submit amendments to the Agreements for consideration by Members, and grant waivers of obligations. The General Council or the Ministerial Conference must approve the terms for all accessions to the WTO. Technically, both the Dispute Settlement Body (DSB) and the Trade Policy Review Body (TPRB) are General Council meetings that are convened for the purpose of discharging the responsibilities of the DSB and TPRB, respectively.

Four major bodies report directly to the General Council: the Council for Trade in Goods; the Council for Trade in Services; the Council for Trade-Related Aspects of Intellectual Property Rights; and the Trade Negotiations Committee (TNC). In addition, the Committee on Trade and Environment, the Committee on Trade and Development, the Committee on Balance of Payments Restrictions, the Committee on Budget, Finance and Administration, and the Committee on Regional Trade Agreements report directly to the General Council. The Working Groups established at the First Ministerial Conference in Singapore in 1996 to examine investment, trade and competition policy, and transparency in government procurement also report directly to the General Council, although these groups have been inactive since the Cancun

Ministerial Conference in 2003. A number of subsidiary bodies report to the General Council through the Council for Trade in Goods or the Council for Trade in Services. The Doha Ministerial Declaration approved a number of new work programs and working groups which have been given mandates to report to the General Council, such as the Working Group on Trade, Debt, and Finance and the Working Group on Trade and Transfer of Technology. These mandates are part of the DDA, and this report reviews these groups' work in subsections of Section C entitled *Working Group on Trade, Debt, and Finance* and *Working Group on Trade and Transfer of Technology*.

The General Council uses both formal and informal processes to conduct the business of the WTO. Informal groupings, which generally include the United States, play an important role in consensus building. Throughout 2010, the Chairman of the General Council, together with the Director General, conducted informal consultations with both the Heads of Delegation of the entire WTO Membership and a wide variety of smaller groupings. These consultations were convened with a view towards making progress on the core issues in the DDA, as well as towards resolving outstanding issues on the General Council's agenda. In 2010, the main focus of work in the DDA negotiations was in the individual negotiating groups and smaller Ambassador-led groups. Reports on those groups are set out in other sections of this chapter.

Major Issues in 2010

Ambassador John Gero of Canada served as Chairman of the General Council in 2010. In addition to work on the DDA, activities of the General Council in 2010 included:

Accessions and Observerships: New chairmen were appointed to the Working Parties established to examine the accession requests of Belarus and Ethiopia. The General Council in 2010 agreed to initiate accession negotiations with Syria. Gabon, on behalf of the Informal Group of Developing Countries, continued to request that Members start a process of considering improvements to the existing institutional mechanism of accession and that progress reports be sent to the General Council. No formal action was taken by the General Council on this proposal. Zambia, on behalf of the LDC Group, presented general comments on the LDC accession process and highlighted some specific elements of each of the 2010 LDC priority countries of Vanuatu, Yemen, and Samoa. The Director-General of the WTO Secretariat submitted annual reports on WTO Accessions in January 2010 and in December 2010. In April 2010, the Palestine Liberation Organization submitted a revised application for permanent observer status to the General Council. The Council has not yet acted upon that request. There were no other requests for observer status during 2010.

Waivers of Obligations: The General Council adopted a waiver for the Harmonized System 1996 changes to WTO schedules of tariff concessions for Argentina. The General Council also reviewed a number of previously agreed waivers, including U.S. waivers pertaining to the Former Territory of the Pacific Islands, the Caribbean Basic Economic Recovery Act, the African Growth and Opportunity Act, and the Andean Trade Preference Act. Annex II of this report contains a detailed list of Article IX waivers currently in force.

Global Financial Crisis: The General Council, through the TPRB, established mechanisms to monitor measures adopted by Members in response to the global economic and financial crisis and to report on such measures to the Members. This monitoring and reporting continued throughout 2010. The General Council in 2010 agreed to hold a symposium covering the possible trade effects of measures taken by Members in response to the financial crisis, in both the goods and services areas, under the auspices of the TPRB, while avoiding any overlap with the work already conducted by the Committee on Trade in Financial Services.

Eighth Ministerial Conference: The General Council agreed that the Eighth Ministerial Conference would be scheduled for December 15-17, 2011 in Geneva, Switzerland.

Prospects for 2011

The General Council is expected to be increasingly active in 2011 as Members endeavor to bring the DDA negotiation to its concluding phase. In addition to its management of the WTO and oversight of implementation of the WTO Agreements, the General Council will continue to closely monitor work on all aspects of the DDA negotiations.

E. Council for Trade in Goods

Status

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

Major Issues in 2010

In 2010, 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 complaints regarding actions that individual Members had taken with respect to the operation of goods-related WTO Agreements. In addition, two major issues were debated extensively in the CTG in 2010:

Waivers: The CTG approved several requests for waivers related to the implementation of the Harmonized Tariff System and renegotiation of tariff schedules. The CTG also considered, but has not acted upon, a request by the EU for a waiver on additional autonomous preferences granted by the EU to Pakistan. The issue will revert to the CTG in 2011 following consultations between the EU and those Members who have expressed concerns.

Market Access Complaints: The CTG also served as a forum for airing complaints regarding actions that individual Members had taken with respect to the operation of goods-related WTO Agreements. Concerns discussed by Members included: those related to the Feed-in Tariff (FIT) Program of the Province of Ontario, Canada; changes in Ecuador's tariff system; import licensing measures and procedures by Argentina; and measures by Argentina affecting imports of food products.

Prospects for 2011

The CTG will continue to be the focal point for discussing agreements in the WTO dealing with trade in goods. Waiver requests and goods-specific market access complaints are likely to continue to be prominent issues on the agenda.

1. Committee on Agriculture

Status

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

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

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

Major Issues in 2010

The Committee held three formal meetings in March, September, and November 2010 to review progress on the implementation of commitments negotiated in the Uruguay Round. At the meetings, Members undertook reviews based on notifications by Members in the areas of market access, domestic support, export subsidies, export prohibitions and restrictions, and general matters relevant to the implementation of commitments.

In total, 193 notifications were subject to review during 2010. The United States participated actively in the review process and raised specific issues concerning the operation of Members' agricultural policies. For example, the United States raised points with respect to EU25 and EU27 export subsidy commitment levels, Canada's trade restrictive measures on dairy products, and Thailand's requirement to export rice stocks. In addition, the United States used the review process to raise concerns about Costa Rica's, Israel's, and Norway's excess of their bound Aggregate Measurement of Support (AMS) limit. The United States also raised concerns regarding low fill rates based on Korea's tariff-rate quota allocation system for certain dairy products such as skim milk powder, whole milk powder, and other milk and cream products. The United States also used the review process to raise concerns regarding the transparency and predictability of Ukrainian export prohibitions and restrictions on grain.

The United States also raised questions regarding elements of domestic support programs used by Albania, Brazil, Chile, Czech Republic, China, Costa Rica, Dominican Republic, Ecuador, European

Union, Israel, Namibia, Norway, Romania, and Lithuania. In addition, the United States encouraged Brazil, China, and other important agricultural producing Members to bring their notification obligations on domestic support up to date.

During 2010, the Committee addressed a number of other issues related to the implementation of the Agriculture Agreement, such as: (1) development of internationally agreed disciplines to govern the provision of export credits, export credit guarantees, or insurance programs pursuant to Article 10.2 of the Agriculture Agreement, taking into account the effect of such disciplines on NFIDCs; (2) review of Members' notifications on tariff-rate quotas (TRQs) in accordance with the General Council's decision⁷ regarding the administration of TRQ regimes in a transparent, equitable, and nondiscriminatory manner; (3) annual monitoring of the follow up to the Marrakesh NFIDC Decision on food aid of April 15, 1994; and (4) annual consultations, under Article 18.5 of the Agriculture Agreement, concerning Members' participation in the normal growth of world trade in agricultural products within the framework of commitments on export subsidies.

Throughout the year, the Committee worked to improve the timeliness and completeness of notifications. As a cornerstone of these efforts, the Secretariat hosted specialized Workshops on Agriculture Notifications in September and November 2010 that were attended by most Member countries. These covered notification procedures and obligations in detail through lectures, practical exercises, and case studies on the five areas covered by the transparency provisions of the Agreement on Agriculture. A Handbook on Notification Requirements under the Agreement on Agriculture was circulated to all WTO delegations in the official WTO language of their choice. Electronic versions in all three official languages are now downloadable from the public WTO website. In addition, a new self-teaching e-learning module on notification requirements was made available on the public WTO website. The Secretariat also confirmed that the development of the electronic archiving system for the Review Process and the online notification system were approved and included in the IT Strategic Plan for 2011.

Prospects for 2011

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

2. Committee on Market Access

Status

In January 1995, WTO Members established the Committee on Market Access (MA Committee), which is responsible for the implementation of concessions related to tariffs and non-tariff measures that are not explicitly covered by another WTO body, as well as for verification of new concessions on market access in the goods area. The Committee reports to the WTO Council on Trade in Goods.

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

Major Issues in 2010

The MA Committee held two formal meetings, in April and October 2010, and three informal dedicated sessions, to discuss the following topics: (1) the ongoing multilateral review of WTO Members' schedules of tariff concessions to reflect updates to the Harmonized System (HS) 2002 tariff nomenclature and any other tariff modifications; (2) the WTO Integrated Data Base (IDB) and Consolidated Tariff Schedules (CTS) database; and (3) the procedures for Member notifications of quantitative restrictions.

Updates to the HS nomenclature: The MA Committee examines issues related to the transposition and renegotiation of the schedules of certain Members that adopted the HS in the years following its introduction on January 1, 1988. Since then, the World Customs Organization has amended the International Convention on the Harmonized Commodity Description and Coding System (HS), relating to tariff nomenclature in 1996, 2002, and 2007, with a future amendment to be implemented in 2012. Using agreed examination procedures, WTO Members have the right to object to modifications in another Member's tariff schedule that result from changes in the HS nomenclature if such modifications affect the Member's bound tariff commitments. Members may pursue unresolved objections under Article XXVIII of GATT 1994. The majority of Members have completed the process of implementing HS 1996 changes, however, Panama continues to require a waiver, and additional information is needed from Venezuela in order to finalize certification of its HS 1996 documentation. A longstanding issue with Argentina's HS 1996 documentation was resolved in 2010.

The MA Committee continued its work concerning the introduction and verification of HS 2002 changes to Members' WTO tariff schedules. Completing the HS 2002 verification is essential to laying the technical groundwork for analyzing the implications of the DDA negotiations on tariffs. Throughout the year, the United States worked closely with other Members and the WTO Secretariat to ensure all Members' bound tariff commitments are properly reflected in their updated schedule. The Committee approved the U.S. HS 2002 schedule at the end of 2009, and final certification procedures were launched in 2010. The U.S. HS 2002 schedule is on track to be formally certified in February 2011.

In January 2007, the HS 2007 documentation was circulated to the WTO Membership, including the procedures and layout for the transposition from tariff schedules in HS 2002 to HS 2007. However, because DDA schedules (to be submitted in the HS 2002 nomenclature) will also need to be transposed into the HS 2007 nomenclature, the Committee decided that the current HS 2007 transposition exercise would be redundant of this effort and decided to postpone the current exercise and to review the situation at its next meeting in 2011.

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. In 2010, the United States continued 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, with Cambodia, Central African Republic, Chad, Guinea Bissau, and Vietnam making their first database submissions. As of October 2010, only the Democratic Republic of Congo had yet to submit tariff and trade information for any year to the IDB. The WTO Secretariat compiled a document providing public website addresses containing Members' national tariff information, which can be found in WTO document G/MA/TAR/13/Rev.14.

Consolidated Tariff Schedules (CTS) database: The MA Committee continued work on implementing an electronic structure for tariff and trade data. The CTS includes: tariff bindings for each WTO Member that reflect Uruguay Round tariff concessions; HS 1996 and 2002 amendments to tariff nomenclature and

bindings; and any other modifications to the WTO schedule (*e.g.*, participation in the Information Technology Agreement). The database also includes agricultural support tables. The CTS has been linked to the IDB and serves as the vehicle for conducting the DDA negotiations in agriculture and non-agricultural market access. In 2010, the MA Committee approved revised database formats for the CTS database concerning tariff commitments and specific commitments in agriculture in HS 2002 nomenclature.

Notification Procedures for Quantitative Restrictions (QRs): On December 1, 1995, the Council for Trade in Goods adopted a Decision on Notification Procedures for Quantitative Restrictions, which provides that WTO Members should make complete notifications of the quantitative restrictions (QRs) which they maintain at two-year intervals thereafter, and shall notify changes to their QRs as and when these changes occur. In an effort to improve Member timeliness and completeness of QR notifications, and to reduce duplication of notifications made to other WTO Committees, the Chair proposed updating the 1995 QR Decision at an informal Committee session in December 2010. The proposed changes include updating the format for Member notifications, changing the notification requirement from every two to every four years, and including Member notifications in a new searchable database accessible to all Members (under the current practice, Members' QR notifications are available upon request). Committee Members are reviewing the proposed changes to the 1995 decision, which will be discussed at an informal dedicated session in early 2011.

Prospects for 2011

The ongoing work program of the MA Committee, while highly technical, aims to ensure that all WTO Members' schedules are up-to-date and available in electronic spreadsheet format. The Committee will continue to explore technical assistance needs related to data submissions and to finalize Members' amended schedules based on the HS 2002 amendments. The Committee will also reassess the work plan for conducting the conversion of Members' tariff schedules to HS 2007. In addition, the MA Committee will continue to consider the Chair's proposal for updating the notification procedures for quantitative restrictions.

3. Committee on the Application of Sanitary and Phytosanitary Measures

Status

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

The SPS Committee also discusses specific provisions of the SPS Agreement. These discussions provide an opportunity to develop procedures to assist Members in meeting specific SPS obligations. For example, the SPS Committee has issued procedures or guidelines regarding: notification of SPS measures; the "consistency" provisions under Article 5.5 of the SPS Agreement; equivalence; transparency regarding the provisions for special and differential treatment; and regionalization. Participation in the SPS Committee, which operates by consensus, is open to all WTO Members. Governments engaged in negotiating their accession to the WTO may attend Committee meetings as

observers. In addition, representatives from a number of international organizations attend Committee meetings as observers on an *ad hoc*, meeting by meeting basis, including: the Food and Agriculture Organization (FAO); the World Health Organization (WHO); the Codex Alimentarius Commission; the IPPC; the OIE; the International Trade Center; the Inter-American Institute for Cooperation on Agriculture (IICA); and the World Bank.

Major Issues in 2010

In 2010, the SPS Committee held meetings in March, June, and October. In these meetings, Members exchanged views regarding the implementation of SPS Agreement provisions with respect to transparency, equivalence, and regionalization, including their efforts to declare areas of their country free from specified pests and diseases.

The United States views these exchanges as positive developments, as they demonstrate a growing familiarity with the provisions of the SPS Agreement and increased recognition of the value of the SPS Committee as a forum for Members to discuss SPS-related trade issues. Many Members, including the United States, utilized these meetings to raise concerns regarding new and existing SPS measures of other Members. In 2010, the United States raised a number of concerns with measures imposed by other Members, including restrictions imposed by the EU's warning label requirements for certain food colors, India's avian influenza restrictions, Turkey's restrictions on agricultural biotechnology, and bans imposed by several members on the use of the growth additive ractopamine in swine. Further, the United States, with a view to transparency, informed the SPS Committee of various U.S. measures, both new and proposed, such as the USDA's Food Safety Inspection Services' Public Health Information System.

In 2010, the Committee completed the Third Review of the Operation and Implementation of the SPS Agreement consistent with the Doha Declaration commitment to undertake such reviews at least every four years. The Committee highlighted a number of accomplishments during the Third Review, including recommendations on transparency, special and differential treatment, and regionalization. The Committee also continued work on the issuance of guidance regarding *ad hoc* consultations under Article 12.2 of the Agreement, as well as the use and development of international standards, guidelines, and recommendations by Codex, OIE, and IPPC. In October 2010, the WTO SPS Committee discussed several proposals to improve coordination between the WTO SPS Committee and its three science standard setting bodies. Chair asked member to submit comments on the proposals in advance of March 2011 meeting.

Other important issues before the SPS Committee included:

Private and Commercial Standards: In 2010, a working group of the Committee continued to discuss a number of possible actions related to the issue of private and commercial standards to refer to the Committee for consideration. The possible actions discussed were provided by individual members of this working group. In October 2010, the working group agreed to send the full Committee a list of possible actions for consideration, including supporting the work of the three international standard setting bodies referenced in the SPS Agreement (OIE, IPPC, and Codex), various avenues to promote information exchange, and defining private and commercial standards. In 2011, the full Committee will discuss whether it should take up any of the possible actions. The Committee has agreed that action would only be taken if there was consensus among all Members to do so.

The United States continues to monitor this issue closely and remains quite concerned about whether this is an appropriate issue to which the SPS Committee should be devoting resources and continues to work with the Committee and other Members to address that concern.

Notifications: Because it is critical for trading partners to know and understand each other's laws and regulations, the SPS notification process, with the Committee's consistent encouragement, is becoming an increasingly important mechanism in the facilitation of international trade. The process also provides a means for Members to report on determinations of equivalence and special and differential treatment. The United States made 156 SPS notifications to the WTO Secretariat in 2010 and submitted comments on 230 SPS measures notified by other Members.

Prospects for 2011

The SPS Committee will hold three meetings in 2011 with informal sessions anticipated to be held in advance of each meeting. The Committee has a standing agenda for meetings that can be amended to accommodate new or special issues. The SPS Committee will continue to monitor Members' implementation activities, and the discussion of specific trade concerns will continue to be an important part of the Committee's activities, including exchanges on Bovine spongiform encephalopathy (BSE), avian influenza, food safety measures, and technical assistance.

In 2011, the Committee will work on priorities identified during the Third Review of the Operation and Implementation of the SPS Agreement. The United States anticipates that the SPS Committee will continue discussions on the issuance of guidelines regarding *ad hoc* consultations under Article 12.2 of the Agreement, as well as on how to improve cooperation and coordination with Codex, OIE, and IPPC. In addition, the Committee will continue to monitor the use and development of international standards, guidelines, and recommendations by those three bodies. Finally, the Committee will undertake its ninth and final review of China's implementation of its WTO obligations as provided for in China's WTO Accession Protocol.

4. Committee on Trade-Related Investment Measures

Status

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

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

Major Issues in 2010

The TRIMS Committee held one formal meeting during 2010, in October, during which the United States and the EU filed a joint submission with the Committee on “Certain Indonesian Laws and Draft Implementing Regulations on Mineral and Coal Mining.” See, G/TRIMS/W/70 (October 9, 2009). This document posed factual questions to Indonesia about its existing law and its draft implementing regulations, applicable to investment activities in the mineral and coal mining sectors. In particular, the submission raised concerns regarding the consistency of these measures with the local content requirements of the TRIMS Agreement and GATT 1994. Indonesia’s responses are contained in WTO Document G/TRIMS/W/74 (August 6, 2010). In the October meeting, the United States continued to express concern with respect to Indonesia’s descriptions of provisions of its law that appear to prioritize the use of domestic goods and services.

Japan posed questions to Indonesia concerning potential TRIMS in the telecommunications sector in a document entitled “Questions from Japan on Indonesia’s Regulations on Communication and Information regarding the Supply of the Universal Telecommunication Service Obligation and the Guidelines for Evaluation of the Achievement of Domestic Component Level in Telecommunication Operations.” See, G/TRIMS/W/71 (December 17, 2009). Indonesia’s answers to Japan’s questions are contained in WTO document G/TRIMS/W/75 (August 6, 2010). At the October meeting, Japan, the European Union, and the United States all expressed ongoing concerns about Indonesian domestic law provisions that appear to favor local content in the telecommunications sector.

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

Prospects for 2011

The United States will continue to engage other Members in efforts to promote compliance with the TRIMS Agreement.

5. Committee on Subsidies and Countervailing Measures

Status

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

Major Issues in 2010

The Committee on Subsidies and Countervailing Measures (the SCM Committee) held two regular meetings and two special meetings in 2010, in May and October, as well as an informal meeting in October. The Committee continued to review the consistency of Members' domestic laws, regulations, and actions with the SCM Agreement's requirements, as well as Members' notifications of their subsidy programs to the Committee. Other items addressed in the course of the year included: the "export competitiveness" of India's textile and apparel sector; examination of ways to improve the timeliness and completeness of subsidy notifications; review and approval of specific export subsidy program extension requests for certain small economy developing country Members; election of Mr. Akio Shimizu to the five-member Permanent Group of Experts; and updating the eligibility threshold for developing countries to provide export subsidies under Annex VII(b) of the SCM Agreement. Further information on these various activities is provided below.

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

In reviewing notified CVD legislation and subsidies, SCM Committee procedures provide for the exchange in advance of written questions and answers in order to clarify the operation of the notified measures and their relationship to the obligations of the SCM Agreement. As of the end of 2010, 93 WTO Members (counting the 27 member states of the European Union as a single Member) have notified their CVD legislation or lack thereof; 32 Members have so far failed to make a legislative notification. In 2010, the Committee reviewed notifications of new or amended CVD laws and regulations from Brazil, Cambodia, Costa Rica, Japan, Norway, Croatia, Guyana, and Bahrain.⁸

As for CVD measures, nine Members notified CVD actions they took during the latter half of 2009, and eleven Members notified actions they took in the first half of 2010. Specifically, the SCM Committee reviewed actions taken by several Members, including Australia, Brazil, Canada, China, Costa Rica, the EU, India, Mexico, New Zealand, Peru, South Africa, Turkey, the United States, and Venezuela.

In 2010, the Committee examined new and full subsidy notifications: 27 from 2009 and three from 2007. Unfortunately, numerous Members have yet to make even an initial subsidy notification to the WTO, although many of them are least-developed country Members.

Notification Improvements: In 2009, the SCM Committee adopted several changes to the standard format for semi-annual reports of countervailing measures and the minimum information to be provided in connection with the notification of preliminary or final countervailing measures, as required under Article 25.11 of the SCM Agreement. The new format has resulted in helpful new information being provided in 2010, such as the names of programs determined to be countervailable in all CVD proceedings. The additional information provided will increase transparency as to countervailing duty actions taken and help Members to identify trade-distorting subsidy practices.

In March 2009, the Chairman of the Trade Policy Review Body, acting through the Chairman of the General Council, requested that all committees discuss "ways to improve the timeliness and completeness of notifications and other information flows on trade measures." The United States fully supported the continuation of this initiative in 2010 in light of Members' poor record in meeting their subsidy

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.

notification obligations. The United States took the initiative under this agenda item to review the subsidy notification record of several large exporters in failing to provide complete and timely subsidy notifications and other information requested regarding specific incentive programs. Of primary concern in this regard was China. The United States has devoted significant time and resources to researching, monitoring, and analyzing China's subsidy practices, which helped to identify the very significant omissions in China's only subsidy notification to date and lay the groundwork for the further pursuit of issues in the context of the Committee's work. At the October meeting of the Committee, China reiterated that it was very close to submitting its next subsidy notification, which would cover 2005-2008. Unfortunately, however, China also stated that this next notification will not include information on provincial and local programs. In light of the importance of this issue, the United States will have to consider alternative approaches to address this ongoing problem, such as notifying the Committee under Article 25.10 of the Subsidies Agreement.

The "export competitiveness" of India's textile and apparel sector: Under the SCM Agreement, developing countries receive special and differential treatment with respect to certain subsidy disciplines under Article 27. For developing countries listed in Annex VII of the SCM Agreement, which includes India, the general prohibition on export subsidies does not apply until: (1) per capita GNP reaches a designated threshold of \$1,000 per annum or (2) eight years after the country achieves "export competitiveness" for a particular product. Article 27.6 of the SCM Agreement defines export competitiveness as the point when an exported product reaches a share of 3.25 percent of world trade for two consecutive calendar years. Export competitiveness is determined to exist either via notification by the Annex VII developing country having reached export competitiveness or on the basis of a computation undertaken by the WTO Subsidies Committee Secretariat at the request of any Member.

In February 2010, the United States formally requested the Secretariat, pursuant to Article 27.6 of the SCM Agreement, to compute the export competitiveness of India's textile and apparel sector. The Secretariat submitted its results to the Committee in March 2010. The calculations appear to support the conclusion that India has reached export competitiveness in the textile and apparel sector. In light of the Secretariat's calculations, the United States requested that India identify the current export subsidy programs that benefit the textile and apparel sector and commit to a phase-out schedule to end all such programs to the extent they benefit the textile and apparel sector. In response, India has raised certain technical questions as to the appropriate definition of "product" and the precise starting point of the phase-out period under Articles 27.5 and 27.6. The United States will continue to pursue this issue.

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

Pursuant to the General Council's decision, beneficiary Members are obligated to meet certain transparency and standstill requirements each year. In 2010, these Members were also required to submit an action plan describing how the subsidy programs at issue were to be phased out. At its October 2010

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

meeting, the SCM Committee conducted a review of the transparency and standstill requirements in the General Council's decision, as well as the action plans submitted by Members, and agreed to continue the requested extensions of the transition period for calendar year 2011.

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

At the beginning of 2009, the Permanent Group of Experts had five members: Mr. Asger Petersen (Denmark); Dr. Chang-fa Lo (Chinese Taipei); Dr. Manzoor Ahmad (Pakistan); Mr. Zhang Yuqing (China); and Mr. Jeffrey A. May (United States). Dr. Chang-fa Lo's term ended in Spring 2010, and the Committee elected Mr. Akio Shimizu (Japan) to replace him.

The Methodology for Annex VII (b) of the SCM Agreement: Annex VII of the SCM Agreement identifies certain lesser developed country Members that are eligible for particular special and differential treatment. Specifically, the export subsidies of these Members are not prohibited, and therefore, are not actionable as prohibited subsidies under the dispute settlement process. The Members identified in Annex VII include those WTO Members designated by the United Nations as "least-developed countries" (Annex VII(a)) as well as countries that had, at the time of the negotiation of the Agreement, a per capita GNP under \$1,000 per annum and are specifically listed in Annex VII(b).¹⁰ A country automatically "graduates" from Annex VII (b) status when its per capita GNP rises above the \$1,000 threshold. At the Fourth Ministerial Conference, decisions were made, which, *inter alia*, led to the adoption of an approach to calculate the \$1,000 threshold in constant 1990 dollars and to require that a Member be above this threshold for three consecutive years before graduation. The WTO Secretariat updated these calculations in 2010.¹¹

Prospects for 2011

In 2011, the United States will continue to press China for its long overdue subsidy notification and will focus on those programs not notified, particularly those that may be prohibited under the SCM Agreement and those administered at the provincial and local levels. The United States may also bring to the attention of the Committee unreported subsidies, at both the central and subcentral levels of government. The Committee's ninth and final review of China's implementation of its WTO obligations will provide another opportunity to highlight China's subsidy notification obligation. Furthermore, the United States will press India to commit to a phase out of its export subsidy programs to the extent that they benefit the textile and apparel sector. More generally, the Committee will continue to work in 2011 to improve the timeliness and completeness of Members' subsidy notifications. Among the proposals that will be

¹⁰ Members identified in Annex VII(b) are: Bolivia, Cameroon, Congo, Cote d'Ivoire, Dominican Republic, Egypt, Ghana, Guatemala, Guyana, India, Indonesia, Kenya, Morocco, Nicaragua, Nigeria, Pakistan, Philippines, Senegal, Sri Lanka, and Zimbabwe. In recognition of the technical error made in the final compilation of this list and pursuant to a General Council decision, Honduras was formally added to Annex VII(b) on January 20, 2001.

¹¹ See G/SCM/110/Add.7.

discussed further are three issues raised by the United States, namely: the failure of Members to respond to subsidy program questions submitted pursuant to Article 25.8 of the SCM Agreement; the significant lack of notification of subcentral subsidy programs across the membership; and the submission of patently deficient subsidy notifications by large exporters. Finally, the United States must submit its own subsidy notification in 2011, covering fiscal years 2008 and 2009.

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 2010

The Valuation Agreement is administered by the Committee on Customs Valuation (the Customs Valuation Committee), which held two formal meetings in 2010. 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 2010.

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, is essential for the realization of market access commitments. Just as important, the implementation of the Agreement also often represents the first concrete and meaningful steps taken by developing country Members toward reforming their customs administrations and diminishing corruption and ultimately moving to a rules-based trade facilitation environment.

An important part of the Customs Valuation Committee's work is the examination of implementing legislation. As of November 2010, 85 Members had notified their national legislation on customs valuation (this figure does not include the 27 individual EU Members); 41 Members have not yet notified their national legislation on customs valuation. At the Committee's May and November 2010 meetings, the Committee undertook its examination of the custom valuation legislations of Bahrain, Belize, Cambodia, China, Egypt, Nigeria, Norway, St. Vincent and the Grenadines, Thailand, Tunisia, and Ukraine. The Committee's examination of these Members' customs valuation legislation will continue in 2011, with the exception of Norway, whose examination was concluded at the November 2010 meeting.

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

The Customs Valuation Committee's work throughout 2010 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 2011

The Customs Valuation Committee's work in 2011 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 Transitional Review of China, in accordance with the Protocol of Accession of the People's Republic of China to the WTO, will also be taken up in 2011. 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 2010 and will continue into 2011.

The ROO Agreement is administered by the Committee on Rules of Origin (the ROO Committee), which met formally twice in 2010 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 2010

As of February 2010, 80 Members have notified the WTO concerning non-preferential rules of origin. In these notifications, 38 Members notified that they had non-preferential rules of origin, and 42 Members notified that they did not have a non-preferential rule of origin regime. Forty-six Members have not notified non-preferential rules of origin.

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

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

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

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

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

In addition to March and October 2010 formal meetings, the ROO Committee conducted informal consultations related to the HWP negotiations. The Committee's work in 2010 proceeded in response to the July 28, 2006 General Council extension of the deadline for completion of work on the 94 core policy issues. The General Council then agreed that following resolution of the core policy issues, the Committee would complete its remaining work on the HWP by December 2007. Notwithstanding this deadline, the HWP has not been completed.

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

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

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

In the two 2010 ROO Committee meetings, the Members focused on the technical issues, including the technical aspects of the overall architecture that would be used for applying the rules of origin. A new Chair (Singapore) was elected, and Members engaged in work on developing a status update of the HWP negotiations. A workshop on the HWP (covering its historical development and machinery) was also held on the margins of the October 2010 meeting.

Prospects for 2011

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

8. Committee on Technical Barriers to Trade

Status

The Agreement on Technical Barriers to Trade (the TBT Agreement) establishes rules and procedures regarding the development, adoption, and application of voluntary standards and mandatory technical regulations for products and the procedures (such as testing or certification) used to determine whether a particular product meets such standards or regulations. One of the main objectives of the TBT Agreement

is to prevent the use of technical requirements as unnecessary barriers to trade while ensuring that Members retain the right to regulate, *inter alia*, for the protection of health, safety, or the environment, at the levels they consider appropriate.

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

The Committee on Technical Barriers to Trade (the TBT Committee)¹² serves as a forum for consultation on issues associated with the implementation and administration of the TBT Agreement. The TBT Committee is composed of representatives of each WTO Member and provides an opportunity for Members to discuss concerns about specific standards, technical regulations, and conformity assessment procedures proposed or maintained by a Member, as well as more systemic issues affecting implementation of the TBT Agreement, and to exchange information on Members' practices related to implementation of the TBT Agreement and relevant international developments.

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

The National Institute of Standards and Technology (NIST) serves as the U.S. inquiry point for purposes of the TBT Agreement. (NIST can be contacted via email at: ncsci@nist.gov or notifyus@nist.gov; or via the internet at: <http://www.nist.gov/ncsci> or <http://www.nist.gov/notifyus>.) NIST maintains a reference collection of standards, specifications, test methods, codes, and recommended practices. This reference material includes U.S. Government agencies' technical regulations and standards of non-governmental standardizing bodies. The inquiry point responds to requests for information concerning federal and State standards, technical regulations, and conformity assessment procedures, as well as voluntary standards and conformity assessment procedures developed or adopted by non-governmental bodies. Upon request,

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

NIST will provide copies of notifications of proposed technical regulations and conformity assessment procedures that other Members have made under the TBT Agreement, as well as contact information for other Members' TBT inquiry points. NIST refers requests for information concerning standards, conformity assessment procedures, and technical regulations for agricultural products, including SPS measures, to the U.S. Department of Agriculture, which is the U.S. inquiry point pursuant to the WTO Agreement on the Application of Sanitary and Phytosanitary Measures.

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

With the implementation of the Marrakesh Agreement establishing the WTO, *all* Members assumed responsibility for compliance with the TBT Agreement. Although a predecessor to the TBT Agreement existed as a result of the Tokyo Round, known as the Standards Code, the expansion of its applicability to all Members as a result of the Uruguay Round negotiations was significant, and resulted in new obligations for many Members. For example, the TBT Agreement provides an opportunity for interested parties in the United States to influence the development of proposed technical regulations and conformity assessment procedures being developed by other Members by allowing them to provide written comments on drafts and submit them through the U.S. inquiry point. Among other things, this opportunity helps to prevent the establishment of technical barriers to trade. The TBT Agreement has functioned well in this regard, although discussions on how to improve its operation occurs as part of the triennial review process (*see below*). Disciplines and obligations, such as the prohibition on discrimination and the requirement that measures are not more trade restrictive than necessary to fulfill legitimate regulatory objectives have been useful in evaluating potential trade barriers and in seeking ways to address them.

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

Article 15.4 of the TBT Agreement requires the Committee to review the operation and implementation of the TBT Agreement every three years. Five such reviews have now been completed (*G/TBT/5*, *G/TBT/9*, *G/TBT/13*, *G/TBT/19*, and *G/TBT/26*). From the U.S. perspective, a key benefit of these reviews is that they prompt WTO Members to review and discuss all of the provisions of the TBT

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

Agreement, which facilitates a common understanding of Members' rights and obligations. The reviews have also prompted the Committee to host workshops on various topics of interest, including technical assistance, conformity assessment, labeling, good regulatory practice, and international standards.

Major Issues in 2010

The TBT Committee met three times in 2010, March (G/TBT/M/50), June (G/TBT/M/51), and November (minutes forthcoming). At some of these meetings, Members made statements informing the Committee of measures they had taken to implement the TBT Agreement and to administer measures in compliance with the Agreement. Members also used Committee meetings to raise concerns about specific technical regulations or conformity assessment procedures proposed or adopted by other Members. The number of new specific trade concerns with regard to Members' implementation and administration of the TBT Agreement that were brought to the attention of the TBT Committee was 29 in 2010 (down from 37 in 2009). EU measures, such as REACH (Registration, Evaluation, Authorization, and Restriction of Chemicals), the classification of borates, nickel carbonates, and nickel compounds under the Dangerous Substances Directive, and the recast of the Restrictions on Hazardous Substances (RoHS) regulation continue to draw significant attention in the Committee. Other measures garnering significant Committee attention included Canada's new tobacco law, Korea's requirements for organic products, Brazil's medical device registration and inspection requirements, Thailand's proposed alcohol labeling requirements, and India's testing and certification requirements for telecommunications products.

In 2010, the Committee continued its exchange of experiences on good regulatory practice, conformity assessment procedures, transparency, technical assistance, international standards, and special and differential treatment.

At its March 2010 meeting, the TBT Committee adopted the Fifteenth Annual Review of the Implementation and Operation of the TBT Agreement under Article 15.3 (G/TBT/26). The WTO Secretariat also updated the relevant lists of standardizing bodies that have accepted the Code of Good Practice for the Preparation, Adoption, and Application of Standards set out in Annex 3 of the Agreement (G/TBT/CS/1/Add.14 and G/TBT/CS/2/Rev.16).

At its June 2010 meeting, the Committee granted *ad hoc* observer status to the International Telecommunications Union (ITU). Also, the Committee held the Sixth Special Meeting on Procedures for Information Exchange on June 22, 2010. This meeting addressed issues relating to: good practices in notification, electronic databases, operation of enquiry points, and transparency in standard setting. A summary report of the meeting is contained in Annex 1 of G/TBT/M/51.

At its November 2010 meeting, the Committee granted *ad hoc* observer status to the Southern African Development Community (SADC).

During the 2010 meetings of the TBT Committee, representatives of observers to the Committee, including Codex, IEC, ISO, ITC, OECD, UNECE, and ITU updated the Committee on their activities relevant to its work, including on technical assistance.

Prospects for 2011

The TBT Committee will continue to monitor Members' implementation of the TBT Agreement. The number of new specific trade concerns raised in the Committee appears to be increasing. However, the total number of issues being raised in the Committee meetings has fallen, which indicates that many of these issues are being resolved. Aside from the specific trade concerns, the Committee will continue work on the items identified in the Fifth Triennial Review of the Operation and Implementation of the

TBT Agreement, including holding a workshop on regulatory cooperation in March 2011 at which U.S. officials will make presentations on U.S.-EU cooperation and the APEC toy safety work. Discussion of new issues will be driven by Member statements and submissions. In 2011, U.S. priorities are likely to continue to focus on the use of good regulatory practice, transparency, encouraging Members to notify more frequently, encouraging Members' use of the TBT Committee Decision on Principles for the Development of International Standards and discussing the Committee Decision's development dimension, and the need to consider available scientific and technical information and the intended end uses of products when regulating.

9. Committee on Antidumping Practices

Status

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

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

The Working Group on Implementation (the Working Group) is an active body which focuses on practical issues and concerns relating to implementation. Based on papers submitted by Members on specific topics for discussion, the activities of the Working Group permit Members to develop a better understanding of the similarities and differences in their policies and practices for implementing the provisions of the Antidumping Agreement. Where possible, the Working Group endeavors to develop draft recommendations on the topics it discusses, which it forwards to the Antidumping Committee for consideration. To date, the Antidumping Committee has adopted Working Group recommendations on the following five antidumping topics: (1) the period of data collection for antidumping investigations; (2) the timing of notifications under Article 5.5; (3) contents of preliminary determinations; (4) the time period to be considered in making a determination of negligible imports for purposes of Article 5.8; and (5) an indicative list of elements relevant to a decision on a request for extension of time to provide information pursuant to Articles 6.1 and 6.1.1.

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

At Marrakesh in 1994, Ministers adopted a Decision on Anticircumvention, directing the Antidumping Committee to develop rules to address the problem of circumvention of antidumping measures. In 1997, the Antidumping Committee agreed upon a framework for discussing this important topic and established

the Informal Group on Anticircumvention (the Informal Group). Many Members, including the United States, recognize the importance of using the Informal Group to pursue the 1994 decision by Ministers.

Major Issues in 2010

In 2010, the Antidumping Committee held meetings on April 28 and October 26-27. At its meetings, the Antidumping Committee focused on implementation of the Antidumping Agreement, in particular, by continuing its review of Members' antidumping legislation. The Committee also reviewed reports required of Members that provide information as to preliminary and final antidumping measures and actions taken over the preceding six months.

The following is a list of the more significant activities that the Antidumping Committee, the Working Group, and the Informal Group undertook in 2010.

Notification and Review of Antidumping Legislation: To date, 74 Members have notified that they currently have antidumping legislation in place, and 31 Members have notified that they maintain no such legislation. In 2010, the Antidumping Committee reviewed new notifications of antidumping legislation and/or regulations submitted by Brazil, Cambodia, Colombia, Croatia, Guyana, Japan, Norway, Tonga, and Vietnam. The Committee also continued its review of previously reviewed legislative notifications submitted by Bahrain. Several Members, including the United States, were active in formulating written questions and in making follow-up inquiries at Antidumping Committee meetings.

Notification and Review of Antidumping Actions: In 2010, 26 Members notified that they had taken antidumping actions during the latter half of 2009, whereas 32 Members did so with respect to the first half of 2010. (By comparison, 20 Members notified that they had not taken any antidumping actions during the latter half of 2009, and 18 Members notified that they had taken no actions in the first half of 2010). Members identified these actions, as well as outstanding antidumping measures currently maintained by Members, in semi-annual reports submitted for the Antidumping Committee's review and discussion. The semi-annual reports for the second half of 2009 were issued in document series "G/ADP/N/195/..." and the semi-annual reports for the first half of 2010 were issued in document series "G/ADP/N/202/..." At its April and October 2010 meetings, the Committee reviewed Members' notifications of preliminary and final actions pursuant to Article 16.4 of the Antidumping Agreement.

Working Group on Implementation: The Working Group held meetings in April and October 2010. Beginning in 2003, the Working Group has held discussions on several agreed topics, including: (1) export prices to third countries vs. constructed value under Article 2.2 of the Antidumping Agreement; (2) foreign exchange fluctuations under Article 2.4.1; (3) conduct of verifications under Article 6.7; (4) judicial, arbitral, or administrative reviews under Article 13; and (5) price undercutting by dumped imports. In 2009, the Working Group agreed to include the following additional topics for discussion: (1) constructed export prices; (2) other known causes of injury; (3) threat of material injury; (4) accuracy and adequacy of evidence to justify the initiation of an investigation; and (5) the determination of the likelihood of continuation or recurrence of dumping and injury in sunset review. The discussions in the Working Group on all of these topics have focused on submissions by Members describing their own practices, including past submissions by the United States on some of these topics. In 2010, Egypt presented three papers for discussion on constructed export price, the accuracy and adequacy of evidence to justify initiation, and sunset reviews. Korea also submitted a paper on sunset reviews. Several Members, including the United States, posed questions to Egypt and Korea on the issues presented in their papers.

Informal Group on Anticircumvention: In 2010, the Informal Group held meetings in April and October. There were no new papers submitted for discussion in 2010. Members did not actively engage in

discussions on what constitutes circumvention, what is being done by Members confronted with what they consider to be circumvention, or to what extent circumvention can be dealt with under the relevant WTO rules. Nevertheless, it was agreed that the Informal Group should continue to meet in the future to provide a forum to discuss such topics, as Members deem appropriate.

Prospects for 2011

Work will proceed in 2011 on the areas that the Antidumping Committee, the Working Group, and the Informal Group addressed this past year. The Antidumping Committee will pursue its review of Members' notifications of antidumping legislation, and Members will continue to have the opportunity to submit additional questions concerning previously reviewed notifications. This ongoing review process in the Antidumping Committee is important for ensuring that Members' antidumping laws are properly drafted and implemented, thereby contributing to a well-functioning, rules-based trading system. Since notifications of antidumping legislation are not restricted documents, U.S. exporters will continue to enjoy access to information about the antidumping laws of other Members that should assist them in better understanding the operation of such laws and in taking them into account in commercial planning.

The preparation by Members and review in the Antidumping Committee of semi-annual reports and reports of preliminary and final antidumping actions will also continue in 2011. 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 and focus of all WTO Members' antidumping actions.

Discussions in the Working Group on Implementation will continue to play an important role, as more Members enact antidumping laws and begin to apply them. There has been a sharp and widespread interest in clarifying the many complex provisions of the Antidumping Agreement. Tackling these issues in a serious manner will require the involvement of the Working Group, which is the forum best suited to provide the necessary technical and administrative expertise. For these reasons, the United States will continue to use the Working Group to learn in greater detail about other Members' administration of their antidumping laws, especially as that forum provides opportunities to discuss, not only the laws as written, but also the operational practices that Members employ to implement them. In 2011, the Working Group will continue its discussion of topics that it has been discussing for several years: (1) export prices to third countries vs. constructed value under Article 2.2 of the Antidumping Agreement; (2) foreign exchange fluctuations under Article 2.4.1; (3) conduct of verifications under Article 6.7; (4) judicial, arbitral, or administrative reviews under Article 13; and (5) the determination of significant price undercutting by dumped imports. In addition, the Group will also continue to discuss the following recently added topics: (1) constructed export prices; (2) other known causes of injury; (3) threat of material injury; (4) accuracy and adequacy of evidence to justify the initiation of an investigation; and (5) the determination of the likelihood of continuation or recurrence of dumping and injury in sunset reviews.

The work of the Informal Group on Anticircumvention will also continue in 2011, according to the framework for discussion on which Members agreed. However, given the focus on anticircumvention issues in the WTO Rules negotiations under the Doha Development Agenda, it is possible that there may be relatively little activity on these issues in the Informal Group in 2011.

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

Since the accession of China to the WTO in December 2001, the Committee also has conducted an annual review of China's compliance with accession commitments in the area of import licensing as part of the Transitional Review Mechanism (TRM) provided for in China's Protocol of Accession. Pursuant to China's Protocol of Accession there was no 2010 review, and the last such review will be conducted in 2011.

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

The Agreement covers both automatic licensing systems, which are intended only to monitor imports, not regulate them, and non-automatic licensing systems, under which certain conditions must be met before a license is issued. Governments often use non-automatic licensing to administer import restrictions such as quotas and tariff-rate quotas (TRQs), or to administer safety or other requirements (*e.g.*, for hazardous goods, armaments, antiquities, etc.). Requirements for permissions 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 2010

At its meetings in April and October 2010, the Import Licensing Committee reviewed 60 new submissions from 48 Members,¹⁴ including initial or revised notifications, completed questionnaires on

¹⁴The Members submitting notifications or questions or responses during 2009 were: Albania; Argentina; Barbados; Brazil; Burkina Faso; Canada; Cape Verde; Chile; China; Colombia; Costa Rica; Croatia; Ecuador; European

procedures, and questions and replies to questions. This count was down substantially from 2009, an exceptionally active year for the Committee. One additional Member, Cape Verde, notified its licensing system to the Committee for review at the October meeting, reducing to 20 (out of 153) the Members that have never submitted a notification to the Committee, *i.e.*, about 13 percent.¹⁵ In addition, for the first time, Nicaragua, Saint Kitts and Nevis, and Suriname, submitted responses to the questionnaire describing their import licensing systems. Nevertheless, the Chairperson 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 (*e.g.* nine Members that had notified in 2009 did not do so in 2010). The Committee Chairperson also reminded Members that notifications were required, even if only to report that no import licensing system existed and that the WTO Secretariat was prepared to assist Members in developing their submissions. She encouraged Members to renew their efforts towards full and complete compliance with notification obligations and to consult the WTO Secretariat if assistance was required.

The United States remained one of the most active members of the Import Licensing Committee, using the forum to gather information and to discuss import licensing measures applied to its trade by other Members. U.S. submissions to the Committee in 2010 included its response to the Questionnaire (G/LIC/N/3/USA/7) and copies of the legislation authorizing U.S. licensing systems (G/LIC/N/1/USA/6). The U.S. representative focused her presentations at both meetings on the deteriorating situation caused by Argentina's import licensing policies and procedures, as well as continuing to press Members on other issues and where requested information had not yet been provided adequately. Further questions were submitted in writing to Argentina and Turkey, following up on their responses.

Argentina: The United States again expressed concern about Argentina's progressive expansion of restrictive licensing requirements on imports and the trade distortive effects these measures were having on U.S. exports. Argentina had neither adequately notified these measures to the Committee, nor explained the reasons for their application. An excessive delay (up to nearly 120 days) in processing applications for licenses was causing particular concern, along with reports that license approvals were made contingent upon balancing imports with a similar value of exports. In addition, selected import categories had been routinely denied necessary permits for circulation in the domestic market without due process or any explanation. The United States sought information on the legal basis for these measures, on the probable duration of the measures (described as "provisional"), on their justification under WTO provisions, and on what remedies Argentina could provide in these situations. Peru, Canada, China, the European Union, Japan, and Mexico supported the U.S. presentation with similar interventions. Argentina denied that there were any delays in providing licenses beyond what the WTO Agreement permitted. Argentina also maintained that the measures were imposed only to "monitor" trade but did not explain why non-automatic licensing was necessary for such surveillance, and it did not explain further what necessary measure the requirements were designed to implement. When pressed, Argentina made reference to technical regulations and to the impact of the economic crisis on trade. Argentina continued

Communities; Grenada; Haiti; Honduras; Hong Kong, China; India; Indonesia; Japan; Korea; Macao, China; Mexico; Former Yugoslav Republic of Macedonia; Madagascar; Malawi; Malaysia; Mauritius; Namibia; Nicaragua; Nigeria; Norway; Paraguay; Peru; the Philippines; Qatar; St. Kitts and Nevis; Suriname; Switzerland; Chinese Taipei; Thailand; Trinidad and Tobago; Turkey; Ukraine; the United States; Venezuela; and Zimbabwe.

¹⁵ The Members that have never submitted a notification to this Committee are Angola, Belize, Botswana, Cambodia, Central African Republic, Congo, Djibouti, Egypt, Guinea, Guinea Bissau, Mauritania, Mozambique, Myanmar, Nepal, St. Vincent & the Grenadines, Sierra Leone, Solomon Islands, Tanzania, Tonga, and Vietnam. Cambodia and the Central African Republic submitted notifications before the end of 2010 but too late to be examined by the Committee this year.

to deny that its measures were restrictive and gave no indication of when the requirements might be removed.

Informal Meeting of the Committee on the Status of Notifications

At the April meeting of the Committee, the Chairperson held additional informal discussions on improving the timeliness and completeness of notifications by Members. Several Members, including the United States, discussed the specific suggestions made in 2009 for improvements in this area. These included: development of a simplified notification for import licensing systems that had not changed since the previous annual submission; defined formats for the various notifications to help delegations assemble the necessary information; more emphasis on the use of electronic media to provide legislation and other required submissions; and intensified use of timely messages from the Chairperson and of the Trade Policy Review process to remind Members of missing notifications. After the October meeting, the WTO Secretariat circulated suggested revised formats for the required notifications to encourage further discussion.

Prospects for 2011

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

In light of these factors, efforts to revise the current notification system to make it more effective as well as timely will continue in 2011. 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 simplification and standardization of the formats for notifications and questionnaires and on securing initial submissions by the 20 Members that have never provided notifications.

Finally, despite the rising tide of Members’ complaints to the Import Licensing Committee, Argentina continued to deny that its import licensing measures were nontransparent or that its officials delayed or refused to provide licenses or other permits for imports once requested. Argentina rebuffed U.S. efforts to resolve the issue bilaterally. At the end of 2010, the United States and other affected WTO Members raised the issue in the Council on Trade in Goods, with a view to escalating the level of attention paid to this issue within the WTO. This issue will continue to be addressed in 2011, both in the Committee and in other WTO fora.

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 rules on safeguards are important to the viability and integrity of the multilateral trading system. The availability of a safeguard 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 rules on safeguards ensure that such actions are of limited duration and are gradually less restrictive over time.

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

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

Major Issues in 2010

During its two regular meetings in April and October 2010, the Safeguards Committee continued its review of Members’ laws, regulations, and administrative procedures, based on notifications required under Article 12.6 of the Safeguards Agreement. The Committee reviewed the national legislation of Bahrain, Burkina Faso, Cambodia, Dominican Republic, Guyana, Honduras, Japan, Norway, Panama, Thailand, Vietnam, and Zambia.

The Safeguards Committee reviewed Article 12.1(a) notifications regarding the initiation of a safeguard investigatory process relating to serious injury or threat thereof and the reasons for it, or the initiation of a review process relating to the extension of an existing measure, from the following Members: Dominican Republic on certain sport and dress socks, polypropylene bags and tubular fabric, and toilet paper; European Communities on wireless wide area networking modems; Ecuador on windshields; Indonesia on cotton yarn other than sewing thread, woven fabrics of cotton, stranded wire, ropes and cables excluding locked coil, flattened strands and non-grating wire ropes, aluminum foil food container/aluminum tray and plain lid, stranded wire, ropes and cables for locked coil, flattened strands, and non-rotating wire ropes, wire of iron/non-alloy steel; Jordan on clinker; Mexico on welded steel tubes; Morocco on machine made carpets; the Philippines on testliner board; Ukraine on refrigerating equipment, ferroalloys, and mineral fertilizers.

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: Croatia on semi-hard cheese and cheese substitutes; Dominican Republic on certain sport and dress socks, polypropylene bags, and tubular fabric; India on sodium hydroxide (caustic soda) and unwrought aluminum/aluminum waste/scrap; Indonesia on wire nails, wire of iron/non-alloy steel, not plated; Jordan on ceramic tiles; Kyrgyz Republic on wheat flour; the Philippines on testliner board; Turkey on matches; and Ukraine on matches.

The Safeguards Committee reviewed Article 12.1(c) notifications regarding a decision to apply or extend a safeguard measure from the following Members: Brazil on desiccated coconut; Croatia on semi-hard cheese and cheese substitutes; Dominican Republic on polypropylene bags and tubular fabric; India on sodium hydroxide (caustic soda); Indonesia on wire nails, wire of iron/non-alloy steel, not plated; Jordan on ceramic tiles; Kyrgyz Republic on wheat flour; the Philippines on figured glass, float glass, and ceramic tiles; Turkey on matches, footwear, motorcycles, steam smoothing irons, and vacuum cleaners; and Ukraine on matches.

The Safeguards Committee reviewed Article 12.4 notifications regarding the application of a provisional safeguard measure from the following Members: Chile on powdered milk, liquid milk, and gouda cheese; Croatia on semi-hard cheese and cheese substitutes; Dominican Republic on certain sport and dress socks, polypropylene bags, and tubular fabric; India on acrylic paper, sodium hydroxide (caustic soda), unwrought aluminum/aluminum waste/scrap, and coated paper and paper board; the Philippines on testliner board; and Ukraine on sheet glass.

The Safeguards Committee received notifications of the termination of a safeguard investigation with no definitive safeguard measure imposed, or the expiration or termination of a definitive safeguard measure, from the following Members: Brazil on compact discs-recordables and DVD recordables; Chile on powdered milk, liquid milk, and gouda cheese; Dominican Republic on glass receptacles and toilet paper; India on acrylic fiber, coated paper/paper board, hot-rolled coils/sheets/strips, linear alkyl benzene, oxo alcohols, plain particle board, uncoated paper/copy paper, and unwrought aluminum/aluminum waste/aluminum scrap; Indonesia on aluminum foil food container; Jordan on clinker and cross-country ski footwear/snowboard boots; Morocco on polyvinyl chloride and ceramic tiles; Peru on cotton yarn; the Philippines on glass mirrors; Ukraine on liquid chlorine; and Vietnam on float glass.

Prospects for 2011

The Safeguards Committee's work in 2011 will continue to focus on the review of safeguard actions that have been notified to the Committee and on the review of notifications of any new or amended safeguards legislation.

12. Working Party on State Trading Enterprises

Status

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

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

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

Major Issues in 2010

The WP-STE held one informal meeting on April 29, 2010 and two formal meetings on June 16 and October 19, 2010. Member compliance with the notification obligation was discussed at the April informal meeting and the June formal meeting. Discussion at these meetings focused on ways to improve the timeliness and completeness of compliance with notification obligations. Based on these discussions, the Secretariat produced a table recording all notifications made to the Working Party since 1995 to clarify which notifications remained outstanding. The discussions also resulted in a WP-STE workshop on October 18, 2010 to hear from Members on the problems they were experiencing in complying with their notification obligation. The workshop included a presentation by the Secretariat on STEs generally and the notification obligation, and two presentations by Members (Australia and Chile) on their experiences in completing STE notifications.

The October 19, 2010 formal meeting reviewed Member STE notifications from: Albania, Australia, Canada, Chile, Colombia, Ecuador, El Salvador, the European Union, Grenada, Honduras, Hong Kong, China, India, Jamaica, Korea, Macao China, Malaysia, Namibia, Nigeria, Norway, Qatar, Singapore, Switzerland, Chinese Taipei, Trinidad and Tobago, Turkey, the Ukraine, and the United States. The U.S. notification included updated information on the Commodity Credit Corporation, Isotopes Production and Distribution Program, Power Administrations, and Strategic Petroleum Reserve. During the meeting, Australia posed written questions relating to India's notifications and requested that India and Norway inform the Working Party of when they expected to submit outstanding notifications.

Prospects for 2011

The WP-STE is scheduled to meet in October 2011. The WP-STE will continue its review of new notifications and its examination of how to improve Member compliance with STE notification obligations to enhance transparency of STEs.

F. Council on Trade-Related Aspects of Intellectual Property Rights

Status

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

The TRIPS Agreement sets minimum standards of protection for copyrights and related rights, trademarks, geographical indications (GIs), industrial designs, patents, integrated circuit layout designs, and undisclosed information. The TRIPS Agreement also establishes minimum standards for the enforcement of intellectual property rights (IPRs) through civil actions for infringement, actions at the border and, at least with respect to copyright piracy and trademark counterfeiting, in criminal actions.

The TRIPS Agreement is important to U.S. interests and has yielded significant benefits for U.S. industries and individuals, from those engaged in the pharmaceutical, agricultural, chemical, and biotechnology industries to those producing motion pictures, sound recordings, software, books, magazines, and consumer goods.

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

Major Issues in 2010

In 2010, the TRIPS Council held three formal meetings. In addition to its continued work reviewing the implementation of the Agreement, the TRIPS Council's activities in 2010 focused on the relationship of the TRIPS Agreement to the Convention on Biological Diversity, and on ongoing consideration of issues addressed in the Doha Ministerial Declaration and the Declaration on the TRIPS Agreement and Public Health. In addition, the TRIPS Council considered issues related to the Anti-Counterfeiting Trade Agreement (ACTA).

Review of Developing Country Members' TRIPS Implementation: During 2010, the TRIPS Council continued to review developing country Members' and newly acceded Members' implementation of the TRIPS Agreement, and to provide assistance to developing country Members in implementing the Agreement. The United States continued to press for full implementation of the TRIPS Agreement by developing country Members, and participated actively during the reviews of legislation by highlighting specific concerns regarding individual Member's implementation of the Agreement's obligations.

During 2010, the TRIPS Council did not undertake any new reviews of implementing legislation, but did receive additional information from Grenada regarding Grenada's legislation.

Intellectual Property and Access to Medicines: The August 30, 2003 solution (the General Council Decision on "Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health," in light of the statement read out by the General Council Chairperson) continues to apply to each Member until the formal amendment to the TRIPS Agreement replacing its provisions takes effect for that Member. The amendment text adopted by the General Council in December 2005 and the statement by the Chairperson preserve all substantive aspects of the August 30, 2003 solution and do not alter the substance of the previously agreed to solution. The United States was the first Member to submit its acceptance of the amendment to the WTO. At the end of 2010, a total of 32 Members had accepted the amendment, which will enter into force for those Members that have accepted it upon its acceptance by two-thirds of the membership of the WTO. At its October 2010 meeting, the TRIPS Council spent a full day reviewing implementation of the August 30, 2003 solution. Pursuant to a December 2009 Decision of the WTO General Council, the period in which Members may accept the amendment remains open until December 31, 2011.

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

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

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

The DSB adopted the panel report on March 20, 2009. On April 15, 2009, China notified the DSB that China intends to implement the recommendations and rulings of the DSB in this dispute, and stated it would need a reasonable period of time for implementation. On June 29, 2009, the United States and China notified the DSB that they had agreed on a one-year period of time for implementation, to end on March 20, 2010. The United States is working with China on its implementation of the DSB recommendations and rulings in this dispute (DS362).

During 2010, the United States continued to monitor EU compliance with a 2005 ruling of the WTO Dispute Settlement Body that the EU's regulation on food-related GIs is inconsistent with the EU's obligations under the TRIPS Agreement and the GATT 1994. The United States has raised certain questions and concerns with regard to the revised EU regulation and its compliance with the DSB findings and recommendations, and continues to monitor implementation in this dispute.

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

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

In 2010, and consistent with this mandate, the Director-General held a number of such consultations with Members on the issue of extension. During these consultations, the United States and many like-minded

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

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

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

In 2010, the Director-General held a number of consultations with Members on this issue. The United States, with support from other Members, continues to maintain that there is no conflict between the TRIPS Agreement and the CBD, that an amendment to the TRIPS Agreement is neither necessary nor appropriate, and that shared objectives with respect to genetic resources and traditional knowledge (such as prior informed consent and effective access and benefit-sharing arrangements) can best be achieved through mechanisms outside of the patent system. The United States has also advocated for a discussion in the TRIPS Council that is fact-based and focused on national experiences in areas such as access and benefit sharing and prior informed consent.

Technical Cooperation and Capacity Building: As in each past year, the United States and other Members provided reports on their activities in connection with technical cooperation and capacity building (see IP/C/W/550/Add.5). Three LDC Members (Bangladesh, Tanzania, and Rwanda) submitted information on their priority needs with regard to technical cooperation related to their implementation of the TRIPS Agreement in 2010, and these reports were discussed in the TRIPS Council as well as in informal consultations.

Implementation of Article 66.2: Article 66.2 of the TRIPS Agreement requires developed country Members to provide incentives for enterprises and institutions in their territories to promote and

encourage technology transfer to least-developed country Members in order to enable them to create a sound and viable technological base. This provision was reaffirmed in the Doha Decision on Implementation-related Issues and Concerns and the TRIPS Council was directed to put in place a mechanism for ensuring monitoring and full implementation of the obligation. Developed country Members are required to provide detailed reports every third year, with annual updates, on these incentives. In October 2010, the United States provided an updated report on specific U.S. Government institutions and incentives, as required (see IP/C/W/551/Add.5.).

Prospects for 2011

In 2011, 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 2011 continue to be to:

- resolve differences through consultations and use of dispute settlement procedures, where appropriate;
- continue efforts to ensure that developing country Members fully implement the TRIPS Agreement;
- engage in constructive dialogue regarding the technical assistance and capacity-related needs of developing countries in connection with TRIPS Agreement implementation;
- continue to encourage a fact-based discussion within the TRIPS Council on enforcement and other 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; a periodic review of developments in the air transport sector; the transitional review mechanism under Section 18 of the Protocol on the Accession of the

People's Republic of China; implementation of GATS Article VII; the MFN review; and notifications made to the General Council pursuant to GATS Articles III.3, V.5, V.7, and VII.4.

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

Major Issues in 2010

The CTS met in February, April, June, September, and November 2010. The CTS elected the Ambassador from Norway as its new Chairperson in April.

The CTS received a number of notifications pursuant to GATS Article III:3 (transparency); GATS Article V:7 (economic integration), and GATS Article VII:4 (recognition). Albania, Australia, Barbados, Chile, China, India, New Zealand, Nicaragua, Paraguay, Peru, Switzerland, and the United States made notifications under GATS Article III.3. Notifications pursuant to GATS Article V:7 were made by Peru and China; El Salvador, Honduras, and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu; Australia, Brunei Darussalam, Cambodia, Indonesia, Malaysia, Myanmar, New Zealand, Philippines, Singapore, Thailand and Vietnam; China and Pakistan; the EU; the Republic of Korea; Brunei Darussalam, Cambodia, Indonesia, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Vietnam; Colombia and Mexico; and India and Korea. Notifications made under GATS Article VII:4 were made by Australia and the United States.

During 2010, the CTS took up 13 of the Secretariat's updated Background Notes, including audiovisual services, energy services, financial services, education services, Mode 3, maritime transport services, logistics services, accountancy services, legal services, postal and courier services, environmental services, road transport services, and distribution services. These Background Notes on services sectors and modes of supply were originally produced in 1998 for informational reference by Members. The Secretariat began updating these notes in 2008 at the request of the CTS. At its April 2010 meeting, the CTS agreed to start the third review of GATS Article II (MFN) exemptions during the year. The Council held organizational discussions with Members during the June meeting, and the first dedicated review session took place in November 2010, where Members discussed MFN exemptions related to all sectors (horizontal exemptions); business services; communication services; construction and related engineering services; and distribution services.

Australia continued to raise concerns related to the entry into force of the EC-25 schedule of commitments pursuant to GATS Article XXI and the procedures outlined in S/L/80 and S/L/84. The EU delegate explained that the EC Council required each individual Member State to ratify the relevant agreements. Entry into force of the EC-25 schedule is now dependent on the outcome of those proceedings. At the time of the November meeting, 16 EU Member States had ratified the agreement according to their national procedures.

Prospects for 2011

The CTS will continue discussions related to its mandated reviews and various notifications related to GATS implementation.

1. Committee on Trade in Financial Services

Status

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

Major Issues in 2010

The CTFS met in February, April, June, September, and November 2010. During the April 2010 meeting, the Committee elected the delegate from Australia as the new Chairperson.

Members continued to urge Brazil, Jamaica, and the Philippines to take the necessary steps to accept the Fifth Protocol to the GATS. In accepting the protocol, financial services commitments made in 1994 would be replaced by those agreed during the 1995-97 extended negotiations on financial services. All other Members have accepted the protocol. The Chair invited these Members to provide information on the status of their domestic ratification efforts, but none reported any progress.

In June, the CTFS held a seminar on trade in non-life insurance services as proposed by the United States. The seminar included a wide variety of speakers from governments, regulatory agencies, and the private sector, and addressed economic and commercial trends in the non-life insurance sector, regulatory aspects, national experiences with the liberalization of non-life insurance services, and challenges raised by the supply of non-life insurance in foreign markets.

The CTFS also provided a forum for discussion of other topics, including a dedicated discussion on the financial crisis and trade in financial services based on a proposal from Argentina, Ecuador, India, and South Africa, as well as a dedicated discussion on the impact of technological developments on regulatory and compliance aspects of banking and other financial services under the GATS, as proposed by Pakistan. In the September and November meetings, the Committee also considered a communication from China to have the Committee examine trade in financial services and development.

Prospects for 2011

The CTFS will continue to use its broad and flexible mandate to discuss various issues, including ratification of existing commitments as well as market access and regulatory issues, such as further consideration of China's communication on trade in financial services and development.

2. Working Party on Domestic Regulation

Status

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

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

Major Issues in 2010

The WPDR met in February, April, June, September, and November of 2010. In April 2010, the WPDR elected the delegate from Pakistan as its new chairperson. During 2010, the WPDR based its discussions on a March 2010 annotated version of the draft chairman's text (referred to as the chairman's "informal note") from 2009. The new annotated version highlighted Members' divergent views on issues. It also reflected proposed changes by a group of Members, made in January 2010, that attempt to streamline some of the disciplines and eliminate some redundancy in the March 2009 informal note.

Members welcomed the March 2010 annotated text as a basis for future negotiations, although it is clear that Members continue to have concerns about the basic threshold issues, and there continue to be significant divergences on substantive issues. Thus far, none of the proposed new disciplines have been agreed to by Members. During the course of 2010, the Chair focused discussions at the formal meetings on a thematic basis in an attempt to forge further consensus on the various themes. Views, however, remain quite wide on a number of key issues, including the insertion of a "necessity test" in the disciplines, which may in the view of a number of delegations undermine Members' right to regulate.

The United States continues to take the view that any horizontal disciplines must respect the right of WTO Members to regulate, as recognized by the GATS, in a manner which meets the legitimate policy objectives of national and sub-national regulatory authorities. Because of the wide variety of services sectors, there will be significant legal and practical constraints on the feasibility of disciplines which apply on a horizontal basis. For that reason, the United States' priority in 2010 continued to be horizontal disciplines for regulatory transparency. The United States also joined many other Members in voicing strong caution about submitting domestic regulations to an operational "necessity test" or its equivalent based on concerns that this could be overly intrusive on Members' rights to regulate. Finally, the United States supported efforts by WTO members to streamline and eliminate redundancy in the March 2009 informal note.

Prospects for 2011

As the United States and other Members have made clear on numerous occasions, future work in the WPDR will depend on the pace of negotiations for services market access. As the overall negotiations progress, the WPDR may continue to work in informal and *ad hoc* meetings on the basis of the March 2010 annotated text, and possible future revisions, as well as the new proposal from a group of Members seeking to streamline certain provisions in the March 2009 informal note.

3. Working Party on GATS Rules

Status

The Working Party on GATS Rules (WPGR) provides a forum to discuss the possibility of new disciplines on emergency safeguard measures, government procurement, and subsidies in the context of the GATS in accordance with the Doha Work Program resulting from the Hong Kong Ministerial

Conference in December 2005. That program called for Members to intensify their efforts to conclude the negotiations on rule-making under GATS Articles X (emergency safeguard mechanism), Article XIII (government procurement), and Article XV (subsidies).

Major Issues in 2010

The WPGR held formal meetings in February, April, June, September and November 2010. The WPGR resumed ongoing discussions of emergency safeguard measures, government procurement, and subsidies. During its April meeting, the WPGR also elected the delegate from Poland as its new Chairperson.

Regarding emergency safeguard measures (ESM), Members continued discussions on the basis of an informal communication from a group of ASEAN Members that proposed legal language establishing rules for the use of emergency safeguard measures in services. During 2010, there was very little discussion on this issue within the Working Party. To the extent there was a substantive issue raised, the United States and other Members continue to question the desirability and feasibility of any such measures. The Philippines proposed that the Secretariat provide Members with a briefing on the collection of services statistics and services trade data, which may assist Members in analyzing the ESM issue.

On government procurement of services, delegations continued their discussion of a proposal by the EU regarding a legal text for an Annex to the GATS. Members exchanged views on this proposal, and raised issues relating to possible benefits of opening procurement markets, procedural rules, special and differential treatment, the relationship to the plurilateral Government Procurement Agreement, and MFN application. The United States continues to engage on this issue, but has questioned the need for a government procurement annex to the GATS in light of the fact that the Agreement on Government Procurement already covers services. The EU proposed a series of dedicated discussions on the topic and with the Secretariat organized to have a Government Procurement expert provide a presentation to the Working Party at the November 2010 meeting.

With respect to subsidies, Members agreed to a work plan to exchange information on subsidies in services. As of the November 2010 meeting, 18 Members (counting the EU as one), including the United States, submitted information pursuant to Article XV. These submissions served as the basis for the first dedicated discussion on the issue of subsidies in services. As an additional part of the work plan on the exchange of information, the United States submitted a Communication for the June 2010 meeting. This communication was a list of questions to Members in order to enhance Members' understanding of the kinds of practical problems that proponents of new disciplines are facing, as well as the impact of those problems on international trade. As of December 2010, no Member had provided any examples of practical trade problems in response to the United States' questions. The Working Party will revert to the work program on information exchange at its next meeting in 2011 for further discussions.

Prospects for 2011

Future work in the WPGR will depend on the pace of negotiations for services market access. As the overall negotiations progress, the WPGR may continue focused discussions in all three areas, including technical and procedural questions relating to the operation and application of any possible emergency safeguard measures in services (including a possible discussion on ESM-relevant data); proposals by Members concerning government procurement of services (including further presentations in a dedicated discussion format); and further discussion of how to facilitate a productive information exchange on subsidies (including more dedicated discussions to review submissions from Members as well as an examination of any particular problems identified).

4. Committee on Specific Commitments

Status

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

Major Issues in 2010

The CSC held meetings in February, April, July, September, and November 2010. The CSC resumed previous discussion of classification and scheduling issues and the relationship between old and new commitments. During the April meeting, the CSC also elected the delegate from Barbados as its new Chairperson.

Classification: Members supported the Chair's initiative to hold informal discussions on classification issues stemming from the updated background notes. The Secretariat has prepared a compilation of these issues to facilitate Members discussions.

Scheduling issues: The Committee did not discuss any issues under this item, though some Members wanted to examine issues related to the scheduling of Economic Needs Tests. The Chair encouraged written contributions in order to examine scheduling issues.

Relationship between old and new commitments: Members continue to have divergent views as to how to ensure the legal standing of existing commitments. Discussions continued on the relationship between existing schedules and new commitments resulting from the current negotiations, guided by four different proposals. Additional topics included methods and instruments for incorporating new commitments and the process for verifying final schedules of commitments.

Prospects for 2011

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

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

Major Issues in 2010

The DSB met 13 times in 2010 to oversee disputes, and to address responsibilities such as appointing members to the Appellate Body and approving additions to the roster of governmental and non-governmental panelists.

Roster of Governmental and Non-Governmental Panelists: Article 8 of the DSU makes it clear that panelists may be drawn from either the public or private sector and must be “well-qualified,” such as persons who have served on or presented a case to a panel, represented a government in the WTO or the GATT, served with the Secretariat, taught or published in the international trade field, or served as a senior trade policy official. Since 1985, the Secretariat has maintained a roster of non-governmental experts for GATT 1947 dispute settlement, which has been available for use by parties in selecting panelists. In 1995, the DSB agreed on procedures for renewing and maintaining the roster, and expanding it to include governmental experts. In response to a U.S. proposal, the DSB also adopted standards increasing and systematizing the information submitted by roster candidates. These modifications aid in evaluating candidates’ qualifications and encouraging the appointment of well-qualified candidates who have expertise in the subject matters of the Uruguay Round Agreements. In 2010, 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 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 2010.

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

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

recommendations, findings, or observations under the Agreement on Textiles and Clothing; and (5) support staff of the Appellate Body.

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

Appellate Body: The DSU requires the DSB to appoint seven persons to serve on an Appellate Body, which is to be a standing body with members serving four-year terms, except for three initial appointees determined by lot whose terms expired at the end of two years. At its first meeting on February 10, 1995, the DSB formally established the Appellate Body, and agreed to arrangements for selecting its members and staff. They also agreed that Appellate Body members would serve on a part-time basis, and sit periodically in Geneva. The original seven Appellate Body members were Mr. James Bacchus of the United States, Mr. Christopher Beeby of New Zealand, Mr. Claus-Dieter Ehlermann of Germany, Mr. Said El-Naggar of Egypt, Mr. Florentino Feliciano of the Philippines, Mr. Julio Lacarte-Muró of Uruguay, and Mr. 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. At its meeting held 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 Mr. El-Naggar and Mr. 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 Mr. 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 11, 2001. On November 7, 2003, the DSB agreed to appoint Ms. Merit Janow of the United States to a term of four years commencing on December 11, 2003, to reappoint Mr. 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. At its meeting held on November 19 and 27, 2007, the DSB agreed to appoint Ms. Lilia R. Bautista of the Philippines and Ms. Jennifer Hillman of the United States as members of the Appellate Body for four years commencing on December 11, 2007, and to appoint Mr. Shotaro Oshima of Japan and Ms. Yuejiao Zhang of China as members of the Appellate Body for four years commencing on June 1, 2008. On November 12, 2008, Mr. Baptista notified the DSB that he was resigning for health reasons, effective in 90 days. On December 22, 2008, the DSB decided to deem the term of the position to which Mr. Baptista was appointed to expire on June 30, 1999, and to fill the position previously held by Mr. Baptista for a four-year term. On June 19, 2009, the DSB agreed to appoint Mr. Ricardo Ramírez Hernández of Mexico as a member of the Appellate Body for four years commencing on July 1, 2009, to appoint Mr. Peter Van den Bossche of Belgium as a member of the Appellate Body for four years commencing on December 12, 2009, and to reappoint Mr. Unterhalter for a final term of four years commencing on December 12, 2009. *(The names and biographical data for the Appellate Body members during 2010 are included in Annex II of this report.)*

The Appellate Body has also adopted Working Procedures for Appellate Review. On February 28, 1997, the Appellate Body issued a revision of the Working Procedures, providing for a two-year term for the first Chairperson, and one-year terms for subsequent Chairpersons. In 2001, the Appellate Body amended its working procedures to provide for no more than two consecutive terms for Chairperson. Mr. Lacarte-Muró, the first Chairperson, served until February 7, 1998; Mr. Beeby served as Chairperson from February 7, 1998 to February 6, 1999; Mr. El-Naggar served as Chairperson from February 7, 1999 to February 6, 2000; Mr. Feliciano served as Chairperson from February 7, 2000 to February 6, 2001; Mr. Ehlermann served as Chairperson from February 7, 2001 to December 10, 2001; Mr. Bacchus served as Chairperson from December 15, 2001 to December 10, 2003; Mr. Abi-Saab served as Chairperson from December 13, 2003 to December 12, 2004; Mr. Taniguchi served as Chairperson from December 17, 2004 to December 16, 2005; Mr. Ganesan served as Chairperson from December 17, 2005 to December 16, 2006; Mr. Sacerdoti served as Chairperson from December 17, 2006 to December 17, 2007; Mr. Baptista served as Chairperson from December 18, 2007, to December 17, 2008; Mr. Unterhalter served as Chairperson from December 18, 2008 to December 16, 2010; and Ms. Bautista is Chairperson from December 17, 2010 to December 10, 2011.

In 2010, the Appellate Body issued one report, on New Zealand's challenge to certain Australian measures with respect to apples. The United States participated in the case as a third party.

Dispute Settlement Activity in 2010: During the DSB's first fifteen years in operation, WTO Members filed 416 requests for consultations (22 in 1995, 42 in 1996, 46 in 1997, 44 in 1998, 31 in 1999, 30 in 2000, 27 in 2001, 37 in 2002, 26 in 2003, 19 in 2004, 11 in 2005, 20 in 2006, 14 in 2007, 19 in 2008, 14 in 2009, and 17 in 2010). During that period, the United States filed 97 complaints against other Members' measures and received 116 complaints on U.S. measures. Several of these complaints involved the same issues as other complaints (four U.S. complaints against others and 27 complaints against the United States). A number of disputes commenced in earlier years remained active in 2010. What follows is a description of those disputes in which the United States was a complainant, defendant, or third party during the past year.

Prospects for 2011

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 2011, we expect the DSB to continue to focus on the administration of the dispute settlement process in the context of individual disputes. Experience gained with the DSU will be incorporated into the U.S. litigation and negotiation strategy for enforcing U.S. WTO rights, as well as the U.S. position on DSU reform. Participants will continue to consider reform proposals in 2011.

a. Disputes Brought by the United States

In 2010, 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 2010 where the United States was a complainant. As demonstrated by these summaries, the WTO dispute settlement process has proven to be an effective tool in combating barriers to U.S. exports. Indeed, in a number of cases the United States has been able to achieve satisfactory outcomes by invoking the consultation provisions of the dispute settlement procedures, without recourse to formal panel proceedings.

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

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

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

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

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

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

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

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

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

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

In September 2009, China filed a notice of appeal to the WTO Appellate Body, appealing certain of the panel's findings. First, China contended that its restrictions on importation of the products at issue are justified by an exception related to the protection of public morals. Second, China claimed that while it had made commitments to allow foreign enterprises to partner in joint ventures with Chinese enterprises to distribute music, those commitments did not cover the electronic distribution of music. Third, and finally, China claimed that its import restrictions on films for theatrical release and certain types of sound recordings and DVDs were not inconsistent with China's commitments related to the right to import because those products were not goods and therefore were not subject to those commitments. The United States filed a cross-appeal on one aspect of the panel's analysis of China's defense under GATT Article XX(a). On December 21, 2009, the Appellate Body issued its report. The Appellate Body rejected each of China's claims on appeal. The Appellate Body also found that the Panel had erred in the aspect of the analysis that the United States had appealed. The DSB adopted the Appellate Body and panel reports on January 19, 2010. On July 12, 2010, the United States and China notified the DSB that they had agreed on a 14-month period of time for implementation, to end on March 19, 2011.

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

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

Specifically, the United States is concerned that certain Chinese measures: (1) impose quantitative restrictions in the form of quotas on exports of bauxite, coke, fluorspar, silicon carbide, and zinc ores and concentrates, as well as certain intermediate products incorporating some of these inputs; (2) impose export duties on several raw materials; and (3) impose other export restraints including export licensing restrictions, minimum export price requirements, and requirements to pay certain charges before certain products can be exported. The United States also challenges China's failure to publish relevant measures, including those pertaining to the administration of its export quotas. The measures at issue appear to be inconsistent with several WTO provisions, including provisions in the *General Agreement on Tariffs and Trade 1994*, as well as specific commitments made by China in its WTO accession agreement.

The United States and China held consultations on July 30 and September 1-2, 2009, but did not resolve the dispute. The European Communities and Mexico have also requested and held consultations with China on these measures.

On November 19, 2009, the European Communities and Mexico joined the United States in requesting the establishment of a panel, and on December 21, 2009, the WTO Dispute Settlement Body established a single panel to examine all three complaints. On March 29, 2010, the Director-General composed the panel as follows: Mr. Elbio Rosselli, Chair; Ms. Dell Higgie and Mr. Nugroho Wisnumurti, Members. The panel met with the parties and third parties on August 31-September 2, 2010 and met again with the parties on November 22-23. The panel's final report is scheduled to be circulated to Members in spring 2011.

China – Countervailing and Anti-Dumping Duties on Grain Oriented Flat-rolled Electrical Steel from the United States (DS414)

On September 15, 2010, the United States filed a request for consultations regarding China's imposition of antidumping (AD) duties and countervailing duties (CVD) on imports of grain oriented flat-rolled electrical steel (GOES) from the United States.

In June 2009, China's Ministry of Commerce (MOFCOM) initiated two investigations on GOES from the United States. On April 10, 2010, based on determinations that American steel had been dumped into their market and subsidized, MOFCOM imposed antidumping duties ranging from 7.8 percent to 64.8 percent and countervailing duties ranging from 11.7 percent and 44.6 percent.

China's antidumping and subsidy determinations in the GOES investigations appear to violate numerous WTO requirements. Specifically, the United States is concerned that China initiated both investigations without sufficient evidence; failed to objectively examine the evidence; failed to disclose "essential facts" underlying its conclusions; failed to provide an adequate explanation of its calculations and legal conclusions; improperly used investigative procedures; failed to provide non-confidential summaries of Chinese submissions; and included U.S. federal and state programs that were not identified in the notice of initiation of the CVD investigation.

The United States and China held consultations on November 1, 2010.

China – Certain Measures Affecting Electronic Payment Services (DS413)

On September 15, 2010, the United States requested consultations with China concerning issues relating to certain restrictions and requirements maintained by China pertaining to electronic payment services (EPS) for payment card transactions and the suppliers of those services. EPS involve the services through which transactions involving credit card, debit card, charge card, check card, automated teller machine (ATM) card, prepaid card, or other similar card or money transmission product, are processed and through which transfers of funds between institutions participating in the transactions are managed and facilitated.

China undertook both market access and national treatment commitments with respect to electronic payment services, as set out in its Schedule of Specific Commitments on Services. Despite those commitments, China appears to impose market access restrictions and requirements on services suppliers of other Members seeking to supply EPS in China. It appears that China UnionPay (CUP), a Chinese entity, is the only entity that China permits to supply EPS for payment card transactions denominated and paid in renminbi (RMB) in China. In addition, China also requires all payment card processing devices at merchant locations to be compatible with CUP's system, and that all payment cards, including "dual

currency” cards, issued in China for transactions denominated and paid in RMB, bear the CUP logo. These and other requirements and restrictions maintained by China appear to be inconsistent with China’s market access commitments and to accord less favorable treatment to EPS suppliers of other WTO Members than to Chinese suppliers of these services.

The United States and China held consultations on October 27 and 28, 2010.

China–Subsidies on Wind Power Equipment (DS 419)

On December 22, 2010, the United States requested consultations with China concerning a program known as the Wind Power Equipment Fund. Under this program, China appears to provide subsidies that are prohibited under WTO rules because the grants awarded under the program seem to be contingent on Chinese wind power equipment manufacturers using parts and components made in China rather than foreign-made parts and components. The United States also included in its consultations request transparency-related claims, which address China’s failure to comply with its obligation to notify the subsidies at issue under the WTO’s Agreement on Subsidies and Countervailing Measures and China’s failure to translate the measure into one or more of the official languages of the WTO under China’s Protocol of Accession. On December 31, 2010, China accepted the request for consultations.

This case arises out of an investigation initiated in response to a petition filed by the United Steelworkers (USW) under section 301 of the Trade Act of 1974, as amended. (*For further information on the Section 301 investigation, see Chapter V.B.1.*)

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

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

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

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

On November 3, 2003, the EU notified the WTO that it had amended its hormones ban. As discussed below (DS320), on November 8, 2004, the EU requested consultations with respect to “the United States’ continued suspension of concessions and other obligations under the covered agreements” in the EU –

Hormones dispute. The Appellate Body issued its report in the *U.S. – Continued Suspension* (WT/DS320) dispute on October 16, 2008.

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

On December 22, 2008, the EU requested consultations with the United States and Canada pursuant to Articles 4 and 21.5 of the DSU, regarding the EU's implementation of the DSB's recommendations and rulings in the EU – Hormones dispute. In its consultations request, the EU stated that it considered that it has brought into compliance the measures found inconsistent in EU – Hormones by, among other things, adopting its revised ban in 2003. Consultations took place in February 2009.

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

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

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

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

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

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

- The panel found that the EU had presented no scientific or regulatory justification for the moratorium, and thus that the moratorium resulted in “undue delays” in violation of the EU’s obligations under the SPS Agreement.
- The panel identified specific, WTO-inconsistent “undue delays” with regard to 24 of the 27 pending product applications that were listed in the U.S. panel request.
- The panel upheld the United States’ claims that, in light of positive safety assessments issued by the EU’s own scientists, the bans adopted by six EU Member States on products approved in the EU prior to the moratorium were not supported by scientific evidence, and were thus inconsistent with WTO rules.

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

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

Subsequent to the suspension of the Article 22.6 proceeding, the United States has been monitoring EU developments, and has been engaged with the EU in discussions with the goal of normalizing trade in biotechnology products.

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 Subsidies and Countervailing Measures 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 challenged several types of EU subsidies that appear to be prohibited, actionable, or both.

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

The Panel issued its report on June 30, 2010. It agreed with the United States that the disputed measures of the European Union, France, Germany, Spain, and the United Kingdom were inconsistent with the SCM Agreement. In particular:

- Every instance of “launch aid” provided to Airbus was a subsidy because in each case, the terms charged for this unique low-interest, success-dependent financing were more favorable than were available in the market.
- Some of the launch aid provided for the A380, Airbus's newest and largest aircraft, was contingent on exports and, therefore, a prohibited subsidy.
- Several instances in which German and French government entities created infrastructure for Airbus were subsidies because the infrastructure was not general, and the price charged to Airbus for use resulted in less than adequate remuneration to the government.
- Several government equity infusions into the Airbus companies were subsidies because they were on more favorable terms than available in the market.
- Several EU and Member State research programs provided grants to Airbus to develop technologies used in its aircraft.
- These subsidies caused adverse effects to the interests of the United States in the form of lost sales, displacement of U.S. imports into the EU market, and displacement of U.S. exports into the markets of Australia, Brazil, China, Chinese Taipei, Korea, Mexico, and Singapore.

The EU filed a notice of appeal on July 21, 2010. The WTO Appellate Body conducted an initial hearing on August 3, 2010 to discuss procedural issues related to the need to protect business confidential information and highly sensitive business information and issued additional working procedures to that end on August 10, 2010. The Appellate Body held two hearings on the issues raised in the EU's appeal of the Panel's findings of WTO-inconsistent subsidization of Airbus. The first hearing, held November 11-17, 2010, addressed issues associated with the main subsidy to Airbus, launch aid, and the other subsidies challenged by the United States. The second hearing, held December 9-14, 2010, focused on the Panel's findings that the European subsidies caused serious prejudice to the interests of the United States in the form of lost sales and declining market share in the EU and other third country markets.

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

On June 29, 2007, the United States requested the establishment of a panel under Article 21.5 of the DSU to review whether the EU had failed to bring its import regime for bananas into compliance with its WTO obligations and the DSB recommendations and rulings adopted on September 25, 1997. The request related to the EU's apparent failure to implement the WTO rulings in a proceeding initiated by Ecuador,

Guatemala, Honduras, Mexico, and the United States. That proceeding had resulted in findings that the EU's banana regime discriminated against bananas originating in Latin American countries and against distributors of such bananas, including a number of U.S. companies. The EU was under an obligation to bring its banana regime into compliance with its WTO obligations by January 1999. The EU committed to shift to a tariff-only regime for bananas no later than January 1, 2006. Despite these commitments, the banana regime implemented by the EU on January 1, 2006 included a zero-duty tariff-rate quota allocated exclusively to bananas from African, Caribbean, and Pacific countries. All other bananas did not have access to this duty-free tariff rate quota and were subject to a 176 euro per ton duty. The United States brought challenges under GATT Articles I:1 and XIII.

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

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

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

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

On December 15, 2009, the United States and the EU initialed an agreement designed to lead to settlement of the dispute. In the agreement, the EU undertakes not to reintroduce measures that discriminate among bananas distributors based on the ownership or control of the distributor or the source of the bananas, and to maintain a non-discriminatory, tariff-only regime for the importation of bananas. The U.S.-EU agreement complements an agreement initialed on the same date between the EU and several Latin American banana-supplying countries (the GATB). That agreement provides for staged EU tariff cuts that will bring the EU into compliance with its obligations under the WTO Agreement. The GATB was signed on May 31, 2010, and the U.S.-EU agreement was signed on June 8, 2010. The agreements will enter into force following completion of certain domestic procedures. Upon entry into force, the EU will need to request formal WTO certification of its new tariffs on bananas. The GATB provides that once the certification process is concluded, the EU and the Latin American signatories to the GATB will settle their disputes and claims. Once that has occurred, the United States will also settle its dispute with the EU.

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

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

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

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

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

The panel issued its report on August 16, 2010. The panel agreed with the United States with respect to all three products at issue, finding that the EU measures result in the imposition of duties on products that are entitled to duty-free treatment under the EU’s schedule of concessions and are inconsistent with GATT Article II:1(a) and (b). In addition, the Panel agreed with the United States that the EU’s failure to promptly publish its Explanatory Note on set top boxes and its enforcement of an April 2007 set top box measure before its official publication were inconsistent with GATT Article X:1 and X:2, respectively.

The report was adopted at the meeting of the DSB on September 21, 2010. On October 13, 2010, the EU informed the Chairman of the DSB that it intended to implement the recommendations and rulings of the DSB and would need a reasonable period of time to do so. On December 20, 2010, the United States and the EU notified the DSB that they had agreed on a nine month and nine day period of time for implementation, to end on June 30, 2011.

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

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

dispute. The United States requested the establishment of a panel on October 8, 2009, and the DSB established a panel on November 19, 2009.

Philippines – Taxes on Distilled Spirits (DS403):

On January 14, 2010, the United States requested consultations regarding Philippine excise taxes on distilled spirits. The Philippines taxes distilled spirits at rates that differ depending on the product from which the spirit is distilled. The Philippines taxes distilled spirits made from certain materials that are typically produced in the Philippines, such as sugar and palm, at a low rate (e.g. 13.59 pesos per proof liter in 2009). Other distilled spirits are taxed at significantly higher rates (from approximately ten to forty times higher) than the low rate applied to domestic products. The Philippine taxes on distilled spirits appear not to tax similarly those distilled spirits that are imported compared to directly competitive or substitutable domestic distilled spirits, and the taxes appear to be applied in a way that affords protection to the domestic products. In addition, the taxes appear to subject imported distilled spirits to internal taxes in excess of those applied to like domestic products. Accordingly, the tax treatment of distilled spirits appears inconsistent with Article III:2 of the GATT 1994. Consultations were held on February 23, 2010, but these consultations failed to resolve the dispute. On March 26, 2010, the United States requested the establishment of a panel. At its meeting on April 20, 2010, the DSB established a panel and agreed that, as provided in Article 9.1 of the DSU in respect of multiple complainants, the panel established on January 19, 2010 to examine the complaint by the European Union (DS396) on the same measures, would also examine the U.S. complaint. The Director-General composed the panel on July 5, 2010.

The United States and the European Union filed their respective first written submissions on September 2, 2010. The first meeting of the panel took place on November 17-18, 2010. The second meeting of the panel is scheduled for February 9-10, 2011.

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

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

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

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 2010 in which the United States was a responding party.

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

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

On July 23, 2001, the United States and the EU requested arbitration to determine the level of nullification or impairment of benefits to the EU as a result of section 110(5)(B). In a decision circulated to WTO Members on November 9, 2001, the arbitrators determined that the value of the benefits lost to the EU in this case was \$1.1 million per year. On January 7, 2002, the EU sought authorization from the DSB to suspend its 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 had been engaged in discussions to find a mutually acceptable resolution of the dispute, the arbitrators suspended the proceeding pursuant to a joint request by the parties filed on February 26, 2002.

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

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

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

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

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

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

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

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

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

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

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

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

Based on requests from Brazil, the EU, India, Japan, Korea, Canada, and Mexico, on November 26, 2004, the DSB granted these Members authorization to suspend concessions or other obligations, as provided in

DSU Article 22.7 and in the Decisions of the Arbitrators. The DSB granted Chile authorization to suspend concessions or other obligations on December 17, 2004. On December 23, 2004, January 7, 2005 and January 11, 2005, the United States reached agreements with Australia, Thailand, and Indonesia that these three complaining parties would not request authorization to suspend concessions at that time, and that the United States would not object to a future request on grounds of lack of timeliness.

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

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

Since 2007, only the EU and Japan have maintained retaliatory measures against the United States in connection with this dispute. On April 17, 2007, the EU announced that it would renew its retaliatory measure as of May 1, 2007, adding 32 more products to the 2006 list. The EU renewed its retaliatory measure again on April 3, 2008, removing 30 products from the 2007 list. On May 1, 2009, the EU renewed its 15 percent retaliatory measure but removed fourteen tariff headings from its retaliation list. On April 22, 2010, the EU announced that it would add 19 tariff items to the list of products subject to its 15 percent retaliatory measure. On September 1, 2007, Japan once again renewed its retaliatory duties. On August 22, 2008, Japan announced that it would renew its retaliatory duties, but those duties would cover only ball bearings and tapered roller bearings, in contrast to the list of 15 products covered in the previous year. Effective September 1, 2009, Japan maintained its retaliatory duties on the same two products from the United States but at a reduced rate of 9.6 percent. On August 25, 2010, Japan notified the WTO that it would maintain its retaliatory duties on the same two products but at a reduced rate of 4.1 percent.

United States–Subsidies on upland cotton (DS267):

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

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

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

- The panel found that the “Peace Clause” in the WTO Agreement on Agriculture did not apply to a number of U.S. measures, including: (1) domestic support measures; and (2) export credit guarantees for “unscheduled commodities” and rice (a “scheduled commodity”). Therefore, Brazil could proceed with certain of its challenges.
- The panel found that the GSM 102, GSM 103, and SCGP export credit guarantees for “unscheduled commodities” (such as cotton and soybeans) and for rice are prohibited export subsidies. However, the panel also found that Brazil had not demonstrated that the guarantees for other “scheduled commodities” exceeded U.S. WTO reduction commitments and therefore breached the Peace Clause. Further, Brazil had not demonstrated that the programs threaten to lead to circumvention of U.S. WTO reduction commitments for other “scheduled commodities” and for “unscheduled commodities” not currently receiving guarantees.
- Some U.S. domestic support programs (*i.e.*, marketing loan, countercyclical, market loss assistance, and so-called “Step 2 payments,”) were found to cause significant suppression of cotton prices in the world market in marketing years 1999-2002, causing serious prejudice to Brazil’s interests. However, the panel found that other U.S. domestic support programs (*i.e.*, production flexibility contract payments, direct payments, and crop insurance payments) did not cause serious prejudice to Brazil’s interests because Brazil failed to show that these programs caused significant price suppression. The panel also found that Brazil failed to show that any U.S. program caused an increase in U.S. world market share for upland cotton constituting serious prejudice.
- The panel did not reach Brazil’s claim that U.S. domestic support programs threatened to cause serious prejudice to Brazil’s interests in marketing years 2003-2007. The panel also did not reach Brazil’s claim that U.S. domestic support programs per se cause serious prejudice in those years.
- The panel also found that Brazil had failed to establish that FSC/ETI tax benefits for cotton exporters were prohibited export subsidies.
- Finally, the panel found that Step 2 payments to exporters of cotton are prohibited export subsidies not protected by the Peace Clause, and Step 2 payments to domestic users are prohibited import substitution subsidies because they were only made for U.S. cotton.

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

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

On June 30, 2005, the United States announced that it would cease to issue GSM 103 export credit guarantees and that it was instituting a new fee structure for the GSM 102 export credit guarantee program. Further, on July 5, the United States proposed legislation relating to the export credit guarantee and Step 2 programs. On July 5, 2005, Brazil requested authorization to impose countermeasures and suspend concessions in connection with the prohibited export subsidies findings. On July 14, 2005, the

United States objected to the request, thereby referring the matter to arbitration. On August 17, 2005, the United States and Brazil agreed to suspend the arbitration. On October 1, 2005, the United States ceased to issue export credit guarantees under the SCGP. On October 6, 2005, Brazil made a separate request for authorization to impose countermeasures and suspend concessions in connection with the “serious prejudice” findings. The United States objected to Brazil’s request on October 17, 2005, thereby also referring that matter to arbitration. On November 21, 2005, the United States and Brazil agreed to suspend the arbitration.

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

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

The United States appealed the compliance panel’s adverse findings on February 12, 2008. Brazil filed its notice of other appeal on February 25, 2008.

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

- upheld the compliance panel’s finding that U.S. marketing loan and counter-cyclical payments cause significant price suppression in the market for upland cotton, thereby constituting present serious prejudice to Brazil;
- while agreeing with the United States that the compliance panel erred in dismissing U.S. Government budgetary data showing that U.S. export credit guarantee programs operate at a profit, nonetheless upheld the compliance panel’s ultimate finding that GSM 102 export credit guarantees with respect to unscheduled products and certain scheduled products (rice, pig meat, poultry meat) were prohibited export subsidies; and
- upheld the compliance panel’s finding that Brazil’s claims as to marketing loan and countercyclical payments made after September 21, 2005, and Brazil’s claims as to GSM 102 guarantees for exports of pig meat and poultry meat, were within the scope of the compliance proceeding.

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

Brazil requested resumption of the arbitration process on August 25, 2008. On October 1, 2008, the United States and Brazil agreed that the arbitration would be carried out by the following individuals: Mr.

Eduardo Pérez-Motta, Chair; and Mr. Alan Matthews and Mr. Daniel Moulis, Members. The meetings with the Arbitrators were held March 2-4, 2009.

The Arbitrators issued their awards on August 31, 2009. They issued one award concerning U.S. subsidies found to cause serious prejudice to Brazil's interests (marketing loan and countercyclical payments for cotton) and another award concerning U.S. subsidies found to be prohibited export subsidies (export credit guarantees under the GSM 102 program for a range of agricultural products, plus the repealed "Step 2" program for cotton).

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

- (1) for marketing loan and countercyclical payments for cotton, in an annual fixed amount of \$147.3 million; and
- (2) for export credit guarantees under the GSM 102 program, in an annual amount that may change each year based on a formula.

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

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

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

On April 6, 2010, the United States and Brazil reached agreement on certain steps to help make progress in the dispute. Pursuant to this agreement, on April 20, 2010, the United States and Brazil signed a Memorandum of Understanding (MOU) establishing a fund of approximately \$147.3 million per year on a pro rata basis to provide technical assistance and capacity building. The fund is scheduled to continue until the next Farm Bill or a mutually agreed solution to the Cotton dispute is reached. The MOU also provides that the United States may end the fund if Brazil imposes countermeasures.

With the conclusion of the MOU, Brazil announced that countermeasures would not be imposed for at least 60 days from signature of the MOU. During this period, the United States and Brazil negotiated a framework regarding the Cotton dispute. On June 17, 2010, Brazil approved the framework that the governments had negotiated, and on June 21, it announced that it would not impose countermeasures as long as the framework remained in effect. The framework includes elements on cotton support, the GSM-102 program, and further discussion between the United States and Brazil.

Brazil and the United States met for discussions under the framework on October 20, 2010.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

On January 29, 2010, the EU filed its request for authorization from the DSB to suspend the application of concessions or other obligations under the covered agreements pursuant to Article 22.2 of the DSU. On February 12, 2010, the United States filed its objection to the level of suspension of concessions or other obligations proposed by the EU. The U.S. objection also claimed that the EU's proposal does not follow the principles and procedures set forth in the DSU. The U.S. objection automatically resulted in the matter being referred to this arbitration. The Arbitrator met with the Parties on May 20-21, 2010. This meeting was open to observation by all Members and the public. The Parties filed their last submission on July 20, 2010.

On September 7, 2010, the United States and EU jointly requested the suspension of the arbitration. On September 8, 2010, the Arbitrator granted the joint request to suspend its work.

The Commerce Department has taken the initial step to comply with WTO findings against zeroing in antidumping administrative reviews. Commerce's proposed solution was published in the *Federal Register* on December 28, 2010. The proposal is to be implemented under Section 123 of the Uruguay Round Agreement Act, which requires that USTR and Commerce request and receive comments from interested parties and the U.S. Congress before any final action is implemented.

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

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

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

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

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

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

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

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

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

As discussed above (DS26 and 48), on December 22, 2008, the EU requested consultations with the United States and Canada pursuant to Articles 4 and 21.5 of the DSU, regarding the EU’s implementation of the DSB’s recommendations and rulings in the EU–Hormones dispute.

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

On November 24, 2004, Japan requested consultations with respect to: (1) Commerce’s alleged practice of “zeroing” in antidumping investigations, administrative reviews, sunset reviews, and in assessing the final antidumping duty liability on entries upon liquidation; (2) in sunset reviews of antidumping duty

orders, Commerce's alleged irrefutable presumption of the likelihood of continuation or recurrence of dumping in certain factual situations; and (3) in sunset reviews, the waiver provisions of U.S. law. Japan claims that these alleged measures breach various provisions of the Antidumping Agreement and Article VI of the GATT 1994. Consultations were held on December 20, 2004. Japan requested the establishment of a panel on February 4, 2005, and a panel was established on February 28, 2005. On April 15, 2005, the Director-General composed the panel as follows: Mr. David Unterhalter, Chair; and Mr. Simon Farbenbloom and Mr. Jose Antonio Buencamino, Members.

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

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

On January 10, 2008, Japan requested DSB authorization to suspend concessions on the grounds that the United States had failed to implement the DSB's recommendations and rulings, and on January 18, 2008, the United States objected to the level of suspension and accordingly requested that the matter be referred to arbitration. On March 10, 2008, the United States and Japan informed the DSB that they had reached a sequencing agreement to suspend arbitration pending the completion of compliance proceedings. Pursuant to a joint request from the United States and Japan, the arbitration under Article 22.6 of the DSU was suspended on June 9, 2008.

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

On April 24, 2009, the panel circulated its final report. The panel found that the United States failed to comply with the WTO's rulings because it liquidated, or would liquidate, after the deadline for compliance antidumping duties with respect to five specific administrative reviews that used zeroing. The panel also found that the United States acted inconsistently with the Antidumping Agreement and the GATT 1994 by maintaining antidumping duties after the deadline with respect to four additional administrative reviews that were not part of the original WTO proceeding, and that the United States acted in violation of GATT Article II with respect to the collection of duties in excess of bound rates that occurred after the expiration of the reasonable period of time. The panel also found that the United States

had failed to comply with the DSB's recommendations and rulings with respect to the use of "zeroing procedures" and the application of zeroing in one sunset review. Lastly, the panel found that Japan was permitted to challenge the final results of an administrative review which were not in existence at the time of Japan's panel request.

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

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

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

On April 23, 2010, Japan filed its request to resume the arbitration under Article 22.6 of the DSU. That proceeding is currently pending. In response to a joint request of the United States and Japan, on December 13, 2010, the Arbitrator issued a communication stating that it had decided to suspend its work. The communication of the Arbitrator was circulated to the DSB as document WT/DS322/38.

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

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

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

On January 31, 2008 Mexico appealed the panel report with respect to the "as such" and "as applied" claims related to zeroing in administrative review. The Appellate Body issued its report on April 30, 2008. The Appellate Body reversed the panel's findings with respect to administrative reviews, finding that zeroing in administrative reviews is "as such" and "as applied" to the subject administrative reviews, inconsistent with Article VI:2 of the GATT 1994 and Article 9.3 of the AD Agreement.

The DSB adopted the Appellate Body report and the panel report, as modified by the Appellate Body report, on May 20, 2008. At the DSB meeting held on June 2, 2008, the United States notified its

intention to comply with its WTO obligations and indicated it would need a reasonable period of time to do so.

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

On May 18, 2009, the United States and Mexico entered into a sequencing agreement regarding any further proceedings in this dispute. On September 2, 2009, the United States held consultations with Mexico with respect to U.S. compliance with the recommendations and rulings of the DSB in this dispute. On September 7, 2010, Mexico requested the establishment of a compliance panel, and a panel was established on September 21, 2010.

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

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

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

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

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

The Appellate Body issued its report on February 4, 2009. The Appellate Body affirmed the panel's finding that the use of zeroing in 29 administrative reviews was inconsistent with the Antidumping Agreement and the GATT 1994. The Appellate Body disagreed with the panel that the interpretation of the Antidumping Agreement advanced by the United States was a permissible one. Moreover, the Appellate Body affirmed the panel's finding that the eight sunset reviews at issue were WTO-inconsistent and also upheld the panel's ruling that 14 measures included in the EU's panel request, but not its consultations request, were properly within the panel's terms of reference. The Appellate Body reversed the panel's finding that the EU improperly challenged the application or continued application of antidumping duties in 18 broadly-defined cases. However, the Appellate Body was only able to complete the analysis as to the continued application of duties in four of the 18 cases. The Appellate Body reversed the panel's finding that the EU had improperly challenged four preliminary determinations which were not final at the time of panel establishment. Nevertheless, the Appellate Body declined the EU's request to complete the analysis on these determinations and made no findings of inconsistency concerning them. Finally, the Appellate Body reversed the panel's finding that the EU had not proved the use of zeroing in seven of 37 administrative reviews. However, the Appellate Body declined to complete the analysis as to two of those seven reviews, and there are no findings concerning them. For five of the reviews, the Appellate Body found that the United States had acted inconsistently with the Antidumping Agreement and GATT 1994.

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

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

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

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

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

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

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

The panel circulated its report on October 22, 2010. The panel found in favor of the United States in several respects, including that the concurrent application of antidumping duties calculated using a non-market economy (NME) methodology and countervailing duties to imports from China resulting from the investigations at issue was not inconsistent with the WTO obligations of the United States. The panel also made several other findings related to claims China advanced against countervailing duty determinations made by Commerce, including that Chinese state-owned enterprises (SOEs) and state-owned commercial banks (SOCBs) can be “public bodies” capable of providing financial contributions, that the United States did not act inconsistently with its WTO obligations by finding that the SOEs and SOCBs in question were “public bodies” in the investigations under review, and that Commerce correctly determined to use external benchmarks, rather than private prices in China, to measure the benefit of goods, loans, and land-use rights provided by the government. On the other hand, it found that: Commerce’s calculation of the benefit of government-provided rubber and preferential lending was not consistent with U.S. WTO obligations, that, with respect to loans, Commerce’s use of an *annual* average lending rate as a benchmark was impermissible, and on specificity, that the evidence on the record of the investigation did not support Commerce’s determination that the government provision of land-use rights was specific to companies within a particular industrial zone. Finally, the panel found that Commerce did not properly rely on facts available when making its subsidy determinations in two investigations. Consequently, the panel recommended that the United States bring the measures into conformity with the WTO agreements.

On December 1, 2010, China filed a notice of appeal of certain of the panel’s findings. China contended that: 1) the panel erred in its interpretation and application of the term “public body” in Article 1 of the SCM Agreement; 2) the panel erred in its interpretation and application of Article 2 of the SCM Agreement regarding Commerce’s specificity determinations; 3) the panel erred in its interpretation and application of Article 14(d) of the SCM Agreement and its finding that Commerce’s determination to reject in-country private prices as benchmarks for measuring the benefit of government-provided hot-rolled steel was not inconsistent with that provision was erroneous; 4) the panel erred in its interpretation and application of Article 14(b) of the SCM Agreement and its finding that the benchmark Commerce used to measure the benefit of government-provided loans was not inconsistent with that provision was erroneous; and 5) the panel erred in concluding that the concurrent application to imports from China of countervailing duties and antidumping duties calculated using an NME methodology was not inconsistent with the WTO obligations of the United States. The Appellate Body conducted an oral hearing on these issues on January 13 – 14, 2011. The Appellate Body is expected to circulate its report in March 2011.

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

On October 24, 2008, Mexico requested consultations regarding U.S. dolphin-safe labeling provisions for tuna and tuna products. These provisions prohibit labeling tuna and tuna products as dolphin-safe if the tuna was caught by using purse-seine nets intentionally set on dolphins, a technique Mexico uses to catch tuna in the Eastern Tropical Pacific Ocean. Mexico challenges three U.S. measures: (1) the Dolphin Protection Consumer Information Act (19 U.S.C. § 1385); (2) certain dolphin-safe labeling regulations (50 C.F.R. §§ 216.91-92); and (3) the Ninth Circuit decision in *Earth Island v. Hogarth*, 494 F.3d. 757 (9th Cir. 2007). On April 20, 2009, at Mexico’s request, the DSB established a WTO panel to examine

these measures. Mexico alleges that these measures accord imports of tuna and tuna products from Mexico less favorable treatment than like products of national origin and like products originating in other countries and fail to immediately and unconditionally accord imports of tuna and tuna products from Mexico any advantage, favor, privilege, or immunity granted to like products in other countries. Mexico further alleges that the U.S. measures create unnecessary obstacles to trade, and are not based on relevant international standards. Mexico alleges that the U.S. measures are inconsistent with Articles I and III of the *General Agreement on Tariffs and Trade 1994* and Article 2 of the *Agreement on Technical Barriers to Trade*.

On December 14, 2009, the Director-General composed the panel as follows: Mr. Mario Matus, Chair; and Mr. Franz Perrez and Mr. Sivakant Tiwari, members. Following the death of Mr. Tiwari on July 26, 2010, the United States and Mexico agreed on a new panel member on August 12, 2010, Mary Elizabeth Chelliah. Mexico submitted its first and second written submissions on February 26, 2010 and December 1, 2010 respectively, and the United States submitted its first and second written submission on April 12, 2010 and December 1, 2010 respectively. Panel meetings were held October 18-20, 2010 and December 16-17, 2010. The final panel report is scheduled to be circulated to Members on May 25, 2011.

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

On November 27, 2008, the United States received from Brazil a request for consultations pertaining to definitive antidumping duties imposed by the United States pursuant to the final results issued by the U.S. Department of Commerce (DOC) in the administrative review of the antidumping duty order on imports of certain orange juice from Brazil. Brazil complained that DOC used “zeroing” in the first administrative review of the antidumping duty order on imports of orange juice. On May 22, 2009, the United States received a request for consultations from Brazil pertaining to the antidumping duty investigation on certain orange juice from Brazil, the second antidumping duty administrative review on certain orange juice from Brazil, and the “continued use of the US zeroing procedures (‘model’ or ‘simple’ zeroing) in successive antidumping proceedings.”

Brazil claims that the alleged use of “zeroing” in the investigation and first and second administrative reviews and “continued use of the U.S. ‘zeroing procedures’ in successive anti-dumping proceedings, in relation to the anti-dumping duty order issued in respect of imports of certain orange juice from Brazil” are inconsistent with Articles II:1(a), II:1(b), VI:1, and VI:2 of the *General Agreement on Tariffs and Trade 1994* (GATT 1994), Articles 2.1, 2.4, 2.4.2, and 9.3 of the *Agreement on Implementation of Article VI of the GATT 1994*, and Article XVI:4 of the Marrakesh Agreement Establishing the World Trade Organization.

On August 20, 2009, Brazil requested the establishment of a panel. The DSB established the panel on September 25, 2009. On May 10, 2010, the Deputy Director-General composed the panel as follows: Mr. Miguel Rodriguez Mendoza, Chair; and Mr. Pierre Pettigrew and Mr. Reuben Pessah, members. The panel met with the parties on July 15-16, 2010, and October 12, 2010, and met with the parties and third parties on July 16, 2010. The panel’s final report is scheduled to be circulated to Members in early 2011.

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

On November 26, 2008, the United States received from Thailand a request for consultations pertaining to the application of the so-called “practice of zeroing” in calculating overall weighted average margins of dumping in an investigation by the U.S. Department of Commerce (DOC) on polyethylene retail carrier bags from Thailand. Thailand claimed that the use of “zeroing” in the final antidumping duty

determination, amended final determination, and order inflated margins of dumping artificially created margins of dumping where none would otherwise have been found, and was inconsistent with U.S. commitments and obligations under Article VI of the *General Agreement on Tariffs and Trade 1994* and Article 2.4.2 of the *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994*.

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

The panel circulated its final report on January 22, 2010. The panel made one finding against the United States. The panel found that the United States acted inconsistently with Article 2.4.2, first sentence, of the Anti-Dumping Agreement by using “zeroing” in the retail carrier bags investigation to determine the dumping margins for individually investigated Thai exporters whose margins of dumping were not based on total facts available.

On February 18, 2010, the DSB adopted the recommendations and rulings in this dispute. At the following DSB meeting, on March 19, 2010, the United States informed the DSB of its intention to implement the recommendations and rulings of the DSB in connection with this matter. The United States and the Thailand agreed that the reasonable period of time for the United States to implement the recommendations and rulings of the DSB would end on August 18, 2010. The Department of Commerce completed a Section 129 determination, recalculating the margins of dumping without “zeroing”, and implemented the determination effective July 28, 2010. At the DSB meeting on August 31, 2010, the United States informed the DSB that it had complied with the recommendations and rulings.

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

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

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

Consultations were held on December 16, 2008, and supplemental consultations were held on June 5, 2009. On October 7, 2009, Canada requested the establishment of a panel, and on November 19, 2009, the DSB established a single panel to examine both this dispute and Mexico’s dispute regarding COOL (see WT/DS386). On May 10, 2010, the Director-General composed the panel as follows: Mr. Christian Häberli, Chair; Mr. Manzoor Ahmad and Mr. Joao Magalhaes, Members. The panel held the first

substantive meeting with the parties on September 14-15, 2010 and with the parties and third parties on September 15, 2010. The panel held the second substantive meeting with the parties on December 1-2, 2010 and with the parties and third parties on December 2, 2010.

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

On December 17, 2008, Mexico requested consultations regarding U.S. mandatory country of origin labeling (COOL) provisions. Mexico requested supplemental consultations with the United States regarding this matter on May 7, 2009. Mexico challenges the COOL provisions of the *Agricultural Marketing Act of 1946*, as amended by the *Farm, Security and Rural Investment Act of 2002* (2002 Farm Bill), and the *Food, Conservation, and Energy Act, 2008* (2008 Farm Bill), the U.S. Department of Agriculture (“USDA”) Interim Final Rule on COOL published on August 1, 2008 and on August 28, 2008, respectively, the USDA Final Rule on COOL published on January 15, 2009, and a February 20, 2009 letter issued by the Secretary of Agriculture. These provisions relate to an obligation to inform consumers at the retail level of the country of origin of covered commodities, including beef and pork.

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

Consultations were held on February 27, 2009, and supplemental consultations were held on June 5, 2009. On October 9, 2009, Mexico requested the establishment of a panel in this dispute, and November 19, 2009, the DSB established a single panel to examine both this dispute and Canada’s dispute regarding COOL (see WT/DS384). On May 10, 2010, the Director-General composed the panel as follows: Mr. Christian Haberli, Chair; Mr. Manzoor Ahmad and Mr. Joao Magalhaes, Members. The panel held the first substantive meeting with the parties on September 14-15, 2010 and with the parties and third parties on September 15, 2010. The panel held the second substantive meeting with the parties on December 1-2, 2010 and with the parties and third parties on December 2, 2010.

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

On April 17, 2009, China requested consultations with the United States on a provision of the Omnibus Appropriations Act of 2009 (“Section 727”) that prohibits the use of appropriated funds for fiscal year (FY) 2009 to establish or implement a rule allowing the import of poultry products from China. China alleges that the U.S. measure appears to be inconsistent with Articles I and XI of the *General Agreement on Tariffs and Trade 1994* and Article 4 of the *Agreement on Agriculture*. In addition, although China noted that it does not believe the measure at issue to be a sanitary and phytosanitary measure, China also stated that, if it were demonstrated that it is an SPS measure, China also would request consultations pursuant to Article 11 of the *Agreement on the Application of Sanitary and Phytosanitary Measures* (SPS Agreement). China further alleged that, to the extent any measure at issue is demonstrated to be an SPS measure, China considers that the measure is in breach of Articles 2, 3, 5, and 8 of the SPS Agreement. Consultations were held on May 15, 2009. On July 20, 2009, China requested the establishment of a panel. At its meeting on July 31, 2009, the DSB established a panel. On September 23, 2009, the Director-General composed the panel as follows: Mr. Ole Lundby, Chair; and Mr. Mohammad Saeed and Mr. Felipe Lopeandia, Members. The panel met with the parties on December 15-16, 2009 and March 9-10, 2010, and met with the parties and third parties on December 16, 2009.

The panel circulated its report on September 29, 2010. The panel found that China's SPS claims were within the panel's terms of reference and found Section 727 of the FY2009 Omnibus Appropriations Act inconsistent with Articles 2.2, 2.3, 5.1, 5.2, and 8 of the SPS Agreement. The panel also found that Section 727 was inconsistent with Article I:1 and Article X:1 of the GATT 1994. The panel then found that Section 727 was not justified under Article XX(b) of the GATT 1994 because it was found inconsistent with Articles 2.2, 2.3, 5.1, 5.2, and 5.5 of the SPS Agreement. The panel declined to rule on China's claim that Section 727 was inconsistent with Article 5.6 of the SPS Agreement and Article 4.2 of the Agreement on Agriculture. Because Section 727 has expired, the panel did not recommend that the DSB request the United States to bring the measure into conformity with its obligations under the SPS Agreement or the GATT 1994.

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

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

The United States held consultations with China on November 9, 2009. On December 9, 2009, China filed a request for establishment of a panel. On January 19, 2010, the DSB established a panel at China's request. On March 12, 2010, the Director-General composed the panel as follows: Prof. Celso Lafer, chairman; Prof. Donald M. McRae and Mr. Luis M. Catibayan, panelists. The Panel met with the parties on June 1-2, 2010 and July 20-21, 2010. The Panel circulated its report on December 13, 2010. The Panel found that, in imposing the additional duties, the United States had not failed to comply with its obligations under section 16 of the Protocol and Articles I:1 and II:1 of the GATT 1994.

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

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

On April 8, 2010, Korea requested the establishment of a panel. The DSB established the panel on May 18, 2010. On July 8, 2010, the parties agreed to compose the panel as follows: Mr. Alberto Dumont, Chair; and Ms. Enie Neri de Ross and Mr. Ernesto Fernandez, members. The Panel met with the parties on October 5, 2010 and met with the parties and third parties on October 5, 2010. The panel's final report was circulated to Members on January 18, 2011. The panel found that the United States acted

inconsistently with its WTO obligations when it applied the zeroing methodology in the challenged investigations.

United States–Anti-dumping Measures on Certain Shrimp from Vietnam (DS404):

On February 1, 2010, the United States received from Vietnam a request for consultations pertaining to antidumping duties imposed by the United States pursuant to the final results issued by the U.S. Department of Commerce (DOC) in several administrative reviews of the antidumping duty order on imports of certain frozen and canned warm water shrimp from Vietnam. Vietnam claimed that certain actions by DOC and U.S. Customs and Border Protection with respect to several administrative reviews and with respect to any ongoing or future administrative review or sunset review concerning this antidumping duty order, as well as various U.S. laws, regulations, administrative procedures, practices, and policies, both as such and as applied, are inconsistent with U.S. commitments and obligations under Articles I, II, VI:1 and VI:2 of the GATT 1994, Articles 1, 2.1, 2.4, 2.4.2, 6.8, 6.10, 9.1, 9.3, 9.4, 11.2, 11.3, 18.1 and 18.4 and Annex II of the Agreement on Implementation of Article VI of the GATT 1994 (the Antidumping Agreement), Article XVI:4 of the Marrakesh Agreement Establishing the World Trade Organization, and Vietnam’s Protocol of Accession. Specifically, Vietnam complained that DOC used “zeroing” in the administrative reviews of the antidumping duty order on imports of shrimp, DOC failed to provide most Vietnamese respondents seeking a review an opportunity to demonstrate the absence of dumping by being permitted to participate in a review, and DOC required companies to demonstrate their independence from government control and applied an adverse facts available rate to companies that failed to do so in all reviews.

The United States and Vietnam held consultations on March 23, 2010. On April 19, 2010, Vietnam requested that the DSB establish a panel. The DSB did so at its meeting on May 18, 2010. On July 26, 2010, the Director-General composed the panel as follows: Mr. Mohammad Saeed, Chair; Ms. Deborah Milstein, and Mr. Iain Sanford, Members.

The panel held meetings with the parties on October 20-21 and December 14-15, 2010 and met with the parties and third parties on October 21, 2010.

United States – Measures Affecting the Production and Sale of Clove Cigarettes (DS406)

On April 7, 2010, the United States received a request for consultations from Indonesia regarding Section 907 of the 2009 *Family Smoking Prevention and Tobacco Control Act*, which prohibits the production or sale in the United States of cigarettes with a characterizing flavour other than tobacco or menthol. Indonesia contends that the measure is inconsistent with the United States’ WTO obligations in that it bans clove cigarettes. Specifically, Indonesia contends that the measure is inconsistent with Article III:4 of the GATT 1994, as well as Articles 2.1, 2.2, 2.5, 2.8, 2.9, 2.10, 2.12 and 12.3 of the TBT Agreement.

Indonesia and the United States held consultations on May 13, 2010. On June 9, 2010, Indonesia requested the establishment of a panel. The DSB established the Panel on July 20, 2010 and the Parties agreed to the composition of the Panel on September 9, 2010, as follows: Mr. Ronald Saborío Soto, Chair; Mr. Ichiro Araki and Mr. Hugo Cayrús, Members.

The Panel met with the parties on December 13, 2010, and met with the parties and third parties on December 14, 2010.

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 review the policies of the full WTO Membership on a timetable determined by trade volume. The express purpose of the review process is to strengthen Members' observance of WTO provisions and to contribute to the smoother functioning of the multilateral trading system. Moreover, the review mechanism serves as a valuable resource for improving the transparency of Members' trade and investment regimes. Members continue to value the review process, because it informs each government's own trade policy formulation and coordination.

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

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

The TPRM requires Members, in between their reviews, to provide information on significant trade policy changes. The WTO Secretariat uses this and other information to prepare reports by the Director-General on a regular basis on the trade and trade-related developments of Members and Observer Governments. The reports are discussed at informal meetings of the TPRB. The Secretariat consolidates the information it collects and presents it in the Director-General's Annual Report on Developments in the International Trading Environment.

Major Issues in 2010

During 2010, the TPRB reviewed the trade regimes of Malaysia, El Salvador, Croatia, Armenia, Albania, People's Republic of China, Malawi, Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei), the Gambia, Honduras, the United States, Benin, Burkina Faso, Mali, Sri Lanka, Belize, Papua New Guinea, Democratic Republic of the Congo, and Hong Kong, China. The 2010 TPRB reviews of the trade policies and practices of Croatia, Armenia, Albania, and Democratic Republic of the Congo were the first for these countries. In September 2010, the latest trade policy review of the United States, which occurs every two years, took place.

Since its formation in 1998 to the end of 2010, the TPRB has conducted 324 reviews. The reviews have covered 140 of 153 Members, representing some 89 percent of world trade and 97 percent of the trade of WTO Members. Of the 32 LDC Members of the WTO, the TPRB had reviewed 28 by the end of 2010.

While each review highlights the specific issues and measures concerning the individual Member, certain common themes emerged during the course of the reviews conducted in 2010. These included:

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

Prospects for 2011

The TPRM continues to meet its transparency goals. It will continue to be an important tool for monitoring Members' compliance with WTO commitments and an effective forum in which to encourage Members to meet their obligations and to adopt further trade liberalizing measures. For 2011, the proposed program of reviews is the European Union, Japan, Australia, Canada, India, the Kingdom of Saudi Arabia, Thailand, Cambodia, Ecuador, Egypt, Guinea Conakry, Jamaica, Kuwait, Mauritania, Nepal, Nigeria, Paraguay, the Philippines, and Zimbabwe.

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 (Doha sub-paragraph 32(i)); the TRIPS Agreement and the environment (Doha sub-paragraph 32(ii)); labeling for environmental purposes (Doha sub-paragraph 32(iii)); capacity-building and environmental reviews (Doha paragraph 33); and discussion of the environmental aspects of the Doha negotiations (Doha paragraph 51). These issues identified in the Doha Declaration are separate from those that are subject to specific negotiating mandates that are being taken up by the Committee on Trade and Environment Special Session (CTESS). *(For additional information, see Chapter II.B.6.)*

Major Issues in 2010

In 2010, the CTE met four times under the Chairmanship of Ambassador Bozkurt Aran (Turkey) until February 2010, and Ambassador Eduardo Muñoz Gómez (Colombia) from February 2010 onwards. Formal meetings were held on February 17, 2010, September 29, 2010, and November 9, 2010, in addition to several informal meetings.

As noted above, the work of the CTE was organized in accordance with the mandate established in the Doha Ministerial Declaration, Paragraphs 32, 33 and 51. Under Doha Paragraph 32, work was conducted on environmental requirements and market access issues (Paragraph 32(i)) and labeling requirements for environmental purposes (Paragraph 32(iii)). Most of the discussion focused on carbon foot-printing, greenhouse gas (GHG) accounting methodologies, and related activities and labeling schemes. Several delegations shared their experiences developing GHG accounting methodologies, and/or complying with such methodologies and related schemes. Saudi Arabia presented a proposal for exploring barriers associated with disseminating clean technologies. Under Paragraph 33, several statements were made on technical assistance and capacity building. No discussion took place under Paragraph 32(ii) (relevant provisions of the TRIPS Agreement) and Paragraph 51 (developmental and environmental aspects of the negotiations). As in the past, the CTE received information on the current developments in Multilateral Environmental Agreements (MEAs), including updates from the United Nations Framework Convention on Climate Change (UNFCCC).

Prospects for 2011

It is expected that in 2011 the CTE's discussions will continue to focus on carbon foot-printing and GHG accounting methodologies, with additional delegations expected to share experiences related to such activities. The Committee may wish to explore clean technology dissemination issues further as well. The CTE will continue to serve as a forum for information exchange with MEA Secretariats.

2. Committee on Trade and Development

Status

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

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

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

Work in the Sub-Committee on LDCs and the Dedicated Sessions on Small Economies and RTAs has included review of market access challenges related to exports of LDC Members, LDC accessions, trade-related needs of small, vulnerable economies, including island and landlocked states, and review of Member RTAs notified under the Enabling Clause.

Major Issues in 2010

The CTD in Regular Session held three formal sessions in March, June, and October 2010. Activities of the CTD and its subsidiary bodies in 2010 included:

- *Technical Cooperation and Training:* The CTD took note of the Annual Report on Technical Assistance and Training, January 1 to December 31, 2009 (WT/COMTD/W/173), and of the Technical Cooperation Audit Report for 2009 (WT/COMTD/W/169 and Rev.1).
- *Notifications Regarding Market Access for Developing and Least-Developed Countries:* The CTD reviewed notifications concerning Regional Trade Agreements (RTAs) under the Enabling Clause for the India-MERCOSUR Agreement (WT/COMTD/N/31), the India-Afghanistan Agreement (WT/COMTD/N/32), the Association of Southeast Asian Nations (ASEAN)-Korea Agreement (WT/COMTD/N/33), the India-Nepal Agreement (WT/COMTD/N/34), the ASEAN-India Agreement

(WT/COMTD/N/35), and the India-Korea Agreement (WT/COMTD/N/36). Members also considered issues relating to the notification status of the Gulf Cooperation Council (GCC) Customs Union.

- *Dedicated Session on Regional Trade Agreements:* A formal session of the CTD Dedicated Session on RTAs was held in June 2010 to review the Preferential Trade Agreement between Chile and India (Goods).
- *Transparency of Preferential Trading Arrangements (PTAs):* In December 2006, the General Council invited the CTD to review the transparency of GSP programs and other preferential agreements under its mandate. The proponents of a Transparency Mechanism for PTAs (Brazil, China, India, and the United States) presented a revised version of their proposal in 2010. The Committee agreed to this version of the proposal, which was subsequently circulated in document WT/COMTD/71 and forwarded to the General Council for adoption.
- *Duty-Free, Quota-Free Market Access for LDCs Members:* The Decision taken at the Hong Kong Ministerial Conference on duty-free and quota-free (DFQF) market access for least-developed countries (LDCs) remains a standing item on the CTD's agenda. During Committee meetings in 2010, Brazil confirmed its intention to implement a DFQF scheme for LDCs, the coverage of which would be expanded in successive installments until 100 percent of tariff lines were covered. China indicated that, as of July 1, 2010, it would grant zero tariff treatment on 4,762 tariff lines for products imported from the 33 LDCs that had completed the exchange of letters required by China for that purpose. India provided updates on the implementation of its Duty Free Tariff Preference (DFTP) Scheme for LDCs. The European Union outlined its approach for rules of origin in its preferential arrangements.
- *Dedicated Session on Small Economies:* The Dedicated Session on Small Economies held one meeting in December 2010, in which the Secretariat presented an updated compilation paper of the small economies' negotiating proposals to assist the Dedicated Session with its monitoring role (WT/COMTD/SE/W/22/Rev.5). Members took note of this paper.
- *Aid for Trade:* The CTD held five sessions on Aid for Trade in 2010, in February, April, June, October, and November. Work focused on the Director-General's proposed Aid-for-Trade Roadmap (WT/COMTD/AFT/W/11), joint OECD/WTO discussions on monitoring and evaluation of Aid for Trade projects and programs, and follow-up to the 2009 Second Global Review of Aid for Trade and initial preparations for the Third Global Review in July 2011. Presentations were made by the regional development banks, the OECD, and UNIDO related to Aid for Trade. The CTD sessions included workshops intended to explore the connection between Aid for Trade and specific development sectors or topics, including agriculture and food security, small businesses, and monitoring and evaluation. The work program is focused around four main headings: resource mobilization, mainstreaming, implementation (with a particular focus on the regional dimension), and engaging the private sector.
- *LDC Subcommittee:* The Subcommittee held three meetings in 2010, focusing mainly on the implementation of the WTO Work Program for LDCs adopted by Members in 2002. The subjects discussed included: market access for LDCs; trade-related technical assistance and capacity-building initiatives for LDCs; accession of LDCs to the WTO; and the Fourth United Nations Conference on LDCs, to be held in 2011.

- *Other CTD Issues:* In order to assist the Committee with its requirement to review the developmental aspects of the Doha Round negotiations, the Secretariat prepared a paper on the Developmental Aspects of the Doha Round of Negotiations (WT/COMTD/W/143/Rev.4), which was reviewed by Members. Additionally, the Joint Advisory Group (JAG) on the International Trade Centre, UNCTAD, and the WTO provided a report to the CTD on its 43rd Session (ITC/AG/(XLIII)/232).

Prospects for 2011

The CTD is expected to continue to monitor developments as they relate to issues of concern to developing country Members, including those related to technical assistance. Interest in market access is expected to continue. In this vein, the CTD will undertake its responsibility to review steps taken by Members to provide DFQF market access to the LDC Members in line with the Hong Kong Declaration, review the participation of developing country Members in the multilateral trading system, and review market access for LDCs in the LDC Subcommittee. The CTD will also continue its work on Aid for Trade in line with the work program for 2009-2011. In addition, the CTD's examination of RTAs between developing country Members will continue as new RTAs are notified to the WTO. A new transparency mechanism to facilitate the review of PTAs is also expected to be implemented, and the CTD could review the first arrangements in 2011.

3. Committee on Balance-of-Payments Restrictions

Status

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

Major Issues in 2010

The Committee on Balance-of-Payments Restrictions met on March 22, May 28, June 8 and July 28, 2010 to hear reports from Ecuador on its phasing out of all surcharges introduced as balance-of-payments measures. Ecuador had introduced a plan to the Committee to cut its surcharges by specific percentages on March 23 and May 23, 2010 and to eliminate the surcharges on July 23, 2010 (WT/BOP/N/75). On July 28, 2010, Ecuador informed the Committee that all measures taken for balance-of-payments purposes had been removed on July 23, 2010.

Prospects for 2011

Should a Member resort to new balance-of-payments measures, WTO rules require a thorough program of consultation with the Committee on Balance-of-Payments Restrictions. The Committee is expected to continue to ensure that balance-of-payments provisions are used as intended to address legitimate problems through the imposition of temporary, price-based measures.

4. Committee on Budget, Finance and Administration

Status

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

In the WTO, the assessed contribution of each Member is based on the share of that Member's trade in goods, services, and intellectual property. The United States, as the Member with the largest share of world trade, makes the largest contribution to the WTO budget. For the revised 2011 budget, the U.S. assessed contribution is 12.422 percent of the total budget assessment, or Swiss Francs (CHF) 24,135,946 (about \$25.5 million). (*Details required by Section 124 of the Uruguay Round Agreements Act on the WTO's consolidated budget for 2011 are provided in Annex II.*)

Major Issues in 2010

Activities of the Committee in 2010 included:

- *WTO Budget:* The Revision of the Biennium Budget 2010/2011 for the year 2011 resulted in an overall reduction of CHF 2.2 million or 1.11 percent. The budget adopted for 2011 amounted to CHF 196 million, including CHF 190 million for the WTO Secretariat and CHF 6 million for the Appellate Body and its Secretariat.
- *WTO Facilities:* The construction of the new South Courtyard Conference Center was progressing well at the end of 2010. The renovation project of the Centre William Rappard was also on track, with the biggest relocation of staff ever from the North Wing into the renovated South Wing foreseen for January 2011. With respect to the intra-muros project, the building permit has been issued and the financial resources voted on by the Swiss authorities. The Swiss National Council approved a loan of CHF 40 million for the new buildings as well as a grant of CHF 10 million for the underground garage in December 2010, allowing the work on the extra-muros project to begin in early 2011. The funds for the external security perimeter had also been approved by the Swiss authorities. Overall, this will result in four construction projects on the WTO site in 2011.
- *Diversification of the WTO Secretariat:* In response to a 2009 proposal by several Members on the need to improve the diversification of the WTO Secretariat, the Secretariat prepared and presented its first annual report on diversity early in 2010. The report recalled that the WTO Staff Regulations were based on the principles of merit and equal opportunity for all, with merit being the principal selection criterion. When candidates were equal in terms of merit, diversity considerations were taken into account. In order to increase the awareness of diversity, the Secretariat had adopted several measures such as the implementation of diversity training in the Secretariat, the increase in outreach and communication, and the addition of a short text in vacancy notices on the WTO's commitment to merit and diversity.

Prospects for 2011

The Budget Committee will continue to monitor the financial and budgetary situation of the WTO on an ongoing basis. The Budget Committee will actively work with the Director-General on the progress and any and all financial requirements incurred for the planned new facility renovation and relocation for the WTO. It will also be regularly consulted and kept informed of all aspects concerning the finalization and implementation of security enhancements.

5. Committee on Regional Trade Agreements

Status

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

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

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

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

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

Major Issues in 2010

As of November 1, 2010, 375 RTAs have been notified to the GATT or WTO, of which 197 are in force (117 covering goods only, 1 covering services only and 79 covering both goods and services).

At the end of 2006, the General Council established, on a provisional basis, a new transparency mechanism for all RTAs. The main features of the mechanism, agreed upon in the Negotiating Group on Rules, include: the early announcement of any RTA; guidelines regarding the notification of RTAs; the preparation by the WTO Secretariat, on its own responsibility and in full consultation with the parties, of a factual presentation of RTAs to assist Members in their consideration of a notified RTA; timeframes associated with the consideration of RTAs; provisions regarding subsequent notification and reporting of notified RTAs; technical support for developing countries; and the distribution of work between the CRTA – entrusted to implement the mechanism *vis-à-vis* RTAs falling under Article XXIV of GATT 1994 and Articles V and Vbis of the GATS – and the Committee on Trade and Development, entrusted to do the same for RTAs falling under the Enabling Clause.

In the years prior to the adoption of the transparency mechanism, the CRTA had completed the examination of a total of 67 agreements, of which 46 dealt with trade in goods and 21 with trade in services. Since the implementation of the transparency mechanism in 2007, 92 agreements have been examined (23 in 2010). Of these agreements, 88 have been reviewed in the CRTA and four in the CTD. A total of 95 RTAs remain to be reviewed, comprising 91 RTAs for which the factual presentation is under preparation and four RTAs for which the factual presentation is on hold because commitments in the agreements are still being negotiated by the parties.

At the time of the adoption of the Decision on the Transparency Mechanism for Regional Trade Agreements in December 2006, the Chair of the General Council had noted that Members intended to conduct an initial review of the Mechanism within one year. However, in December 2009, the United States and other Members acknowledged that there was not yet enough experience, particularly with regard to RTAs falling under the Enabling Clause, for the review to take place. In December 2010, the United States and other Members agreed in the Rules Negotiating Group to launch a review of the provisional transparency mechanism for RTAs with a view to making it permanent.

Under the transparency mechanism, the WTO Secretariat was tasked to establish and maintain an updated electronic database on individual RTAs. The database was launched in January 2009 and includes extensive information, all of which is available to the public. The RTAs database is accessible at <http://rtais.wto.org>.

In 2010, the Committee discussed two proposals regarding possible work on the systemic implications of RTAs and their effect on the multilateral system. These proposals, including one from the United States, will be discussed further in 2011.

Prospects for 2011

Four sessions of the Committee on Regional Trade Agreements are foreseen in 2011. The 2011 WTO Annual Report, to be released in July, will focus on RTAs.

6. Accessions to the World Trade Organization

Status

A number of accession applicants intensified efforts in 2010 to complete their accession negotiations with WTO Members. Samoa, Vanuatu, and Yemen remain the countries closest to completing their accessions, having made substantial progress in both bilateral and multilateral negotiations during 2010. Russia and Kazakhstan resumed negotiations for their individual WTO memberships, while continuing work on perfecting the customs union they had established with Belarus on January 1, 2010. Work on these two accessions is well advanced and both Russia and Kazakhstan are working to complete the accession process in 2011. In addition, Syria's long-standing application was accepted, bringing the number of applicants for accession to thirty.¹

During 2010, formal or informal Working Party (WP) meetings were convened in Geneva for Azerbaijan, Bahamas, Bosnia and Herzegovina, Laos, Samoa, Serbia, Seychelles, Tajikistan, and Yemen. Additionally, Chair's consultations, similar to informal WP meetings, were convened for Samoa, Russia, and Vanuatu. Market access negotiations and bilateral consultations on other issues also took place at the time of these meetings and consultations. Afghanistan, The Bahamas, and the Seychelles circulated their responses to written questions submitted by WTO Members on the descriptions of their respective trade regimes, *i.e.*, the Memorandum on the Foreign Trade Regime (MFTR), that each had circulated in 2009. The Bahamas and Seychelles had initial WP meetings based on the respective MFTR and responses to questions, and Afghanistan's first WP meeting is scheduled for January 2011. Members submitted questions and comments on Iran's MFTR, which was circulated in late 2009.

Six of the thirty current applicants for WTO accession (Comoros, Equatorial Guinea, Liberia, Libya, Sao Tome and Principe, and Syria) have not yet submitted their MFTRs, the action necessary to actually begin accession negotiations. The Working Parties for four other applicants – Andorra, Belarus, Sudan, and Uzbekistan – remained dormant in 2010. Belarus' WP Chairman, however, convened two informal consultations to explore with Members the resumption of more formal meetings. The accessions of Algeria and Bhutan also remained inactive during 2010. The Working Parties on the accessions of Ethiopia, Iraq, Kazakhstan, Lebanon and Montenegro did not meet in 2010, but in these cases, bilateral work and technical assistance continued or the applicant governments focused on efforts to enact legislation to implement WTO provisions. In particular, Montenegro has only one bilateral negotiation to complete prior to finalization of its accession process. The chart included in Annex II reports the current status of each accession negotiation.

Palestine, which requested permanent observer status in the General Council in 2009, submitted a revised request in 2010. No action has yet been taken on the application. There were no other requests for observer status in 2010.

Background:

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

In a typical accession negotiation, an application is submitted to the WTO General Council, which establishes a "Working Party" composed of all interested WTO Members to review the applicant's trade

regime and to conduct the negotiations. WP meetings normally are scheduled when there is sufficient new documentation or progress in WTO implementation to justify further discussion. The number of WP meetings, as well as the length of the negotiations, largely depends on the speed with which the applicant is prepared to address the identified issues and to complete the negotiations. Accession applicants also negotiate trade liberalizing specific commitments on market access for industrial and agricultural goods, as well as for services, based on requests from WP Members. Applicants also are expected to make necessary legislative changes to implement WTO institutional and regulatory requirements and to eliminate existing WTO-inconsistent measures. Almost all accession applicants take all of these actions on WTO rules prior to accession.¹⁶

At the conclusion of its work, the Working Party adopts the agreed results of the negotiations (the recommended “terms of accession” developed with WP Members in bilateral and multilateral negotiations) and transmits them with its recommendation for approval to the General Council or Ministerial Conference.¹⁷ These terms, *i.e.*, the accession “protocol package,” consist of the Report of the Working Party and Protocol of Accession, consolidated schedules of specific commitments on market access for goods and services, and agriculture schedules that include commitments on export subsidies and domestic supports. After General Council or Ministerial Conference approval, accession applicants submit the package to their domestic authorities for acceptance (ratification). Thirty days after the WTO receives the applicant’s instrument accepting the terms of accession, the applicant becomes a WTO Member.

The accession process strengthens the international trading system by ensuring that new Members understand and implement WTO rules from the outset. The process also offers current Members the opportunity to secure market access opportunities from acceding countries, to work with acceding Members towards full implementation of WTO obligations, and to address outstanding trade issues covered by the WTO in a multilateral context.

LDC Accessions:

WTO Members are committed to facilitating the accession processes of least-developed countries (LDCs) and in making WTO accession more accessible to these applicants. The accession negotiations for all LDC accession applicants are guided by the simplified and streamlined procedures developed for these countries in response to the WTO General Council Decision on Accessions of Least-Developed Countries (WT/L/508) established at the end of 2002. These guidelines ask WTO Members to exercise restraint in seeking market access concessions and to allow the LDC applicants transition periods for the implementation of WTO Agreements. The accession process thus becomes a tool for economic development, incorporating the applicant’s own development program and schedule for receiving technical assistance in an action plan for progressive implementation of WTO rules. The market access schedules and protocols of accession developed under these guidelines reflect the need to address realistically these countries’ real trade capacity deficiencies and the difficulties they face in achieving normal WTO accession objectives.

¹⁶ For example, as outlined below, negotiations with applicants designated as “least-developed” by the United Nations are subject to special procedures and guidelines, and do not, as a rule, fully implement WTO provisions prior to accession.

¹⁷ The Working Party decision is by “consensus,” *i.e.*, without objection by any WP Member. While there are provisions in the WTO Agreement for the Ministerial Conference or General Council to approve accessions by an affirmative vote of two-thirds of all Members, in practice, the Ministerial Conference or General Council approve the terms of accession by consensus.

U.S. Leadership and Technical Assistance:

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

This assistance can include short-term technical expertise focused on specific issues (*e.g.*, customs procedures, intellectual property rights protection, or technical barriers to trade) and/or a WTO expert in residence in the acceding country or customs territory. A number of the WTO Members that have acceded since 1995 received technical assistance in their accession process from the United States, *e.g.*, Albania, Armenia, Bulgaria, Cape Verde, Croatia, Estonia, Georgia, Jordan, Kyrgyz Republic, Latvia, Lithuania, Macedonia, Moldova, Nepal, Ukraine, and Vietnam. Most of these countries had U.S.-provided resident experts for some portion of the accession process.

Current accession applicants to which the United States provided a resident expert or other long-term assistance for the accession process during 2010 include: Afghanistan, Azerbaijan, Iraq, Laos, Lebanon, Liberia, and Yemen. In addition, a U.S.-funded WTO expert resident in Bishkek provided resident WTO accession assistance to Kazakhstan and Tajikistan, as well as post-accession assistance to the Kyrgyz Republic. Among current accession applicants, Algeria, Belarus, Bosnia and Herzegovina, Ethiopia, Montenegro, Russia, Serbia, and Uzbekistan also received U.S. technical assistance earlier in their accession processes.

Major Issues in 2010

The accession process is resource-intensive, and progress in the negotiations requires attention and active engagement over a long period from both applicants and WTO Members. Applicants that demonstrate a strong interest in actually using WTO provisions as the basis for their trade regimes and in working to complete the process (*e.g.*, by submitting usable documentation, market access offers, and legislation for WP review on a timely basis), usually get more attention from Members in the process, while work on other applicants' accession processes tends to be less intense. Thus, the pace of the accession process generally depends on the applicant.

Russia:

After the announcement on June 9, 2009 that Russia, Kazakhstan, and Belarus would form a customs union, Russia suspended work on its WTO accession. A common external tariff (CXT) among the three Customs Union (CU) parties went into effect on January 1, 2010, and common customs regulations, practices, and procedures were implemented on July 1, 2010 when the CU Customs Code came into effect. At the end of 2009, Russia announced its intent to continue its efforts to join the WTO as a single country. In June 2010, Presidents Obama and Medvedev jointly pledged to resolve outstanding bilateral issues in Russia's WTO accession. Additional documentation describing Russia's participation in the CU and its obligations under CU Agreements was made available to WTO Members. Informal consultations in September, October, and December 2010 in Geneva reviewed (a) revised sections of Russia's draft WP report text; (b) a draft consolidated schedule of commitments and concessions on trade in services; and (c) updated data on Russia's agricultural supports. These informal consultations, called by Russia's WP

Chairman, also received status reports from the WTO Secretariat on the continuing efforts to complete the consolidation of Russia's bilateral market access agreements on goods, and then express those commitments in the harmonized tariff system nomenclature currently used in Russia's applied tariff schedule, *i.e.*, the CU CXT.

By the end of 2010, Russia's WTO accession process seemed to be back on track. Along with the EU and the WTO Secretariat, the United States is working with Russia to resolve remaining multilateral issues and to address any new issues that emerge from the Russia's membership in the CU with the goal of completing Russia's WTO accession negotiations as soon as possible.

Kazakhstan:

During 2010, Kazakhstan continued its efforts to complete bilateral negotiations on market access for goods and services, concluding goods negotiations with the United States, El Salvador and the EU, and making good progress towards reaching agreement on services commitments. In a series of bilateral meetings and video conferences in March, April, August and September, the United States and Kazakhstan recorded significant progress on goods tariffs and on other issues affecting market access (*e.g.*, sanitary and phytosanitary measures and protection of intellectual property rights). Bilateral discussions in September concluded work on goods market access, including the negotiation of agreed veterinary certificates necessary to export meat and dairy products from the United States to Kazakhstan. Further progress to complete negotiations for services market access is expected after Kazakhstan provides a new revised offer. Discussions on other outstanding issues, *e.g.*, local content requirements in investment contracts and purchases by state-owned enterprises, the provision of trading rights, import licensing procedures for goods with encryption, and the operation of state-owned and state-controlled enterprises will continue. Kazakhstan is working on responses to questions received from the WTO Members after its last WP meeting and revising its draft Working Party report to reflect changes that have occurred in its trade regime and practices with its participation in the CU with Russia and Belarus. The next meeting of its WP is planned for spring 2011.

Serbia:

In 2010, Serbia made substantial progress in both market access negotiations and multilateral review of its trade regime. By the end of 2010, Serbia had signed bilateral market access agreements with Japan, Norway and Honduras, and had concluded negotiations with Korea and Canada. As of the end of 2010, it was still negotiating bilaterally with China, Ecuador, El Salvador, Panama, Switzerland, Ukraine and the United States. The WP review of Serbia's trade regime, as reflected in the draft WP report, also moved forward based on comprehensive comments submitted by the United States and other WTO Members. While WP Members also reviewed some new legislation in 2010, Serbia needs to adopt laws and regulations to implement WTO provisions and to provide Members an opportunity to comment on those measures prior to adoption. Serbia, for example needs to modify its highly problematic law banning trade in any products containing genetically modified organisms in order to bring it into line with WTO rules.

LDC Accessions

During 2010, LDC accession applicants actively negotiating with Members included Afghanistan, Ethiopia, Vanuatu, Laos, Samoa, and Yemen, the last three of which had at least one formal or informal WP meeting in 2010. Negotiations with Samoa, Yemen, and Vanuatu are each well advanced. Afghanistan, which circulated its MFTR in 2009, responded to written questions and provided other documentation necessary for a first WP meeting, as well as continuing its efforts, with U.S. technical assistance, to develop the legislation and institutions necessary for the implementation of WTO provisions. Ethiopia is expected to have a meeting of its Working Party in 2011.

Yemen:

Yemen made significant progress in its WTO accession negotiations in 2010, enacting trade-related legislation and concluding bilateral market access negotiations with all but one Member. As of December 2010, Yemen had concluded bilateral market access negotiations with Australia, Canada, China, the EU, El Salvador, Korea, Honduras, Japan, and the United States. Yemen's Parliament also passed amendments to the Customs Law and Commercial Registration Law, and enacted new legislation on trademarks and geographical indications, as well as adopting an Industrial Design Law. The Patent Law, Copyright Law, and Plant Quarantine and Phytosanitary Law, as well as amendments to other legislation, were under active discussion in the Parliament, and the Trade Minister committed to providing all enacted legislation to the WP prior to Yemen's accession. Yemen had two formal and two informal WP meetings in 2010, and engaged in bilateral negotiations with the United States in Washington, D.C. in April 2010 and in Geneva in September and December 2010. At the December 2010 informal WP meeting, the Chair urged Members to submit drafting suggestions for the draft WP report, noting that the Secretariat would endeavor to circulate a revised report in the beginning of 2011.

Samoa:

Samoa continued to make progress during 2010, but, still reeling from the impact of the September 2009 Tsunami, was unable to fully resolve remaining nontariff barrier issues or fully address requests from WP Members to review legislative drafts prior to completion of the accession process. Samoa's WP met twice informally. Two technical assistance visits by the WTO Secretariat, additional help from Australia on legislative drafting, and comprehensive comments submitted by WP Members provided the basis for a substantial further revision of the draft WP report. Samoa also completed its goods bilateral market access negotiations with the United States, Ukraine, and the EU, and nearly completed work on trade in services. Samoa's next informal WP meeting is scheduled for February 2011.

Vanuatu:

Vanuatu originally completed negotiations with WTO Members in 2001, but decided at that time not to submit the accession package and terms of accession to the Ministerial Conference for approval. Since late 2008, Vanuatu has worked with interested WTO Members to update its 2001 accession package and to revise its offer on trade in services. This updated package was circulated in September 2010, and will be reviewed by Vanuatu's WP in an informal meeting, now scheduled for late January 2011.

Other Developments:

During 2010, WTO Members and the Secretariat endeavored to respond to the concerns of developing country and LDC Members and accession applicants about the current accession process, in particular in the area of transparency and the application of the 2002 General Council Decision on LDC Accessions. Discussions on these issues continued in various WTO fora throughout the year, including at three of the six sessions of the General Council and at one meeting of the Subcommittee for LDCs under the Committee on Trade and Development. The WTO Work Program for LDCs, adopted by Members in 2002 and overseen by the LDC Subcommittee, also includes a focus on the accession of LDCs to the WTO. The LDC Subcommittee discussed LDC Accessions during its June 2010 meeting, where the Chairman provided an oral report on the May 2010 informal dialogue meeting between acceding LDCs and WTO Members. In addition, the Director General of the WTO Secretariat began issuing annual reports on the status of WTO accessions, the first two issued in January and in December 2010, with a focus on the progress of LDC accessions.

The United States and other developed country WTO Members have strongly supported the 2002 General Council Decision on LDC Accessions, strictly adhering to the guidelines in formulating more flexible negotiating positions on market access and WTO implementation commitments for LDCs since its implementation in 2002. The guidelines in the Decision also have worked well in encouraging the provision of technical assistance to LDCs, thus ensuring that LDCs are better prepared for the responsibilities of WTO Membership and in general facilitating their integration into the multilateral trading system. In this way, the accession process for LDCs becomes a development tool and an opportunity to build trade capacity and to help establish a better economic environment for investment and growth.

Prospects for 2011

The pace of work on WTO accessions is expected to accelerate throughout 2011, reflecting the number of acceding countries close to completing their negotiations. The Bahamas, the Seychelles, and Afghanistan only activated (or reactivated) their negotiations last year and expect to move forward in 2011. Montenegro remains extremely close to completing its accession process. The prospects for completing negotiations in 2011 remain good for a number of applicants, including Samoa, Yemen, Vanuatu, Russia, and Kazakhstan. Serbia's negotiations are also well advanced, though a number of pieces of key legislation still need to be reviewed by the Working Party. Additional WP sessions during 2011 also are planned or very likely for Bosnia and Herzegovina, Ethiopia, Iraq, and Laos. Belarus has requested resumption of its accession process based on updated information provided during 2010. Additional WP meetings with Azerbaijan, Lebanon, and Tajikistan are possible, but will depend on the timing and the quality of requested revised market access offers, as well as on tangible progress on legislation. Efforts in recent years to advance the accessions of LDCs appear to be succeeding, and there will be special focus on completing negotiations with Yemen, Samoa and Vanuatu. There will be additional efforts to intensify work with LDCs currently not negotiating, *i.e.*, Comoros, Equatorial Guinea, Bhutan, Liberia, and Sao Tome and Principe, as well as stepped-up monitoring of the application of the Decision on LDC Accessions in ongoing negotiations.

7. Aid for Trade

Status

Aid for Trade is an effort to help developing countries in their efforts to take advantage of the opportunities of the multilateral trading system by connecting the trade priorities of developing countries with trade capacity building assistance to help those countries implement trade commitments. WTO Members have agreed on the need to improve the efficacy and efficiency of aid and capacity building efforts amongst WTO Members and other international organizations.

The Enhanced Integrated Framework (EIF) for trade-related technical assistance for least-developed countries (both WTO Members and non-Members) is the subset of Aid for Trade designed exclusively for that set of countries. The EIF is a multi-organization (including the WTO, World Bank, IMF, UNCTAD, UNDP, UNIDO, and the International Trade Centre), multi-donor program that operates as a coordination mechanism for trade-related assistance to LDCs with the overall objective of integrating trade into national development plans.

Major Issues in 2010

Work on Aid for Trade during 2010 focused on further design and implementation of the monitoring framework envisioned in the task force report and preparation for the third Global Review of Aid for

Trade in 2011. Discussions on best practices for evaluating Aid for Trade projects and programs began and continued through 2010.

The WTO Secretariat held a number of thematic sessions to explore the relation between Aid for Trade and topics like agriculture, food security, evaluation, and small businesses. Several regional partners held regional workshops on aid for trade and the priorities of the countries in those regions.

The monitoring framework includes global monitoring of aid flows using the data resources of the OECD's Development Assistance Committee, country-level monitoring of progress in mainstreaming/integrating trade in national development plans, and case studies of best practices in both monitoring and evaluation.

The EIF began its work in earnest, finalizing the monitoring and evaluation framework developed during 2008 and approving projects. Approval of the first projects under the second window began by mid-year.

Prospects for 2011

Based on the Committee on Trade and Development's Aid for Trade Roadmap: 2010-11, work in 2011 will focus on several main projects:

- The joint OECD Development Assistance Committee/Trade Committee will continue its work on efficient and effective ways to evaluate Aid for Trade activities, including with the benefit of case stories submitted by WTO Members and aid for trade partner organizations;
- Preparation for the third Global Review of Aid for Trade in July 2011, including preparatory technical and regional events;
- Support for regional integration; and
- Highlighting effective aid for trade strategies.

K. Plurilateral Agreements

1. Committee on Trade in Civil Aircraft

Status

The Agreement on Trade in Civil Aircraft (Aircraft Agreement) entered into force on January 1, 1980, and is one of two WTO plurilateral agreements (along with the Agreement on Government Procurement) that are in force only for those WTO Members that have accepted it.¹⁸

The Aircraft Agreement requires Signatories to eliminate tariffs on civil aircraft, engines, flight simulators, and related parts and components, and to provide these benefits on a nondiscriminatory basis to other signatories. In addition, the Signatories have agreed provisionally to provide duty-free treatment for ground maintenance simulators, although this item is not covered under the current agreement. The Aircraft Agreement also establishes various obligations aimed at fostering free market forces. For

¹⁸ Additional information on this agreement can be found on the WTO's website at: http://www.wto.org/english/tratop_e/civair_e/civair_e.htm.

example, signatory governments pledge that they will base their purchasing decisions strictly on technical and commercial factors.

There are currently 31 Signatories to the Aircraft Agreement: Albania, Canada, the EU¹⁹ (the following 20 EU Member States are also Signatories to the Aircraft Agreement in their own right: Austria; Belgium; Bulgaria; Denmark; Estonia; France; Germany; Greece; Ireland; Italy; Latvia; Lithuania; Luxembourg; Malta; the Netherlands; Portugal; Romania; Spain; Sweden; and the United Kingdom), Egypt, Georgia, Japan, Macao China, Norway, Switzerland, Chinese Taipei and the United States. Those WTO Members with observer status in the Committee are: Argentina; Australia; Bangladesh; Brazil; Cameroon; China; Colombia; Gabon; Ghana; India; Indonesia; Israel; the Republic of Korea; Mauritius; Nigeria; Oman; Saudi Arabia; Singapore; Sri Lanka; Trinidad and Tobago; Tunisia; Turkey; and Ukraine. In addition, the Russian Federation is an observer. The IMF and UNCTAD are also observers.

The Committee on Trade in Civil Aircraft (Aircraft Committee), permanently established under the Aircraft Agreement, provides the Signatories an opportunity to consult on the operation of the Aircraft Agreement, to propose amendments to the Agreement, and to resolve any disputes.

Major Issues in 2010

The Aircraft Committee held one regular meeting on November 23, 2010. At this meeting, the Committee elected Ms. Sylvie Larose of Canada as its new Chair and discussed the draft Protocol Amending the Product Coverage Annex to the Trade in Civil Aircraft Agreement, together with the draft revised Product Coverage Annex (circulated to Signatories by fax of September 13, 2010).

Prospects for 2011

The Aircraft Committee agreed to meet at least once, in the fall of 2011. The United States will continue to encourage Croatia and Oman to become Signatories, pursuant to their respective protocols of accession and will continue to encourage current Committee observers and other WTO Members to become Signatories to the Aircraft Agreement.

2. Committee on Government Procurement

Status

The WTO Agreement on Government Procurement (GPA) is a “plurilateral” agreement included in Annex 4 to the WTO Agreement. As such, it is not part of the WTO’s single undertaking and its membership is limited to WTO Members that specifically signed the GPA in Marrakesh or that have subsequently acceded to the Agreement. WTO Members are not required to join the GPA, but the United States strongly encourages all WTO Members to participate in this important agreement.

Forty-one WTO Members are parties to the GPA: Canada; the EU and its 27 Member States (Austria, Belgium, Bulgaria, Czech Republic, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, and the United Kingdom), Hong Kong China, Iceland, Israel, Japan, the Republic of Korea, Liechtenstein, the Netherlands with respect to Aruba,

¹⁹ Currently comprising 27 Member States: Belgium, Bulgaria, Czech Republic, Denmark, Germany, Estonia, Ireland, Greece, Spain, France, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Hungary, Malta, the Netherlands, Austria, Poland, Portugal, Romania, Slovenia, Slovakia, Finland, Sweden, and the United Kingdom.

Norway, Singapore, Switzerland, Taiwan (Chinese Taipei), and the United States (collectively the GPA Parties).

As of the end of 2010, eight Members were in the process of acceding to the GPA: Albania; China; Georgia; Jordan; Kyrgyz Republic; Moldova; Oman; and Panama. Five additional Members have provisions in their respective Protocols of Accession to the WTO or Working Party reports regarding accession to the GPA: Croatia; the Former Yugoslav Republic of Macedonia; Mongolia; Saudi Arabia; and the Ukraine.

Armenia submitted its application for accession and initial coverage offer on September 4, 2009. The WTO Committee on Government Procurement (Committee) approved Armenia's accession to the GPA on December 7, 2010. Armenia will become a GPA Party when the Committee confirms that Armenia has brought its legislation implementing the GPA into force and Armenia deposits its instrument of accession.

When China joined the WTO in 2001, it committed to commence negotiations to join the GPA "as soon as possible." In April 2006, China agreed in the Joint Committee on Commerce and Trade (JCCT) to submit its initial offer of coverage by the end of 2007. Based on these commitments, China submitted its application for accession to the GPA and its Initial Appendix I Offer on December 28, 2007. The United States submitted its Initial Request for improvements in China's Initial Offer in May 2008. In accordance with a commitment that China made at the United States-China Strategic and Economic Dialogue in July 2009, China submitted a report to the Committee on its plans for submission of a revised offer and the difficulties it has encountered in revising its offer. At the JCCT meeting in October 2009, China committed to table a revised offer in 2010. China submitted its first Revised Offer on July 9, 2010. The United States submitted its Second Request for improvements in China's Revised Offer on September 28, 2010. China also submitted its responses to the Checklist of Lists for Provision of Information Relating to Accession in September 2008. On April 13, 2010, the United States submitted questions to China on its responses to the Checklist of Lists. China replied to U.S. questions on October 11, 2010. At the JCCT meeting in December 2010, China committed to table a second revised offer in 2011.

Jordan submitted its initial offer of coverage in 2002. It has submitted several revised offers, in response to requests by the United States and other GPA Parties for improvements. Jordan's accession continued to move forward in 2010. The Kyrgyz Republic's accession to the GPA, which had been inactive since 2003, moved forward in 2009 when it submitted updated responses to the checklist of issues, but it did not make any further progress in 2010. Moldova, which had commenced its accession in November 2008, requested in May 2009 that further active consideration of its accession be deferred until its government completed a reorganization.

India became an observer in the GPA Committee in February 2010. Twenty-one WTO Members, including those in the process of acceding to the GPA, have observer status in the GPA Committee: Albania; Argentina; Armenia; Australia; Bahrain; Cameroon; Chile; China; Colombia; Croatia; Georgia; India; Jordan; Kyrgyz Republic; Moldova; Mongolia; New Zealand; Oman; Panama; Saudi Arabia; Sri Lanka; and Turkey. Four intergovernmental organizations (IMF, International Trade Centre, OECD, and UNCTAD) also have observer status.

Article XXIV:7(b) of the GPA calls for the Parties to undertake further negotiations to improve the Agreement and to expand the procurement that they cover under the GPA. In December 2006, the GPA Committee reached provisional agreement on a substantial revision of the text, subject to a legal check and to a mutually satisfactory outcome in the coverage negotiations. The new GPA text will be used as the basis for negotiations with countries in the process of acceding to the GPA. Most of the work on the legal check of Articles I through XXI of the revised text was completed in 2007. In 2010, the Committee

completed verification of the linguistic consistency of the English, French, and Spanish texts of the revision of the GPA, and approved public release of the verified text. The Committee also narrowed the outstanding issues that remain on the Final Provisions in Article XXII and related texts. It also advanced work on the indicative criteria, but more work remains on the draft decisions on arbitration procedures and indicative criteria.

Major Issues in 2010

Armenia's accession to the GPA was approved by the Committee on December 7, 2010.

During 2010, the GPA Committee held five meetings (in February, April, July, October, and December) during which Parties reinforced efforts to conclude the negotiations on both coverage and text-related issues. With respect to the revision of the GPA text, the Committee completed verification of the linguistic consistency of the English, French, and Spanish texts of the revision of the GPA and approved public release of the verified text. It also made progress on the Final Provisions of the revised GPA. The Committee also advanced work on the accessions of China and Jordan.

With respect to the negotiations under GPA Article XXIV:7 that are aimed at expanding procurement covered by the Agreement, significant progress was made during 2010. Liechtenstein submitted an initial offer, leaving Hong Kong China as the only Party that had not submitted an initial offer. New revised offers were submitted by the United States, Canada, Israel, Japan, Liechtenstein, Korea, Norway, and Singapore. The only Parties that did not submit new offers before or at the last meeting of the Committee for 2010 were the European Union, Iceland, the Netherlands with respect to Aruba, and Switzerland.

The GPA Committee held discussions at informal meetings on China, Armenia, and Jordan's accessions to the GPA.

Prospects for 2011

The GPA Committee has tentatively scheduled three meetings for the first half of 2011, with the first scheduled for the beginning of March, where it is expected to continue work on revision of the GPA, and the accessions of China and Jordan. The Committee intends to complete the revision of the GPA during 2011. China is expected to submit a second revised accession offer, including market access coverage of sub-central entities, no later than the final session of 2011.

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

Status

The WTO Ministerial Declaration on Trade in Information Technology Products – known as the Information Technology Agreement (ITA) – was concluded at the WTO's First Ministerial Conference in Singapore in December 1996. Original participants in the ITA eliminated tariffs as of January 1, 2000 on a wide range of information technology products and modified their WTO schedules of tariff concessions accordingly. The Committee of Participants on the Expansion of Trade in Information Technology Products ("the ITA Committee") was established to carry out the provisions of the Ministerial Declaration (WT/MIN(96)/16), including reviewing product coverage, examining classification divergences, consulting on non-tariff barriers, and expanding Member participation. The Committee thus serves as the forum for meetings required under its procedures and collective consultations among the participants.

The ITA covers a wide range of information technology products including computers and computer peripheral equipment, electronic components including semiconductors, computer software, telecommunications equipment, semiconductor manufacturing equipment, and computer-based analytical instruments. On September 13, 2010, Kuwait became the 46th participant (covering 73 Members and States or separate customs territories in the process of acceding to the WTO) in the ITA, which now represents approximately 97 percent of world trade in information technology products.²⁰

Major Issues in 2010

The ITA Committee held two formal meetings in 2010, on July 8 and November 11.²¹ At these meetings, ITA participants continued their discussion of classification divergences on certain ITA products, which is aimed at eliminating differences in the way participants classify ITA products in their national tariff schedules. The Committee also informally discussed the EU's September 2008 proposal to review and update the ITA.²² Several countries, including the United States, continued to raise significant questions and concerns about the EU proposal, including that aspects of the proposal appeared premised on the view that the existing legal structure of the ITA is inadequate to address new developments in technology. The Chair reported to the Committee that participants were open to continue the discussions on the review process and that this issue would be included on the agenda for the first meeting in 2011.

In August 2010, a WTO dispute settlement panel report was issued in the dispute brought by the United States, Japan, and Chinese Taipei regarding the European Union's tariff treatment of certain information technology products. In its report, the Panel upheld the complainants' position as to all three products at issue in the dispute and rejected the EU's assertion that ITA obligations are limited to so-called Attachment A commitments and that products are no longer covered by the ITA and can be subjected to duties when they incorporate new technologies or features. (*For additional information, see Chapter II.H.*)

Prospects for 2011

While a date for the next meeting of the ITA Committee has not yet been determined, likely agenda items will include potential expansion of product coverage and further discussion of classification divergences.

²⁰ ITA participants are: Albania; Australia; Bahrain; Canada; China; Costa Rica; Croatia; Dominican Republic; Egypt; El Salvador; European Communities (on behalf of 27 Member States); Georgia; Guatemala; Hong Kong; China; Honduras; Iceland; India; Indonesia; Israel; Japan; Jordan; Korea; Krygyz Republic; Kuwait; Macao, China; Malaysia; Mauritius; Moldova; Morocco; New Zealand; Nicaragua; Norway; Oman; Panama; Peru; Philippines; Saudi Arabia; Singapore; Switzerland (on the behalf of the customs union of Switzerland and Liechtenstein); Chinese Taipei; Thailand; Turkey; United Arab Emirates; Ukraine; Vietnam; and the United States.

²¹ The minutes of these both Committee meetings are contained in WTO documents G/IT/M/51 and G/IT/M/52.

²² WTO Document, G/IT/W/28.

III. BILATERAL AND REGIONAL NEGOTIATIONS AND AGREEMENTS

A. Free Trade Agreements

1. Australia

The United States-Australia Free Trade Agreement (FTA) entered into force on January 1, 2005. U.S. two-way trade with Australia was \$30.8 billion in 2010, up 43 percent since 2004, the year before the FTA entered into force. U.S. goods exports were \$22.1 billion in 2010, up 58 percent from 2004, and U.S. goods imports were \$8.7 billion, up 15 percent from 2004. The United States had a \$13.4 billion goods trade surplus in 2010 and a \$6.6 billion services trade surplus with Australia in 2009 (latest data available).

Agricultural trade between the United States and Australia continued to grow in 2010, with U.S. agriculture exports to Australia reaching \$911 million. The FTA established working groups aimed at promoting closer cooperation between the two countries in this sector and creating fora for discussing agricultural and sanitary and phytosanitary issues. The working groups met in August 2009 to address specific bilateral animal and plant health matters with a view to facilitating agricultural trade. The next working group meeting will be held in early 2011.

In October 2009, the United States and Australia completed the fourth annual FTA review. The two sides reviewed implementation of the agreement and exchanged views on a range of issues under the FTA, including trade in agriculture products, sanitary and phytosanitary issues, government procurement, and protection of intellectual property rights.

The United States and Australia also discussed each government's implementation of the obligations contained in the environment chapter of the FTA and exchanged views on how to improve communication on trade and environment issues, including possible collaboration. Both governments agreed to hold discussions between trade and environment experts in the coming months.

2. Bahrain

The United States-Bahrain FTA, which entered into force on January 11, 2006, generates export opportunities for the United States, creating jobs for U.S. farmers and workers. The agreement also supports Bahrain's economic and political reforms and enhances commercial relations with an economic leader in the Arabian Gulf. On the first day the agreement took effect, 100 percent of the two-way trade in industrial and consumer products began to flow without tariffs. Because of the FTA, U.S. farmers have significantly increased their agricultural exports to Bahrain. In addition, Bahrain opened its services market wider than any previous FTA partner, creating important new opportunities for U.S. financial service providers and companies that offer telecommunications, audiovisual, express delivery, distribution, healthcare, architecture, and engineering services.

The central oversight body for the Agreement is the United States-Bahrain Joint Committee (JC), chaired jointly by the Office of the U.S. Trade Representative and Bahrain's Ministry of Industry and Commerce. During the second meeting of the JC in October 2009, the two governments agreed to formally establish a Subcommittee on Labor. The Subcommittee held its first meeting on September 20, 2010 and discussed a broad range of labor issues, including initiatives to improve respect for labor rights. The Subcommittee

also held a public session with representatives of workers and employers to discuss implementation of the Labor Chapter of the FTA. As part of ongoing labor cooperation and capacity building activities, the U.S. Department of Labor is funding a project administered by the International Labor Organization to increase the effectiveness of labor inspections by Bahrain's labor ministry. During the next year, the two governments will continue discussions between their labor experts to ensure effective implementation, monitoring, and compliance with FTA obligations.

The U.S.-Bahrain FTA also promotes the policy of advancing economic reforms and liberalization in the Middle East. The United States-Bahrain Bilateral Investment Treaty (BIT), which took effect in May 2001, covers investment issues between the two countries.

3. Central America and the Dominican Republic

a. Overview

On August 5, 2004, the United States signed the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR) with five Central American countries (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua) and the Dominican Republic. The CAFTA-DR is the first free trade agreement between the United States and a group of smaller developing economies. This agreement is creating new economic opportunities by eliminating tariffs, opening markets, reducing barriers to services, and promoting transparency. It is facilitating trade and investment among the seven countries and furthering regional integration.

Central America and the Dominican Republic represent the third largest U.S. export market in Latin America, behind Mexico and Brazil. U.S. exports to the CAFTA-DR countries were valued at \$24.3 billion in 2010. Combined total two-way trade in 2010 between the United States and Central America and the Dominican Republic was \$48.3 billion.

The agreement entered into force for the United States and El Salvador, Guatemala, Honduras, and Nicaragua during 2006, for the Dominican Republic on March 1, 2007, and for Costa Rica on January 1, 2009. With the addition of Costa Rica, the CAFTA-DR is in force for all seven countries that signed the agreement.

On August 15, 2008, the CAFTA-DR Parties implemented important changes to the agreement's textiles provisions, including changing the rules of origin to ensure that pocket fabric in apparel is sourced from the United States or another CAFTA-DR Party. The Parties also implemented a reciprocal textile input sourcing rule with Mexico. Under this rule, Mexico will provide duty-free treatment on certain apparel goods produced in a Central American country or the Dominican Republic with U.S. input, and the United States will provide reciprocal duty-free treatment under the CAFTA-DR on certain apparel goods produced in a Central American country or the Dominican Republic with Mexican input. These changes will further strengthen and integrate regional textile and apparel manufacturing and create new economic opportunities in the United States and the region.

b. Elements of the CAFTA-DR

i. Operation of the Agreement

The central oversight body for the CAFTA-DR is the Free Trade Commission (FTC), comprised of the U.S. Trade Representative and the trade ministers of the other CAFTA-DR Parties or their designees. The FTC is responsible for supervising the implementation and operation of the agreement. During the

latter half of 2010, the CAFTA-DR Parties had several exchanges to pave the way for a CAFTA-DR Free Trade Commission meeting in early 2011. In June 2010, USTR officials hosted CAFTA-DR technical level meetings with the other six member countries to discuss administration and oversight issues and to advance institutional work and planning for the FTC meeting. In August and September 2010, USTR officials visited the five Central American partners to meet with government officials and the private sector to discuss bilateral and regional trade issues, to exchange experiences, and to prepare for the first CAFTA-DR Free Trade Commission meeting. In November 2010, CAFTA Vice-Ministers met in Washington, D.C. to advance preparations for the FTC meeting, including a proactive agenda focused on expanding and broadening the benefits of trade, with particular focus on participation of small and medium-sized enterprises (SMEs).

ii. Labor

Ongoing labor capacity building activities are supporting efforts to improve the enforcement of labor laws in the CAFTA-DR countries. In particular, U.S. Government assistance focuses on strengthening and modernizing the labor ministries and justice systems in the CAFTA-DR countries and promoting a culture of compliance with labor laws in each CAFTA-DR country.

In July 2010, the USTR and the U.S. Secretary of Labor requested consultations with Guatemala under the CAFTA-DR concerning Guatemala's apparent failures to effectively enforce its labor laws related to the right of association, the right to organize and bargain collectively, and acceptable conditions of work. This is the first time that the United States has requested consultations on a labor matter under a free trade agreement.

The request followed a submission filed with the U.S. Department of Labor (DOL) in April 2008 by the AFL-CIO and several Guatemalan unions alleging that the government of Guatemala was failing to effectively enforce its labor laws. DOL also published a report in January 2009 which found systemic weaknesses in Guatemala's labor law enforcement. Despite extensive bilateral engagement, the government of Guatemala did not take effective steps to address these systemic weaknesses, leading to the United States Government's decision to request consultations. These consultations are ongoing.

In July 2010, the International Longshore and Warehouse Union and two Costa Rican worker organizations filed a submission with the DOL alleging that the government of Costa Rica is failing to effectively enforce its labor laws. Due to recent developments, including a Constitutional Court ruling in Costa Rica related to the issues raised in the submission, the DOL extended until April 2011 the time to consider whether to accept the submission for review.

iii. Environment

U.S. Government assistance for environment capacity building programs and activities in Central America and the Dominican Republic continued in 2010 with a focus on compliance with specific CAFTA-DR environment chapter obligations, strengthening of environmental laws and enforcement, biodiversity conservation including through market-based approaches, and improving private sector environmental performance. Public outreach efforts continued in 2010. The Secretariat for Environmental Matters ("Secretariat"), established in 2006 in accordance with the CAFTA-DR, received several new submissions from the public in 2010 on a range of environmental concerns. The Secretariat made progress on improving the timeliness for its review of public submissions. It also finalized the first factual record under the public submission process. In December 2010, the U.S. representative on the CAFTA-DR Environmental Affairs Council voted to make this factual record available to the public. The Secretariat posted the factual record on its website on January 6, 2011.

The CAFTA-DR Environment Affairs Council contact points met three times in 2010 to discuss priorities for environmental capacity building programming and to prepare for the January 2011 Environmental Affairs Council (EAC) meeting. During the January 2011 EAC, Council Members highlighted their government's successes with respect to implementation of obligations under the environment chapter as well as accomplishments under the parallel environmental cooperation agreement.

iv. Trade Capacity Building

Trade Capacity Building (TCB) programs and planning continued throughout 2010 with USTR, along with USAID and other donors, such as the U.S. Department of Agriculture, meeting in the full Trade Capacity Building Committee established under the agreement, as well as bilaterally with each of the CAFTA-DR partner countries. Discussions focused on the prioritization of CAFTA-DR partners' trade capacity building objectives, including successful implementation and full utilization of the opportunities created by the CAFTA-DR, with a special emphasis on sanitary and phytosanitary activities. These meetings also focused on the prioritization and coordination of donor responses to countries' TCB objectives, in areas such as customs, telecommunications, and intellectual property. *(For additional information, see Chapter VI.A.5.)*

v. Other Implementation Matters

The political crisis in Honduras hindered the United States' ability to work with its CAFTA-DR partners on plurilateral matters in 2009 and into 2010. Following the stabilization of the Honduran political situation, several technical meetings were held to review implementation matters under the agreement, including meetings of the Committee on Trade in Goods in August 2010 and the Technical Barriers to Trade (TBT) Committee in September 2010. In addition, technical experts met in September to develop terms of reference to establish the committees on Agriculture and Sanitary and Phytosanitary (SPS) as required under the agreement, and to discuss other agriculture issues such as the implementation of tariff-rate quotas and SPS issues such as the Central American Common Market SPS policy. In the textiles area, CAFTA-DR countries continued discussion of technical corrections and modifications to certain rules of origin to facilitate greater integration of textile and apparel production in the region. The United States also continued to work closely with its CAFTA-DR partners on bilateral matters related to the agreement, with a particular focus on ensuring that its partners properly implement the agreement. For example, the U.S. Government worked with the government of Costa Rica to review and support its efforts to fulfill IPR commitments made to the United States by Costa Rica in conjunction with the entry into force of the CAFTA-DR for Costa Rica. During 2010, Costa Rica issued new regulations to provide data protection for agrochemical products (March) and implemented technical corrections to its IPR legislation with respect to performance rights (April) to comply with its CAFTA-DR commitments. In June 2010, President Obama issued a proclamation granting Costa Rica's CAFTA-DR sugar quota for 2010 and beyond. The United States also closely followed developments in Costa Rica's telecommunications sector with respect to opening wireless services to competition.

4. Chile

a. Overview

The United States-Chile Free Trade Agreement (FTA) entered into force on January 1, 2004.

The United States-Chile FTA eliminates tariffs and opens markets, reduces barriers for trade in services, provides protection for intellectual property, ensures regulatory transparency, guarantees non-discrimination in the trade of digital products, commits the Parties to maintain competition laws that

prohibit anticompetitive business conduct, and requires effective labor and environmental enforcement. In 2010, U.S. exports to Chile increased by 20 percent to \$11.2 billion, while U.S. imports from Chile increased by 17 percent to \$7 billion.

b. Elements of the United States-Chile FTA

i. Operation of the Agreement

The central oversight body for the Agreement is the United States-Chile Free Trade Commission (FTC), comprised of the U.S. Trade Representative and the Chilean Director General of International Economic Affairs or their designees. The FTC held its sixth meeting on November 10, 2009, during which the two governments evaluated progress on implementing the FTA during 2009. The seventh meeting of the FTC will take place in Chile in early 2011.

ii. Labor

The FTA establishes a cooperative mechanism to promote respect for the principles embodied in the ILO Declaration on Fundamental Principles and Rights at Work, and compliance with ILO Convention 182 on the Worst Forms of Child Labor. In 2010, the U.S. and Chilean labor agencies held technical exchanges on occupational safety and health, employment, and social protections, including participation by the U.S. Department of Labor and Chile's Presidential Advisory Commission on Occupational Safety and Health. The latter was established by Chilean President Piñera in August 2010 in the wake of the San José Mine accident.

iii. Environment

On January 20, 2010, the U.S. and Chilean governments convened the fifth meeting of the Environmental Affairs Council, co-led by USTR and the Department of State for the United States, and by the National Council on Environment (CONAMA) and the Foreign Ministry for Chile, to discuss implementation of the FTA's environment chapter. At this meeting, both governments agreed to improve monitoring of implementation and compliance efforts related to the FTA's environment chapter. In 2010, the United States continued work to set up a system whereby the United States and Chile can exchange information in a structured and timely manner to help monitor implementation and compliance with the environment chapter's obligations.

The Environmental Affairs Council invited the U.S. Trade and Environment Policy Advisory Committee (TEPAC) Members and Liaisons to participate in the January 2010 meeting and to have an exchange on trade and environment issues. Participants in the meeting reviewed public outreach activities and transparency in environmental decision making during 2009. Chile highlighted how its newly established Ministry for the Environment will bolster its continued implementation of the FTA's environment chapter. The Parties agreed to hold the next Environmental Affairs Council meeting in Chile in early 2011.

iv. Intellectual Property Rights

Chile remained on the Priority Watch List in 2010. The United States continues to engage in discussions with Chile concerning the implementation of Chile's IPR commitments under the FTA. The United States noted that Chile took positive steps in 2009 and 2010, including creating the National Institute for Industrial Property to oversee industrial property registration and protection, undertaking law enforcement actions targeting sale of counterfeit and pirated products, and engaging in cooperation between rights holders and enforcement officials. The United States is also encouraged by the steps the new

administration in Chile has taken towards the ratification and implementation of the International Convention for the Protection of New Varieties of Plants (UPOV Convention, 1991), the Trademark Law Treaty, and the Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite. In early 2010, Chile enacted amendments to its intellectual property law, including measures designed to implement a number of commitments under the FTA. However, it appears that the legislation fell short of addressing the full range of Chile's multilateral and bilateral commitments. For example, the legislation did not include protections against the circumvention of technological protection measures. The United States remains concerned that the relatively low rate of prosecutions and the tendency to apply minimum sentences for counterfeiting and piracy in Chile may not effectively deter future infringement. The United States also remains concerned about inadequate protection against unfair commercial use, as well as unauthorized disclosure, of undisclosed test or other data generated to obtain marketing approvals for pharmaceutical products.

5. Israel

Signed in 1985, the United States-Israel Free Trade Agreement is the first FTA entered into by the United States. It continues to serve as the foundation for expanding trade and investment between the United States and Israel by reducing barriers and promoting regulatory transparency. In 2010, U.S. goods exports to Israel rose by 18 percent, to \$11.3 billion.

The central oversight body for the FTA is the United States-Israel Joint Committee. In December 2009, the Joint Committee met to exchange views on issues and concerns related to agricultural market access, telecommunications, and government procurement, among other topics. As a follow-up to that meeting, in October 2010, the United States and Israel agreed to develop a work plan that would address the remaining barriers to bilateral trade, including in the areas of agriculture and services. As initial steps under the work plan, the two sides agreed to pursue negotiations towards implementation of a Mutual Recognition Agreement (MRA) for assessing conformity in telecommunications equipment and to facilitate trade by reviewing existing customs procedures and regulations. The two sides also made progress on a number of market access issues related to standards, customs classification, and technical regulations. Both sides agreed to continue the dialogue through the U.S.-Israel Working Group on Standards and Technical Regulations, which last met in July 2010.

Recognizing in the 1990s that the FTA had not served to liberalize some aspects of bilateral agriculture trade, the United States and Israel concluded an Agreement Concerning Certain Aspects of Trade in Agricultural Products (ATAP), which provided for duty-free or other preferential treatment of certain agricultural products. The 1996 agreement was extended through 2003, and a new agreement was concluded in 2004. In December 2010, the two sides agreed to extend that agreement through December 31, 2011. The Working Group on Agriculture agreed to meet in early 2011 to continue negotiations of a successor to the 2004 ATAP.

Despite the impasse over agricultural free trade, during 2010, technical experts from the United States and Israel worked together to resolve some existing agricultural trade concerns. Israel removed long-standing obstacles to U.S. pet food exports to Israel and, in turn, the United States continued to work to resolve customs questions on the transshipment of fresh food products. However, many technical barriers still remain for U.S. agricultural products' entry into the Israeli market.

In connection with the 2009 Special 301 out-of-cycle review (OCR), the United States and Israel reached an understanding on February 18, 2010 that resolved several longstanding issues with respect to Israel's IPR regime for pharmaceutical products, including improving data protection and strengthening patent term extension. Israel is now working with the Knesset to codify those commitments.

6. Jordan

In 2010, the United States and Jordan continued to benefit from their economic partnership. A key element of this relationship is the United States-Jordan Free Trade Agreement, which was entered into force on December 17, 2001 and fully implemented on January 1, 2010. In addition, the Qualifying Industrial Zones (QIZs), established by Congress in 1996, allow products to enter the United States duty-free if manufactured in Jordan, Egypt, or the West Bank and Gaza with Israeli content. The program has succeeded in stimulating significant business cooperation between Jordan and Israel.

Together these measures have played a significant role in boosting overall United States-Jordanian economic ties. U.S. goods exports were \$1.2 billion in 2010, down 2 percent from 2009. QIZ products still account for more than half of Jordanian exports to the United States, but the QIZ share is declining relative to total products shipped under the FTA. This shift toward exporting products manufactured outside of the QIZs demonstrates the important role the FTA plays in helping Jordan diversify its economy.

The United States-Jordan FTA has expanded the trade relationship between the two countries by reducing barriers for services, providing cutting-edge protection for intellectual property, ensuring regulatory transparency, and requiring effective labor and environmental enforcement. In June 2010, the two sides crafted a plan of action pursuant to the 2009 meeting of the Joint Committee charged with administering the FTA. Under this strategy, officials committed to explore ways to intensify cooperation in the areas of customs, agriculture, intellectual property rights, labor, the environment and technical assistance.

As one example, USTR led a mission to Jordan in October 2010 to address labor issues. During the visit, U.S. Government officials from USTR and the Department of State held extensive meetings with Jordanian government officials, and also met with representatives from labor unions and worker rights advocates, as well as business groups. During the mission, U.S. officials visited factories located in QIZs to monitor working conditions and urge the government of Jordan to continue making improvements on labor rights issues, especially with regard to migrant workers in apparel factories. To support this effort, the United States and Jordan are funding an International Labor Organization Better Work program, which is observing working conditions in garment factories and issuing public reports. The project was launched in 2008 and began monitoring activities in QIZ factories in 2009.

7. Morocco

The United States-Morocco FTA entered into force on January 1, 2006. The United States-Morocco FTA is a comprehensive agreement that is an important part of the effort to promote a more open and prosperous society. The FTA supports the significant economic and political reforms that are underway in Morocco and provides for improved commercial and market opportunities for U.S. exports to Morocco by reducing and eliminating trade barriers.

Since the entry into force of the FTA, the U.S. goods trade surplus with Morocco has risen to \$1.4 billion in 2010, up from \$79 million in 2005 (the year prior to entry into force). U.S. goods exports in 2010 were \$2 billion, up 25 percent from the previous year. Corresponding U.S. imports from Morocco were \$662 million, up 41 percent from 2009.

The Joint Committee (JC) established by the FTA met in November 2009. U.S. and Moroccan experts discussed FTA implementation issues, including Morocco's implementation of the tariff-rate quotas provided for under the FTA to afford U.S. wheat producers preferential access to the Moroccan market.

The United States continues to have serious concerns about Morocco's administration of these tariff-rate quotas.

In May 2010, the United States and Morocco convened the first meeting of the Subcommittee on Labor Affairs under the FTA. The Subcommittee agreed on several cooperative labor activities to improve enforcement of Morocco's labor laws, which included a visit to Morocco in July 2010 by the U.S. Federal Mediation and Conciliation Service to develop a training program for labor mediators.

The Environmental Subcommittee under the FTA met in spring 2010 to discuss ways to facilitate the exchange of information and technical expertise among relevant agencies, ministries, international partners, and NGOs, with the end goal of improving environmental protection. The Subcommittee identified a number of projects during this meeting to help Morocco strengthen and enforce its environmental laws, promote the adoption of cleaner production practices and technologies, implement mechanisms to counter overgrazing and fuel wood collection, promote conservation and sustainable use of wildlife and natural resources, and strengthen public participation in environmental decision-making.

In October 2010, the United States and Morocco agreed to develop an action plan before the JC meeting scheduled for spring 2011. As part of the action plan, the two countries will discuss a Customs Mutual Assistance Agreement, review transshipment issues, discuss Morocco's failure to implement the WIPO Internet Treaties as agreed in the FTA, and resume discussions on the wheat tariff-rate quotas and explore ways to expand investment.

8. North American Free Trade Agreement

a. Overview

On January 1, 1994, the North American Free Trade Agreement between the United States, Canada, and Mexico (NAFTA) entered into force. All remaining duties and quantitative restrictions were eliminated, as scheduled, on January 1, 2008. NAFTA created the world's largest free trade area, which now links 449 million people producing over \$16 trillion worth of goods and services.

Trade between the United States and its NAFTA partners has soared since the agreement entered into force. U.S. two-way trade with Canada and Mexico exceeds U.S. trade with the European Union and Japan combined. U.S. goods exports to NAFTA partners have nearly tripled between 1993 and 2010, from \$142 billion to \$415 billion.

By dismantling barriers, NAFTA has led to increased trade and investment, growth in employment, and enhanced competitiveness. From 1993 to 2009, cumulative foreign direct investment (stock) in the NAFTA countries has increased by over \$3 trillion. Increased investment has brought better-paying jobs, as well as lower costs and more choices for consumers and producers.

The NAFTA was also the first U.S. free trade agreement to link free trade with obligations to protect labor rights and the environment. In connection with the NAFTA, the United States and Mexico also agreed to fund a development bank to address environmental infrastructure needs along the U.S.-Mexico border.

b. Elements of NAFTA

i. Operation of the Agreement

The NAFTA's central oversight body is the NAFTA Free Trade Commission (FTC), comprised of the U.S. Trade Representative, the Canadian Minister for International Trade, and the Mexican Secretary of Economy or their designees. The FTC is responsible for overseeing implementation and elaboration of the NAFTA and for dispute settlement.

The FTC held its most recent annual meeting in January 2011 in Mexico City. At the meeting, the FTC agreed to ask the relevant NAFTA committees to continue their work to identify areas where unnecessary regulatory differences can be eliminated. The FTC initialed the basic terms of two bilateral mutual recognition agreements that will establish procedures for accepting test results from laboratories or testing facilities in the territory of another NAFTA country for use in the conformity assessment of telecommunications equipment. As part of its efforts to identify measures to boost exports by small- and medium-sized enterprises, the FTC released "Opportunities for Small- and Medium-Sized Enterprises in North America," a publication designed to answer fundamental questions about exporting.

The FTC also agreed to continue its cooperation with the North American Commission for Environmental Cooperation (CEC) and asked the *ad hoc* working group of senior trade officials to identify areas of collaboration, such as trade flows of used electronics in North America, green buildings and greening North America's transportation corridors. The FTC asked the senior officials responsible for labor to continue to cooperate with their counterparts in the North American Commission for Labor Cooperation (CLC) to discuss specific strategies to improve the labor side agreement and its functioning, including the CLC's Secretariat.

ii. Rules of Origin

In the fall of 2009, the NAFTA partners implemented two sets of changes to the NAFTA rules of origin. The first set was liberalizing changes to the NAFTA rules of origin. These changes cover approximately \$100 billion in annual trilateral trade. The second set modified the NAFTA rules of origin to reflect changes agreed to under the International Convention on the Harmonized Commodity and Coding System.

At its January 2011 meeting, the FTC agreed on a fourth set of changes to the rules of origin. This set of changes covers products whose annual trilateral trade exceeds \$90 billion. This set also includes changes to a group of environmental goods whose annual trilateral trade is approximately \$6 billion. The Commission agreed to proceed with domestic procedures for consultation, with a view towards implementing these changes in 2011. The NAFTA partners agreed to begin work on technical rectifications to align the NAFTA rules of origin with the updated tariff schedules that will result from the 2012 amendments to the nomenclature of the Harmonized System. The Commission also directed officials to explore the possibility of implementing a fifth set of changes to the NAFTA rules of origin.

iii. NAFTA and Labor

The North American Agreement on Labor Cooperation (NAALC), a supplemental agreement to the NAFTA, promotes effective enforcement of domestic labor laws and fosters transparency in their administration. The NAALC established a trinational Commission for Labor Cooperation, comprised of a Ministerial Council and an administrative Secretariat. In addition, each NAFTA Party has established a National Administrative Office (NAO) within its Labor Ministry to serve as a contact point with the other Parties and the Secretariat, to provide publicly available information to the Secretariat and the other

NAOs, and to provide for the submission and review of public communications on labor law matters. The NAOs, together with the Secretariat, also carry out the Council's Cooperative Activities program.

On January 29, 2010, the Department of Labor received a submission from the Mexican Union of Electrical Workers alleging that the government of Mexico (GOM) has failed to adequately enforce its labor laws and uphold its commitment to uphold the NAALC's labor principles. A decision as to whether to accept the submission for review has been deferred due to ongoing legal proceedings in Mexico related to key issues included in the submission.

iv. NAFTA and the Environment

In 2010, the Parties continued their efforts to ensure that trade liberalization and efforts to protect the environment are mutually supportive. The FTC's *ad hoc* working group of senior trade officials initiated work on enhancing the working relationship between the FTC and the CEC across relevant North American trade and environment issues. The CEC also continued its work on these issues through the implementation of its 2010 Operating Plan. (*For additional information, see Chapter IV.A.*)

In November 1993, Mexico and the United States agreed on arrangements to help border communities with environmental infrastructure projects in furtherance of the goals of the NAFTA and the North American Agreement on Environmental Cooperation. The Border Environment Cooperation Commission (BECC) and the North American Development Bank (NADB) are working with 149 communities throughout the United States-Mexico border region to address their environmental infrastructure needs. As of September 30, 2009, the NADB had contracted a total of \$1.03 billion in loans and/or grant resources to partially finance 130 infrastructure projects certified by the BECC with an estimated cost of \$2.86 billion.

9. Oman

The United States-Oman FTA, which entered into force on January 1, 2009, complements existing FTAs to promote economic reform and openness in this region. Implementation of the obligations contained in the comprehensive agreement will generate export opportunities for U.S. goods and services providers, solidify Oman's trade and investment liberalization, and strengthen intellectual property rights protection and enforcement.

The central oversight body for the FTA is the United States-Oman Joint Committee (JC), chaired jointly by the Office of the U.S. Trade Representative and Oman's Ministry of Commerce and Industry. The first meeting of the JC was held on February 7, 2010. During this meeting, officials discussed a broad range of trade issues. In particular, they discussed efforts to ensure effective implementation of the customs, investment and services chapters of the FTA, trade initiatives by the Gulf Cooperation Council (of which Oman is a member), and increased cooperation on initiatives in the World Trade Organization. In addition, the two governments discussed initiatives to monitor implementation and compliance with the labor and environmental obligations in the FTA and additional cooperative efforts related to labor rights and environmental protection.

As part of ongoing labor cooperation and capacity building activities, the U.S. Department of Labor is funding a project implemented by the International Labor Organization to increase the effectiveness of labor inspections by Oman's Ministry of Manpower. On February 15, 2010, the General Federation of Oman Trade Unions held its founding congress with over 50 participating unions. Establishment of the federation and the unions is a result of statutory and administrative changes made by Oman, including those surrounding implementation of the FTA, and longstanding cooperative efforts between Oman and

the International Labor Organization. During 2011, the U.S. and Omani governments will continue discussions between their labor experts to ensure effective implementation, monitoring, and compliance with FTA obligations. In addition, the two governments will continue taking steps to formally establish a Subcommittee on Labor under the Joint Committee of the FTA. On environment, the two governments will continue discussions on transparency and public participation during 2011, building on past successful cooperation in the areas of wildlife and natural resource management.

10. Peru

a. Overview

The United States and Peru signed the United States-Peru Trade Promotion Agreement (PTPA) on April 12, 2006. The Peruvian Congress ratified the Agreement in June 2006 and a Protocol of Amendment in June 2007. On December 14, 2007, the United States-Peru Trade Promotion Agreement Implementation Act became law, and the PTPA entered into force on February 1, 2009.

The United States' two-way trade with Peru was \$11.9 billion in 2010, with U.S. goods exports to Peru totaling \$6.8 billion.

The PTPA eliminates tariffs and removes barriers to U.S. services, provides a secure, predictable legal framework for investors, and strengthens protection for intellectual property, workers, and the environment. The PTPA is the first agreement in force that incorporates groundbreaking provisions concerning the protection of the environment and labor rights that were included as part of the Bipartisan Agreement on Trade Policy developed by Congressional leaders on May 10, 2007.

b. Elements of the PTPA

i. Operation of the Agreement

The PTPA's central oversight body is the U.S.-Peru Free Trade Commission (FTC), comprised of the U.S. Trade Representative and the Peruvian Minister of Foreign Trade and Tourism or their designees. The FTC is responsible for overseeing implementation and elaboration of the PTPA. The FTC was convened on February 18, 2010. At the FTC meeting, officials discussed bilateral trade and investment and economic issues of mutual interest, as well as the administration of the PTPA. Both governments acknowledged the progress over the last year to implement the commitments under the agreement, and discussed a plan to effectively monitor implementation of, and compliance with, environmental and labor obligations. Officials also discussed commitments under the Intellectual Property Rights chapter of the agreement. Additionally, officials discussed the importance of the PTPA to small and medium-sized enterprises (SMEs) in both Parties' economies and established a working group to develop ideas on how to further enhance the ability of SMEs to capitalize on the benefits of the PTPA. The Commission agreed to hold the second meeting of the FTC in Peru in 2011.

ii. Labor

The Parties have continued to engage to ensure effective implementation of labor obligations under the PTPA labor chapter. In January 2010, the Parties convened the first meeting of the Labor Affairs Council (LAC) in Lima, Peru, which included a session with representatives from worker and employer organizations and the general public. This body is responsible for overseeing the implementation and progress of the labor chapter of the PTPA. In follow-up to the LAC, the Parties continued to review progress throughout the year on the implementation of the PTPA's labor provisions and discussed the

development and implementation of capacity building activities. To address concerns about court delays of labor cases, Peru passed the Labor Procedure Law, which went into effect in June 2010. The Law requires oral proceedings and sets procedural deadlines intended to conclude proceedings with respect to labor cases within six months. With trade capacity building funds, USAID is implementing programs to improve the enforcement capacity of the Peruvian Ministry of Labor and to strengthen worker organizations and educate workers on their labor rights.

iii. Environment

The Parties have continued their work to ensure the proper implementation of environmental obligations under the PTPA Environment Chapter and the Annex on Forest Sector Governance. Under the PTPA, Peru had an additional 18 months from entry into force of the agreement to implement some of the obligations under the Forest Sector Annex. Since ratification of the PTPA in December 2007, Peru has made changes to its legal and regulatory regimes to implement its environmental obligations. For example, with extensive participation from the United States, Peru amended its Criminal Code to increase penalties for forest, wildlife, and environmental crimes. Peru also created a Ministry of Environment and a separate, independent entity to supervise forestry resources (OSINFOR).

On February 11, 2010, the United States and Peru convened the first meeting of the Environmental Affairs Council (EAC). At the EAC meeting, officials discussed implementation of the PTPA's Environment Chapter and Annex on Forest Sector Governance, and how to ensure proper monitoring of implementation of, and compliance with, the Chapter and Annex obligations. Both governments acknowledged the progress and collaborative work that has taken place since entry into force of the PTPA. Representatives of the U.S. Trade and Environment Policy Advisory Committee participated in the meeting to discuss the role and functioning of the committee and to exchange views on improving transparency, public participation, and public knowledge of trade and environmental policy issues.

On September 8, 2010, the two governments convened the second meeting of the U.S.-Peru Forest Sector Sub-Committee in Lima, Peru. The Sub-Committee was established under the PTPA's Annex on Forest Sector Governance as a specific forum for the Parties to exchange views and share information on any matter arising under the Annex. The Parties agreed to continue working together to ensure that Peru completes the necessary steps to fully implement its obligations under the Annex. Additionally, the Sub-Committee held a public session for civil society and other stakeholders. This session provided stakeholders with an opportunity to raise concerns, suggest items to be addressed in future meetings, and provide advice on issues related to implementation of the Annex.

iv. Trade Capacity Building

The Committee on Trade Capacity Building held its first meeting in March 2009 in Lima, Peru. This Committee is charged with seeking the prioritization and coordination of assistance to support effective implementation of the PTPA and to adjust to more liberalized trade. To this end, Peru presented a preliminary national trade capacity building strategy to address these objectives, highlighting areas such as telecommunications, intellectual property and agricultural standards. USAID is working closely with Peruvian counterparts to design activities that respond directly to these objectives. To that end, USAID launched a trade capacity building project (TCBP) in July 2010 that will work with several Peruvian ministries and agencies to assist with the implementation of the PTPA and facilitate trade across a wide range of sectors.

11. Singapore

The United States-Singapore Free Trade Agreement has been in force since January 1, 2004. Two-way goods trade with Singapore totaled \$46.8 billion in 2010, up 48 percent from 2003 (the year before the FTA's entry into force). U.S. goods exports were \$29.2 billion, up 76 percent from 2003, and U.S. goods imports were \$17.6 billion, up 16 percent from 2003. The United States had a \$11.7 billion trade surplus in goods in 2010 and \$5.5 billion trade surplus in services in 2009 (latest data available) with Singapore.

The United States and Singapore held the sixth annual FTA review in October 2010 to assess implementation of the agreement. The two governments agreed that implementation remains on track and discussed ways to deepen the bilateral relationship. During the review, the two sides discussed a range of issues covered by the FTA, including trade in textiles and apparel, restrictions on imports of U.S. beef, registration criteria for private education services providers, protection of intellectual property rights and new requirements for pay television companies to cross-carry content from competing providers.

The two sides also discussed the implementation of the environment chapter and environmental cooperation efforts. This year was particularly productive, with the May Biennial review involving discussions of bilateral activities on water resources management and reuse, air pollution abatement, maritime pollution, nuclear energy, regional conservation of endangered species and the promotion of trade in legally harvested timber products. This forum allowed environmental experts to hold more in-depth discussions of environmental issues, which were later summarized during the annual FTA review. The United States and Singapore agreed to continue exchanging information on each country's implementation efforts and improved methods of monitoring its own compliance with the obligations of the environment chapter.

The FTA review also provided an opportunity to discuss labor issues and areas of ongoing labor cooperation. During the year, labor officials from both governments met to develop cooperative efforts in areas where Singapore's Ministry of Labor has expressed an interest. These include studying the U.S. system for mediating collective bargaining disputes and improving labor-management relations, as well as promoting work-life balance and flexible work arrangements. The two sides agreed to arrange meetings to pursue labor cooperation in these areas as well as a possible study tour in the United States for Singapore labor officials in 2011.

B. Other Bilateral and Regional Initiatives

1. The Americas

The United States continues to implement, enforce, and benefit from four free trade agreements (FTAs) with the following countries in the Americas: Canada and Mexico under the North American Free Trade Agreement (NAFTA); Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua under the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR); Chile; and Peru. Highlights of USTR's FTA-focused activity in this region during 2010 included: a successful Free Trade Commission meeting under the United States-Peru Trade Promotion Agreement; a successful CAFTA-DR Vice Ministerial meeting in preparation for the first Free Trade Commission meeting planned for early 2011; and other ongoing efforts to manage implementation issues with our FTA partners. During 2010, USTR placed additional emphasis on implementation of the labor and environment commitments under these FTAs. (*Further details on USTR's implementation and enforcement activities associated with these FTAs can be found in Chapter III. A.*)

During 2010, the U.S. Government worked to address concerns relating to our pending FTAs with Colombia and Panama. These agreements have been signed, but the U.S. Congress has not yet considered legislation approving and implementing these agreements. In the case of Colombia, the Administration worked to identify what further steps Colombia's government needs to take to ensure that workers' fundamental labor rights are protected in law and practice. USTR has been analyzing information it has received from public comments on the Colombia FTA, a fact-finding trip to Colombia, and discussions with stakeholders, the Colombian government, and the U.S. Congress. In the case of Panama, the Administration worked with Panama's government to address concerns relating to certain aspects of Panama's labor regime and its tax transparency rules. Panama implemented several labor reforms in 2010, and the Administration is working with the Panamanian government to implement additional labor reforms. With respect to tax transparency, on November 30, 2010, Panama entered into a Tax Information Exchange Agreement, which, once ratified by Panama's legislature, will provide the United States with access to information from Panama needed to enforce U.S. tax laws.

a. Trade and Investment Framework Agreements and other Bilateral Trade Mechanisms

USTR-chaired meetings under Trade and Investment Framework Agreements (TIFAs), Joint Committees on Trade and Investment (JCTIs), and Bilateral Consultative Mechanisms (BCMs) with non-FTA partners in the Americas continue to provide effective means of discussing market opening opportunities, including improved access for small and medium-sized businesses, and resolving trade issues with those governments. USTR met with four trading partners in the region in TIFA/JCTI/BCM meetings during 2010, and made progress toward solving outstanding trade problems and creating more comprehensive trade policy dialogues. Highlights included:

- At a November 19, 2010 meeting of the Bilateral Consultative Mechanism in Washington D.C., the United States discussed with the government of Brazil a number of bilateral and multilateral issues of mutual interest, including trade facilitation, technical barriers to trade, intellectual property protection, and investment issues. In addition, both sides advanced technical discussions of a proposal to deepen the bilateral trade and investment relationship framework, building upon an initiative discussed by Ambassador Ron Kirk and Brazilian Minister of Foreign Relations Celso Amorim in September 2009.
- At an October 19, 2010 Uruguay-United States Trade and Investment Committee meeting in Montevideo, the United States exchanged ideas with the government of Uruguay on a variety of bilateral economic topics, including intellectual property protection, competitiveness, small and medium-sized enterprises, labor, and continued implementation of two TIFA protocols on trade facilitation and public participation in trade and environment.
- The United States exchanged ideas with the government of Paraguay on a number of bilateral issues of mutual interest at an October 21, 2010 United States-Paraguay Joint Commission on Trade and Investment meeting in Asuncion. The United States and Paraguay discussed ongoing work under a bilateral Memorandum of Understanding (MOU) on intellectual property rights issues which enumerates Paraguayan commitments to implement institutional and legal reforms and to strengthen intellectual property rights enforcement and prosecution. The current MOU will remain in effect through the end of 2011. Both sides also discussed joint work in creating opportunities for small and medium-sized enterprises in the United States and Paraguay.

- In April 2010, the United States and Argentina met in Washington, D.C. under the auspices of the United States-Argentina Bilateral Council on Trade and Investment to discuss ways to advance reciprocal trade and investment interests.
- On May 7, 2010, Ambassador Miriam Sapiro represented the United States at a meeting of the NAFTA deputies. Hosted by Canada's Department of Foreign Affairs and International Trade Deputy Minister Louis Levesque in Toronto, the meeting reviewed the operation of NAFTA over the prior year and set out an agenda for future work.

b. Other Priority Work

The United States continued its engagement with other countries in the region aimed at fostering bilateral trade relations and resolving trade problems during 2010. Highlights of USTR's other priority activities in the region include:

- Mexico is the United States' second largest goods export market and was a strong source of U.S. export growth in 2010. Goods exports grew by over 27 percent, an all-time export record for the year.
- Mexico remains one of the most important markets for U.S. agricultural products. Through the first 11 months of 2010, U.S. agricultural exports rose 12 percent over the same period in 2009, ranking Mexico as the U.S.'s third largest agricultural export market. In 2010, the United States received improved access for U.S. apple and beef exports, as Mexico ended antidumping duties on both products. Mexico also began investigations of imports of pistachios from non-U.S. suppliers to determine origin and value was being properly declared. In addition, the United States continues to monitor Mexico's use of sanitary and phytosanitary measures to ensure that they are not applied in a way that would improperly impede U.S. exports.
- Ambassador Ron Kirk traveled to Mexico several times during 2010. In January, he represented the President at a ceremony commemorating the opening of the Anzalduas International Bridge in Reynosa, Mexico. The bridge connects the cities of McAllen, Texas, and Reynosa, Mexico. This is the first LEED-certified green land port of entry on the southern border and the first new land port of entry on the southern border in 10 years.
- Ambassador Kirk returned to Mexico in February 2010 to meet with Mexican government officials, business leaders, and business owners. During these meetings, Ambassador Kirk discussed such topics as bilateral trade, agriculture, labor, the environment, and transportation. Ambassador Kirk also toured the facilities of U.S. firms and participated in a roundtable, hosted by the American Chamber of Commerce, with small and medium-sized business owners who are exporting to Mexico.
- In May 2010, President Obama and Mexican President Calderón agreed to create a High-Level Regulatory Cooperation Council (HLRCC), which would work to "increase regulatory transparency; provide early warning of regulations with potential bilateral effects; strengthen the analytic basis of regulations; and help make regulations more compatible." The first meeting was held in September 2010, and work is currently underway to identify promising sectors for cooperation. In addition, the United States and Mexico have met with Canada regarding its participation.

- In February 2010, the United States and Canada signed an agreement on government procurement. This agreement provides for the United States' permanent access to Canadian provincial and territorial procurement contracts in accordance with the World Trade Organization (WTO) Government Procurement Agreement (GPA). In addition, the agreement enables American companies to compete through September 2011 for Canadian provincial and municipal construction contracts not covered by the GPA. The United States agreed to provide reciprocal access for Canadian companies to 37 states already covered by the GPA and a limited number of American Reinvestment and Recovery Act programs. These provisions strengthen an already robust U.S.-Canadian trade relationship.
- On July 22 and 23, 2010, Ambassador Kirk made his first visit to Canada as the United States Trade Representative, traveling to Ottawa and Toronto to meet with government officials and business people, including a roundtable with the American Chamber of Commerce and Canadian business leaders and a keynote speech at an event hosted by the Toronto Board of Trade business leaders. Canada is the United States' largest trading partner and export market. Exports to Canada in 2010 grew by \$46 billion, larger than the growth to China, Japan, the United Kingdom and Germany combined.
- In July 2010, the government of Canada passed legislation allowing Canada to impose an additional 10 percent export charge on all softwood products from Manitoba, Saskatchewan, Quebec, and Ontario that were subject to a section 301 action imposed by the United States in April 2009. This export charge stems from a London Court of International Arbitration Tribunal Award under the Softwood Lumber Agreement. The United States and Canada reached an understanding that the United States would cease collections of this duty on September 1, 2010 and that Canada would begin collecting the monies as an export charge until CDN \$68.26 million is collected.
- As a result of the 1998 U.S.-Canada Record of Understanding on Agricultural Matters, the United States-Canada Consultative Committee on Agriculture (CCA) and the Province/State Advisory Group were formed in 1999 to strengthen bilateral agricultural trade relations and to facilitate discussion and cooperation on matters related to agriculture. The CCA met in June and December 2010 to discuss issues concerning trade in livestock, fruits, vegetables, seeds, plants, and biotechnology as well as to reinforce the close working relationship between the two governments and their respective agricultural sectors.
- USTR prepared reports to the U.S. Congress on the implementation of the Hemispheric Opportunity through Partnership Encouragement Act of 2008 (the HOPE II Act) and the operation of the Andean Trade Preference Act. In the wake of Haiti's January 12, 2010 earthquake, USTR launched an effort with the U.S. textiles and apparel industry to help Haiti recover, and worked with the U.S. Congress to secure the passage in May 2010 of legislation expanding trade preferences for Haiti. (*For additional information, see Chapter V.B.8.*)
- Costa Rica issued new regulations in March 2010 to provide data protection for agrochemical products and implemented technical corrections in April to its IPR legislation with respect to performance rights to comply with its CAFTA-DR commitments. The new regulations and legislative amendments were designed to fulfill IPR commitments made by Costa Rica in a December 2008 exchange of letters with the United States in conjunction with its entry into force of the CAFTA-DR. In response, in June 2010, President Obama issued a proclamation granting Costa Rica's CAFTA-DR sugar quota for 2010 and beyond.

- Facing USTR scrutiny under the U.S. Telecommunications Barriers 1377 Report and in bilateral discussions, El Salvador reported in June 2010 that it had modified its telecommunications tax practices governing taxes charged to terminate international calls. U.S. telecommunications providers are now granted the same treatment granted to other Central American providers.
- In June 2010, the United States and Brazil agreed on a Framework regarding the WTO cotton dispute, which averted the imposition of countermeasures of more than \$800 million this year. *(For additional information, see Chapter II.H.b.)*

2. Europe and the Middle East

USTR's Office of Europe and the Middle East coordinates policy towards, and manages bilateral trade relations with, the European Union (EU) and its 27 Member States, non-EU European countries, Russia and its neighbors, the Middle East, and North Africa. Ongoing priorities include: strengthening U.S.-EU trade relations to promote shared interests while addressing chronic and emerging EU barriers to U.S. exports; developing stronger trade and investment relations in the Middle East and North Africa to advance U.S. trade and commercial policy objectives, including through the implementation of free trade agreements (FTAs); integrating Russia and other countries in the region into the global trade community through completing negotiations for membership in the WTO; and working with countries in the region to resolve trade concerns, expand trade and investment opportunities, and foster commercial and trade policies grounded in the rule of law.

a. Ensuring Free Trade Agreements Work for American Workers, Farmers, and Businesses

During 2010, the United States continued efforts to ensure implementation of the provisions of U.S. FTAs in the region with Bahrain, Israel, Jordan, Morocco, and Oman and to enforce U.S. rights under those agreements so that U.S. businesses, farmers, and workers reap their benefits. A successful first FTA Joint Committee meeting with Oman was held. In addition, the United States had regular contact with other FTA partner governments in the region to address implementation issues or discuss a variety of trade and investment questions. USTR also devoted special attention in 2010 to implementing the obligations in the labor and environment chapters of the U.S. FTAs with partners in the Middle East and North Africa. *(For additional information, see Chapter III.A.)*

b. Managing and Deepening U.S.-EU Trade Relations

The U.S. economic relationship with the EU is the largest and most complex economic relationship in the world. Transatlantic trade flows (goods and services trade plus earnings/payments on investment) average more than \$3.5 billion each day. The total stock of transatlantic investment exceeds \$3 trillion. This enormous amount of trade and investment promotes prosperity in the United States and Europe.

In 2010, USTR and other agencies interacted extensively with counterparts in the major EU governing institutions (the European Commission, the European Parliament, and the European Council) and with EU Member State governments on key issues for U.S. workers, farmers, and businesses, such as EU restrictions on U.S. agricultural exports, the protection of intellectual property rights (IPR), and the WTO Doha Round.

Principal areas of U.S.-EU trade policy engagement during 2010 included:

- *Environmental Regulations:* USTR continued monitoring the implementation of EU environmental regulations that affect U.S. firms, including the EU's regulation on the Registration, Evaluation,

Authorization, and Restriction of Chemicals (REACH) and the EU directive on the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment (RoHS).

- *Intellectual Property*: USTR engaged the EU on several important intellectual property rights (IPR) issues during 2010, including identifying shared goals and strategies for promoting improved IPR protection in key third country markets and successfully overcoming U.S.-EU differences on provisions of the Anti-Counterfeiting Trade Agreement, which led to completion of negotiations on that Agreement. Bilateral engagement with EU Member State governments resulted in the removal of three Eastern European countries from the Special 301 Watch List: Poland; Hungary; and the Czech Republic.
- *Science-Based Regulation*: USTR led continued engagement with the EU over regulations restricting imports of several major U.S. food and agricultural products. Several of the problematic regulations, which resulted in restrictions on the importation and marketing of U.S. poultry and agricultural biotechnology products, were the focus of enforcement efforts under WTO dispute settlement procedures that will continue into 2011. USTR also engaged European Commission, European Parliament, and EU Member State officials in discussions aimed at avoiding divergent approaches to the regulation of food products derived from livestock cloning. (*For additional information, see Chapter V.A.*)
- *Joint Efforts in Key Third Country Markets*: The United States and the EU collaborated during 2010 on the development and implementation of joint strategies to address market access and other trade-related problems of common concern in major emerging markets and other countries, including China, Russia, Japan, and Ukraine.
- *Transatlantic Economic Council (TEC)*: Under the TEC umbrella, USTR and other agencies collaborated with the EU during 2010 on several initiatives, including: efforts to promote regulatory cooperation aimed at reducing non-tariff barriers (NTBs); joint efforts to increase the pace and quality of industrial and technological innovation; the development of a work plan on trade and other policy issues influencing access to industrial raw materials; trade-related principles to promote the development of information and communication technology services; and joint strategies to address market access and other problems of common concern in major emerging market countries. During its December 17, 2010 meeting, the TEC reviewed progress on these initiatives and launched several regulatory cooperation initiatives that have the potential to reduce NTBs or preempt future ones. The TEC agreed to identify emerging technologies or sectors in which the United States and the EU could implement compatible regulatory approaches, avoiding unnecessary regulatory obstacles to exports. The U.S. and EU will also seek agreement on joint principles and best practices for the development of regulations and jointly develop improvements in each side's use of standards in regulation.
- *Bananas*: In December 2009, the United States finalized negotiations with the EU on an agreement designed to lead to the settlement of a longstanding WTO dispute over the EU's discriminatory bananas trading regime. Final settlement of the banana disputes will require the completion by the parties to this agreement – as well as by the parties to the complementary agreement signed by the EU and several Latin American banana-supplying countries – of certain ratification steps begun in 2010, and WTO certification of the EU's new tariffs on bananas. (*For additional information, see Chapter V.A.*)

c. Recent Successes and New Challenges in the United States-Russia Trade Relationship

During 2010, the United States worked to strengthen the trade relationship with Russia, consistent with the general improvement in the U.S.-Russia bilateral relationship. USTR engaged with its counterparts in the Russian government to enhance conditions for increased bilateral trade and investment. USTR worked to advance the full implementation of several bilateral agreements, dating from November 2006, covering such areas as the inspection of meat processing facilities, protection of intellectual property rights, and import licensing for products with cryptographic capabilities. USTR also contested protectionist measures introduced by Russia's government, such as unjustified sanitary and phytosanitary restrictions, more restrictive tariff-rate quotas, and higher tariffs.

On January 1, 2010, Russia, Kazakhstan, and Belarus created a customs union and aligned their external tariffs and many of the rules and procedures governing trade in goods. As a result, USTR and other agencies focused significant effort during 2010 on understanding and interpreting the implications of the new customs union for the U.S. trade relationship with Russia and the other customs union parties.

The United States continued to raise concerns about Russia's inadequate protection of intellectual property rights, both in the context of Russia's WTO accession negotiations and under the rubric of the bilateral working group established under the 2006 agreement between the Government of the United States of America and the Government of the Russian Federation on Protection and Enforcement of Intellectual Property Rights. In addition, USTR officials participated in meetings of various working groups established under the U.S.-Russia Bilateral Presidential Commission.

In 2010, the United States worked to advance Russia's efforts to join the WTO. Following the U.S. and Russian Presidents' instructions at the close of their Summit meeting in June 2010, the negotiating teams worked to resolve the significant outstanding bilateral issues concerning Russia's WTO accession. For example, agreement was reached on commitments Russia will reflect in the final terms of its WTO accession in such areas as intellectual property rights, government procurement, subsidy disciplines, transparency, and tariff administration. This step provided significant impetus to the WTO accession process. *(For additional information, see Chapter II.K.6.)*

d. Enhancing the Trade and Investment Dialogue with Turkey

U.S. bilateral economic ties with Turkey have grown steadily over the last 15 years. However, there is additional room for growth in trade given Turkey's continuing development as a market, as well as its emerging role as a regional business hub. Recognizing Turkey's importance as a trading partner, USTR and the U.S. Department of Commerce co-chair U.S. Government participation in a new forum for engagement on economic and trade issues: the Framework for Strategic Economic and Commercial Cooperation (Framework). The Framework aims to reduce barriers to bilateral trade and investment, create opportunities for U.S. workers, farmers, and firms, and otherwise enhance bilateral economic cooperation. The first formal ministerial level meeting of the Framework co-chairs occurred in October 2010. Both sides noted progress toward resolving certain issues and committed to seeking practical ways to reduce or eliminate barriers to bilateral trade and investment in the months ahead.

e. Furthering U.S. Trade Policy Goals through Trade and Investment Agreements

Trade and Investment Framework Agreements (TIFAs), Trade and Investment Cooperation Agreements (TICAs), and Trade and Investment Cooperation Forums provide an effective structure for addressing and resolving bilateral trade problems in countries in Europe, the Middle East, and North Africa. Currently, 13 such agreements are in force throughout the region. In 2010, USTR led several bilateral meetings

under these various frameworks, achieving notable progress toward solving outstanding trade issues and fostering effective trade dialogues with partner countries. Key achievements in 2010 included:

- *Saudi Arabia:* Saudi Arabia undertook significant efforts to strengthen its IPR enforcement regime.
- *Ukraine:* The United States and Ukraine agreed on an Action Plan to improve Ukraine's protection of IPR.

f. Other Priority Trade Activities

FTAs and other trade and investment agreements provide the context for U.S. trade and investment policy in Europe, the Middle East, and North Africa. However, the United States also engages with key countries and regions outside of these established frameworks to promote enhanced trade and investment ties, increased U.S. exports, the development of intraregional economic ties, and WTO accession for economies in the region seeking to join the Organization. (*For additional information, see Chapter II.K.6.*) Notable activities in 2010 included:

- *Egypt:* The United States successfully launched a new Strategic Partnership for trade and investment issues with Egypt. Under the new Partnership, the two sides initiated discussions that will continue during 2011 on a range of issues of mutual interest, such as customs, standards, IPR, labor, investment, and the environment.
- *Gulf Cooperation Council (GCC) Countries:* The United States has maintained its engagement with the GCC and its six member states as the GCC continues to develop and harmonize standards, import regulations, and conformity assessment systems affecting U.S. trade.
- *Georgia:* The United States sought to strengthen trade relations with Georgia in 2010 through the Strategic Dialogue and other mechanisms.
- *Southeastern Europe:* In 2010, the United States continued to engage the countries of this region on a variety of trade issues, including WTO accession, the U.S. GSP program, IPR protection, and other bilateral trade issues.

3. Japan, Korea, and the Asia-Pacific Economic Cooperation Forum

a. Japan

United States-Japan Trade Relations

The United States continued to engage Japan on a broad array of trade and trade-related issues throughout 2010, with the goal of expanding access to and opportunities in Japan's market. In late 2010, the United States and Japan agreed to launch the U.S.-Japan Economic Harmonization Initiative as a new, regular forum for bilateral engagement on trade and economic issues. The Initiative aims to contribute to economic growth through steps to harmonize regulatory and other approaches that help facilitate trade, address individual trade and business environment-related issues, and promote closer coordination on issues of common interest in the Asia-Pacific region. This Initiative also complements the ongoing work of the U.S.-Japan Trade Forum. The United States additionally held Insurance Consultations with Japan

on October 1, 2010, which remains a key venue for addressing market access and level playing field concerns in the insurance sector.

The United States welcomed a range of measures taken by Japan during 2010 that help improve access by Japanese consumers to U.S. products and services. These include steps taken by Japan to approve more food additives that are already widely accepted around the globe as well as the introduction of an important new reimbursement system for innovative pharmaceuticals. The United States continued to express concern over an array of specific measures, including those related to regulatory transparency and various sanitary and phytosanitary (SPS) issues. The United States furthermore urged full resolution of longstanding bilateral irritants, including restricted access for U.S. beef, lack of a level playing field between Japan Post and private companies in the banking, insurance, and express delivery sectors, and measures limiting access for U.S. automobiles.

The United States and Japan agreed in late 2010 to begin bilateral consultations related to Japan's interest in the Trans-Pacific Partnership (TPP) process, as Japan considers whether it will formally seek TPP membership.

The United States and Japan also cooperated to conclude plurilateral negotiations for the Anti-Counterfeiting Trade Agreement (ACTA), closely coordinated throughout Japan's 2010 host year to advance our shared objectives to strengthen and deepen regional economic integration by removing barriers to trade and investment in the Asia-Pacific region through the Asia-Pacific Economic Cooperation (APEC) forum, and worked together bilaterally to address common concerns over restrictive trade measures implemented by third countries

b. Republic of Korea

U.S.-Korea Trade Agreement

On December 3, 2010, the United States and the Republic of Korea reached agreement on a landmark trade deal that resolved outstanding issues related to the United States-Korea (KORUS) trade agreement. After approval and implementation, the KORUS trade agreement will provide preferential access for U.S. businesses, farmers, ranchers, services providers, and workers to the United States' seventh largest export market, help solidify the two countries' long-standing alliance, and underscore the U.S. commitment to and engagement in the Asia-Pacific region. The KORUS trade agreement is expected to increase annual exports of American goods by up to \$11 billion. It will eliminate tariffs on over 95 percent of industrial and consumer goods within five years. In addition, duties on nearly two-thirds of U.S. agricultural exports to Korea will be eliminated immediately. The new agreements comprising the December 3, 2010 deal will level the playing field and enhance market access for U.S. automobile companies and workers by addressing the ways Korea's system of automotive safety standards and proposed Korean environmental standards could serve as barriers to U.S. exports. The agreements followed months of close consultations with the U.S. Congress and U.S. stakeholders to identify the most effective approaches for dealing with the outstanding concerns.

United States – Korea Trade Relations

In addition to USTR's regular contact with counterparts in the Korean government, formally scheduled bilateral trade consultation meetings are held between the two governments to address potential bilateral trade issues as they emerge. These bilateral trade consultation meetings, led by USTR with participation from the full range of U.S. international economic agencies, serve as the primary forum for discussing and resolving trade-related issues and are augmented by a broad range of senior level policy discussions.

In 2010, bilateral trade consultations were held on two occasions, in May and September. The following issues were among the bilateral issues addressed in 2010:

- In June 2010, Korea amended its regulations to allow U.S. and other foreign manufacturers to use test results from foreign laboratories when submitting a complaint to the Korean Energy Management Corporation challenging the energy-efficiency claims of a competitor's product. These changes addressed longstanding concerns of stakeholders in the U.S. appliance manufacturing industry.
- In August 2010, Korea extended until December 31, 2012 the grace period for the requirement that imported processed organic products be certified by a certifier accredited by Korea's Ministry of Agriculture. This requirement had previously raised concerns from the U.S. organic industry due to added costs, logistical difficulties related to individual ingredient certification, and a zero-tolerance policy with respect to biotechnology presence in the products. During the additional time granted, the United States and Korea will work together to develop an equivalence agreement which would enable U.S. organic products certified by the U.S. Department of Agriculture's National Organic Program to enter the Korean market without having to be recertified under Korea's new system.
- In July 2010, Korea's Ministry of Health and Welfare (MOHW) made a decision to exclude patented and patent-expired drugs from its "Rearrangement of Already Listed Drugs" project. Previously, under the Rearrangement Project, drugs listed on Korea's National Health Insurance reimbursement list were re-evaluated for pharmacoeconomic value and received price reductions. Concerns had been raised by the U.S. industry that the Rearrangement Project did not properly take into account the value of innovation or previous price reductions on the same product. MOHW's decision to exclude innovative drugs signaled the Korean government's willingness to accord proper value to innovation and encourage greater research and development for its pharmaceutical industry.

In addition, since Korea reopened its market to imports of U.S. beef in June 2008, it has provided reliable market access for U.S. beef and beef products. From January through November 2010, U.S. exports of beef and beef products to Korea have reached nearly \$470 million, making Korea the fourth largest U.S. beef export market.

The United States and Korea also cooperated extensively in a wide range of multilateral fora to advance open markets. Korea was a strong partner of the United States in the WTO Non-Agricultural Market Access (NAMA) negotiations, supporting the push for ambitious liberalization. Korea has been an active participant in efforts to strengthen international IPR enforcement by joining the United States and others in negotiating the Anti-Counterfeiting Trade Agreement (ACTA). In APEC, the two countries worked together closely on a variety of initiatives to strengthen regional economic integration in the Asia-Pacific, including on work to promote trade in cross-border services and providing training and technical assistance to economies to increase their capacity to engage in negotiations on next generation trade and investment issues in regional and bilateral trade agreements.

c. APEC

Overview

Since it was founded in 1989, the Asia-Pacific Economic Cooperation (APEC) forum has been instrumental in promoting regional and global trade and investment. It has provided a forum for APEC

Leaders to meet annually since 1993, beginning at Blake Island in the United States. The United States will host APEC in 2011, which will provide the United States with a unique opportunity to reduce barriers to U.S. exports and more closely link our economy with the dynamic Asia-Pacific region.

In 2009, the 21 APEC member economies collectively accounted for 43 percent of world trade and 55 percent of global GDP. In 2010, U.S.-APEC total trade in goods was \$2 trillion and total trade in services was \$278 billion in 2009 (latest data available). The significant volume in U.S. trade in the Asia-Pacific region underscores the importance of the region as a market for U.S. exports. The critical role APEC continues to play in promoting trade and investment liberalization and facilitation in the region helps U.S. exporters by addressing barriers that impact their ability to trade in the region. Under Japan's strong leadership as host economy, the outcomes generated by APEC in 2010 provide the foundation for a robust agenda that will lead to practical, concrete, and ambitious outcomes in 2011 when the United States hosts APEC.

2010 Activities

Supporting the Multilateral Trading System and Resisting Protectionism: In 2010, APEC Leaders and Ministers provided strong statements of support for an ambitious and balanced conclusion to the WTO Doha Round negotiations. They also agreed to endorse the progress made by negotiating groups in Geneva and to take steps to direct and empower representatives in Geneva and Senior Officials with the necessary flexibilities to further engage in active and substantive negotiations in all the appropriate fora and configurations. Leaders and Ministers also reaffirmed their commitment to keep markets open and avoid all forms of protectionism, as well as their commitment to refrain from raising new barriers to trade and investment through the end of 2013.

Taking Concrete Steps to Advance a Free Trade Area of the Asia Pacific by Addressing Barriers to Trade and Investment: Strengthening economic integration in the Asia-Pacific region remains the top U.S. trade priority in APEC. To that end, in 2010, APEC Leaders agreed to take more concrete steps towards achieving a free trade area of the Asia-Pacific (FTAAP) as a comprehensive, region-wide agreement that will be developed through existing regional agreements like the Trans-Pacific Partnership. Leaders also agreed that APEC will make an important and meaningful contribution to achieving an FTAAP by defining, shaping, and addressing the next generation trade and investment issues that an FTAAP should contain.

Regulatory Cooperation and Convergence: The United States and its APEC partners established an annual process under which regulators and trade officials will cooperate on emerging regulatory issues as a way to prevent technical barriers to trade.

Environmental Goods and Services: To advance the APEC work program on Environmental Goods and Services (EGS), the United States and its APEC partners launched a series of case studies on developing economy EGS markets to demonstrate to these economies the value of engaging seriously in work to eliminate barriers to trade and investment in EGS – both in the WTO and in APEC.

Making It Cheaper, Easier, and Faster to Trade in the Region: The United States, working with other APEC economies, undertook a number of initiatives in 2010 to make it cheaper, easier, and faster to trade in the Asia-Pacific region. APEC economies agreed to reduce the time, cost, and uncertainty of moving goods throughout the region by 10 percent by 2015 through specific actions to improve the performance of supply chains. To increase certainty and predictability of shipping goods in the region, Ministers endorsed the APEC Guidelines for Advance Rulings and a capacity building work program to help economies implement advance rulings in their customs systems, which enable importers to get decisions from customs authorities on tariff classification, origin, and valuation before goods arrive at the port of

entry. APEC also continued its work to make it easier for businesses to take advantage of trade agreements in the region by urging additional economies to adopt self certification of rules of origin (ROOs) approaches. To facilitate trade by increasing transparency, APEC economies provided information on tariffs and ROOs in English, online and at an easily linked to a central APEC web site. Additionally, APEC committed to: continue to work to reduce trademark counterfeiting and copyright piracy, including on the Internet; improve patent cooperation; and increase information sharing between intellectual property authorities and stakeholders.

Food Security and Food Safety: APEC held its first Ministerial Meeting on Food Security to improve regional and global food security. In support of this goal, APEC established the Action Plan on Food Security with programs in sustainable development and trade and investment facilitation. The United States and its APEC partners agreed on a roadmap of actions to expand the use of international standards and best practices for food safety through network development, training and capacity building programs. In support of this initiative, APEC established partnerships with industry, academia, and international organizations, such as the World Bank.

Industry Dialogues: APEC interacts directly with the business community in its three industry dialogues: the Automotive Dialogue; the Chemical Dialogue; and the Life Sciences Innovation Forum. The APEC Automotive Dialogue addressed the challenges to the automotive industry in the midst of the global downturn that continues to affect the region's automobiles and automotive parts producers. It also updated its 2005 recommendations on rules of origin methodologies and focused on ways to promote trade and investment in new and green technologies. The Chemical Dialogue, co-chaired by the United States and Japan, endorsed the Chemical Strategic Framework for 2010 to 2012 to improve regulatory cooperation and to enhance understanding of how the chemical industry can contribute to increasing energy efficiency, reducing greenhouse gases, and improving food security. The Chemical Dialogue also continued its work to seek clarification regarding implementation of the EU's regulation on Registration, Evaluation, Authorization and Restriction of Chemicals (REACH). The Life Sciences Innovation Forum, for which the United States chairs the Planning Group, focused on promoting policy and regulatory approaches that encourage and reward investment in innovation, regulatory harmonization, and capacity building to combat counterfeiting and promote safe medicines.

4. China, Hong Kong and Taiwan

a. China

See 2010 USTR Report to Congress on China's WTO Compliance:
http://www.ustr.gov/webfm_send/1675

b. U.S.-Hong Kong Trade Relations

The United States continued its efforts to expand trade with Hong Kong, a Special Administrative Region of the People's Republic of China. The United States continued to press Hong Kong to open its market to U.S. beef and beef products, which have been restricted since December 2003. Hong Kong's market is currently open to deboned beef from animals less than thirty months of age. Hong Kong authorities conducted a verification visit to beef processing facilities in the United States in October 2009 and prepared a report based on their findings in August 2010. The United States will continue to engage with Hong Kong to establish science-based access for U.S. beef and beef products in 2011.

c. U.S.-Taiwan Trade Relations

During 2010, the United States worked to expand opportunities for U.S. exports to Taiwan. Working-level officials engaged Taiwan throughout the year under the U.S.-Taiwan Bilateral Trade and Investment Framework Agreement (TIFA) process on the range of issues affecting bilateral trade and investment ties. Despite these efforts, continuing concerns regarding Taiwan's shortcomings in meeting its obligations under several bilateral agreements with the United States made it impossible to hold a high-level meeting of the TIFA Council on Trade and Investment. Rebuilding confidence in Taiwan as a reliable trading partner will be critical to reenergizing the TIFA process, and the United States will engage Taiwan closely in 2011 to seek resolution of the high-priority policy concerns that have undermined our trade dialogue in recent years.

The United States continued its efforts to ensure that Taiwan provides market access for the full range of U.S. beef and beef products in a manner consistent with World Organization for Animal Health (OIE) guidelines for Bovine Spongiform Encephalopathy (BSE), as well as with Taiwan's own risk assessment, which found that U.S. beef is safe. The United States continued to press Taiwan to fully comply with the science-based and OIE-consistent bilateral protocol, providing for expanded market access for U.S. beef and beef products that entered into force on November 2, 2009. To date, Taiwan has failed to fully implement the bilateral protocol as a result of the actions taken by Taiwan's Legislative Yuan (LY). On January 5, 2010, the LY approved an amendment to Taiwan's Food Sanitation Act that had the effect of banning the import of ground beef and certain offals from the United States. This ban is inconsistent with Taiwan's obligations under the protocol. Furthermore, Taiwan authorities have also taken a range of administrative measures that have disrupted trade and created uncertainty in the market. In particular, disruptions have occurred because of Taiwan authorities' failure to adhere to predictable inspection and testing practices that are appropriately focused on legitimate food safety concerns. The United States has made some progress in working with Taiwan to eliminate certain of these problematic administrative measures, but serious concerns remain. USTR will continue to press Taiwan to act in a manner consistent with science, as well as its obligations under the bilateral protocol, and to refrain from taking measures that overly burden trade in beef and beef products.

The United States continues to discuss several phytosanitary and sanitary issues with Taiwan. Taiwan's failure to either defer to internationally established pesticide Maximum Residue Levels (MRLs) or develop its own science-based MRLs in a timely manner has resulted in increased rejections of various U.S. agricultural specialty crop exports. In some cases, the pesticide violation is for a newer and safer pesticide that lacks a review and approval in Taiwan. Also, avian influenza restrictions on imports of poultry meat and related products as well as Taiwan's ban on the use of ractopamine, a lean muscle promotant, in beef, pork and pork products do not comply with international guidelines. In the case of ractopamine, even when Taiwan has found that there is no health risk and notified the WTO of its intention to establish an MRL for ractopamine, other factors, including pressure from domestic political constituencies, appear to have caused Taiwan not to move forward with implementing science-based measures. The United States will continue to work closely with Taiwan in 2011 to resolve these systemic concerns.

The United States also continued to engage Taiwan on issues relating to fulfilling its WTO Country Specific Quota (CSQ) for importation of U.S. rice, while expressing concerns that the ceiling price mechanism was non-transparent and causing unnecessary trade disruptions. In 2007 and 2008, public sector rice tenders for U.S. rice repeatedly failed due to Taiwan's ceiling price mechanism. Throughout 2009 and 2010, the United States worked with Taiwan to seek improvements to the rice import system and to address the shortfalls in Taiwan's procurement of U.S. rice in 2007 and 2008. As a result of these efforts, it appeared that Taiwan attempted to fill all country-specific tenders. However, in 2010, Taiwan fell substantially short of meeting its rice purchase obligations, and issues with the ceiling price mechanism continue.

IPR protection and enforcement also continue to be important issues in the United States-Taiwan trade relationship. The United States recognizes Taiwan's continuing efforts to improve enforcement of IPR and has continued to deepen bilateral cooperation activities with Taiwan on these issues. In 2010, the United States provided training to Taiwan patent examiners and conducted other capacity-building and information exchange activities. In April 2009, the LY amended the Taiwan Copyright Law to require Internet service providers (ISPs) to undertake specific and effective notice-and-takedown actions against online infringers to avoid certain forms of liability for the infringing activities of users on their networks. The United States will continue to engage Taiwan on implementation of its ISP liability legislation, as ISPs and rights holders have been working to finalize an effective Code of Conduct to implement the notice and takedown provisions. Some music rights holders have expressed concerns about amendments passed in January 2010 to the Copyright Act and the Copyright Collective Management Organization Act. These amendments grant the Taiwan Intellectual Property Office the power to set rates if a commercial arrangement cannot be reached. They also ban rights holders or collective management organizations from using commissioned agents to collect licensing fees, although this is a common and well-accepted industry practice. The U.S. government will continue discussions of these concerns with Taiwan in 2011.

Taiwan acceded to the WTO Agreement on Government Procurement (GPA) in July 2009. Taiwan estimates that procurement covered by the GPA has a total value of approximately \$6 billion. While foreign companies have already begun to benefit from increased access to Taiwan's government procurement market, some U.S. companies have raised concerns relating to contract terms and conditions, as well as licensing and liability issues. The United States will continue to work closely with Taiwan on implementing international best practices in government procurement as Taiwan implements its obligations under the GPA.

The United States has also continued to engage Taiwan on concerns raised by the pharmaceutical and medical device industries that Taiwan's procedures for medical product pricing and reimbursement fail to adequately recognize the value of innovative medical products for patients in Taiwan. The United States encourages Taiwan to continue to engage in collaborative consultations with relevant stakeholders to consider improving such policies in order to better facilitate the development of innovative products and improve patients' access to such products. Taiwan enacted a number of reforms to their national health insurance system on January 7, 2011, and the United States will engage closely with Taiwan authorities as these reforms are implemented to assess their potential impact on U.S. pharmaceutical and medical device manufacturers.

5. Southeast Asia and the Pacific

a. Free Trade Agreements

The United States continued to implement, monitor and enforce its Free Trade Agreements (FTAs) with Singapore and Australia, both of which have led to significant increases in U.S. exports to these countries. *(For additional information, see Chapter III.A.)*

b. Trans-Pacific Partnership

In December 2009, following detailed consultations with Congress and stakeholders, the United States announced its intention to enter into negotiations on a regional Asia-Pacific trade agreement called the Trans-Pacific Partnership (TPP), with the objective of shaping a high-standard, broad-based regional agreement. This agreement, when completed, will create a potential platform for economic integration across the Asia-Pacific region, advance U.S. economic interests with the fastest-growing economies in the

world, and expand U.S. exports, which are critical to U.S. economic recovery and the creation and retention of high-paying, high-quality jobs in the United States.

Four formal rounds of TPP negotiations were held in 2010. In the negotiations, the United States and the eight other TPP partners – Australia, Brunei Darussalam, Chile, Malaysia, New Zealand, Peru, Singapore, and Vietnam – are working to craft a high-standard agreement that addresses new and emerging trade issues and 21st century challenges. When completed, the new TPP agreement is expected to include provisions on cross-cutting issues not included in previous trade agreements, such as promoting connectivity to deepen the links of U.S. companies to the emerging production and distribution networks in the Asia-Pacific region; making the regulatory systems of TPP countries more compatible so U.S. companies can operate more seamlessly in TPP markets; and helping small- and medium-sized enterprises, which are a key source of innovation and job creation, participate more actively in international trade.

The U.S. vision for the TPP is predicated on the long-term objective – shared by all TPP participants – of expanding the group to additional countries across the Asia-Pacific region. In 2010, following detailed consultations with the United States and other TPP members, Malaysia joined the negotiations, and on October 5, 2010, Ambassador Kirk informed the U.S. Congress of Malaysia's inclusion in the TPP negotiations. Malaysia's participation further enhances the economic value of a TPP agreement for the United States, as Malaysia is one of the most dynamic economies in Southeast Asia and an important market for U.S. goods and services exports. Other countries in the Asia-Pacific region have expressed interest in joining the TPP, and the United States and other TPP countries are consulting bilaterally and collectively to help those countries understand the standards and objectives that the TPP countries have established and to discuss whether they are prepared to meet them.

We will continue to rigorously and extensively consult with the U.S. Congress on all elements of the TPP negotiations in order to develop negotiating objectives consistent with both Administration and Congressional priorities and objectives. We will continue to work with Congress as we further develop approaches for using the TPP to promote U.S. economic priorities and values, including on matters related to environmental protection and conservation, transparency, worker rights and protections, and development.

c. Managing U.S.-Southeast Asia and Pacific Trade Relations

Throughout 2010, the United States engaged bilaterally, regionally, and multilaterally to improve and expand our trade and investment relations with Southeast Asian and Pacific countries. In addition to meeting bilaterally under our Trade and Investment Framework Agreements (TIFAs) and other dialogues, the United States worked with countries of the Association of Southeast Asian Nations (ASEAN) to advance our discussions under the ASEAN-U.S. Trade and Investment Framework Arrangement and to coordinate positions and approaches at APEC, the WTO, and other trade and investment forums.

During 2010, the United States held numerous high-level meetings, TIFA dialogues, and other bilateral exchanges with countries in the region including Brunei Darussalam, Cambodia, Indonesia, Malaysia, the Philippines, Thailand, and Vietnam. Frequently, these discussions were aimed at resolving long-standing trade issues in areas such as customs, intellectual property protection and enforcement, market access for industrial and agricultural products, regulatory and other non-tariff barriers facing U.S. manufacturers and service suppliers, and other trade-related issues, including worker rights and protections. The United States also used these consultations to work with our trading partners in the region to monitor implementation of their WTO and bilateral commitments and to coordinate economic assistance projects to support their implementation and reform efforts.

At the same time, the United States worked with its trading partners in the region to advance initiatives of common interest. With Indonesia, the United States reached agreement on an updated OPIC Investment Support Agreement, which will help to further expand our bilateral economic relationship. In September, the United States and Indonesia reported on progress made in our TIFA discussions to the inaugural meeting of the Joint Commission of the Indonesia-United States Comprehensive Partnership. With Malaysia and Vietnam, the United States held detailed bilateral discussions to facilitate the participation of both countries in the TPP, to monitor implementation of bilateral and multilateral agreements, and to coordinate on approaches to issues in regional and multilateral fora. With Laos, the United States continued to work closely with the Lao government to monitor progress and support the implementation of the U.S.-Lao Bilateral Trade Agreement and to support Laos's ongoing negotiations to join the WTO.

d. The U.S.-ASEAN Trade and Investment Framework Arrangement

With robust economies and a total population of about 600 million people, the ten member countries of ASEAN represent large and growing markets for U.S. traders and investors. As U.S. trade with the region continued to expand in 2010, the ASEAN countries collectively became the fourth largest U.S. export market and fifth largest two-way trading partner.

The United States and ASEAN members concluded a TIFA in August 2006 and since then have been working to build upon already strong trade and investment ties to further enhance their economic relationship as well as promote ASEAN regional economic integration. In 2009, the United States intensified its work under the TIFA, developing new proposals for joint work. As part of these efforts, Ambassador Kirk hosted ASEAN Trade Ministers in May 2010 for a U.S.-ASEAN Road Show with stops in Seattle and Washington, D.C. The Road Show brought together U.S. Government officials, Members of Congress, ASEAN trade ministers, and U.S. and ASEAN business representatives to identify business opportunities and to discuss ways to expand U.S.-ASEAN economic cooperation and support ASEAN integration. With the success of the event, U.S. and ASEAN officials agreed to plan another Road Show for 2011. In September 2010, the United States and ASEAN facilitated the signing of a Memorandum of Understanding on trade finance between the Export-Import Bank of the United States and business federations from the Philippines, Vietnam, Singapore, Indonesia, and Malaysia.

e. Other Priority Activities

In July, the United States hosted the second meeting of the Asia-Pacific Regional Dialogue to Promote Trade in Legally Harvested Forest Products in Seattle, Washington. The Regional Dialogue builds on U.S. bilateral agreements with Indonesia and China and reflects recognition that regional cooperation is essential in addressing the trade-related aspects of illegal logging. The meeting was co-convened by the United States and Indonesia and included representatives from Australia, Cambodia, China, Japan, Laos, Malaysia, Papua New Guinea, New Zealand, Philippines, Singapore, the Solomon Islands, Thailand, and Vietnam. Participants discussed best practices and new ways to promote trade in legally harvested forest products and government-to-government cooperation in combating illegal logging. They agreed to continue discussions in 2011. *(For additional information, see Chapter IV.A.)*

6. Sub-Saharan Africa

a. Trade and Investment Relations

The Administration seeks to expand markets for U.S. goods and services in sub-Saharan Africa and to facilitate African efforts to bolster African economic development through increased global, regional, and bilateral trade. For the last ten years, the African Growth and Opportunity Act (AGOA), enacted in 2000,

has been at the center of U.S.-African engagement on trade and investment. By providing duty-free entry into the United States for almost all African products, AGOA has helped to expand and diversify African exports to the United States, while at the same time fostering an improved business environment in many African countries. Thirty eight sub-Saharan African countries were eligible for AGOA benefits in 2010.

b. Trade and Investment Framework Agreements

The United States has Trade and Investment Framework Agreements (TIFAs) with eleven countries or regional economic communities: Angola, Ghana, Liberia, Mauritius, Mozambique, Nigeria, Rwanda, South Africa, the Common Market for Eastern and Southern Africa (COMESA)²³, the East African Community (EAC)²⁴, and the West African Economic and Monetary Union (also known by its French acronym, UEMOA)²⁵. USTR leads interagency discussions with TIFA partners on a wide range of trade and investment-related issues. In addition to high-level TIFA Council meetings, which are held every one to two years, there is an ongoing dialogue with all TIFA partners that may include periodic working-level meetings and digital video conferences on the implementation of the TIFA work plans. In 2010, the United States participated in four Council meetings – with Angola, Ghana, the EAC, and UEMOA.

c. Angola

After signing a TIFA in 2009, U.S. and Angolan trade and development officials held the inaugural United States-Angola Council meeting in June 2010 to discuss ways to strengthen bilateral trade and investment ties. The U.S. and Angolan delegations discussed progress in several areas, including bilateral trade, implementation of AGOA, investment promotion, the business environment, agri-business projects and development, and trade-related transportation and infrastructure issues.

Angola is the United States' third largest trading partner in sub-Saharan Africa. Angolan exports are dominated by mineral fuels and oil, but also include precious or semiprecious stones and metals. In 2010, two-way trade between the United States and Angola totaled \$13.3 billion, an increase of 23 percent from 2009.

d. Ghana

In July 2010, Assistant United States Trade Representative Florie Liser co-chaired the sixth meeting of the United States-Ghana TIFA Council. At the meeting, officials discussed AGOA, investment challenges, transportation, telecommunications, intellectual property rights, trade capacity building, and technical assistance.

The United States-Ghana TIFA has been in effect since 1999. Two-way trade between the United States and Ghana was valued at \$1.3 billion during 2010, representing a 50 percent increase from last year. Imports from Ghana that receive trade preferences under AGOA and the Generalized System of Preferences include cocoa paste, wood ornaments, apparel, vegetables, spices, and baskets. Since 2001, the United States has provided \$325 million in trade capacity building assistance to Ghana, including \$240 million in trade-related activities under Ghana's \$547 million, five-year Millennium Challenge Corporation compact. This assistance has helped Ghana to increase its competitiveness in world markets,

²³ COMESA members are Burundi, Comoros, Democratic Republic of the Congo, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Libya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Swaziland, Uganda, Zambia, and Zimbabwe.

²⁴ EAC members are Burundi, Kenya, Rwanda, Tanzania, and Uganda.

²⁵ UEMOA members are Benin, Burkina Faso, Cote d'Ivoire, Guinea-Bissau, Mali, Niger, Senegal, and Togo.

upgrade and improve its road system, improve agricultural productivity, and strengthen the business environment.

e. UEMOA

In August 2010, Deputy United States Trade Representative Ambassador Marantis and the Trade Commissioner of UEMOA convened the sixth meeting of the United States-UEMOA TIFA Council in Washington D.C. In addition to discussing and tracking progress on a broad range of trade and investment-related issues, including AGOA, the Council identified new areas of cooperation to advance regional economic integration and development.

Total two-way trade between the United States and UEMOA was valued at \$2.5 billion in 2010. Leading exports to the U.S. include oil, cocoa and cocoa products, coffee, rubber, nuts, fruits, and precious minerals. Six UEMOA countries—Benin, Burkina Faso, Guinea Bissau, Mali, Senegal and Togo—are eligible for AGOA benefits.

f. EAC

In February 2010, representatives from the United States and the EAC convened the first meeting of the U.S.-EAC TIFA Council in Uganda. Deputy United States Trade Representative Ambassador Marantis led the U.S. delegation. The Council discussed a range of trade issues, including market access, agricultural trade, the business environment, the financial sector, and trade capacity building. This initial meeting was an important step towards adopting a common workplan for implementing the U.S.-EAC TIFA. The TIFA meeting also represented an important step towards enhanced U.S.-EAC trade relations, and highlighted the EAC's ongoing progress in opening up regional trade and advancing economic integration among member countries.

The U.S.-EAC TIFA entered into effect in July 2008 between the United States and the five EAC member states—Burundi, Kenya, Rwanda, Tanzania, and Uganda. The EAC has made great strides towards regional integration in recent years, establishing a free trade area, a customs union, and a common market. Total two-way trade between the EAC and the United States was valued at \$1.1 billion during 2010. Leading U.S. imports from the EAC include apparel, coffee, tea, and cashews. EAC member countries - Burundi, Kenya, Rwanda, Tanzania, and Uganda - are eligible for AGOA benefits.

7. South and Central Asia

a. Advancing the United States-India Trade and Investment Relationship

The United States–India Trade Policy Forum (TPF), created in 2005, serves as a core element of the Economics, Trade and Agriculture pillar of the U.S.-India Strategic Dialogue, initiated by Secretary of State Hillary Clinton in 2010, and remains the principal bilateral forum for discussing bilateral trade and investment issues. The TPF's five Focus Groups – Agriculture, Innovation and Creativity, Investment, Services, and Tariff and Non-Tariff Barriers – sought to make progress on addressing the range of issues on the bilateral agenda, including adequate protection of copyrights and patents, obstacles to foreign direct investment in India, agricultural and industrial standards, and other impediments to U.S. exports of goods and services to India. The ministerial-level TPF met formally on September 21, 2010 in Washington, D.C. Following on last year's decision by the two governments to reconstitute the Private Sector Advisory Group (PSAG), U.S. and Indian members of the PSAG exchanged views and developed recommendations over the course of 2010 on actions each government might take to facilitate bilateral trade and investment.

Other key features of the United States-India trade policy engagement during 2010 included:

- Ambassador Ron Kirk and Indian Minister of Commerce and Industry Anand Sharma signed the Framework for Cooperation on Trade and Investment in March 2010. The Framework included a number of shared objectives for increasing two-way trade and investment and a work plan to guide the TPF in the pursuit of those objectives.
- Under the Framework, the United States and India agreed to explore collaborative initiatives in the Information Communications Technology (ICT) and energy and environmental services sectors. The two countries also agreed, among other things, to promote greater involvement by U.S. and Indian small and medium-sized enterprises (SMEs) in bilateral trade and in the world economy.
- Ambassador Ron Kirk and Indian Minister of Commerce and Industry Anand Sharma met a number of times in 2010, including during the September 2010 ministerial-level TPF. They discussed the importance of ensuring adequate engagement at both the political and technical levels in order to foster an enhanced bilateral relationship. They also met in the context of the Doha Round negotiations to attempt to find common ground towards concluding a balanced and ambitious outcome.
- In November 2010, President Obama visited India, where he met Prime Minister Manmohan Singh and addressed India's Parliament. President Obama welcomed the growing trade between the United States and India, evidenced in part by the almost \$15 billion in U.S. trade transactions with India announced during the visit. In their Joint Statement, President Obama and Prime Minister Singh looked forward to building on the existing strong ties between U.S. and Indian firms in order to realize fully the enormous potential for trade and investment between the two countries. The Joint Statement also emphasized the two countries' shared interest in an ambitious and balanced conclusion to the Doha Round negotiations.

b. Contributing to Regional Stability

In support of top national security objectives in Afghanistan, Pakistan, and Iraq, in 2010 USTR strengthened engagement with all three countries as part of a broader effort to boost trade, employment, and sustainable development. USTR hosted a Trade and Investment Framework Agreement (TIFA) meeting with Afghanistan on November 8, 2010, which included a session with the private sector and USTR advisory committee members. USTR also hosted a TIFA meeting with Pakistan on April 23, 2010. Working with other U.S. agencies, USTR participated in trilateral and other high-level meetings with officials from Afghanistan, Iraq, and Pakistan. Key highlights from 2010 included:

- USTR and other agencies continued to seek passage of trade preference legislation, including Reconstruction Opportunity Zone (ROZ) legislation to provide duty-free benefits for certain products exported to the United States from Afghanistan and critical border areas of Pakistan. USTR also led discussions on how Afghanistan, Pakistan, and Iraq could increase use of existing trade benefits under the U.S. Generalized System of Preferences (GSP) program.
- USTR supported negotiations between Afghanistan and Pakistan on a modern transit trade agreement that would boost regional trade and help create economic opportunities in both countries.
- Pakistan and the United States agreed to intensify engagement on trade and investment issues by launching the United States-Pakistan Joint Trade Study Group. USTR participated in the United

States-Pakistan Strategic Dialogue on October 21, 2010, leading the discussion on trade and co-leading with the U.S. State Department on investment issues.

- The United States agreed to continue its technical and advisory support for the accessions of Afghanistan and Iraq to the WTO.

c. Promoting National Reconciliation and Lasting Peace in Sri Lanka

The United States and the government of Sri Lanka (GOSL) held the 8th TIFA Council Meeting in Colombo, Sri Lanka, in October 2010. It was the second meeting of the TIFA Council since Sri Lanka's civil war ended in May 2009. The United States and Sri Lanka discussed market access and investment climate concerns and initiated capacity building initiatives on intellectual property rights and the U.S. GSP program.

d. Advancing U.S. Engagement with Central Asia

USTR supported the Administration's strategy towards Central Asia by hosting the U.S.-Central Asia TIFA Council meeting in Washington, D.C. in October 2009 in order to bolster cooperation with the Central Asian countries of Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan in support of U.S. operations in Afghanistan (which participates in the TIFA as an observer) and to strengthen and diversify U.S.-Central Asia trade relations more broadly. The United States launched bilateral dialogues with each Central Asia TIFA partner to focus on country-specific issues, and the TIFA members agreed to establish a new mid-year meeting of a TIFA working group. The Central Asia TIFA meeting will be held in 2011 as annual meetings are required under the TIFA.

The United States also convened a bilateral meeting with Kazakhstani authorities to discuss Kazakhstan's customs union with Russia and Belarus and prospects for Kazakhstan's accession to the WTO. USTR discussed U.S. concerns about higher duties adopted by Kazakhstan under the common external tariff of the customs union, which entered into force on January 1, 2010, and Kazakhstan's future WTO market access commitments.

IV. OTHER TRADE ACTIVITIES

A. Trade and the Environment

The Administration has enhanced work on environment and trade matters across multiple fronts, including through multilateral, regional, and bilateral trade initiatives. On the multilateral front, the United States has continued to be a global leader in seeking to discipline harmful fisheries subsidies and eliminate barriers to trade in environmental technologies and services, including clean energy technologies, through the WTO as part of the Doha Development Agenda (DDA) negotiations. During the course of 2010, the Administration continued to prioritize implementation of the free trade agreements currently in force. Additionally, the Administration advanced its cooperative efforts with key trading partners to address illegal logging and associated trade. The Administration also continues to advance cooperative work on environmental goods and services and other trade and environment priorities in APEC and with other like-minded countries. In keeping with the increased integration of environmental considerations across multiple multilateral, regional, and bilateral fronts, this report includes a detailed assessment of recent developments on trade and environment in specific sections devoted to these various fora.

1. Multilateral Fora

As described in more detail in the WTO section of this report, the United States is active on all aspects of the DDA trade and environment agenda. In particular, the United States has worked closely with other countries to explore approaches for taking early action to liberalize trade in climate-friendly technologies in order to build momentum for broader DDA negotiations on environmental goods and services and to facilitate concrete action on the trade and climate change front. In the Rules Negotiating Group, the United States continues to lead in pressing for stronger disciplines on fisheries subsidies that contribute significantly to global overcapacity and overfishing. The Administration also has sought to orient activities in the OECD Joint Working Party on Trade and Environment to focus on value-added contributions to ongoing WTO work, as well as strong analytical research on the interface between trade and climate change policies.

USTR continues to participate in formulating and carrying out U.S. policy regarding various multilateral environmental agreements (MEA) to enhance compatibility between those activities and U.S. trade policy. Examples include the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the International Commission for the Conservation of Atlantic Tuna (ICCAT), International Maritime Organization (IMO) conventions, the Montreal Protocol on Substances that Deplete the Ozone Layer, the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, the Convention on Biological Diversity and the Cartagena Protocol on Biosafety, and the Stockholm Convention on Persistent Organic Pollutants. USTR also participates in ongoing MEA negotiations, such as the United Nations Environment Program (UNEP) negotiations to develop a legally binding agreement on mercury, and the United Nations Framework Convention on Climate Change (UNFCCC) negotiations. At the UNFCCC Conference of the Parties in Cancun, Mexico, USTR, together with other U.S. agencies, worked closely with other countries to ensure that plans for long-term cooperative actions to combat climate change are consistent with existing international commitments on trade, including the protection of intellectual property rights, and that the United States maintains a full range of WTO-consistent options for addressing climate change.

USTR has been particularly active in two international commodity agreements to identify and pursue opportunities to facilitate increased international trade and sustainable development. In the International

Tropical Timber Organization (ITTO), USTR has led Administration efforts to promote increased market transparency and provide support for capacity building projects to facilitate tropical timber trade in the context of sustainable management of tropical forests. In the International Coffee Organization (ICO), USTR has led Administration efforts to revitalize this organization, particularly to strengthen the ICO's role in developing and implementing capacity building projects and in promoting the development and dissemination of innovations and best practices, such as in the area of finance.

2. Bilateral and Regional Activities

The environment chapters of the trade agreements with Peru, Colombia, Panama, and Korea include obligations to implement and enforce provisions in a number of multilateral environmental agreements, such as those covering trade in endangered species, conservation of marine resources, and wetlands protection. In addition, the environment chapter in the Peru Trade Promotion Agreement includes an annex on forest sector governance that has enhanced Peru's management of its biodiversity-rich tropical forest resources. The individual FTA sections of this report provide detailed descriptions of the specific activities under each environment chapter during the last year with particular emphasis on enhanced bilateral and regional engagement to monitor implementation of FTA environmental provisions.

The Administration was very active in 2010 in building on initiatives to address illegal logging and associated trade. USTR, joined by the State Department, led a broadly representative interagency delegation to the U.S.-hosted third meeting of the Bilateral Forum under a 2008 Memorandum of Understanding (MOU) between the United States and China on combating illegal logging and associated trade. This MOU establishes a framework for bilateral cooperation on combating illegal logging and associated trade, particularly with respect to goods traded by either country. As a result of this meeting, the United States and China agreed to expand their regular exchange of trade data for forest products and to continue efforts to provide opportunities for public-private cooperation in promoting transparency and trade in legally-harvested forest products.

USTR also chairs a Working Group on Combating Illegal Logging and Associated Trade under the United States-Indonesia Trade and Investment Framework Agreement. The Working Group was created by a first of its kind MOU with Indonesia that was concluded in 2006. During the course of a meeting in Seattle, Washington in July 2010, the United States and Indonesia considered a joint public report of the Working Group, the exchange of information on bilateral timber trade, and CITES implementation related to forest products. Additionally, USTR led a multi-agency workshop on amendments to the Lacey Act with participation by the Indonesian government, private sector, and civil society groups.

In 2010 the Administration expanded the Asia-Pacific Regional Dialogue to Promote Trade in Legally-Harvested Forest Products, an initiative started in 2009. The Regional Dialogue builds on the bilateral agreements with China and Indonesia and reflects recognition that regional cooperation is essential in addressing the trade-related aspects of the issue of illegal logging. The first meeting of the Regional Dialogue, co-chaired by the United States and Indonesia, took place in September 2009 in Jakarta and included participation by trade and forestry officials from Australia, Brunei, Malaysia, Papua New Guinea, Singapore, the Solomon Islands, and Vietnam. The United States hosted the second meeting of the Regional Dialogue in July 2010; countries participating included the United States, Indonesia, Australia, Cambodia, China, Japan, Laos, Malaysia, Papua New Guinea, New Zealand, Philippines, Singapore, Solomon Islands, Thailand and Vietnam. At both meetings, the participating governments exchanged information, described their respective efforts and explored collaborative approaches to promoting legal trade and combating illegal trade in forest products. The Regional Dialogue illustrates the Administration's commitment to finding effective and creative solutions to trade-related environmental challenges.

This past year, APEC Leaders recognized the importance of cooperative work on key trade and environment issues, including enhancing cooperation on illegal logging and associated trade, and increasing the dissemination and utilization of environmental goods and services. In 2011 the United States will host APEC, and the Administration will take the lead in advancing cooperative action in these important areas.

3. The North American Free Trade Agreement (NAFTA)

The Administration continues to work closely with Canada and Mexico to ensure that trade and environment policies in each of the three countries are implemented in a manner that is mutually supportive. In 2010, USTR led efforts to improve cooperation between the NAFTA Free Trade Commission (FTC) and the Commission for Environmental Cooperation (CEC) on these issues. These efforts included the *ad hoc* working group of senior trade officials exploring ways to contribute to and learn from CEC projects, including the project “Trade Flows in North American Used Electronics”. The *ad hoc* working group has provided valuable input into the negotiations on changes to the rules of origin for environmental goods. At its January 2011 meeting, the NAFTA Free Trade Commission agreed on a fourth set of changes to the rules of origin, which includes changes to a group of environmental goods whose annual trilateral trade is approximately \$6 billion. The *ad hoc* working group will continue to develop additional initiatives on trade and the environment during 2011. USTR continues to work actively with EPA and other agencies in representing the United States in addressing North American trade and environmental issues, including under the NAFTA environmental side agreement—the North American Agreement on Environmental Cooperation (NAAEC)—and the border environmental infrastructure agreements. These agreements were designed to enhance the mutually supportive nature of expanded North American trade and environmental improvement.

At its 2010 annual meeting, the CEC Council considered the proposed Strategic Plan for 2010–2015 to guide the CEC’s work over the next five years. The proposed Strategic Plan focuses on three priorities for the work of the CEC during the period 2010-2015: healthy communities and ecosystems; climate change and a low carbon economy; and greening the economy in North America. The Council also met with and obtained input from the public on various aspects of the CEC’s program including its trade and environment component. USTR is working actively with EPA and other agencies on projects to deliver on these priorities.

B. Trade and Labor

The Administration’s trade policy agenda includes a strong commitment to ensuring that workers and their families in America and around the world benefit from trade. The Administration has continued its efforts to enhance U.S. Government engagement with trade partners to improve respect for labor rights and to increase monitoring and enforcement of free trade agreement (FTA) labor provisions. In 2010, the Administration invoked consultation provisions with respect to FTA labor rights obligations for the first time. In doing so, the Administration made clear that FTA labor obligations will be treated the same as commercial obligations and that the United States will expect our trading partners to meet their obligations on labor. Efforts to enhance engagement also included the holding of formal Labor Affairs Council and labor subcommittee meetings called for under the FTAs, as well as placing labor issues on the agendas of broader FTA free trade commission meetings. Additionally, the Administration continued efforts to increase monitoring of adherence to the worker rights provisions in U.S. trade preference programs and dialogue on labor rights with key trading partners.

To assist workers who have been adversely affected by imports and jobs being moved overseas, President Obama signed into law the Trade and Globalization Adjustment Assistance Act of 2009 (TGAAA), as part of the American Recovery and Reinvestment Act of 2009. The TGAAA reauthorized Trade Adjustment Assistance (TAA) programs; expanded TAA coverage to more workers and firms, including workers and firms in the service sectors; made benefits available to workers whose jobs have been sent “off-shore” to another country (as opposed to covering a more limited set of shifts in production); improved workers’ training options; and increased the affordability of health insurance coverage. In FY 2010, the U.S. Department of Labor (DOL) certified 280,873 workers to receive TAA benefits, nearly double the number certified in previous years, and including 155,000 workers under the expanded coverage. Also in FY 2010, DOL allocated \$975,320,800 in TAA benefits to state governments, including training funds, job search support, and income support payments for workers. The TGAAA lapsed on February 12, 2011. *(For additional information, see Chapter V.B.7.)*

1. Multilateral and Regional Fora

In the Ministerial Declaration adopted during the WTO Ministerial Conference in Singapore (1996), and reaffirmed in Ministerial Declarations adopted during Ministerial Conferences in Doha (2001) and Hong Kong (2005), the WTO Members renewed their commitment to the observance of internationally recognized core labor standards and took note of collaboration between the WTO and ILO Secretariats. In 2010, the WTO and the ILO continued their collaboration on issues of common interest with work on a joint book project on *Making Globalization Socially Sustainable*. The publication aims, through writings of academic experts, to analyze the various channels through which globalization affects jobs and wages in developed and developing countries and is targeted for publication in October 2011. *(For additional information, visit http://www.wto.org/english/res_e/publications_e/ilo_wto_e.htm)*

The Administration has continued to promote the discussion of labor rights as one of the topics relevant to the effort to strengthen economic integration and to build high quality trade agreements in the Asia-Pacific region. As Asia Pacific Economic Cooperation (APEC) host for 2011, the United States will promote respect for labor rights as part of enhanced trade relationships among APEC economies. *(For additional information on APEC, see Chapter III.B.3)*

The Inter-American Conference of Ministers of Labor (IACML) is a meeting of the Western Hemisphere’s labor ministers, held approximately every two years under the auspices of the Organization of American States to promote hemispheric cooperation on labor issues. The IACML responds to the labor mandates agreed to by heads of state in the Summit of the Americas process. *(For additional information on the IACML, visit http://www.sedi.oas.org/ddse/english/cpo_trab.asp)*

At the Sixteenth IACML, held in Buenos Aires, Argentina in October 2009, labor ministers unanimously adopted a Declaration that reaffirmed their obligations as members of the ILO and commitments to promote, respect, and realize principles with respect to the fundamental labor rights contained in the 1998 *ILO Declaration on Fundamental Principles and Rights at Work*. Labor ministers recognized the positive contribution of trade to the promotion of growth, employment, and development and committed to continue to analyze the labor dimension of free trade agreements. The ministers also endorsed a Plan of Action that, among other things, established a working group chaired by the United States on “decent work to face the global economic crisis with social justice for a fair globalization.” The working group’s responsibilities include addressing the social dimension of globalization, regional integration processes, and free trade agreements. In support of the Plan of Action in 2010, the IACML held a workshop on the *Labor Dimension of Globalization and Free Trade Agreements: Impacts and Labor Provisions* at which 26 OAS member governments and the European Union discussed the growing interdependence of

economies and labor markets and the increasingly common inclusion of labor provisions in trade agreements. *(For additional information, visit http://www.sedi.oas.org/ddse/english/cpo_rial_globalizacion.asp)*

2. Bilateral Agreements and Preference Programs

a. FTAs

U.S. FTAs contain obligations concerning the consistency of each party's labor laws with international standards (with recent FTAs obligating each party to implement in its law and practice the fundamental labor rights as stated in the 1998 ILO *Declaration on Fundamental Principles and Rights at Work*), not to fail to effectively enforce its labor laws, and not to waive or derogate from those laws in a manner affecting trade or investment. Additionally, the labor provisions obligate each party to designate an office within its labor ministry to serve as a contact point for purposes of the labor chapter and create labor cooperation and capacity building mechanisms through which the parties will work together to enhance opportunities to improve labor standards. The Office of Trade and Labor Affairs (OTLA) in the Bureau of International Labor Affairs (ILAB) of the U.S. Department of Labor, in consultation with USTR, serves as the contact point for purposes of administering responsibilities under the labor provisions of free trade agreements and the North American Agreement on Labor Cooperation (NAALC), including the labor cooperation mechanisms. *(For additional information on OTLA and its procedures, visit: <http://www.dol.gov/ILAB/programs/otla/index.htm> and <http://www.dol.gov/ilab/programs/otla/proceduralguidelines.htm>)*

USTR and DOL engage our FTA partners on labor issues as part of our ongoing dialogue on monitoring implementation of our agreements. As part of increased engagement in 2010, Labor Affairs Council and labor subcommittee meetings, as provided for under the FTAs, were held with several FTA partners, including first-time meetings with Peru, Morocco, and Bahrain. *(For additional information, see Chapter III.A)*

In 2010, the Administration continued to work closely with the governments of Colombia and Panama to address outstanding labor concerns relating to those two countries. With respect to Colombia, the Administration worked to secure progress and a path forward on labor-related concerns. This consisted of engaging the government of Colombia on efforts to ensure that Colombia's labor law meets international standards and to address violence against trade unionists, including initiatives to bring the perpetrators to justice. With respect to Panama, the Administration worked with that government to develop a strong package of labor reforms intended to clarify the application of labor law in Panama and the means for workers to assert their rights under the law. In 2010, Panama issued a ministerial resolution to provide labor law protections for maritime workers and two executive decrees to address concerns related to collective negotiations with nonunionized workers and strike restrictions in the transportation sector. The Administration continues to work with Panama to implement these reforms.

In July 2010, the United States requested consultations with the government of Guatemala under the CAFTA-DR for failure to enforce its labor laws. This is the first time the United States has requested consultations on a labor matter under an FTA. *(For additional information see Chapter III.A.3 and visit <http://www.ustr.gov/trade-topics/labor/bilateral-and-regional-trade-agreements/guatemala-submission-under-cafta-dr>)*

b. Other Bilateral Agreements and Preference Programs

President Obama certified to Congress in October 2009 that Haiti met the necessary requirements to continue duty-free treatment for certain Haitian-made apparel and other articles under the Haitian Hemispheric Opportunity through the Partnership Encouragement Act of 2008 (HOPE II). Pursuant to the requirements of the HOPE II, Haiti established an independent labor ombudsman's office and a Technical Assistance Improvement and Compliance Needs Assessment and Remediation (TAICNAR) program which is implemented through an ILO Better Work program. The TAICNAR program assesses compliance with core labor rights and provides a mechanism to ensure that producers that wish to be eligible for duty-free treatment participate in the Better Work program. Significant progress has been made in implementing the TAICNAR program, including the provision of factory assessments and remediation assistance for all companies that produce HOPE II-eligible apparel. USTR continues to work closely with the government of Haiti and the ILO on implementation of the program. *(For additional information, view the 2010 USTR Annual Report on the Implementation of the TAICNAR program at <http://www.ustr.gov/sites/default/files/Hope%20II%20Report.PDF>)*

U.S. trade preference programs, including the African Growth and Opportunity Act (AGOA), the Andean Trade Preference Act (ATPA), the Caribbean Basin Trade Preferences Act (CBTPA), and the Generalized System of Preferences (GSP), require the application of statutory eligibility criteria pertaining to worker rights. In 2010, the Administration accepted for review a GSP worker rights-related petition concerning Sri Lanka. Four other previously accepted worker rights-related petitions remained under review as part of the 2010 GSP Annual Review process, three of which were filed in 2007 (Bangladesh, the Philippines, and Uzbekistan) and one of which was filed in 2006 (Niger). USTR and other U.S. Government officials engaged with these governments through U.S. embassies in those countries, their embassies in Washington, D.C., and other bilateral fora to monitor progress and press for action to address the problems cited in the petitions. Although GSP expired on December 31, 2010, the review of whether these countries are meeting the GSP worker rights criteria will continue throughout 2011 while Congress considers possible reauthorization legislation. An ATPA petition concerning worker rights in Ecuador was filed in 2005 and review of practices in that country continued in 2010. Additionally, the Administration continues to consider whether to accept for review a GSP worker rights-related petition filed in 2008 concerning Iraq.

The United States and China committed to a dialogue on labor issues in 2009 during the first United States-China Strategic and Economic Dialogue (S&ED). The first meeting of the labor dialogue took place in Beijing, China in May 2010 at which government representatives discussed various labor rights issues including minimum wage standards, labor law enforcement, negotiation of individual and collective contracts, and private pension plans. During the 2010 S&ED, the United States and China agreed to continue the labor dialogue, and the United States will host the next meeting in 2011.

USTR continued to seek progress by the government of Vietnam on providing freedom of association and collective bargaining rights in conformity with internationally recognized standards, in particular the worker rights requirements of the GSP.²⁶ In conjunction with these efforts, the United States and Vietnam held a Labor Dialogue in Hanoi in September 2010 at which officials from Vietnam's Ministry of Labor, Invalids and Social Affairs (MOLISA) and the Administration discussed Vietnam's labor reform efforts.

Also in 2010, the United States engaged with several other countries on labor issues in the context of TIFA meetings and other bilateral trade mechanisms. Most notably, the United States discussed worker

²⁶ Vietnam is seeking designation as a GSP beneficiary country.

rights issues during TIFA meetings with Pakistan and Ghana in April 2010, Uruguay and Sri Lanka in October 2010, and Afghanistan in November 2010.

In addition, in March 2010, the United States and India signed a Framework for Cooperation on Trade and Investment under the United States-India Trade Policy Forum. The Framework contains commitments to promote respect for labor rights and to engage in discussions on trade and labor issues as part of an ongoing dialogue. Also, the United States and Libya concluded a TIFA in May 2010 that recognizes the importance of enforcing worker rights under domestic labor laws and improving the observance of international labor rights.

C. Small and Medium-Sized Business Initiative

In October 2009, Ambassador Ron Kirk announced a new USTR initiative aimed at increasing exports by U.S. small and medium-sized enterprises (SMEs). Under this initiative, USTR is working to ensure USTR reflects in its trade policy and enforcement activities the specific export challenges and priorities of small and medium-sized businesses and their workers. This agency effort also supports the goals of the Obama Administration's National Export Initiative to double exports within five years in order to support millions of U.S. jobs and its priority attention to expanding SME exports.

U.S. small businesses are key engines for our economic growth, jobs, and innovation. SMEs that export tend to grow faster, add jobs faster, and pay higher wages than SMEs that serve purely domestic markets. New studies by the U.S. International Trade Commission (USITC) requested by USTR reveal that SMEs play a larger role in the export economy than is suggested by traditional trade statistics, with direct and indirect exports by U.S. SMEs supporting about four million jobs in the United States while accounting for over 40 percent of the total value of U.S. exports of goods and services. There are some 30 million SMEs in the United States, but currently, only a small fraction of these companies export goods or services, and most export only one product or service to one foreign country. USTR is working to further unleash this export potential of American small businesses.

USTR is focused on making trade work to the benefit of small businesses, helping them increase their sales to customers abroad and thus create jobs at home. USTR does this by negotiating with foreign governments to open their markets and reduce trade barriers and enforcing our existing trade agreements to ensure a level playing field for American workers and businesses of all sizes. Agency-wide, USTR is working to better integrate specific SME issues and priorities into our trade policy development and implementation, increase our outreach to small businesses around the country, and expand our collaboration and coordination with our interagency colleagues.

In 2010, USTR undertook several significant actions to support its SME objectives.

1. New AUSTR Designated for Small Business, Market Access, and Industrial Competitiveness

On January 21, 2010, Ambassador Ron Kirk designated an Assistant United States Trade Representative (AUSTR) for Small Business, Market Access, and Industrial Competitiveness. This new attention to small business issues enhances our work on market access and industrial competitiveness issues, helps us better coordinate our SME activities across the agency and interagency, and provides a USTR contact point for small businesses.

On an interagency basis, USTR's Small Business, Market Access and Industrial Competitiveness office participates in the Trade Promotion Coordinating Committee's Small Business Working Group, collaborating with agencies including the Department of Commerce, Small Business Administration, Export-Import Bank, Department of Agriculture and others across the government to promote small business exports, and connect SMEs to trade information and resources to help them begin or expand their exports and take advantage of existing trade agreements.

2. U.S. Small Business Administration Added to Trade Policy Interagency Process

To better reflect small business interests in our interagency trade policy process, USTR formally invited the Small Business Administration to participate in the USTR-led Trade Policy Staff Committee process for developing U.S. trade policy across issue areas.

3. USTR-requested ITC Studies on SMEs

As part of USTR's Small Business Initiative, Ambassador Kirk requested the independent USITC to prepare three studies analyzing the performance of SMEs in generating U.S. exports and employment. The first report, released in January 2010, described the characteristics of U.S. SMEs and the role they play in U.S. exports that support jobs for American workers. The second report, published in July 2010, analyzed impediments to trade of U.S. SMEs and compared exporting activities of U.S. SMEs with SMEs in the European Union. The USITC's third report, issued in November 2010, examined the export performance of U.S. companies engaged in manufacturing, distribution, and services and identified trade barriers that disproportionately affect SME export performance. The final report also analyzed new data sets for the first time to examine the performance of U.S. SME services firms.

These reports provide new insights into American SME performance and are helping to inform U.S. trade policy of the particular trade opportunities, challenges, and priorities facing our SMEs. This information is guiding our ongoing policy work, so USTR can better match its existing policy tools to address the specific trade barriers that disproportionately impact SMEs (e.g., burdensome customs procedures, complex or non-transparent foreign regulations, high tariffs, insufficient intellectual property protection). These three USITC reports are available on USTR's website (<http://www.ustr.gov>).

4. USTR's SME Outreach and Consultations

Ambassador Kirk and senior USTR staff actively participated in numerous events around the country to hear directly from local small businesses, workers, and other stakeholders about the trade opportunities and challenges they face. Ambassador Kirk's meetings with SME exporters and community leaders to discuss the potential to grow their exports and take advantage of market openings abroad is highlighted on USTR's website and blog. The updated Small Business section of the website also includes helpful links, fact sheets and resources for SMEs. On an interagency basis, USTR is working with the TPCC to improve trade information relevant for SMEs and highlight interagency programs to assist SMEs with their individual export needs on the government's one-stop export platform (<http://www.export.gov>).

USTR staff consult with the Industry Trade Advisory Committee (ITAC) for Small and Minority Business to seek its advice and input on U.S. trade policy negotiations and initiatives and meet frequently with individual SMEs and associations representing SME members on specific issues.

5. USTR SME-Related Trade Policy Activities

Under the SME initiative, USTR's small business office and geographic and functional offices are developing ideas and advancing efforts to enhance activities that could benefit SMEs. Several key aspects of USTR's trade policy agenda have particular potential to help SMEs boost exports. These include enhancing trade facilitation work, strengthening and enforcing intellectual property rights, and targeting services barriers that are especially difficult for SMEs, such as requirements for staffing an office in each country to which companies wish to export. USTR is also exploring ways to simplify government procurement rules. Tariff barriers, burdensome customs procedures, discriminatory or arbitrary standards, and lack of transparency relating to relevant regulations in foreign markets present particular challenges for our SMEs in selling abroad.

The ability to address SME concerns through the fact finding and consultation mechanisms built into our bilateral and regional trade agreements and dialogues is an important asset for USTR. For example:

- As USTR moves forward with negotiations to expand U.S. trade in the Asia-Pacific through the Trans-Pacific Partnership, USTR has designated a point person for SME issues, and USTR will consistently emphasize the needs of smaller businesses in order to help them participate more actively in Asia-Pacific trade and address trade barriers that affect SME access to these foreign markets.
- Under APEC's core agenda of trade and investment liberalization and facilitation, USTR is continuing to focus on concrete actions to make it cheaper, easier, and faster for U.S. businesses, and in particular for SMEs, to trade in the region. In 2011, when the United States hosts APEC, USTR will be looking to increase activities in APEC that will help SMEs by seeking to rationalize complex and divergent trade rules and reduce trade transaction costs.
- USTR is seeking to establish, where appropriate, free trade agreement (FTA) working groups on small and medium-sized enterprises to facilitate expanded SME trade opportunities under our FTAs and develop SME-related activities with our FTA partners.
- USTR is also utilizing trade fora such as FTAs, the NAFTA, the U.S. India Trade Policy Forum, the Transatlantic Economic Council, and others to address SME opportunities and challenges on a regional basis with our trading partners.

D. Anti-Counterfeiting Trade Agreement

In 2010, USTR with the support of other U.S. agencies and partner countries representing more than half of global merchandise trade finalized the text of the Anti-Counterfeiting Trade Agreement (ACTA). The agreement is an important new tool to fight the global growth in counterfeiting and piracy, which threatens jobs that depend on innovation, including those in the United States.

The ACTA was concluded successfully in November 2010. The ACTA will be open for signature by the participating countries beginning in 2011. In December 2010, USTR published a notice in the *Federal Register* seeking public comments in connection with consideration of U.S. signature of the agreement, the final text of which is available at <http://www.ustr.gov/acta>.

The ACTA effort, launched in October 2007, brings together a number of countries that are prepared to embrace strong intellectual property rights (IPR) enforcement through a new agreement calling for cooperation, strong enforcement practices, and a strong legal framework for IPR enforcement.

Participants included Australia, Canada, the European Union (with its 27 Member States), Japan, Korea, Mexico, Morocco, New Zealand, Singapore, and Switzerland.

Consistent with the Obama Administration's emphasis on intellectual property enforcement, the ACTA intensifies efforts against the global proliferation of commercial-scale counterfeiting and piracy in the 21st century. The agreement includes innovative provisions to deepen international cooperation, promote strong enforcement practices, and ultimately help sustain American jobs in innovative and creative industries.

Some of the ACTA's key features include commitments to:

- support and enhance approaches to criminal enforcement through stronger requirements for criminal remedies, by highlighting the importance of combating unlawful camcording in theaters, and by emphasizing the seizure and destruction of fake goods, the seizure of the equipment and materials used in their manufacture, and the recovery of criminal proceeds;
- combat internet piracy through a balanced framework that addresses the widespread distribution of pirated copyrighted works while preserving fundamental principles such as freedom of expression, fair process, and privacy;
- provide customs authorities with the ability to act against import and export shipments as well as to cooperate on in-transit shipments;
- strengthen civil enforcement provisions dealing with damages, provisional measures, recovery of costs and attorneys' fees, and destruction of infringing goods;
- create cooperation and information-sharing mechanisms among ACTA Parties to assist in enforcement efforts; and
- promote strong enforcement practices that lead to the meaningful implementation of laws on the books.

E. Import Food Safety

On March 14, 2009, President Obama announced the creation of the Food Safety Working Group to advise him on how to strengthen the U.S. food safety system. The Working Group, chaired by the Secretaries of the Department of Health and Human Services and the Department of Agriculture, brings together cabinet secretaries and senior officials to foster coordination throughout the federal government on a new, public health focused, approach to food safety based on three core principles: (1) prioritizing prevention; (2) strengthening surveillance and enforcement; and (3) improving response and recovery. USTR has been an active member of the Food Safety Working Group providing guidance on various recommendations and initiatives while ensuring compliance with international trade obligations.

Since its creation, the Food Safety Working Group has served as a mechanism to address cross-cutting food safety issues. In July 2009, the Food Safety Working Group announced key findings on how to upgrade the U.S. food safety system. In 2010, the Obama Administration took steps to reduce the prevalence of *E. coli*, implemented new standards to reduce exposure to *Campylobacter*, and issued a rule to control *Salmonella* contamination.

Most recently, the Obama Administration worked with the U.S. Congress to enact the historic FDA Food Safety Modernization Act. This legislation, which was signed into law on January 4, 2011, includes numerous provisions to strengthen the U.S. food safety system for both domestic and imported products. Some of the new programs that will help ensure the safety of U.S. imports include the creation of a food supplier verification program and the authority to refuse admission to imported food if the foreign facility or country refuses to allow an FDA inspection consistent with the FDA's ability to inspect domestic facilities for safety.

In addition to active participation in the Food Safety Working Group's activities and the earlier Import Safety Working Group, USTR has continued to address the safety of imported products through its work on sanitary and phytosanitary (SPS) issues. An integral part of U.S. free trade agreements (FTAs) are chapters concerning SPS measures. Each SPS chapter has among its stated objectives the protection of human, animal, and plant life or health. These chapters, among other things, establish standing committees of the parties to the FTA to enhance cooperation and consultation on SPS matters and improve the parties' understanding of each other's SPS requirements, as well as to identify appropriate areas for capacity building and technical assistance. The ongoing Trans-Pacific Partnership (TPP) negotiations provide the United States with an opportunity to resolve specific SPS-related trade concerns, affirm our international obligations, and advance the use of safer pesticides and new technologies to protect public health and the environment.

The United States is also working with trading partners through the APEC Food Safety Cooperation Forum (FSCF) Partnership Training Institute Network (PTIN). The FSCF PTIN is composed of leaders from government, the private sector, and academia and serves as a network of food safety trainers in the APEC region. In 2010, the PTIN convened food safety experts from the Asia-Pacific region to develop a roadmap for the development of food safety training modules and delivery mechanism. In addition, PTIN conducted workshops to improve implementation of Codex guidance on export certification and to strengthen food safety in supply chain management with a specific application to aquaculture. The PTIN also launched a website containing food safety training resources.

The WTO Sanitary and Phytosanitary (SPS) and Technical Barriers to Trade (TBT) Committees provide an important forum for the United States to exchange information with its trading partners on countries' respective health and safety requirements and address concerns about their implementation. These capacity building efforts provide an opportunity for the United States to work with its trading partners to ensure that SPS and product safety requirements are based on the best available scientific and technical information and in accordance with their health and safety objectives.

Strong intellectual property rights (IPR) enforcement also plays an essential role in the protection of public health and safety. In this area, USTR, with the help of other federal agencies, works with U.S. trading partners to address product counterfeiting by promoting stronger IPR laws and law enforcement around the world, for example through efforts to negotiate an ACTA. (*For additional information, see Chapter IV.D.*)

F. Organization for Economic Cooperation and Development

Thirty-four democracies in Europe, the Americas, the Middle East, and the Pacific Rim comprise the Organization for Economic Cooperation and Development (OECD), established in 1961 and headquartered in Paris, France. The OECD member countries account for 69 percent of world gross national income (GNI), 60 percent of world trade, 95 percent of world official development assistance, over half of the world's energy consumption, and 18 percent of the world's population. The OECD is not just a grouping of economically significant countries, 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 member countries to pursue specific negotiating goals in other international forums, such as the WTO.

The OECD conducts wide-ranging outreach activities to non-member countries and to business and civil society, in particular through its series of workshops and “Global Forum” events held around the world each year. Non-members may participate as observers of committees when members believe that participation will be mutually beneficial. Non-members Brazil, China, India, Indonesia, and South Africa participate to varying degrees in OECD activities through the Enhanced Engagement (EE) program which seeks to establish a more structured and coherent partnership, based on mutual interest, with these five major economies. The OECD also carries out a number of regional and bilateral cooperation programs with non-members.

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 and other factors. In 2008, the United States was successful in negotiating an agreement whereby the U.S. contribution would be reduced over the next ten years to below 20 percent of the total. In 2010, the U.S. assessed contribution was 23.8 percent of the OECD’s overall budget of 328 million Euros (approximately \$426 million).

1. Trade Committee Work Program

In 2010, the OECD Trade Committee, its subsidiary Working Party, and its joint working groups on environment and agriculture, continued to address a number of issues of significance to the multilateral trading system. Members asked the Secretariat to focus its analytical resources on work that would advocate freer trade and facilitate WTO negotiations, deepening understanding of the rationale for progressive trade liberalization in a rules-based environment. The Trade Homepage on the OECD website (<http://www.oecd.org/trade>) contains up-to-date information on published analytical work and other trade-related activities.

Several major analytical pieces were developed or completed under the Trade Committee during 2010. These included:

- OECD Economic Outlook No. 88
- The Economic Impact of Export Restrictions
- Trade Policy Response to the Global Economic Crisis
- Economic Surveys of Poland and Germany
- Policy Complements to the Strengthening of IPR in Developing Countries
- Trade and Innovation: Report on the Chemicals Sector

- The Use of International Standards in Technical Regulation
- Recent Trends in Export Restrictions
- Increasing the Impact of Trade Expansion on Growth
- Multilateralizing Regionalism
- The Availability and Cost of Short-Term Trade Finance and its Impact on Trade
- International Standards and Trade
- Bilateral and Regional Trade Agreements and Technical Barriers to Trade: An African Perspective
- Export Restrictions on Strategic Raw Materials and their Impact on Trade

The Trade Committee continued its work developing the Services Trade Restrictiveness Index (STRI), a tool to measure the restrictiveness of barriers affecting trade in services. During 2010, the STRI Steering Group made progress on a roadmap for future work, and a series of services experts meetings took place to review specific sectors. Consultations with non-members also took place, and an active effort continued to include non-member data in the STRI to ensure that it is a comprehensive tool for trade policy experts.

A Global Forum on Trade was held in Chengdu, China in October under the theme “Globalization, Comparative Advantage, and Trade Policy”. The forum provided the opportunity for the OECD to highlight and discuss the Committee’s work on *Openness and Changing Patterns of Comparative Advantage*, one of the major studies under the Committee’s 2009-10 program of work.

In addition, the Trade Committee continued its dialogue with civil society and discussed aspects of its work and issues of concern with representatives of civil society, including members of the OECD’s Business and Industry Advisory Council and Trade Union Advisory Council.

2. Dialogue with Non-OECD Members

The OECD continued its contacts with non-member countries under new guidance issued in July 2010 directing all substantive Committees to review their global relations strategies to ensure they adequately reflect the Organization’s priority to deepen and broaden engagement with the EE countries (Brazil, China, India, Indonesia, and South Africa). In December 2010, the Trade Committee issued a new Global Relations Strategy seeking to include EE countries in Trade Committee work related to the goals of supporting the functioning and deepening of the multilateral trading system, increasing transparency of trade policies, and facilitating a level-playing field among providers of officially supported export credits.

Four countries acceded to the OECD in 2010, with Chile becoming a member in May, Slovenia in July, Israel in September, and Estonia in December. Russia continued work on its OECD accession process throughout the year.

3. Other OECD Work Related to Trade

Representatives of OECD member countries meet in specialized committees to advance ideas and review progress in specific policy areas, such as economics, trade, science, employment, education or financial markets. There are about 200 committees, working groups and expert groups. Additional information on OECD activities and publications related to trade can be found on the following OECD websites:

- Trade: <http://www.oecd.org/trade>
- Trade and development: <http://www.oecd.org/trade/dev>
- Trade and environment: <http://www.oecd.org/trade/env>
- Trade facilitation: <http://www.oecd.org/trade/facilitation>
- Agricultural trade: <http://www.oecd.org/agriculture/trade>
- Services trade: <http://www.oecd.org/trade/services>
- Anti-Bribery Convention: <http://www.oecd.org/corruption>
- Export credits: <http://www.oecd.org/trade/xcred>
- Employment, Labor and Social Affairs: <http://www.oecd.org/els>
- Fisheries: <http://www.oecd.org/fisheries>
- Regulatory Reform: <http://www.oecd.org/regreform>
- Steel: <http://www.oecd.org/sti/steel>

G. Agreement on Trade in Pharmaceutical Products

During the Uruguay Round of Multilateral Trade Negotiations, a group of major trading countries agreed to reciprocal elimination of tariffs on certain pharmaceuticals and chemical intermediates²⁷ and that participants in this agreement would revise periodically the list of products subject to duty-free treatment under the auspices the WTO. The United States implemented the agreement on January 1, 1995. As a result of subsequent negotiations under the auspices of the Council for Trade in Goods of the WTO, the United States and other WTO Members expanded the list of pharmaceutical products eligible for duty-free treatment in 1996,²⁸ 1998,²⁹ and 2006.³⁰ A fourth revision to the agreement was concluded among

²⁷ Pharmaceutical products falling within the Harmonized System (HS) Chapter 30 and HS headings 2936, 2937, 2939 and 2941, as well as to designated pharmaceutical active ingredients bearing an 'international non-proprietary name' (INN) from the World Health Organization, specified salts, esters and hydrates of such INNs, and designated pharmaceutical intermediates used for the production and manufacture of finished pharmaceuticals.

²⁸ The United States implemented this revision in Proclamation 6982 of April 1, 1997.

²⁹ The United States implemented this revision in Proclamation 7207 of July 1, 1999.

³⁰ The United States implemented this revision in Proclamation 8095 of December 29, 2006.

participating WTO Members³¹ in May 2010,³² expanding by more than 700 the number of pharmaceutical and chemical products eligible for reciprocal duty-free treatment.³³ This latest revision eliminates duties on an additional \$400 million in U.S. imports and \$150 million in U.S. exports. Total U.S. trade in products covered under the agreement exceeded \$126 billion in 2009.

³¹ Participants are the United States, Canada, European Union and its 27 member states, Japan, Norway, Switzerland, and Macau (China).

³² The United States implemented this revision in Proclamation 8618 of December 21, 2010.

³³ The lists of products are set forth in Publication 4208 of the United States International Trade Commission entitled “Modifications to the Harmonized Tariff Schedule of the United States to Implement Changes to the Pharmaceutical Appendix (December 2010)” retrievable at:

http://www.usitc.gov/tariff_affairs/hts_documents/pub4208.pdf. The modifications are reflected in the Pharmaceutical Appendix to the U.S. Harmonized Tariff Schedule, retrievable at:

<http://www.usitc.gov/publications/docs/tata/hts/bychapter/1100PHARMAPPX.pdf>.

V. TRADE ENFORCEMENT ACTIVITIES

A. Enforcing U.S. Trade Agreements

1. Overview

USTR coordinates the Administration's active monitoring of foreign government compliance with trade agreements to which the United States is a party and pursues enforcement actions, using dispute settlement procedures and applying the full range of U.S. trade laws when necessary. Vigorous investigation efforts by relevant agencies, including the Departments of Agriculture, Commerce, and State, help ensure that these agreements yield the maximum benefits in terms of ensuring market access for Americans, advancing the rule of law internationally, and creating a fair, open, and predictable trading environment. Ensuring full implementation of U.S. trade agreements is one of the Administration's strategic priorities. The United States seeks to achieve this goal through a variety of means, including:

- Asserting U.S. rights through the World Trade Organization (WTO), including the stronger dispute settlement mechanism created in the Uruguay Round, and the WTO bodies and committees charged with monitoring implementation and with surveillance of agreements and disciplines;
- Vigorously monitoring and enforcing bilateral agreements;
- Invoking U.S. trade laws in conjunction with bilateral and WTO mechanisms to promote compliance;
- Providing technical assistance to trading partners, especially in developing countries, to ensure that key agreements such as the Agreement on Basic Telecommunications and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) are implemented on schedule; and
- Promoting U.S. interests under free trade agreements (FTAs) through work programs, accelerated tariff reductions, and use or threat of use of dispute settlement mechanisms, including with respect to enforcement of labor laws or basic widely recognized labor rights, 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 worker 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 97 complaints at the WTO, thus far successfully concluding 55 of them by settling 27 cases favorably and prevailing in 28 others through litigation before WTO panels and the Appellate Body. The United States has obtained favorable settlements and favorable rulings in virtually all sectors, including manufacturing, intellectual property, agriculture, and services. These cases cover a number of WTO agreements—involving rules on trade in goods, trade in services, and intellectual property protection—and affect a wide range of sectors of the U.S. economy.

a. Satisfactory settlements

The goal in filing cases is to secure benefits for U.S. stakeholders rather than to engage in prolonged litigation. Therefore, whenever possible, the United States has sought to reach favorable settlements that eliminate the foreign breach without having to resort to panel proceedings.

The United States has been able to achieve this preferred result in 27 cases concluded so far, involving: Argentina's protection and enforcement of patents; Australia's ban on salmon imports; Belgium's duties on rice imports; Brazil's automotive investment measures; Brazil's patent law; Canada's antidumping and countervailing duty investigation on corn; China's value added tax; China's prohibited subsidies; China's treatment of foreign financial information suppliers; China's government support tied to promotion of Chinese brand names abroad; Denmark's civil procedures for intellectual property enforcement; Egypt's apparel tariffs; the EU's market access for grains; an EU import surcharge on corn gluten feed; Greece's protection of copyrighted motion pictures and television programs; Hungary's agricultural export subsidies; Ireland's protection of copyrights; Japan's protection of sound recordings; Korea's shelf-life standards for beef and pork; Mexico's restrictions on hog imports; Pakistan's protection of patents; the Philippines' market access for pork and poultry; the Philippines' automotive regime; Portugal's protection of patents; Romania's customs valuation regime; Sweden's enforcement of intellectual property rights; and Turkey's box office taxes on motion pictures.

b. Litigation successes

When U.S. trading partners have not been willing to negotiate settlements, the United States has pursued its cases to conclusion, prevailing in 28 cases to date. In 2010, the United States prevailed in a case involving the EU's tariff treatment of certain information technology products. In prior years, the United States prevailed in cases involving: Argentina's tax and duties on textiles, apparel, and footwear; Australia's export subsidies on automotive leather; Canada's barriers to the sale and distribution of magazines; Canada's export subsidies and an import barrier on dairy products; Canada's law protecting patents; China's charges on imported automobile parts; China's measures restricting trading rights and distribution services for certain publications and audiovisual entertainment products; China's enforcement and protection of intellectual property rights; the EU's import barriers on bananas; the EU's ban on imports of beef; the EU's regime for protecting geographical indications; the EU's moratorium on biotechnology products; the EU's non-uniform classification of LCD monitors; India's import bans and other restrictions on 2,700 items; India's protection of patents on pharmaceuticals and agricultural chemicals; India's and Indonesia's discriminatory measures on imports of U.S. automobiles; Japan's restrictions affecting imports of apples, cherries, and other fruits; Japan's barriers to apple imports; Japan's and Korea's discriminatory taxes on distilled spirits; Korea's restrictions on beef imports; Mexico's antidumping duties on high fructose corn syrup; Mexico's telecommunications barriers; Mexico's antidumping duties on rice; Mexico's discriminatory soft drink tax; and Turkey's measures affecting the importation of rice.

USTR also works in consultation with other U.S. Government agencies to ensure the most effective use of U.S. trade laws to complement its litigation strategy and to address problems that are outside the scope of the WTO and U.S. free trade agreements. USTR has effectively applied Section 301 of the Trade Act of 1974 to address unfair foreign government measures, "Special 301" for intellectual property rights protection and enforcement, and Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 for telecommunications trade problems. The application of these trade law tools is described further below.

2. WTO Dispute Settlement

U.S. enforcement successes in 2010 include rulings against more than \$18 billion in subsidies conferred on Airbus by the EU, France, Germany, Spain, and the UK—the largest case heard by a WTO panel to date—as well as a successful challenge to EU tariff treatment for certain information technology products. In addition, the United States obtained important favorable findings in two cases challenging U.S. trade remedies. On October 22, 2010, a WTO panel issued a report in which it recognized that the concurrent application of both antidumping and countervailing duties on dumped and subsidized products from non-market economies such as China is fully consistent with U.S. WTO obligations. On December 13, 2010, a WTO panel found in favor of the United States in a dispute brought by China against additional duties imposed by the United States on imports of Chinese tires under the transitional safeguard mechanism included in China’s Protocol of Accession to the WTO.

The United States launched three new WTO disputes in 2010, requesting WTO consultations with China regarding: China’s procedures and final determinations in its antidumping and countervailing duty investigations of grain oriented flat-rolled electrical steel from the United States; Chinese measures affecting electronic payment services (EPS); and China’s subsidies on wind power equipment. Other ongoing enforcement actions include disputes involving the EU’s ban on the importation and marketing of U.S. poultry, China’s export quotas and export tariffs on various raw materials, and taxes on distilled spirits in the Philippines.

The cases described in Chapter II of this report further demonstrate the importance of the WTO dispute settlement process in opening foreign markets and securing other countries’ compliance with their WTO obligations. Further information on WTO disputes to which the United States is a party is available on the USTR website: <http://www.ustr.gov/trade-topics/enforcement/overview-dispute-settlement-matters>.

3. Other Monitoring and Enforcement Activities

a. Subsidies Enforcement

The WTO Agreement on Subsidies and Countervailing Measures (Subsidies Agreement) establishes multilateral disciplines on subsidies. Among its various disciplines, the Subsidies Agreement provides remedies for subsidies that have adverse effects not only in the importing country’s market, but also in the subsidizing government’s market and in third-country markets. Prior to the Subsidies Agreement coming into effect in 1995, the U.S. countervailing duty law was the only practical mechanism for U.S. companies to address subsidized foreign competition. However, the countervailing duty law focuses exclusively on the effects of foreign subsidized competition in the United States. Although the procedures and remedies are different, the multilateral remedies of the Subsidies Agreement provide an alternative tool to address foreign subsidies that affect U.S. businesses in an increasingly global marketplace.

Section 281 of the Uruguay Round Agreements Act of 1994 (URAA) sets out the responsibilities of USTR and the Department of Commerce (Commerce) in enforcing U.S. rights in the WTO under the Subsidies Agreement. USTR: coordinates the development and implementation of overall U.S. trade policy with respect to subsidy matters; represents the United States in the WTO, including the WTO Committee on Subsidies and Countervailing Measures; and leads the interagency team on matters of policy. The role of Commerce’s Import Administration (IA) is to enforce the countervailing duty law, and in accordance with responsibilities assigned by the Congress in the URAA, to spearhead the subsidies enforcement activities of the United States with respect to the disciplines embodied in the Subsidies

Agreement. The IA's Subsidies Enforcement Office (SEO) is the specific office charged with carrying out these duties.

The primary mandate of the SEO is to examine subsidy complaints and concerns raised by U.S. exporting companies and to monitor foreign subsidy practices to determine whether there is reason to believe they are impeding U.S. exports to foreign markets and are inconsistent with the Subsidies Agreement. Once sufficient information about a subsidy practice has been gathered to permit it to be reliably evaluated, USTR and Commerce confer with an interagency team to determine the most effective way to proceed. It is frequently advantageous to pursue resolution of these problems through a combination of informal and formal contacts, including, where warranted, dispute settlement action in the WTO. Remedies for violations of the Subsidies Agreement may, under certain circumstances, involve the withdrawal of a subsidy program or the elimination of the adverse effects of the program.

During 2010, USTR and IA staff have handled numerous inquiries and met with representatives of U.S. industries concerned with the subsidization of foreign competitors. These efforts continue to be importantly enhanced by IA officers stationed overseas (*e.g.*, in China), who help gather, clarify, and check the accuracy of information concerning foreign subsidy practices. State Department officials at posts where IA staff are not present have also handled such inquiries.

The SEO's electronic subsidies database continues to fulfill the goal of providing the U.S. trading community with a centralized location to obtain information about the remedies available under the Subsidies Agreement and much of the information that is needed to develop a countervailing duty case or a WTO subsidies complaint. The website (<http://esel.trade.gov>) includes foreign governments' subsidies notifications made to the WTO, an overview of the SEO, information on U.S. Antidumping and Countervailing Duty (AD/CVD) proceedings as well as AD/CVD actions with respect to U.S. exports, helpful links, and an easily navigable tool that provides information about each subsidy program investigated by Commerce in CVD cases since 1980. This database is frequently updated, making information on subsidy programs quickly available to the public.

b. Monitoring Foreign Antidumping, Countervailing Duty and Safeguard Actions

The WTO Agreement on Implementation of Article VI (Antidumping Agreement) and the WTO Agreement on Subsidies and Countervailing Measures (Subsidies Agreement) permit WTO Members to impose antidumping or countervailing duties to offset injurious dumping or subsidization of products exported from one Member to another. The United States actively participates in ongoing AD and CVD cases conducted by foreign countries in order to safeguard the interests of U.S. industry and to ensure that Members abide by their WTO obligations in conducting such proceedings. The United States also closely monitors antidumping and countervailing duty proceedings initiated against U.S. exporters to ensure that foreign antidumping and countervailing duty actions are administered fairly and in full compliance with WTO rules.

To this end, the United States works closely with U.S. companies affected by foreign countries' AD and CVD investigations in an effort to help them better understand Members' AD and CVD systems. The United States also advocates on their behalf in connection with ongoing investigations, with the goal of obtaining fair and objective treatment for them consistent with the WTO Agreements. In addition, with regard to CVD cases, the United States provides extensive information in response to questions from foreign governments regarding the subsidy allegations at issue in a particular case.

Further, IA tracks foreign antidumping and countervailing duty actions, as well as safeguard actions involving U.S. exporters, enabling U.S. companies and U.S. Government agencies to monitor other Members' administration of such actions involving U.S. companies. Information about foreign trade

remedy actions affecting U.S. exports is accessible to the public via IA's website at <http://ia.ita.doc.gov/trcs/index.html>. The stationing of IA officers to certain overseas locations and close contacts with U.S. government officers stationed in embassies worldwide has contributed to the Administration's efforts to monitor the application of foreign trade remedy laws with respect to U.S. exports.

During the past year, several trade remedy proceedings involving exports from the United States were closely monitored, including: Brazil's investigations of n-butanol, light weight coated paper and toluene diisocyanate; Canada's investigation of polyiso insulation board and an expiry review of whole potatoes; China's investigations of automobiles, caprolactam, chicken products, grain-oriented electrical steel, polyamide-6, and optical fiber; the European Union's investigation involving vinyl acetate and a circumvention review of their order involving biodiesel; India's investigations of cold rolled stainless steel, hot rolled coil, polypropylene, and soda ash; Mexico's reinvestigations of apples and beef; South Africa's investigation of tall oil fatty acid; and Ukraine's investigation of chicken products. IA personnel have also participated in technical exchanges with the administering authorities of China, Japan, Morocco, and Vietnam 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 semiannual reports submitted for discussion in meetings of the relevant WTO committees. Finally, Members are required to notify the WTO of changes in their antidumping and countervailing duty laws and regulations. These notifications are accessible through the USTR and IA website links to the WTO's website.

4. Initiatives to Address Foreign Standards and SPS Barriers

In July 2009, Ambassador Ron Kirk announced on behalf of the Obama Administration its intention to make enforcement of trade agreements a centerpiece of U.S. trade policy. Specifically, the Administration will deploy resources more effectively to identify and confront unnecessary or unjustified barriers stemming from sanitary and phytosanitary (SPS) measures as well as technical regulations, standards, and conformity assessment procedures (standards-related measures) that restrict U.S. exports of safe, high quality products. SPS measures, technical regulations, and standards serve a vital role in safeguarding countries and their people, including protecting lives, health, safety, and the environment. Conformity assessment procedures are normal, legitimate day-to-day activities that contribute, *inter alia*, to increasing confidence between trading partners by ensuring that products traded internationally comply with underlying standards and technical requirements. However, it is important that SPS and standards-related measures not act as discriminatory or otherwise unwarranted restrictions on market access for U.S. exports. For this reason, U.S. trade agreements provide that, although countries may adopt SPS and standards-related measures to meet legitimate objectives such as the protection of health and safety as well as the environment, the measures they adopt in pursuit of such objectives must not act as unnecessary obstacles to trade. Stepped up monitoring of trading partners' practices and increased engagement with them can help ensure that U.S. trading partners are complying with their obligations and can help facilitate trade in safe, high quality U.S. products.

As part of this intensified effort to identify and eliminate or alleviate such barriers, in March 2010 USTR published two new reports, the Report on Technical Barriers to Trade (TBT) and the Report on Sanitary and Phytosanitary Measures. Both of these reports serve as tools to bring greater attention and focus to addressing SPS and standards-related measures that may be inconsistent with international trade

agreements to which the United States is a party or that otherwise act as significant barriers to U.S. exports and thereby support efforts to gain market access for American farmers, ranchers, and businesses. These new reports are based on assessments from other government agencies, including from commercial, agricultural, and foreign service officers stationed abroad, and submissions from industry and other interested stakeholders.

These reports also describe the actions that the United States has taken to address the specific trade concerns identified through these efforts, as well as ongoing processes for monitoring SPS and standards-related actions that affect trade. USTR's activities in the WTO SPS Committee and the WTO TBT Committee are at the forefront of these efforts. (*For additional information, see Chapter II.E.3 and Chapter II.E.8.*) USTR also engages on these issues through, *inter alia*, mechanisms established by free trade agreements, such as NAFTA, and through other regional and multilateral organizations, such as APEC and the OECD.

USTR will issue new, up-to-date TBT and SPS Reports in 2011 to continue to highlight the increasingly critical nature of these issues to U.S. trade policy, to identify and call attention to problems resolved during 2010, in part as models for resolving ongoing issues, and to signal new or existing areas in which more progress needs to be made. These updates, and the actions highlighted therein will be based in part on the input USTR receives from stakeholders. In October 2010, USTR issued a *Federal Register* Notice requesting producers, growers, industry, and other members of the public to submit views on SPS and standards-related measures that act as significant barriers to U.S. exports.

B. U.S. Trade Laws

1. Section 301

Section 301 of the Trade Act of 1974, as amended (the Trade Act), is designed to address foreign unfair practices affecting U.S. exports of goods or services. Section 301 may be used to enforce U.S. rights under bilateral and multilateral trade agreements and also may be used to respond to unreasonable, unjustifiable, or discriminatory foreign government practices that burden or restrict U.S. commerce. For example, Section 301 may be used to obtain increased market access for U.S. goods and services, to provide more equitable conditions for U.S. investment abroad, and to obtain more effective protection worldwide for U.S. intellectual property.

a. Operation of the Statute

The Section 301 provisions of the Trade Act provide a domestic procedure whereby interested persons may petition the USTR to investigate a foreign government act, policy, or practice that may be burdening or restricting U.S. commerce and take appropriate action. The USTR also may self-initiate an investigation.

In each investigation, the USTR must seek consultations with the foreign government, whose acts, policies, or practices are under investigation. If the consultations do not result in a settlement and the investigation involves a trade agreement, Section 303 of the Trade Act requires the USTR to use the dispute settlement procedures that are available under that agreement. Section 304 of the Trade Act requires the USTR to determine whether the acts, policies, or practices in question deny U.S. rights under a trade agreement or whether they are unjustifiable, unreasonable, or discriminatory and burden or restrict U.S. commerce. If the acts, policies, or practices are determined to violate a trade agreement or to be unjustifiable, the USTR must take action. If they are determined to be unreasonable or discriminatory and

to burden or restrict U.S. commerce, the USTR must determine whether action is appropriate and if so, what action to take.

Actions that the USTR may take under Section 301 include to: (1) suspend trade agreement concessions; (2) impose duties or other import restrictions; (3) impose fees or restrictions on services; (4) enter into agreements with the subject country to eliminate the offending practice or to provide compensatory benefits for the United States; and/or (5) restrict service sector authorizations.

After a Section 301 investigation is concluded, the USTR is required to monitor a foreign country's implementation of any agreements entered into, or measures undertaken, to resolve a matter that was the subject of the investigation. If the foreign country fails to comply with an agreement or the USTR considers that the country fails to implement a WTO dispute panel recommendation, the USTR must determine what further action to take under Section 301.

b. Developments during 2010

During 2010, USTR initiated an investigation in response to a petition, as described in part e below. In addition, there were developments relating to the Section 301 investigations described in parts c and d below.

c. Canada – Compliance with Softwood Lumber Agreement

Under the 2006 Softwood Lumber Agreement (SLA), Canada agreed to impose export measures on Canadian exports of softwood lumber products to the United States. At the request of the United States, an arbitral tribunal established under the SLA found that Canada had not complied with certain SLA obligations, and in February 2009, the tribunal issued an award concerning the remedy to be applied.

In April 2009, the USTR: (1) initiated a Section 301 investigation of Canada's compliance with the SLA; (2) determined in the investigation that Canada is denying U.S. rights under the SLA; (3) found that expeditious action was required to enforce U.S. rights under the SLA; and (4) determined that the appropriate action under Section 301 was to impose 10 percent *ad valorem* duties on imports of softwood lumber products from the provinces of Ontario, Quebec, Manitoba, and Saskatchewan. Under the determination, the duties were to remain in place until such time as the United States had collected \$54.8 million, which is the U.S. dollar equivalent to the CDN \$68 million amount determined by the arbitral tribunal.

During 2010, the Government of Canada informed the United States that it was adopting its own measures to address Canada's breach of the SLA. In particular, Canada adopted measures to collect an additional 10 percent charge on exports of softwood lumber products from the provinces of Ontario, Quebec, Manitoba, and Saskatchewan, effective with respect to softwood lumber products with a shipment date of September 1, 2010 or later. Per an understanding between the governments of the United States and Canada, Canada will continue to collect the additional 10 percent charge on exports until the total of the amounts collected under the U.S. 10 percent import duty and the Canadian charge on exports is equal to CDN \$68 million.

In August 2010, the USTR determined that Canada's measures satisfactorily grant the rights of the United States under the SLA. Accordingly, the USTR modified the April 2009 action by removing the 10 percent *ad valorem* duties on imports of softwood lumber products subject to the SLA from the provinces of Ontario, Quebec, Manitoba, and Saskatchewan, effective with respect to imports with a shipment date of September 1, 2010 or later. Pursuant to Section 306(a) of the Trade Act, the USTR will continue to monitor the implementation of Canada's measures, imposing a 10 percent export charge.

d. European Commission - Measures Concerning Meat and Meat Products (Hormones)

A European Commission (EC) directive prohibits the import into the European Union of animals and meat from animals to which certain hormones have been administered (the “hormone ban”). This measure has the effect of banning nearly all imports of beef and beef products from the United States. A WTO panel and the Appellate Body found that the hormone ban was inconsistent with the EC’s WTO obligations because the ban was not based on scientific evidence, a risk assessment, or relevant international standards. Under WTO procedures, the EC was to have come into compliance with its obligations by May 13, 1999, but it 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 it objected to the level of suspension proposed by the United States.

On July 12, 1999, WTO arbitrators determined that the level of nullification or impairment suffered by the United States as a result of the EC’s WTO-inconsistent hormone ban was \$116.8 million per year. Accordingly, on July 26, 1999, the DSB authorized the United States to suspend the application to the EC and its Member States of tariff concessions and related obligations under the GATT covering trade up to \$116.8 million per year. In a *Federal Register* Notice published in July 1999, the USTR announced that the United States was exercising this authorization by using authority under Section 301 to impose 100 percent *ad valorem* duties on a list of certain products (the “retaliation list”) of certain EC Member States.

In February 2005, a WTO panel was established to consider the EC’s claims that it had brought its hormone ban into compliance with the EC’s WTO obligations and that the increased duties imposed by the United States were no longer covered by the Dispute Settlement Body (DSB) authorization. The WTO panel concluded its work in 2008, and the panel report was appealed to the WTO Appellate Body. In October 2008, the Appellate Body confirmed that the July 1999 DSB authorization to the United States to suspend the application of tariff concessions and related obligations remained in effect.

Section 307(c) of the Trade Act provides for USTR to conduct a review of a Section 301 action four years after the action was taken. During 2008, the U.S. Court of International Trade held that USTR must also conduct a Section 307(c) review eight years after the action was taken. Accordingly, in a remand from the U.S. Court of International Trade, USTR proceeded to conduct such a review.

In January 2009, USTR announced the results of the Section 307(c) review and reported the results of the remand proceeding to the U.S. Court of International Trade. The USTR decided to modify the action taken in July 1999 by: (1) removing some products from the list of products subject to 100 percent *ad valorem* duties since July 1999; (2) imposing 100 percent *ad valorem* duties on some new products from certain EC member States; (3) modifying the coverage with respect to particular EC member States; and (4) raising the level of duties on one of the products that was being maintained on the product list. The trade value of the products subject to the modified action continued not to exceed the \$116.8 million per year level authorized by the WTO in July 1999. The effective date of the modifications was to be March 23, 2009.

In March 2009, the USTR decided to delay the effective date of the additional duties (items two through four above) imposed under the January 2009 modifications in order to allow additional time for reaching an agreement with the EC that would provide benefits to the U.S. beef industry. The effective date of the removal of duties under the January modifications remained March 23, 2009. Accordingly, subsequent to March 23, 2009, the additional duties put in place in July 1999 remained in place on a reduced list of products.

In May 2009, the United States and the EC announced the signing of a Memorandum of Understanding (MOU) in the EC-Beef Hormones dispute. Under the first phase of the MOU, the EC is obligated to open a new beef tariff-rate quota (TRQ) for beef not produced with certain growth-promoting hormones in the amount of 20,000 metric tons at zero rate of duty. The United States in turn is obligated not to increase additional duties above those in effect as of March 23, 2009.

In June 2009, the U.S. Court of International Trade rejected the USTR's January 2009 results of the remand proceeding. The United States appealed the U.S. Court of International Trade decision to the U.S. Court of Appeals for the Federal Circuit.

In August 2009, the EC opened the new beef TRQ, and USTR published a notice seeking comments on the actions necessary to implement U.S. obligations under the first phase of the MOU and to pursue additional market access under subsequent phases of the MOU. In particular, the notice sought comments on the continued imposition of 100 percent *ad valorem* duties throughout the remainder of the first phase of the MOU on the reduced list of products subject to such duties since March 23, 2009.

In September 2009, after consideration of the comments received in response to the August notice, the USTR took action under Section 301 necessary to implement U.S. obligations under the first phase of the MOU and to pursue additional market access under subsequent phases of the MOU. In particular, the USTR terminated the additional duties that were announced in January 2009 but had been delayed up to that time and had never entered into force. The USTR's September 2009 action left in place the additional duties that had been in effect since March 23, 2009 on a reduced list of products.

In October 2010, the U.S. Court of Appeals for the Federal Circuit affirmed the June 2009 decision of the U.S. Court of International Trade.

The first phase of the MOU concludes on August 3, 2012. Under a possible second phase of the MOU, the EC would expand the beef TRQ to 45,000 metric tons, and the United States would suspend all additional duties imposed in connection with the EC-Beef Hormones dispute.

e. China – Acts, Policies and Practices Affecting Trade and Investment in Green Technology

On September 9, 2010, the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO CLC (“USW”) filed a petition under Section 302 of the Trade Act of 1974 addressed to China’s acts, policies, and practices affecting trade and investment in green technologies. The petition covered: export restraints on rare earth minerals, tungsten, and antimony; allegedly prohibited subsidies contingent on export performance, or on the use of domestic over imported goods, affecting a variety of products, including wind turbines; discrimination against foreign companies and goods, including with respect to wind and solar power projects; technology transfer as a requirement for approval of foreign investments in China; and domestic subsidy programs that are allegedly causing serious prejudice to U.S. interests, including subsidies supporting renewable energy industries. The petition alleged that China’s acts, policies, and practices violate China’s WTO commitments under the GATT 1994, under the Subsidies and Countervailing Measures Agreement (SCM Agreement), and under China’s Protocol of Accession to the WTO.

On October 15, 2010, the USTR initiated an investigation under Section 302 of the Trade Act with respect to the acts, policies, and practices of China identified in the petition. Pursuant to Section 303(b) of the Trade Act, the USTR decided to delay for up to 90 days the request for consultations with the Government of China for the purpose of verifying and improving the petition. During the period of delay provided for under Section 303(b), the Trade Representative sought information and advice from the

petitioner and the appropriate committees established pursuant to Section 135 of the Trade Act. The Trade Representative took account of this information and advice, as well as public comments submitted in response to the notice of initiation, in improving and verifying the petition during the delay period.

As a result of those efforts, USTR verified and improved claims involving subsidies provided by China on wind power equipment under its Wind Power Equipment Fund. In particular, USTR verified that China's Wind Power Equipment Fund provides grants that appear to be contingent on the use of domestic over imported wind power equipment, and thus appears to be a prohibited subsidy that is inconsistent with China's obligations under Article 3 of the SCM Agreement. In addition, as it appears that China has neither made available a translation of the measure into a WTO official language nor notified it to the WTO, China appears to have failed to comply with its transparency obligations under the WTO Agreement. Accordingly, on December 22, 2010, the United States requested WTO dispute settlement consultations regarding China's Wind Power Equipment Fund.

USTR was not able to verify and improve claims with respect to the remaining acts, policies, and practices covered in the USW petition. Those matters were not included in the request for consultations and were not continued in the investigation under Section 302(b). However, the USTR continues to have serious concerns with these acts, policies and practices and their effects on U.S. workers and businesses and will continue to work with the petitioner and other stakeholders to develop additional information and effective means for addressing these matters. *(For additional information on the WTO dispute involving China's Wind Power Equipment Fund, see Chapter II.H.a.)*

2. Special 301

Pursuant to Section 182 of the Trade Act of 1974, as amended by the Omnibus Trade and Competitiveness Act of 1988 and the Uruguay Round Agreements Act (enacted in 1994), USTR must identify those countries that deny adequate and effective protection for intellectual property rights (IPR) or deny fair and equitable market access for persons that rely on intellectual property protection. Countries that have the most onerous or egregious acts, policies, or practices and whose acts, policies, or practices have the greatest adverse impact (actual or potential) on relevant U.S. products are designated as "Priority Foreign Countries," unless those countries are entering into good faith negotiations, or are making significant progress in bilateral or multilateral negotiations to provide adequate and effective protection of IPR. Priority Foreign Countries are subject to an investigation under the Section 301 provisions of the Trade Act of 1974, unless USTR determines that the investigation would be detrimental to U.S. economic interests.

In addition, USTR has created a Special 301 "Priority Watch List" and "Watch List." Placement of a trading partner on the Priority Watch List or Watch List indicates that particular problems exist in that country with respect to IPR protection, enforcement, or market access for persons relying on intellectual property. Countries placed on the Priority Watch List receive increased attention in bilateral discussions with the United States concerning problem areas.

Additionally, under Section 306 of the Trade Act of 1974, USTR monitors whether U.S. trading partners are in compliance with bilateral intellectual property agreements with the United States that are the basis for resolving investigations under Section 301. USTR may apply sanctions if a country fails to satisfactorily implement such an agreement.

The Special 301 list not only indicates those trading partners whose intellectual property protection and enforcement regimes most concern the United States, but also alerts firms considering trade or investment relationships with such countries that their intellectual property rights may not be adequately protected.

a. 2010 Special 301 Review Announcements

On April 30, 2010, the United States announced the results of the 2010 Special 301 annual review. The 2010 report reflects the Obama Administration's resolve to encourage and help maintain effective IPR protection and enforcement worldwide. It identifies a wide range of serious concerns, from troubling "indigenous innovation" policies that may unfairly disadvantage U.S. rights holders in China, to the continuing challenges of Internet piracy in countries such as Canada and Spain, to the ongoing systemic IPR enforcement challenges in many countries around the world. Positive accomplishments recognized in the 2010 report included improved efforts by the Czech Republic, Hungary, and Poland, all of whom were removed from the Watch List. Additionally, after successful Out-of-Cycle Reviews (OCR) in 2009, Saudi Arabia was removed from the Watch List, and Israel entered into an understanding with the United States, whereby it agreed to address key outstanding IPR issues. An OCR is a tool that USTR uses to encourage progress on IPR issues of concern. It provides an opportunity for heightened engagement with the trading partner on those issues. Successful resolution of specific IPR issues may, in some circumstances, lead to a change in a country's status on the Special 301 list outside of the typical time frame for the annual Special 301 Report.

The 2010 Special 301 review process examined IPR protection and enforcement in 77 countries. Following extensive research and analysis, USTR designated the 42 countries below as follows:

- Priority Watch List: Algeria, Argentina, Canada, Chile, China, India, Indonesia, Pakistan, Russia, Thailand, Venezuela.
- Watch List: Belarus, Bolivia, Brazil, Brunei, Colombia, Costa Rica, Dominican Republic, Ecuador, Egypt, Finland, Greece, Guatemala, Italy, Jamaica, Kuwait, Lebanon, Malaysia, Mexico, Norway, Peru, Philippines, Romania, Spain, Tajikistan, Turkey, Turkmenistan, Ukraine, Uzbekistan, Vietnam.
- Section 306 Monitoring: Paraguay.
- Status Pending: Israel.

USTR also announced that it would conduct an OCR of the Philippines and Thailand to monitor progress on IPR protection and enforcement in those countries and to consider again their Special 301 status.

Consistent with the goals articulated in the President's 2010 Trade Policy Agenda, USTR enhanced its public engagement activities in the 2010 Special 301 process. USTR requested written submissions from the public through a notice published in the *Federal Register* on January 15, 2010. The 2010 review yielded 571 comments from interested parties, a significant increase from 2009. The submissions received by USTR were made available to the public online at <http://www.regulations.gov>, docket number USTR-2010-0003. Further, on March 3, 2010, USTR conducted a public hearing that permitted interested persons to testify before the interagency Special 301 subcommittee about issues relevant to the review. The hearing included testimony from 23 witnesses, ranging from foreign governments to industry representatives to non-governmental organizations. A transcript of the hearing was made available at <http://www.ustr.gov>.

These activities were designed to ensure that Special 301 decisions were based on a robust understanding of complicated issues involving intellectual property and to help facilitate sound, well-balanced assessments of developments in particular trading partners.

3. Section 1377 Review of Telecommunications Agreements

Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 requires USTR to review by March 31 of each year the operation and effectiveness of U.S. telecommunications trade agreements. The purpose of the review is to determine whether any act, policy, or practice of a foreign country that has entered into a telecommunications-related agreement with the United States: (1) is not in compliance with the terms of the agreement; or (2) otherwise denies, within the context of the agreement, to telecommunications products and services of U.S. firms, mutually advantageous market opportunities in that country.

The 2010 Section 1377 Review focused on a range of concerns, including: (1) rates for terminating calls on fixed and mobile networks in El Salvador, Jamaica, Japan, Peru, and Tonga; (2) access to networks controlled by dominant suppliers in Australia, Colombia, Germany, India, Mexico, Singapore, and Sweden; and (3) impediments to trade in telecommunications equipment imposed by Brazil, China, Israel, Mexico, South Korea, and Thailand.

4. Antidumping Actions

Under the antidumping law, duties are imposed on imported merchandise when the U.S. Department of Commerce (Commerce) determines that the merchandise is being dumped (sold at “less than fair value”) and the U.S. International Trade Commission (USITC) determines that there is material injury or threat of material injury to the domestic industry, or material retardation of the establishment of an industry, “by reason of” those imports. The antidumping law’s provisions are incorporated in Title VII of the Tariff Act of 1930 and have been substantially amended by the Trade Agreements Act of 1979, the Trade and Tariff Act of 1984, the Trade and Competitiveness Act of 1988, and the 1994 Uruguay Round Agreements Act.

An antidumping investigation usually starts when a U.S. industry, or an entity filing on its behalf, submits a petition alleging, with respect to certain imports, the dumping and injury elements described above. If the petition meets the applicable requirements, Commerce initiates an antidumping investigation. In special circumstances, Commerce also may initiate an investigation on its own motion.

After initiation, the USITC decides, generally within 45 days of the filing of the petition, whether there is a “reasonable indication” of material injury or threat of material injury to a domestic industry, or material retardation of an industry’s establishment, “by reason of” the allegedly dumped imports. If this preliminary injury determination by the USITC is negative, the investigation is terminated and no duties are imposed; if it is affirmative, Commerce will make preliminary and final determinations concerning the allegedly dumped sales into the U.S. market. If Commerce’s preliminary determination is affirmative, Commerce will direct U.S. Customs to suspend liquidation of entries and require importers to post a bond or cash deposit equal to the estimated weighted-average dumping margin.

If Commerce’s final determination regarding dumping is negative, the investigation is terminated and no duties are imposed. If affirmative, the USITC makes a final injury determination. If the USITC determines that there is material injury or threat of material injury, or material retardation of an industry’s establishment, by reason of the dumped imports, an antidumping order is issued. If the USITC’s final injury determination is negative, the investigation is terminated and the cash deposits are refunded or the bonds posted are released.

Upon request of an interested party, Commerce conducts annual reviews of dumping margins pursuant to Section 751 of the Tariff Act of 1930. Section 751 also provides for Commerce and USITC review in cases of changed circumstances and periodic review in conformity with the five-year “sunset” provisions of the U.S. antidumping law and the WTO Antidumping Agreement.

Most antidumping determinations may be appealed to the U.S. Court of International Trade, with further judicial review possible in the U.S. Court of Appeals for the Federal Circuit. For certain investigations involving Canadian or Mexican merchandise, appeals may be made to a binational panel established under the NAFTA.

The United States initiated three antidumping investigations in 2010 and imposed 17 antidumping orders.

5. Countervailing Duty Actions

The U.S. countervailing duty (CVD) law dates back to late 19th century legislation authorizing the imposition of CVDS on subsidized sugar imports. The current CVD provisions are contained in Title VII of the Tariff Act of 1930, as amended by subsequent legislation, including the Uruguay Round Agreements Act. As with the antidumping law, the USITC and the U.S. Department of Commerce (Commerce) jointly administer the CVD law.

The CVD law’s purpose is to offset certain foreign government subsidies that benefit imports into the United States. CVD procedures under Title VII are very similar to antidumping procedures, and CVD determinations by Commerce and the USITC are subject to the same system of judicial review as are antidumping determinations. Commerce normally initiates investigations based upon a petition submitted by a U.S. industry or an entity filing on its behalf. The USITC is responsible for investigating material injury issues. The USITC makes a preliminary finding as to whether there is a reasonable indication of material injury or threat of material injury, or material retardation of an industry’s establishment, by reason of the imports subject to investigation. If the USITC’s preliminary determination is negative, the investigation terminates; otherwise, Commerce issues preliminary and final determinations on subsidization. If Commerce’s final determination of subsidization is affirmative, the USITC proceeds with its final injury determination. If the USITC’s final determination is affirmative, Commerce will issue a CVD order.

The United States initiated three CVD investigations and imposed 10 CVD orders in 2010.

6. Other Import Practices

a. Section 337

Section 337 of the Tariff Act of 1930, as amended, makes it unlawful to engage in unfair acts or unfair methods of competition in the importation of goods or sale of imported goods. Most Section 337 investigations concern alleged infringement of intellectual property rights, such as U.S. patents and trademarks.

The United States International Trade Commission (USITC or Commission) conducts Section 337 investigations through adjudicatory proceedings under the Administrative Procedure Act. The proceedings normally involve an evidentiary hearing before a USITC administrative law judge who issues an Initial Determination that is subject to review by the Commission. If the USITC finds a violation, it can order that imported infringing goods be excluded from the United States and/or issue cease and desist orders requiring firms to stop unlawful conduct in the United States, such as the sale or other distribution

of imported goods in the United States. A limited exclusion order covers only certain imports from particular named sources, namely parties who are respondents in the proceeding. A general exclusion order, on the other hand, covers certain products from all sources. Cease and desist orders are generally directed to entities maintaining inventories of infringing goods in the United States. Many Section 337 investigations are terminated after the parties reach settlement agreements or agree to the entry of consent orders. The USITC is also authorized to issue temporary exclusion or cease and desist orders before it completes an investigation if it determines that there is reason to believe there has been a violation of Section 337.

In cases in which the USITC finds a violation of Section 337, it must decide whether certain public interest factors nevertheless preclude the issuance of a remedial order. Such public interest considerations include an order's effect on public health and welfare, on U.S. consumers, and on the production of similar U.S. products. If the USITC issues a remedial order, it transmits the order, determination, and supporting documentation to the President for policy review. In July 2005, 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.

In 2010, the USITC instituted 56 new Section 337 investigations, and one new enforcement proceeding. During the year, the USITC issued two general exclusion orders, six limited exclusion orders, and 20 cease and desist orders, covering imports from foreign firms, as follows: *Certain Coaxial Cable Conductors*, No. 337-TA-650 (a limited exclusion order and a general exclusion order); *Certain Cast Steel Railway Wheels*, No. 337-TA-655 (a limited exclusion order and four cease and desist orders); *Certain Semiconductor Chips with Synchronous Dynamic RAM Controllers*, No. 337-TA-661 (a limited exclusion order and eleven cease and desist orders); *Certain Optoelectronic Devices, Components thereof, and Products Containing the Same*, No. 337-TA-669 (a limited exclusion order and a cease and desist order); *Certain Energy Drinks*, No. 337-TA-678 (a general exclusion order); *Certain Products Advertised as Containing Creatine Ethyl Ester*, No. 337-TA-679 (a limited exclusion order and four cease and desist orders); and *Certain Caskets*, No. 337-TA-725 (a limited exclusion order). The USTR is currently engaged in the policy review of the USITC limited exclusion order issued in *Certain Caskets*, No. 337-TA-725. The other USITC orders issued in 2010 became final after expiration of the 60-day review period.

b. Section 201

Section 201 of the Trade Act of 1974 provides a procedure whereby the President may grant temporary import relief to a domestic industry 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, 2011, the United States had no measures in place under Section 201. The United States did not impose any Section 201 measures during 2010, and did not commence any safeguard investigations.

c. Section 421

The terms of China’s accession to the WTO include a unique, China-specific safeguard mechanism. The mechanism allows a WTO Member to limit increasing imports from China that disrupt or threaten to disrupt its market if China does not agree to take action to remedy or prevent the disruption or threatened disruption. The mechanism applies to all industrial and agricultural goods and will be available until December 11, 2013.

Section 421 of the Trade Act of 1974, as amended by the U.S.-China Relations Act of 2000, implements this safeguard mechanism in U.S. law. For an industry to obtain relief under Section 421, the USITC must first make a determination that products of China are being imported into the United States in such increased quantities or under such conditions as to cause or threaten to cause market disruption to the domestic producers of like or directly competitive products. The statute directs that, if the USITC makes an affirmative determination, the President shall provide import relief, unless the President determines that provision of relief is not in the national economic interest of the United States or, in extraordinary cases, that the taking of action would cause serious harm to the national security of the United States.

China’s terms of accession also permit a WTO Member to limit imports where a China-specific safeguard measure imposed by another Member causes or threatens to cause significant diversions of trade into the first Member’s market. The trade diversion provision is implemented in U.S. law by Section 422 of the Trade Act of 1974, as amended.

In April 2009, the United Steelworkers Union filed a petition under Section 421 with respect to certain passenger vehicle and light truck tires. On September 11, 2009, following an affirmative market disruption finding by the USITC, the President issued a determination imposing additional duties on such tires for a period of three years. The additional duties went into effect on September 26, 2009. The additional duties are set at 35 percent *ad valorem* for the first year, 30 percent *ad valorem* for the second year, and 25 percent *ad valorem* for the third year.

On September 14, 2009, China requested consultations with the United States in the WTO with respect to the imposition of the additional duties. China alleged that the additional duties imposed by the President were inconsistent with GATT 1994, the Agreement on Safeguards and China’s Protocol of Accession. China also alleged that the USITC’s determination of market disruption was inconsistent with the Protocol of Accession. In addition, China alleged that the level and duration of the duties were inconsistent with the Protocol of Accession. Finally, China alleged that the section 421 definition of “significant cause” was in and of itself inconsistent with the Protocol of Accession. The WTO established a panel in January 2010 to hear this dispute. In a report circulated on December 13, 2010, the panel found in favor of the United States with respect to all of China’s claims.

7. Trade Adjustment Assistance

a. Overview and Assistance for Workers

The Trade Adjustment Assistance for Workers (TAA), Alternative Trade Adjustment Assistance (ATAA), and Reemployment Trade Adjustment Assistance (RTAA) programs are authorized under Title II of the Trade Act of 1974, as amended. These programs, collectively referred to as Trade Adjustment Assistance (TAA), provide assistance to workers who have been adversely affected by foreign trade.

On February 17, 2009, President Obama signed into law the Trade and Globalization Adjustment Assistance Act of 2009 (TGAAA), as part of the American Recovery and Reinvestment Act of 2009. The TGAAA: reauthorized TAA, expanded TAA coverage to more workers, including workers in the service sector; expanded benefits to workers whose jobs have been outsourced to foreign countries; improved workers' training options; and increased the affordability of health insurance premiums. The reauthorization also expanded the scope of the TAA programs to better assist adversely affected workers in finding new employment. It authorized funding for employment and case management services and encouraged the type of long-term training necessary for jobs in the 21st century economy through an extension of income support, an increase in the cap for training funding, and access to training for adversely affected incumbent workers. On December 29, 2010, the President signed a bill to extend certain 2009 TGAAA amendments that were scheduled to expire on December 31, 2010. The TGAAA lapsed on February 12, 2011.

The TAA program currently offers the following services to eligible workers: training; weekly income support; out-of-area job search and relocation allowances; case management and employment services; assistance with payments for health insurance coverage through the utilization of the Health Coverage Tax Credit (HCTC); and wage insurance for some older workers through RTAA or ATAA. RTAA is the expanded wage insurance option available to reemployed older workers authorized by the TGAAA. RTAA replaces ATAA, which provided wage insurance to reemployed older workers as a pilot project under the TAA Reform Act of 2002 for adversely affected workers covered by certifications of petitions for TAA and ATAA eligibility filed before May 18, 2009. In FY 2010, \$975,320,800 was allocated to state governments to fund and administer TAA benefits.

For a worker to be eligible to apply for TAA, the worker must be part of a group of workers that are the subject of a petition filed with the U.S. Department of Labor (DOL). Three workers of a company, a company official, a union or other duly authorized representative, or a One-Stop Career Center operator or One-Stop partner may file that petition with the DOL. In response to the filing, the DOL institutes an investigation to determine whether foreign trade was an important cause of the workers' job loss or threat of job loss. If the DOL determines that the workers meet the statutory criteria for group certification of eligibility for the workers in the group to apply for TAA, the DOL grants the petition and issues a certification.

The DOL administers the TAA program through the Employment and Training Administration (ETA), with states acting as agents of the United States in administering TAA benefits for members of TAA-certified worker groups. Once covered by a certification, individual workers apply for benefits and services through the One-Stop delivery system. Local One-Stop Career Centers can be found on the Internet at <http://www.servicelocator.org> or by calling 1-877-US2-JOBS. Most benefits and services have specific individual eligibility criteria that must be met, such as previous work history, unemployment insurance eligibility, and individual skill levels.

The 2009 expansion of TAA coverage for service sector workers, as well as the effects of the economic recession, contributed to a significant increase in petitions filed in FY 2009. Petition filings returned to previous levels in FY 2010, with 2,222 petitions filed as compared to 4,549 in FY 2009. In FY 2010, the DOL certified an estimated 280,873 workers to receive TAA benefits, nearly doubling the number of certifications issued in each of the previous two years. The increase in certifications was due in large part to efforts by the DOL to reduce the backlog created by the surge in petitions filed in 2009. As a result of the TAA expansion in 2009, more than 155,000 workers were assisted who may otherwise have been ineligible without the expanded coverage. The largest proportion of workers receiving benefits under TAA expanded coverage were certified based on a finding of a shift of services, acquisitions of services, or other service-related criteria.

b. Trade Adjustment Assistance for Farmers

On February 17, 2009, the American Recovery and Reinvestment Act of 2009 (P.L. 111-5) reauthorized and modified the Trade Adjustment Assistance (TAA) for Farmers program. The program provides technical and financial assistance to producers of any agricultural commodity (including livestock) in its raw or natural state and to certain persons engaged in the business of fishing who suffered lower production or lower prices due to import competition. Annual appropriations for the TAA for Farmers program total \$90 million for each of FY 2009 and FY 2010, and \$22.5 million for FY 2011. A proposed rule was announced by the U.S. Department of Agriculture on August 24, 2009 seeking public comment, and an interim rule that immediately implemented the program was announced on March 1, 2010.

In fiscal year 2009, outlays under the program totaled \$25 million, although no technical assistance or cash payments were made to farmers or fishermen. All FY 2009 outlays were administrative costs associated with running the program, particularly the establishment of the training component for the program (\$17 million) and the establishment of the software used for administering the petition, application, and payment phases of the program (\$5 million).

For fiscal year 2010, seventeen petitions were received, and three petitions were approved under the FY 2010 program on behalf of U.S. asparagus, U.S. catfish producers, and shrimp producers in the Gulf and South Atlantic region. Over 5,000 producers applied for benefits under FY 2010 certified petitions. The FY 2011 program was launched on May 21, 2010. Thirty-three petitions were received, and three were certified on behalf of blueberry producers in Maine, lobster producers in five northeastern states, and shrimp producers in Alaska and nine Gulf and South Atlantic states. Ninety million dollars was obligated under the FY 2010 program, including \$72.4 million for cash payments to eligible producers. For FY 2011, \$22.5 million was obligated under the program, with \$20.8 million for cash payments to producers.

c. Assistance for Firms and Industries

The U.S. Economic Development Administration's (EDA) Trade Adjustment Assistance for Firms Program (the TAAF Program) is authorized by section 251 of the Trade Act of 1974 (the Trade Act), as amended (19 U.S.C. 2341 et seq.). The TAAF Program provides technical assistance to help U.S. firms experiencing a decline in sales and employment to become more competitive in the global marketplace. To be certified for the program, a firm must show that an increase in imports of like or directly competitive articles contributed importantly to the decline in sales or production and to the separation or threat of separation of a significant portion of the firm's workers. The Secretary of the U.S. Commerce Department is responsible for administering the TAAF Program and has delegated the statutory authority and responsibility under the Trade Act to the Department of Commerce's Economic Development Administration (EDA). The U.S. Economic Development Administration's regulations implementing the TAAF Program are codified at 13 CFR Part 315 and may be accessed via EDA's Internet website at: <http://www.eda.gov/InvestmentsGrants/Lawsreg.xml>.

In Fiscal Year (FY) 2010, EDA awarded a total of \$15,450,000 in TAAF Program funds to its national network of 11 Trade Adjustment Assistance Centers, each of which is assigned a different geographic service area. During FY 2010, EDA certified 330 petitions for eligibility and approved 265 adjustment proposals.

Additional information on the TAAF Program (including eligibility criteria and application process) is available at <http://www.eda.gov/TAAF>.

8. United States Preference Programs

a. Overview

The United States has a number of programs designed to encourage economic development in lower income countries by offering preferential duty-free U.S. market access to imports from countries covered by these programs. Individual countries may be covered by more than one preferential access program, with the opportunity for exporters to choose among programs when seeking preferential access to the U.S. market. The extent to which developing countries take advantage of the preferential access provided under U.S. trade law is measured by the total value of imports (for consumption) receiving preferential access under any one of the individual programs. Such U.S. imports totaled an estimated \$80 billion in 2010, up 33 percent (\$20 billion) from 2009. The 33 percent increase in imports under these programs compares to the overall 23 percent increase for U.S. total goods imports for consumption from the world over the same period.

As a share of total U.S. goods imports for consumption, these preferential imports increased from 3.8 percent in 2009 to 4.1 percent in 2010. The programs' respective share of total U.S. preferential imports in 2010 was as follows: African Growth Opportunity Act (AGOA, excluding GSP), 49 percent; GSP, 29 percent; Andean Trade Preference Act (ATPA), 18 percent; and Caribbean Basin Initiative (CBI) and Caribbean Basin Trade and Partnership Act (CBTPA), 3.5 percent. Trade under each of these programs increased in 2010, with ATPA, AGOA (excluding GSP), and CBTPA up the most, by 51 percent, 41 percent, and 40.5 percent, respectively.

b. Generalized System of Preferences

History and Purposes

The U.S. Generalized System of Preferences (GSP) program was initially authorized under the Trade Act of 1974 (19 U.S.C. §§ 2461 et seq.) for a ten-year period, beginning on January 1, 1976. Congress has extended the program 11 times, most recently, in December 2009. Authorization for the program expired on December 31, 2010. The Obama Administration supports congressional action to extend the GSP program and is working with Congress toward this end. The Administration supports the longest extension that Congress sees fit to make, so as to provide greater certainty for both U.S. businesses and developing country exporters who benefit from these programs.

The GSP program is designed to promote economic growth in the developing world by providing preferential duty-free entry for up to 4,881 products from 129³⁴ designated beneficiary countries and territories. Duty-free treatment under the GSP program is not available for products that the President determines to be import-sensitive or that the statute excludes from the program. An underlying principle

³⁴ As of January 1, 2011.

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 an important means of sustaining momentum for their economic reform and liberalization. The GSP program also helps to provide U.S. companies with access to inputs from beneficiary countries on generally the same terms that are available to competitors in other developed countries that grant similar trade preferences.

Beneficiaries

There are two types of GSP beneficiaries: those that are eligible to export approximately 3,451 products duty-free into the United States and those for which, in 1996, Congress authorized additional GSP benefits because they are “least-developed” beneficiary developing countries³⁵. Subsequently, these countries were given the opportunity to export an additional 1,430 products to the United States duty-free.

The following changes in the list of GSP beneficiary countries became effective on January 1, 2010: (1) the Maldives was redesignated as a beneficiary of the GSP program; (2) Cape Verde was removed as a Least-Developed Beneficiary Developing Country, but remained eligible for GSP benefits as a Beneficiary Developing Country; and (3) Trinidad and Tobago was removed from GSP eligibility, after a transition period, because its gross national income per capita exceeded statutory thresholds. Croatia and Equatorial Guinea were removed from GSP eligibility as of January 1, 2011, after a transition period, also because of high national income levels. Vietnam’s request to become a GSP beneficiary continues to be under review.

Through various mechanisms, the GSP program encourages beneficiaries to: (1) eliminate or reduce significant barriers to trade in goods, services, and investment; (2) afford workers internationally recognized worker rights; and (3) provide adequate and effective intellectual property rights protection and enforcement. U.S. industry has noted that a country’s participation in the GSP program helps to promote a business and investment environment that benefits U.S. investors as well as the beneficiary countries. The Administration also evaluates the extent to which GSP beneficiaries have assured the United States that they will provide equitable and reasonable access to their markets.

Eligible Products

The list of GSP-eligible products from all beneficiaries includes most non-sensitive dutiable manufactures and semi-manufactures and selected agricultural, fishery, and primary industrial products that are not otherwise duty-free. The statute precludes certain import-sensitive articles from receiving GSP treatment, including most non-silk textiles and apparel, watches, footwear, handbags, luggage, flat goods, work gloves, and certain leather apparel. The products that receive preferential access only when imported from least-developed beneficiaries include petroleum, certain chemicals and plastics, animal and plant products, prepared food, beverages, rum, and tobacco products.

Although GSP benefits for textiles and apparel are limited, certain handmade folkloric products are eligible for GSP treatment. The United States has entered into agreements providing for certification and GSP eligibility of certain handmade, folkloric products with 16 beneficiary countries: Afghanistan, Argentina, Botswana, Cambodia, Colombia, Egypt, Jordan, Mongolia, Nepal, Pakistan, Paraguay, Thailand, Timor-Leste, Tunisia, Turkey, and Uruguay. Such agreements provide the basis for extending duty-free treatment to exports produced primarily by women and the poorest, often rural, residents of beneficiary countries.

Program Results

³⁵ In practice, those GSP beneficiaries that are on the United Nations list of least-developed countries.

Value of Trade Entering the United States under the GSP program: The value of U.S. imports entering under the GSP program in 2010 was approximately \$23 billion, a 14 percent increase compared to 2009. Total U.S. imports from GSP beneficiary countries increased by 30 percent over the same period, reflecting a rebound from the global and U.S. economic downturn.

Top U.S. imports³⁶ under the GSP program in 2010 (through November), by trade value, were crude petroleum oils and oils from bituminous minerals, which are eligible for duty-free import only from Least-Developed Beneficiary Developing Countries (LDBDCs), silver jewelry, motor car radial tires, certain types of aluminum alloy, ferrochromium, ferrosilicon manganese, food preparations, radial tires for buses and trucks, gold necklaces and neck chains, and cane sugar.

In 2010 (through November), based on trade value, the top five GSP non-oil-exporting beneficiary developing country (BDC) suppliers were: (1) Thailand; (2) India; (3) Brazil; (4) Indonesia; and (5) South Africa. Of the 35 GSP beneficiaries (not including LDBDC oil-exporting beneficiaries) whose trade under the GSP program was the largest, the World Bank classified 21 as either low income or lower middle income countries³⁷. Two non-oil-exporting LDBDCs – Bangladesh and Mozambique – are included in this group.

LDBDC suppliers whose exports under the GSP program increased in 2010 (through November) include: Bangladesh, Cambodia, Chad, Djibouti, Guinea, Haiti, Madagascar, Mozambique, Nepal, Niger, Rwanda, Sierra Leone, Togo, Uganda, and Zambia. The top three LDBDC users of GSP benefits, because of large volumes of petroleum exports under the GSP program, were: (1) Angola; (2) Equatorial Guinea;³⁸ and (3) Chad.

The GSP Program's Contribution to Economic Development in Developing Nations: The GSP program helps countries diversify and expand their exports, an important developmental goal. The 2010 data on exports to the United States indicates that many beneficiaries have made progress in diversifying and expanding their exports to the United States under the GSP program, despite challenging economic conditions. For example, Pakistan exported at least 321 different products (at the eight-digit tariff level) to the United States under GSP. Other low and low-middle income countries with high GSP usage include Egypt (180 products), Sri Lanka (157), Cambodia (45), and Paraguay (27). Diversification of exports under GSP also enhances the productive capacity and competitiveness of beneficiary countries with respect to their exports to third-country markets, *i.e.* other than the United States.

Efforts to promote wider distribution of the use of GSP benefits among beneficiaries: As directed by Congress, the Administration has sought to broaden the use of the GSP program's benefits among its beneficiary countries. In 2009 and 2010, USTR worked with other agencies to carry out GSP-related outreach programs in Georgia, Kosovo, and Sri Lanka among other countries. For additional details and multiple-language GSP guides and country-specific analyses, go to "GSP-in-Use: Country-Specific Information" under "Generalized System of Preferences" on the USTR web site.

Benefits to the U.S. Economy: The GSP program helps not only beneficiary developing countries, but also U.S. businesses and families. The program is a major source of imports and products for U.S. businesses, including small and medium-sized companies, and includes important partnership opportunities between U.S. workers and businesses, and workers and businesses in beneficiary developing countries. The GSP

³⁶ Based on tariff line (eight-digit) classification in the HTSUS.

³⁷ Based on World Bank determinations of gross national incomes per capita.

³⁸ As noted earlier, because of a substantial increase in its national income per capita, Equatorial Guinea no longer qualifies for GSP benefits as of January 1, 2011.

program also helps reduce costs for U.S. manufacturers that utilize inputs that are not produced or available domestically. This facet of the GSP program helps to improve the competitiveness of U.S. manufacturing and avoids U.S. manufacturers paying higher duties which are then passed on to customers.

Annual Reviews

An important attribute of the GSP program is its ability to adapt, product by product, to shifting market conditions; to the changing needs of producers, workers, exporters, importers, and consumers; and to concerns about individual beneficiaries' conformity with the statutory criteria for eligibility. Detailed information on elements of each Annual Review is available on the GSP Program Information Page on the USTR website at <http://www.ustr.gov/trade-topics/trade-development/preference-programs/generalized-system-preference-gsp>.

Conclusion of the 2009 GSP Annual Review

The results of the 2009 GSP Annual Review of product petitions were announced in a Presidential Proclamation dated June 29, 2010. The proclamation and a list of the results are available at <http://www.ustr.gov/trade-topics/trade-development/preference-programs/generalized-system-preference-gsp/current-review-1>.

As part of the GSP 2009 Annual Review, the GSP Subcommittee of the Trade Policy Staff Committee (TPSC) also considered several petitions to withdraw or limit a country's GSP benefits for not meeting certain GSP eligibility criteria. In August 2010, the TPSC accepted three new country practices petitions for formal review: a petition related to worker rights in Sri Lanka and two petitions related to Argentina's enforcement of arbitral awards in favor of U.S. citizens or corporations. A public hearing was held on these petitions on September 28, 2010 and the petitions remained under review at year's end. Accepted country practices petitions related to several other GSP beneficiaries remained under active scrutiny at year's end, including: Lebanon, Russia and Uzbekistan with respect to IPR protection, and Bangladesh, Niger, the Philippines and Uzbekistan regarding worker rights. A petition on worker rights in Iraq received during the 2008 review also remained under consideration.

2010 GSP Annual Review

On July 15, 2010, 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 2010 Annual Review for Products. Information on the three petitions accepted for review – each of which seeks to remove items from the list of GSP-eligible products – can be found at <http://www.ustr.gov/trade-topics/trade-development/preference-programs/generalized-system-preference-gsp>. On August 11, 2010, a notice was published in the *Federal Register* announcing the launch of the 2010 Annual Review of Country Practices. At year's end, the GSP Subcommittee had not yet announced whether any country practices petitions had been accepted for the 2010 Annual Review.

c. The African Growth and Opportunity Act

The African Growth and Opportunity Act (AGOA), enacted in 2000, provides incentives to promote economic and political reform and trade expansion in eligible sub-Saharan African countries, including duty-free access to the U.S. market for over 1,800 products beyond those eligible under the Generalized System of Preferences (GSP) program. The additional products include value-added agricultural and manufactured goods such as processed food products, apparel, and footwear. In 2010, 38 sub-Saharan

African countries were eligible for AGOA benefits. About 94 percent of U.S. imports from these countries entered the United States duty-free in 2010. Due in part to AGOA, the United States is sub-Saharan Africa's largest single-country market.

AGOA requires the President to determine annually which of the 48 countries of sub-Saharan Africa are eligible to receive benefits under the Act. His decisions are supported by an annual interagency review, chaired by USTR, that examines whether each country already eligible for AGOA has met the eligibility criteria, or whether circumstances in ineligible countries have improved sufficiently to warrant their designation as an AGOA beneficiary country. The AGOA eligibility criteria include, among others, making continual progress in establishing a market-based economy, rule of law, and protection of internationally recognized worker rights. The annual review takes into account information drawn from U.S. Government agencies, the private sector and civil society, and prospective beneficiary governments. As a result of the 2010 country eligibility review, the Democratic Republic of the Congo became ineligible for AGOA benefits effective January 1, 2011.

In 2010, the Office of the United States Trade Representative (USTR) continued to work closely with African governments, the private sector, and civil society stakeholders to strengthen U.S.-African trade and investment relations. In May 2010, United States Trade Representative Ambassador Ron Kirk celebrated AGOA's tenth Anniversary in a ceremony on Capitol Hill, with the participation of several past and present Members of Congress who played key roles in the drafting, passage, and implementation of AGOA. In addition, members of Africa's diplomatic corps and representatives of the private sector and civil society organizations participated in the event. Ambassador Kirk noted at the ceremony that in the ten years of its existence, AGOA has resulted in a substantial increase in two-way U.S.-African trade, with African countries now exporting a more diverse range of value-added products to the United States. Moreover, African economies have been using trade benefits generated by AGOA to grow their economies and reduce poverty.

The United States-Sub-Saharan Africa Trade and Economic Cooperation Forum, informally known as "the AGOA Forum," is an annual ministerial-level forum with AGOA-eligible countries. The 2010 AGOA Forum was held on August 2-3, 2010 in Washington, D.C. A separate session focused on agribusiness, related infrastructure, and opportunities for U.S.-African trade in the agribusiness sector was held in Kansas City, Missouri from August 4-6. Ambassador Kirk opened the AGOA Forum and noted that in addition to signs of economic growth, African economies have reduced inflation, lowered trade barriers, and created substantial new business opportunities. Ambassador Kirk also co-chaired a plenary session on "New Strategies for Expanding U.S.-Sub-Saharan African Trade" and held a roundtable with African trade ministers to discuss key U.S.-African trade and investment issues, including AGOA.

AGOA and related GSP imports from AGOA-eligible countries were valued at \$40.2 billion for the first 11 months of 2010, up 35 percent from the corresponding period in 2009. Petroleum products continued to account for the largest portion of AGOA imports, with a 91 percent share of overall AGOA/GSP imports. In the first 11 months of 2010, AGOA/GSP non-oil imports from AGOA beneficiary countries rose 23 percent to about \$3.7 billion. The leading non-oil imports under AGOA/GSP in 2010 included apparel, vehicles and parts, ferroalloys, citrus, chemicals, wine, nuts, cocoa powder, and fruit juices.

d. Andean Trade Preference Act

The Andean Trade Preference Act (ATPA) was enacted in 1991 to promote broad-based economic development, diversify exports, and combat drug trafficking by providing sustainable economic alternatives to drug-crop production in Bolivia, Colombia, Ecuador, and Peru. In 2002, the Andean Trade Promotion and Drug Eradication Act (ATPDEA) amended the ATPA to provide duty-free treatment for a number of products previously excluded under the original ATPA program. The most significant

expansion of benefits was in the apparel sector. Bolivia's eligibility for benefits was suspended effective December 2008. Further, in accordance with the statute, since the President did not determine that Bolivia satisfied the program's eligibility requirements in his June 30, 2009 report to Congress, no benefits remain in effect under the program for Bolivia.

On June 30, 2010, pursuant to section 203(f) of the ATPA, as amended, USTR transmitted its *Fifth Report to Congress on the Operation of the Andean Trade Preference Act as Amended*. The report described the main features of the program, analyzed trade trends and outlined the countries' performance related to the program's eligibility criteria. The ATPA lapsed on February 12, 2011.

e. Caribbean Basin Initiative

During 2010, the Caribbean Basin Economic Recovery Act (CBERA) and the United States-Caribbean Basin Trade Partnership Act (CBTPA) trade programs, collectively known as the CBI, remained a vital element in U.S. economic relations with its neighbors in Central America and the Caribbean. The CBI provides beneficiary countries and territories with duty-free access to the U.S. market. Current beneficiary countries are: Antigua and Barbuda, Aruba, the Bahamas, Barbados, Belize, British Virgin Islands, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Netherlands Antilles, Panama, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, and Trinidad and Tobago.

On August 5, 2004, the United States signed the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR) with five Central American countries (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua) and the Dominican Republic. When the CAFTA-DR entered into force for each of these countries, the country ceased to be designated as a CBERA and CBTPA beneficiary. The CAFTA-DR entered into force for Costa Rica on January 1, 2009 and is now in force for all seven countries.

Since its inception, the CBI has helped beneficiaries diversify their exports. In conjunction with economic reform and trade liberalization by beneficiary countries, the trade benefits of CBI have contributed to their economic growth.

f. HELP Act and HOPE Act

On January 12, 2010, Haiti experienced a devastating earthquake. Generating jobs through exports will be one of the keys to Haiti's recovery. Textiles and apparel have represented approximately 90 percent of Haiti's exports to the United States; thus, recovery in this sector will be critical to Haiti's long term economic prospects. On February 16, 2010, Ambassador Ron Kirk announced an initiative called the "Plus One for Haiti" program. Under the program, a number of U.S. brands and retailers have committed to work toward sourcing one percent of their total apparel production from Haiti.

In May 2010 the U.S. Congress enacted the Haiti Economic Lift Program (HELP) Act. Among other provisions, the legislation:

- Extended the Caribbean Basin Trade Partnership Act (CBTPA) and the Haitian Hemispheric Opportunity through Partnership Encouragement Act (HOPE) through September 30, 2020.
- Provided duty-free treatment for additional textile and apparel products that are wholly assembled or knit-to-shape in Haiti regardless of the origin of the inputs.

- Increased from 70 million square meter equivalents (SMEs) to 200 million SMEs the respective tariff preference levels (TPLs) under which certain Haitian knit and woven apparel products may receive duty-free treatment regardless of the origin of the inputs. The increase will be triggered in any given year if 52 million SMEs of Haitian apparel enter the United States under the existing knit or woven TPL. Once the increase is triggered, certain knit apparel products entering duty-free under the knit TPL will be subject to an 85 million SME sublimit, and certain woven apparel products entering duty-free under the woven TPL will be subject to a 70 million SME sublimit.
- Permitted the duty-free importation into the United States of one SME of apparel wholly assembled or knit-to-shape in Haiti regardless of the origin of the inputs for every two SMEs of qualifying fabric purchased from the United States.

Congress originally enacted trade preferences specifically for Haiti in the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006 (HOPE I), then expanded those preferences in the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008 (HOPE II).

To receive benefits under the 2008 legislation, Haiti was required to establish an independent labor ombudsman's office and a program operated by the International Labor Organization (ILO) to assess compliance with core labor rights and Haiti's labor laws in the country's apparel factories. Haiti also had to agree to require Haitian producers that wish to be eligible for duty-free treatment under HOPE II to participate in the ILO program and to develop a system to ensure such participation.

On October 16, 2009, the White House announced that Haiti will continue to be eligible for the benefits of HOPE II. On June 18, 2010, the U.S. Trade Representative submitted to Congress a progress report with respect to the implementation of certain labor-related provisions of the HOPE II program.

VI. TRADE POLICY DEVELOPMENT

A. Trade Capacity Building (TCB) (“Aid for Trade”)

On September 22, 2010, President Obama released his strategy for development. The President’s approach to global development addresses the new strategic context faced by the United States through the following three pillars:

- A policy focused on sustainable development outcomes that places a premium on broad-based economic growth, democratic governance, game-changing innovations, and sustainable systems for meeting basic human needs;
- A new operational model that positions the United States to be a more effective partner and to leverage our leadership; and
- A modern architecture that elevates development and harnesses development capabilities spread across government in support of common objectives – including a deliberate effort to leverage the engagement of and collaboration with other donors, foundations, the private sector, and NGOs – not just at the project level, but systemically.

USTR participated actively in the preparation of this strategy, and will remain active in the implementation of the strategy. Throughout the past year, USTR has worked closely with USAID, MCC, and other USG agencies to support countries in their capacity to trade, as described in this section.

Trade policy and development assistance are key tools that together can help alleviate poverty and improve opportunities. These programs, also known as aid for trade, are about giving countries, particularly the least trade-active, the training and technical assistance needed to: make decisions about the benefits of trade arrangements and reforms; implement their obligations to bring certainty to their trade regimes; and enhance such countries’ ability to take advantage of the opportunities of the multilateral trading system and to compete in a global economy. Accordingly, U.S. assistance addresses a broad range of issues so that rural areas and small businesses, including female entrepreneurs, benefit from ambitious reforms in trade rules that are being negotiated in the World Trade Organization (WTO) and in other trade agreements.

An important element of this work involves coordinating U.S. Government technical assistance activities with those of the international institutions in order to identify and take advantage of donor complementarities in programming and to avoid duplication. Such institutions include the WTO, the World Bank, the International Monetary Fund (IMF), the regional development banks, and other donors. The United States, led by USTR at the WTO and by Treasury at the international financial institutions, works in partnership with these institutions and with other donors to ensure that, where appropriate, international financial institutions offer trade-related assistance as an integral component of development programs tailored to the circumstances within each developing country.

The United States’ efforts build on its longstanding commitment to help partner countries benefit from the opportunities provided by the global trading system, both through bilateral U.S. assistance and through U.S. support for multilateral institutions. U.S. bilateral assistance includes programs such as targeted assistance for developing countries participating in U.S. preference programs; coordination of assistance through Trade and Investment Framework Agreements (TIFAs); TCB working groups that are integral elements of negotiations to conclude Free Trade Agreements (FTAs); and Committees on TCB created to

aid in the negotiation and or implementation of a number of FTAs, including the FTAs with the Dominican Republic and Central America, and Peru, and for some partners in the ongoing Trans-Pacific Partnership negotiations. Bilateral assistance also helps developing countries to work with the private sector and non-governmental organizations to transition to a more open economy, to prepare for WTO negotiations, and to implement their trade obligations. Multilaterally, the United States has supported and will continue to support trade-specific assistance mechanisms like the Enhanced Integrated Framework for Trade-Related Assistance to Least-developed Countries (EIF) and the WTO's Global Trust Fund for Trade-Related Technical Assistance.

1. The Enhanced Integrated Framework

The Enhanced Integrated Framework (EIF) is a multi-organization, multi-donor program that operates as a coordination mechanism for trade-related assistance to least-developed countries (LDCs) with the overall objective of integrating trade into national development plans. Participating organizations include the WTO, World Bank, IMF, UNCTAD, UNDP, UNIDO, and the International Trade Centre. The mechanism incorporates a country-specific diagnostic assessment and action plan formulated by one of the international organizations in cooperation with the participating LDC. The action plan, consisting of needs identified by the diagnostic assessment, is offered to multilateral and bilateral donors. Project design and implementation can be accomplished through the resources of the EIF Trust Fund or through multilateral or bilateral donor programs in the field (as the United States does through its development assistance programs). The EIF is exclusively for LDCs, with the goal of getting the least trade-active more involved. Of the 47 LDCs, 49 have joined the EIF. The EIF is supported by 22 donors. Institutionally, the EIF is overseen by a Board of Directors, composed of donor countries, least-developed countries, and participating international organizations. The EIF Secretariat, led by an executive director, is responsible for programmatic implementation, while the EIF Trust Fund Manager is responsible for financial aspects of the program.

The United States supports the EIF primarily through complementary bilateral assistance to EIF participating countries. The United States Agency for International Development's (USAID) bilateral assistance to LDC participants supports initiatives both to integrate trade into national economic and development strategies and to address high priority capacity building needs designed to accelerate integration into the global trading system.

2. World Trade Organization-Related U.S. Trade-Related Assistance

International trade can play a major role in the promotion of economic growth and the alleviation of poverty. The WTO's Doha Development Agenda (DDA) recognizes that TCB can facilitate more effective integration of developing countries into the international trading system and enable them to benefit further from global trade. The United States provides leadership in promoting trade and economic growth in developing countries through comprehensive TCB programs. The United States also directly supports the WTO's trade-related technical assistance.

a. Global Trust Fund

The United States supports the trade-related assistance activities of the WTO Secretariat through voluntary contributions to the Doha Development Agenda Global Trust Fund. With an additional contribution of nearly \$1 million in 2010, total U.S. contributions to the WTO have amounted to almost \$10 million since the launch of DDA negotiations.

b. Aid for Trade

The WTO's 2005 Hong Kong Declaration created a new WTO framework in which to discuss and prioritize aid for trade. In 2006, this framework created an Aid for Trade Task Force to operationalize aid for trade efforts and offer recommendations to improve the efficacy and efficiency of these efforts among WTO Members and other international organizations. The United States continues to be an active partner in the aid for trade discussion.

During 2010, Members actively worked on implementing many of the Task Force's recommendations. Of particular focus was the monitoring and evaluation of Aid for Trade programs. A monitoring framework was further developed, based largely on work undertaken by the OECD's Development Cooperation and Trade directorates, working closely with the WTO Secretariat, the World Bank, and donor and recipient countries, and work on best practices on evaluation began. The third global review of Aid for Trade, to be held at the WTO in July 2011, will focus on these topics.

c. WTO and Trade Facilitation

The United States has provided substantial assistance over the years in the areas of customs and trade facilitation. More recently, U.S. support for work in trade and development corridors in Africa, including through the Global Hunger and Food Security Initiative, is increasing. Through this assistance, the United States has supported the WTO Doha discussions by providing assistance to developing countries that seek help in responding to the regulatory proposals made by members in the Negotiating Group on Trade Facilitation.

d. WTO Accession

The United States provides technical support to countries that are in the process of acceding to the WTO. In 2010, WTO accession support was provided to Afghanistan, Azerbaijan, Ethiopia, Iraq, Kyrgyzstan, Laos, Lebanon, Russia, and Serbia.

3. TCB Initiatives for Africa

The United States has aggressively funded programs and developed several new initiatives at multilateral and bilateral levels to address the specific needs of sub-Saharan African countries with respect to reducing poverty and spurring economic growth. The United States has invested more than \$3.3 billion in trade-related projects in sub-Saharan Africa since 2001.

a. African Global Competitiveness Initiative

The centerpiece of U.S. support for building trade capacity in Africa for the past five years was the \$200 million African Global Competitiveness Initiative (AGCI). The program expired September 30, 2010. The primary focus of AGCI was to help expand African trade and investment with the United States, with other international trading partners, and regionally within Africa through improving the competitiveness of sub-Saharan African enterprises. AGCI's objectives were to: (1) improve the business climate for private sector-led trade and investment; (2) strengthen the knowledge and skills of sub-Saharan African private sector enterprises to take advantage of market opportunities; (3) increase access to financial services for trade and investment; and (4) facilitate investments in infrastructure.

A major focus of AGCI programs was to help African countries make the most of the trade opportunities available under the AGOA preference program. *(For additional information, see Chapter V.B.8.c.)*

AGCI supported AGOA through programs carried out by four USAID-funded Regional Hubs for Global Competitiveness – in Botswana, Kenya, Ghana, and Senegal – as well as through programs carried out by USAID bilateral missions. Although AGCI has expired, the Hubs continue to operate.

In 2009, the Hubs facilitated over \$71 million in transactions in the textile and apparel, specialty food, cut flowers, and other product categories, mostly through new commercial relationships under AGOA. These results reflect a strategic emphasis by the U.S. Government on providing marketing assistance to African exporters at major international trade shows. Under an agreement with USAID, USDA addresses sanitary and phytosanitary issues under AGCI, specifically in the areas of food safety and plant and animal health. Additionally, the U.S. Department of Commerce’s Commercial Law Development Program is working to improve protection of intellectual property rights.

b. Assistance to West African Cotton Producers

Since 2005, the United States has mobilized its development agencies to help West African countries—Benin, Burkina Faso, Chad, Mali, and Senegal—address obstacles they face in the cotton sector. The MCC, USAID, USDA, and the United States Trade and Development Agency continued to work with these nations as they sought to develop a coherent long-term development strategy to improve prospects in the cotton sector. Elements of such a strategy include improved productivity, domestic reforms, and other key issues. The United States will continue to coordinate with the WTO, World Bank, the African Development Bank, and others as part of the multilateral effort to address the development aspects of cotton. This includes active participation in the WTO Secretariat’s periodic meetings with donors and recipient countries to discuss the development and reform aspects of cotton.

The centerpiece of U.S. assistance to the cotton sector in West Africa is USAID’s West Africa Cotton Improvement Program (WACIP). The program is aimed at helping to improve the production and marketing of cotton in five countries: Benin, Burkina Faso, Chad, Mali, and Senegal. The WACIP is designed to help achieve the following objectives: (1) reduce soil degradation and expand the use of good agricultural practices; (2) strengthen private agricultural organizations; (3) establish a West African regional training program for ginneries; (4) improve the quality of West African cotton through better classification of seed cotton and lint; (5) improve linkages between U.S. and West African research organizations involved with cotton; (6) improve the enabling environment for agricultural biotechnology; and (7) assist with policy/institutional reform.

A key element of the WACIP program is the identification of specific policy priorities through National Advisory Committees. Composed of stakeholders in each country, these committees undertook work to identify the specific projects that would yield the assistance and results sought by participants and these projects have been the basis of WACIP’s work. In 2010, WACIP was extended to March 2012.

The U.S. Government also provides complementary support to the cotton sector through other programs. MCC is implementing compacts with Benin (\$307 million), Burkina Faso (\$481 million), and Mali (\$460 million). In September 2009, the MCC signed a \$540 million compact with Senegal. The program will promote economic growth in the rural agriculture sector.

4. Free Trade Agreement (FTA) Negotiations

Although the WTO programs and the EIF are high priorities, they are only part of the U.S. TCB effort. In order to help U.S. FTA partners participate in negotiations, implement commitments, and benefit over the long-term, USTR has created TCB working groups in free trade negotiations with developing countries and Committees on TCB to prioritize and coordinate TCB activities during the transition and

implementation periods once an FTA enters into force. USAID and USDA, their field missions, and a number of other U.S. Government assistance providers actively participate in these working groups and committees so that the TCB needs identified can be quickly and efficiently incorporated into ongoing regional and country assistance programs. The Committees on TCB also invite non-governmental organizations, representatives from the private sector, and international institutions to join in building the trade capacity of the countries in each region. Trade capacity building is a fundamental feature of bilateral cooperation in support of the CAFTA-DR and the United States-Peru Trade Promotion Agreement. USTR also works closely with the U.S. Department of State and other agencies to track and guide the delivery of TCB assistance to Jordan, Morocco, Bahrain, and Oman.

a. Dominican Republic-Central America-United States Free Trade Agreement

The CAFTA-DR established a Committee on TCB. The CAFTA-DR was signed in 2004 and went into force for all countries except Costa Rica during 2006 and 2007, and for Costa Rica in 2009. The Committee on TCB has convened formally four times: in Guatemala City, Guatemala in February 2007; in Washington, D.C. in November 2007; in Santo Domingo, Dominican Republic in November 2008; and in Washington, D.C. on October 20-21, 2010. These meetings were attended by representatives of each of the member countries and by the Inter-American Development Bank (IDB), the Organization of American States (OAS), the Economic Commission for Latin America and the Caribbean (ECLAC), the *Organismo Internacional Regional de Sanidad Agropecuaria* (“OIRSA”), and at times, by the World Bank. The meetings provided the opportunity for the Committee to review updates of recipient members’ trade capacity building strategies and priorities as well as U.S. donor agencies’ and the international institutions’ trade capacity building activities. They additionally provided the opportunity for in-depth discussions of particular assistance areas, such as rural development and sanitary and phytosanitary assistance.

Efforts in 2010 included a range of activities to streamline customs procedures for importers and exporters, many of which directly support implementation of the FTA. Software for a virtual single window for imports was developed and/or strengthened in Nicaragua, Honduras and El Salvador. New rules of origin were implemented in a harmonized fashion. Implementation of risk based selection criteria has reduced the clearance time for goods. U.S. sanitary and phytosanitary TCB helped to enable farmers and small- and medium-sized rural enterprises to benefit from the agreement. As a result of SPS assistance, laboratories in the region have achieved international certifications, U.S. detentions due to labeling deficiencies have dropped from 68% regionally to less than 10%, and an estimated \$135 million of increased meat, dairy and vegetable exports to the United States were generated.

b. United States-Peru Trade Promotion Agreement

The United States-Peru Trade Promotion Agreement (PTPA) entered into force on February 1, 2009. Like the CAFTA-DR, the PTPA includes a provision that creates a Committee on TCB to build on work done during the negotiations by the TCB working group. The purpose of the Committee is to assist Peru in refining and implementing its national TCB strategy as well as to foster assistance to promote economic growth, reduce poverty, and adjust to liberalized trade. The Committee met in March 2009 in Peru. Peru presented a preliminary national trade capacity building strategy to address several specific objectives relating to implementation of the Agreement, highlighting areas such as telecommunications, intellectual property and agricultural standards. USAID/Peru is working closely with its government of Peru counterparts to ensure that activities respond directly to the Peru's trade capacity needs. To that end, in December 2009, USAID and USDA, along with Peruvian government and universities, began working together to strengthen Peru’s agricultural sector through targeted capacity building in the areas of sanitary and phytosanitary (SPS) regulatory and surveillance systems, agricultural research, and agricultural education. Additionally, USAID launched a trade capacity building project in July of 2010 that will work

with several Peruvian ministries and agencies to assist with the implementation of the PTPA and facilitate trade across a wide range of sectors. The first of these activities will focus, *inter alia*, on: implementation of the labor and intellectual property provisions; strengthening intellectual property enforcement training, patent processes and capacity to evaluate drug applications; and improving customs operations to both comply with the PTPA and facilitate trade. In addition, the United States is committed to providing support to assist Peru on implementing its obligations under the environmental provisions of the PTPA, including its obligations under the annex on forest sector governance. This support is contemplated under the United States-Peru Environmental Cooperation Agreement, an agreement concluded in parallel to the PTPA, and involves several ongoing projects in the region.

c. United States-Colombia and United States-Panama Trade Promotion Agreements

In November 2006, the United States and Colombia signed an FTA: The United States-Colombia Trade Promotion Agreement. On June 28, 2007, the United States-Panama Trade Promotion Agreement was signed. As with the United States-Peru Trade Promotion Agreement, these two agreements include the creation of Committees on TCB to build upon the progress made by the preceding TCB working groups on economic assistance and poverty alleviation.

B. Public Input and Transparency

Broadening opportunities for public input and increasing the transparency of trade policy is a key priority of USTR's Office of Intergovernmental Affairs and Public Engagement (IAPE) under the Obama Administration. IAPE works with USTR's Office of Public and Media Affairs and with regional and functional offices across the agency to ensure that timely trade information is available to the public and disseminated widely. This is accomplished in part via USTR's interactive website; a weekly e-newsletter that is available through our homepage at <http://www.ustr.gov>; online posting of *Federal Register* Notices soliciting public comment and input and publicizing Trade Policy Staff Committee (TPSC) public hearings; increased transparency regarding specific policy initiatives; managing the agency's increased outreach and engagement with small and medium-sized businesses; meetings with a broad array of domestic stakeholders including but not limited to agriculture groups, industry groups, labor groups, small businesses, NGOs, universities, think tanks, and state and local governments; and speeches to associations and conferences around the country regarding trade. In addition to public outreach, IAPE is responsible for administering USTR's statutory advisory committee system created by Congress under the Trade Act of 1974 as amended, as well as facilitating formal consultations with state and local governments regarding trade issues which may impact them. Each of these elements is discussed in turn below.

1. Public Outreach

a. Website and Weekly E-Newsletter

Launched in June 2009, the USTR website at <http://www.ustr.gov> has broadened the trade dialogue through technology, fulfilling President Obama's commitment of a government that is transparent, participatory, and collaborative.

Through the USTR blog and site pages on geographical areas, trade agreements, and key trade issues, <http://www.ustr.gov> shares updated information about USTR's efforts to support job creation by opening markets and enforcing America's rights in the rules-based global trading system.

Interactive tools on the site allow the public to participate more fully in USTR's day-to-day operations. People can share their questions through the Ask the Ambassador feature, and see the Ambassador's reply. The Share Your Stories feature, where American companies describe how engaging in the global market place helps to keep their business competitive and creates jobs here at home, serves as a venue for sharing how trade impacts and benefits daily life. The Interactive Map details Ambassador Ron Kirk's travel at home and abroad. It shows his efforts as he visits America's trading partners to gain market access for U.S. farmers, ranchers, manufacturers, workers, and service providers.

The public is invited to sign up on USTR's homepage to receive the weekly e-mail newsletter, which highlights USTR's efforts at outreach, opening of markets and enforcing trade agreements around the world. This is a useful tool for small businesses and stakeholders outside Washington, D.C. to stay informed about trade policy developments and new market opportunities.

b. *Federal Register* Notices Seeking Public Input/Comments Now Available Online for Inspection

Throughout 2010, USTR has issued *Federal Register* Notices online to solicit public comment, and has held public hearings at USTR regarding a wide array of trade policy initiatives. Public comments received in response to *Federal Register* Notices are available for inspection online at <http://www.regulations.gov>. Some examples of trade policy initiatives for which USTR has sought public comment this year include the following:

- *Trans-Pacific Partnership (TPP) Trade Agreement*: The United States has entered into negotiations on a TPP trade agreement with the objective of shaping a high-standard, broad-based regional agreement. USTR has sought and continues to seek public comments on all elements of the agreement in order to develop U.S. negotiating positions as well as seeking comment on including additional countries to participate in the agreement.
- *Scope of Viewpoints Represented on the Industry Trade Advisory Committees*: USTR recognizes that in order to have a well-rounded trade policy, it is necessary to include input from a broad range of interested and relevant parties. USTR has expanded the representation of non-industry stakeholders in the advisory committee system, and, in consultation with the other agencies who receive advice from the advisory committees, is determining the best and most effective way to ensure that these voices are heard.
- *Special 301 Out of Cycle Review of Notorious Markets*: In an effort to increase public awareness and guide related trade enforcement actions, USTR plans to begin publishing the notorious market list separately from the annual Special 301 report in which it has previously been included. The notorious markets list is a list of Internet and physical markets that have been the subject of enforcement action or that may merit further investigation for possible IPR infringements. In 2010, USTR requested comments and submissions from the public to help identify potential notorious markets that exist outside the United States and, after review of all submissions, will publish the notorious markets list in early 2011.

c. Policy Initiatives to Increase Transparency

USTR continues to take steps in specific issue areas to increase transparency and augment opportunities for public input. For example:

- *Inclusion of stakeholders at Trans-Pacific Partnership Negotiations*: USTR created opportunities for the public to attend and meet with negotiators during the San Francisco round of negotiations.

Side rooms provided an opportunity for the public to interact with negotiators from all of the participating countries and provide presentations on various public health and interest issues.

- *Greater Transparency in Anti-Counterfeiting Trade Agreement (ACTA) Negotiations:* USTR sought and received input from an extremely broad range of stakeholders during the ACTA negotiations. On April 21, 2010, with the agreement of its negotiating partners, USTR released a draft text of the ACTA so that the public could have greater input into the negotiations. On October 6, with the agreement of our negotiation partners, USTR released a second draft text. On November 15, 2010, USTR released the final text of the agreement. In advance of signing the final text, USTR is seeking comments on the agreement through *Federal Register* Notices as well as meetings with the public.

d. Open Door Policy

USTR officials meet frequently with a broad array of stakeholder groups representing business, labor, environment, consumers, state and local governments, NGOs, think tanks, universities and high schools to discuss specific trade policy issues, subject to availability and scheduling. These meetings are coordinated by IAPE and, when likely to be of broader interest, are noted in the weekly e-newsletter.

2. The Trade Advisory Committee System

The trade advisory committee system, established by the U.S. Congress in 1974, operates under the auspices of IAPE. The trade advisory committee system was created to ensure that U.S. trade policy and trade negotiating objectives adequately reflect U.S. public and private sector interests. The trade advisory committee system consists of 28 advisory committees, with a total membership of approximately 700 advisors. It includes committees representing sectors of industry, agriculture, labor, environment, state, and local interests. IAPE manages the system, in cooperation with other agencies, including the Departments of Agriculture, Commerce, Labor, and the Environmental Protection Agency.

The trade advisory committees provide information and advice on U.S. negotiating objectives, the operation of trade agreements, and other matters arising in connection with the development, implementation, and administration of U.S. trade policy.

The system is arranged in three tiers: the President's Advisory Committee for Trade Policy and Negotiations (ACTPN); five policy advisory committees dealing with environment, labor, agriculture, Africa, and state and local issues; and 22 technical advisory committees in the areas of industry and agriculture. In 2004, the committees were streamlined and consolidated to better reflect the composition of the U.S. economy, in response to recommendations from the U.S. Government Accountability Office (GAO). Additional information on the advisory committees can be found on the USTR website at <http://www.ustr.gov/about-us/intergovernmental-affairs/advisory-committees>.

In 2007, the GAO recommended further steps USTR could take to provide greater transparency and accountability in the composition of the trade advisory committees, including reporting annually on how the committees meet the representation requirements of the relevant legislation, and clarifying which interests the members represent. Pursuant to these recommendations, a further description of committee representation is provided below, and the membership rosters of the committees with the organizations and interests represented are available online.

In cooperation with the other agencies served by the advisory committees, USTR has broadened the participation on committees to include more diversity of stakeholders, new voices, and fresh perspectives,

and continues exploring ways to further expand representation while ensuring the committees remain effective. With the rechartering of many of the advisory committees, USTR has also implemented White House guidelines prohibiting registered lobbyists from serving on committees. This has created opportunities to bring an influx of new members who have continued to provide USTR with the critical and necessary advice it seeks as it creates, negotiates and implements trade policy. This policy has also challenged USTR and the agencies that co-administer the advisory committees to think creatively and seek new resources to meet the needs of the committees.

Recommendations for candidates for committee membership are collected from a number of sources, including members of Congress, associations and organizations, publications, other federal agencies, responses to *Federal Register* Notices, and self-nominated individuals who have demonstrated an interest in, and knowledge of, U.S. trade policy. Membership selection is based on qualifications, geography, and the needs of the specific committee to maintain a balance of the perspectives represented. Committee members are required to have a security clearance in order to serve and have access to confidential trade documents on a secure encrypted website. Committees meet regularly in Washington, D.C. to provide input and advice to USTR and other agencies. Members pay for their own travel and other related expenses.

a. President's Advisory Committee on Trade Policy and Negotiations (ACTPN)

The ACTPN consists of not more than 45 members who are broadly representative of the key economic sectors affected by trade. The President appoints ACTPN members for four-year terms not to exceed the duration of the charter. The ACTPN is the highest level committee in the system that examines U.S. trade policy and agreements from the broad context of the overall national interest.

Members of ACTPN are appointed to represent a variety of interests including non-federal governments, labor, industry, agriculture, small business, service industries, retailers, and consumer interests. A current roster of members and the interests they represent is available on the USTR website.

b. Policy Advisory Committees

Members of the five policy advisory committees are appointed by USTR or in conjunction with other Cabinet officers. The Intergovernmental Policy Advisory Committee (IGPAC) and the Trade Advisory Committee for Africa (TACA) are appointed and managed solely by USTR. Those policy advisory committees managed jointly with the Departments of Agriculture, Labor, and the Environmental Protection Agency are, respectively, the Agricultural Policy Advisory Committee (APAC), Labor Advisory Committee for Trade Negotiations and Trade Policy (LAC), and the Trade and Environment Policy Advisory Committee (TEPAC). Each committee provides advice based upon the perspective of its specific area and its members are chosen to represent the diversity of interests in those areas. A list of all the members of the Committees and the diverse interests they represent is available on the USTR website.

APAC:

The Secretary of Agriculture and the U.S. Trade Representative appoint members jointly. APAC members are appointed to represent a broad spectrum of agricultural interests including the interests of farmers, processors, renderers, and retailers from diverse sectors of agriculture, including fruits and vegetables, livestock, dairy, and wine. Members serve at the discretion of the Secretary of Agriculture and the U.S. Trade Representative. The Committee consists of approximately 35 members.

IGPAC:

The IGPAC consists of approximately 35 members appointed from, and representative of, the various states and other non-federal governmental entities within the jurisdiction of the United States. These entities include, but are not limited to, the executive and legislative branches of state, county, and municipal governments. Members may hold elective or appointive office. Members are appointed by and serve at the discretion of the U.S. Trade Representative.

LAC:

The LAC consists of not more than 30 members from the U.S. labor community, appointed by the U.S. Trade Representative and the Secretary of Labor, acting jointly. Members represent unions from all sectors of the economy. Members are appointed by, and serve at the discretion of, the Secretary of Labor and the U.S. Trade Representative.

TACA:

TACA consists of not more than 30 members, including, but not limited to, representatives from industry, labor, investment, agriculture, services, non-profit development organizations, and other interests. The members of the Committee are appointed to be broadly representative of key sectors and groups with an interest in trade and development in sub-Saharan Africa, including non-profit organizations, producers, and retailers. Members of the committee are appointed by and serve at the discretion of the U.S. Trade Representative.

TEPAC:

TEPAC consists of not more than 35 members, including, but not limited to, representatives from environmental interest groups, industry (including the environmental technology and environmental services industries), agriculture, services, non-federal governments, and other interests. The Committee is designed to be broadly representative of key sectors and groups of the economy with an interest in trade and environmental policy issues. Members of the Committee are appointed by and serve at the discretion of the U.S. Trade Representative.

c. Technical and Sectoral Committees

The 22 technical and sectoral advisory committees are organized into two areas: agriculture and industry. Representatives are appointed jointly by the USTR and the Secretaries of Agriculture and Commerce, respectively. Each sectoral or technical committee represents a specific sector or commodity group and provides specific technical advice concerning the effect that trade policy decisions may have on its sector or issue.

Agricultural Technical Advisory Committees (ATACs):

There are six ATACs, focusing on the following products: Animals and Animal Products; Fruits and Vegetables; Grains, Feed and Oilseeds; Processed Foods; Sweeteners and Sweetener Products; and Tobacco, Cotton, Peanuts, and Planting Seeds. Members of each Committee are appointed by and serve at the pleasure of the Secretary of Agriculture and the U.S. Trade Representative. Members must represent a U.S. entity with an interest in agricultural trade and should have expertise and knowledge of agricultural trade as it relates to policy- and commodity-specific products. In appointing members to the committees, balance is achieved and maintained by assuring the members appointed represent industries and other entities across the range of interests which will be directly affected by the trade policies of

concern to the committee (for example, farm producers, farm and commodity organizations, processors, traders, and consumers). Geographical balance on each committee will also be sought. A list of all the members of the committees and the diverse interests they represent is available on the USTR website.

Industry Trade Advisory Committees (ITACs):

There are sixteen industry trade advisory committees (ITACs). These committees are: Aerospace Equipment (ITAC 1); Automotive Equipment and Capital Goods (ITAC 2); Chemicals, Pharmaceuticals, Health Science Products and Services (ITAC 3); Consumer Goods (ITAC 4); Distribution Services (ITAC 5); Energy and Energy Services (ITAC 6); Forest Products (ITAC 7); Information and Communication Technology Services and Electronic Commerce (ITAC 8); Non-Ferrous Metals and Building Products (ITAC 9); Services and Finance Industries (ITAC 10); Small and Minority Business (ITAC 11); Steel (ITAC 12); Textiles and Clothing (ITAC 13); Customs Matters and Trade Facilitation (ITAC 14); Intellectual Property Rights (ITAC 15); Standards and Technical Trade Barriers (ITAC 16).

The ITAC Committee of Chairs was established to coordinate the work of the 16 ITAC committees and advise the Secretary of Commerce and the U.S. Trade Representative concerning the trade matters of common interest to the 16 ITACs. Members of this committee are the elected chairs from each of the 16 ITACs.

Members of the ITACs are appointed jointly by the Secretary of Commerce and the U.S. Trade Representative and serve at their discretion. Committee members should have knowledge and experience in their industry and represent a U.S. entity that has an interest in trade matters related to the sectors or subject matters of concern to the individual committees. In appointing members to the Committees, balance is achieved and maintained by assuring the members appointed represent industries and other U.S. entities across the range of interests which will be directly affected by the trade policies of concern to the Committee. A list of all the members of the Committees and the diverse interests they represent is available on the USTR website (for example committees include exporters, importers, producers, and both small and large businesses).

3. State and Local Government Relations

USTR maintains consultative procedures between federal trade officials and state and local governments. USTR's Office of IAPE is designated as the "coordinator for state matters" and informs the states, on an ongoing basis, of trade-related matters that directly relate to, or that may have a direct effect on, them. U.S. territories may also participate in this process. IAPE also serves as a liaison point in the Executive Branch for state and local government and federal agencies to transmit information to interested state and local governments, and relay advice and information from the states on trade-related matters. This is accomplished through a number of mechanisms, detailed below.

a. State Point of Contact System and IGPAC

For day-to-day communications, pursuant to the NAFTA and Uruguay Round implementing legislation and Statements of Administrative Action, USTR created a State Single Point of Contact (SPOC) system. The Governor's office in each state designates a single contact point to disseminate information received from USTR to relevant state and local offices and assist in relaying specific information and advice from the states to USTR on trade-related matters.

The SPOC network ensures that state governments are promptly informed of Administration trade initiatives so their companies and workers may take full advantage of increased foreign market access and

reduced trade barriers. It also enables USTR to consult with states and localities directly on trade matters which may affect them. SPOCs regularly receive USTR press releases, *Federal Register* Notices, and other pertinent information. USTR convenes a regular monthly conference call for SPOCs and members of the Intergovernmental Policy Advisory Committee (*see description below*) to keep state and local governments apprised of timely trade developments of interest.

IGPAC makes recommendations to USTR and the Administration on trade policy matters from the perspective of state and local governments. In 2010, IGPAC was briefed and consulted on trade priorities of interest to states and localities, including: USTR's Small and Medium Sized Enterprises initiative; enforcement issues; the Buy America provisions of the American Recovery and Reinvestment Act of 2009; government procurement issues with Canada; the model Bilateral Investment Treaty (BIT) review; the Trans-Pacific Partnership; the National Export Initiative; and other matters. IGPAC members are also invited to participate in monthly teleconference call briefings along with State Points of Contact. Specific issues of interest to IGPAC and SPOCs include new enforcement mechanisms for Technical Barriers to Trade (TBT) and Sanitary and Phytosanitary (SPS) measures, the review of the model BITs, and foreign government challenges to state subsidies.

b. Meetings of State and Local Associations and Local Chambers of Commerce

USTR officials participate frequently in meetings of state and local government associations and local chambers of commerce to apprise them of relevant trade policy issues and solicit their views. For example, in January 2010, Ambassador Ron Kirk addressed the U.S. Conference of Mayors in Washington, D.C. He has met with individual governors, mayors, and state legislators to discuss trade issues of interest to states and localities, as well as hosting the Intergovernmental Policy Advisory Committee at USTR. Ambassador Kirk has also met with major local chambers of commerce to hear firsthand from local community officials and small businesses. USTR staff has met with the National Governors' Association, regional governors' associations, councils of state governments/state international development organizations, National Conference of State Legislatures, and other state commissions and organizations. USTR officials have addressed gatherings of state and local officials and port authorities as well as chambers of commerce around the country.

c. Consultations Regarding Specific Trade Issues

USTR initiates consultations with particular states and localities on issues arising under the WTO and other U.S. trade agreements and frequently responds to requests for information from state and local governments. Topics of interest included the application of the WTO Government Procurement Agreement (GPA) and Buy America provisions under the American Recovery and Reinvestment Act of 2009, General Agreement on Trade in Services issues, the review of the model Bilateral Investment Treaty (BIT), enforcement of trade agreements, NAFTA trucking issues, and consultations with individual states regarding specific anti-dumping and countervailing duty investigations.

C. Policy Coordination and Freedom of Information Act

The U.S. Trade Representative has primary responsibility, with the advice of the interagency trade policy organization, for developing and coordinating the implementation of U.S. trade policy, including on commodity matters (for example coffee and rubber) and, to the extent they are related to trade, direct investment matters. Under the Trade Expansion Act of 1962, Congress established an interagency trade policy mechanism to assist with the implementation of these responsibilities. This organization, as it has evolved, consists of three tiers of committees that constitute the principal mechanism for developing and coordinating U.S. Government positions on international trade and trade-related investment issues.

The Trade Policy Review Group (TPRG) and the Trade Policy Staff Committee (TPSC), administered and chaired by USTR, are the subcabinet interagency trade policy coordination groups that are central to this process. The TPSC is the first-line operating group, with representation at the senior civil servant level. Supporting the TPSC are more than 80 subcommittees responsible for specialized issues. The TPSC regularly seeks advice from the public on its policy decisions and negotiations through *Federal Register* Notices and public hearings. In 2010, the TPSC held public hearings on China's Compliance with its WTO Commitments (October 6, 2010) and Malaysia's Participation in the Proposed Trans-Pacific Partnership Trade Agreement (November 19, 2010).

Through the interagency process, USTR requests input and analysis from members of the appropriate TPSC subcommittee or task force. The conclusions and recommendations of this group are then presented to the full TPSC and serve as the basis for reaching interagency consensus. If agreement is not reached in the TPSC, or if particularly significant policy questions are being considered, issues are referred to the TPRG (Deputy USTR/Under Secretary level) or to the Deputies Committee of the National Security Council/National Economic Council. Issues of the greatest importance move to the Principals Committee of the NSC/NEC for resolution by the Cabinet, with or without the President in attendance.

Member agencies of the TPSC and the TPRG consist of the Departments of Commerce, Agriculture, State, Treasury, Labor, Justice, Defense, Interior, Transportation, Energy, Health and Human Services, Homeland Security, the Environmental Protection Agency, the Office of Management and Budget, the Council of Economic Advisers, the Council on Environmental Quality, the International Development Cooperation Agency, the National Economic Council, and the National Security Council. The U.S. International Trade Commission is a 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. The Small Business Administration joined the TPSC/TPRG as a full member in March 2010.

Separate from its policy coordination function, the Office of the U.S. Trade Representative is subject to The Freedom of Information Act (FOIA). Details of the program are available on the USTR website at <http://www.ustr.gov/about-us/reading-room/freedom-information-act-foia>. USTR received 41 new FOIA requests last year and processed 53. This year, the Department of Justice named USTR one of five agencies that had made particular efforts at increased disclosure in light of the Obama Administration's policies and Attorney General Holder's memo of March 19, 2009 to heads of executive departments and agencies. USTR participated in a special ceremony with Attorney General Holder to honor the five agencies' accomplishments.

ANNEX I

U.S. Trade in 2010

I. 2010 Overview

U.S. trade (exports and imports of goods and services, and the receipt and payment of earnings on foreign investment)¹ increased by 17 percent in 2010 to a value of \$5.5 trillion.² This marked the largest growth in U.S. trade in decades (since 1984), reflecting a significant reversal from 2009's 21 percent decline which was due, in most part, to recessionary conditions in the United States and the rest of the world. The value of U.S. trade in 2010 is only seven percent below the record level set in 2008. The U.S. recovery, which began in the 3rd quarter of 2009, continued in 2010, with real U.S. Gross Domestic Product (GDP) up an estimated three percent. Real GDP in the world increased an estimated five percent in 2010, while real world trade increased an estimated 11 percent.³

U.S. trade in goods and services increased by 20 percent in 2010 – U.S. trade of goods alone increased by 24 percent and U.S. trade of services increased by eight percent. The growth of U.S. exports of goods and services, up 17 percent, is above the 15 percent annual growth rate needed to achieve the President's announced goal of doubling U.S. exports by the end of 2014. U.S. imports of goods and services increased 22 percent in 2010.

U.S. trade expansion over the past four decades (1970 to 2010) was more rapid than the growth of the overall U.S. economy, in both nominal and real terms. In nominal terms, trade has grown at an average annual rate of 9.7 percent per year since 1970, compared to U.S. GDP whose average annual growth over the same period was 6.8 percent. In real terms, the average annual growth in trade was more than double the pace of GDP growth, 5.9 percent versus 2.9 percent. Through 2010, the value of U.S. trade has increased over 3,900 percent since 1970 and 66 percent since 2000 (*figure 1*).⁴ As a share of the value of GDP, trade was up from 33 percent in 2009 to 37 percent in 2010 (*figure 2*). While the increase in 2010 was significant, trade as a share of GDP was still down from the record 41 percent in 2008.⁵

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.

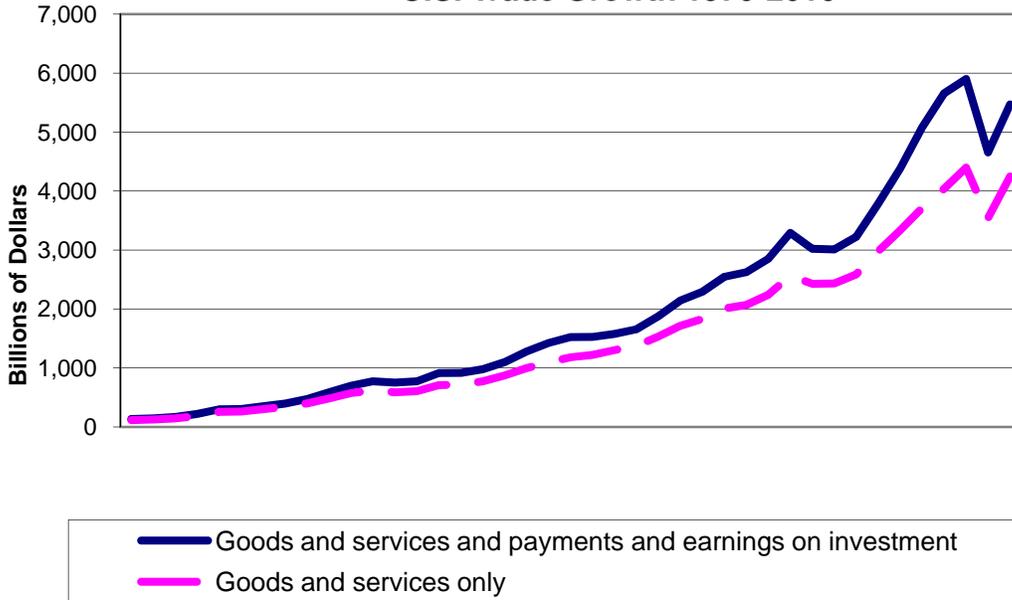
² In this Chapter, 2010 is estimated based on partial year data (January-November).

³ According to the International Monetary Fund.

⁴ Trade in goods and services trade alone has increased over 3,500 percent since 1970, and 65 percent since 2000.

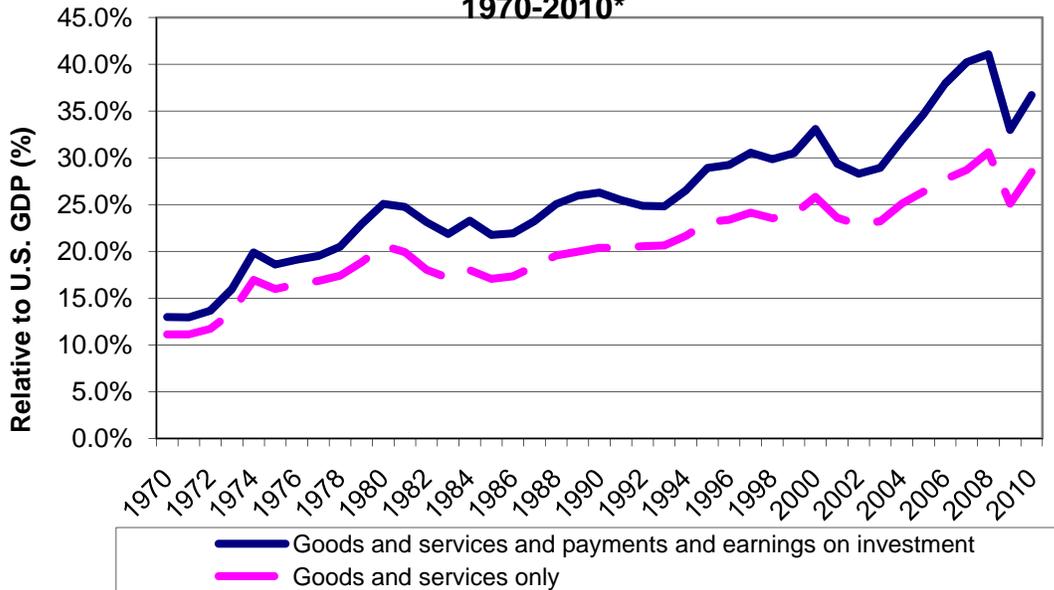
⁵ For goods and services, excluding investment earnings and payments, U.S. trade represented 29 percent of the value of GDP in 2010, up from 25 percent in 2009, but still down from the record 31 percent in 2008.

**Figure 1:
U.S. Trade Growth 1970-2010***



Total exports + imports
 * 2010 Annualized based on January-November 2010 data.
 Source: U.S. Department of Commerce

**Figure 2:
Growing Importance of Trade in the U.S. Economy,
1970-2010***



Total exports + imports as a percentage of the value of U.S. GDP
 *2010 Annualized based on January-November 2010
 Source: U.S. Department of Commerce

The growth in trade over the long term in both U.S. exports and imports has been striking. U.S. exports of goods and services (including investment earnings) in 2010 are 3,400 percent greater than in 1970 and 74 percent greater than in 2000. U.S. imports of goods and services are nearly 4,600 percent greater than in 1970 and 60 percent greater than in 2000.

The total deficit on goods and services trade (excluding earnings and payments on foreign investment) increased in 2010 by approximately \$134 billion from \$375 billion in 2009 to \$509 billion. The deficit was more than one-quarter lower than its high of \$699 billion in 2008. As a share of GDP, the deficit increased from 2.7 percent of GDP in 2009 to approximately 3.5 percent of GDP in 2010, still below the 4.9 percent level in 2008.

The U.S. deficit in goods trade alone increased by \$151 billion from \$507 billion in 2009 (3.6 percent of GDP) to \$658 billion in 2010 (4.5 percent of GDP), while the services trade surplus increased by \$17 billion from \$132 billion in 2009 (0.9% of GDP) to \$149 billion in 2010 (1.0 percent of GDP). The deficit in petroleum increased by 33 percent in 2010 and accounted for 52 percent of the total goods and services deficit.

II. Goods Trade

A. Export Growth

As with total trade, goods exports increased significantly in 2010. U.S. goods exports increased by 21 percent in 2010, as compared to the 18 percent decline in the preceding year (*table 1 and figure 3*). The strong growth of U.S. goods exports in 2010 brought the level of U.S. exports back to within 1% of 2008's record level. Manufacturing exports, which accounted for 80 percent of total goods exports, were up 19.5 percent, while agriculture exports, which accounted for nine percent of total goods exports, were up 17 percent. Advanced technology exports, a subset of manufacturing exports, accounted for 21 percent of total goods exports and were up 12 percent in 2010. U.S. goods exports increased for every major end-use category in 2010, with the largest increases in the automobiles and automotive parts category, up 40 percent, and in the industrial supplies and materials category, up 32 percent.

Over the past 10 years, U.S. goods exports have increased 67 percent. U.S. agricultural exports grew by 121 percent since 2000, nearly double the growth of manufacturing exports and six times the growth of advanced technology exports. Of the major end-use categories, exports of industrial supplies and materials (up 127 percent) led growth in the 2000-2010 timeframe over both the foods, feeds, and beverages category (up 119 percent) and the consumer goods category (up 85 percent). Of the more than a half trillion dollar increase in goods exports since 2000, capital goods accounted for 35 percent, industrial supplies and materials accounted for 31 percent of the increase, and consumer goods accounted for 13 percent.

Table 1

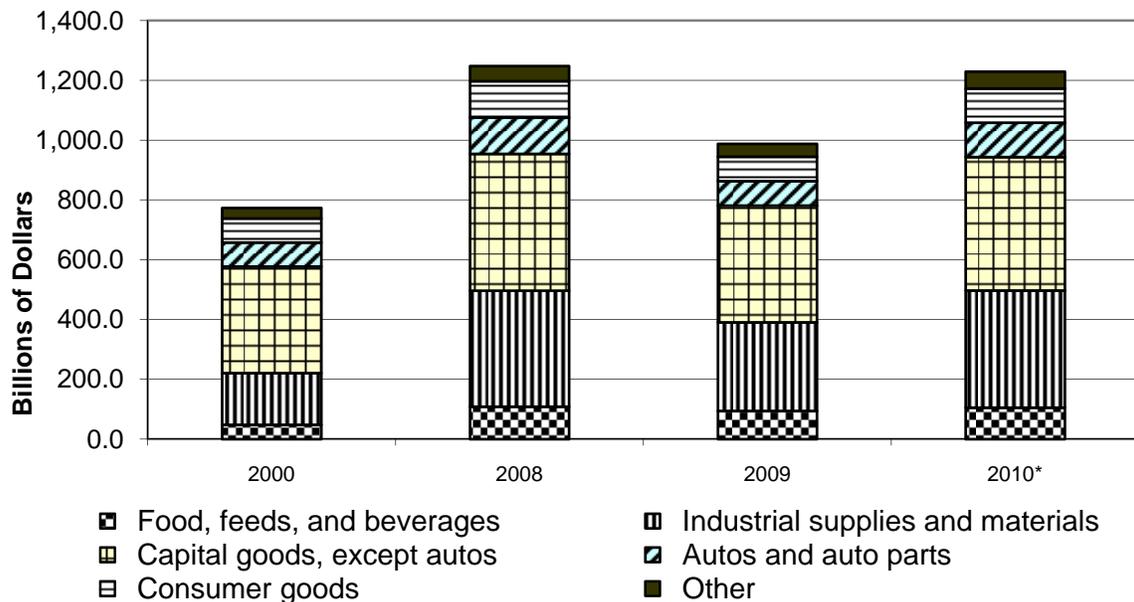
U.S. Goods Exports

	2000	2008	2009	2010*	09-10*	08-10*	00-10*
Exports:	<i>Billions of Dollars</i>				<i>Percent Changes</i>		
Total (BOP basis)	772.0	1,304.9	1,068.5	1,290.9	20.8%	-1.1%	67.2%
Food, feeds, and beverages	47.9	108.3	93.9	105.0	11.9%	-3.0%	119.4%
Industrial supplies and materials	172.6	388.0	296.7	391.8	32.1%	1.0%	127.0%
Capital goods, except autos	356.9	457.7	390.5	446.7	14.4%	-2.4%	25.1%
Autos and auto parts	80.4	121.5	81.7	114.6	40.2%	-5.6%	42.6%
Consumer goods	89.4	161.3	150.0	165.6	10.4%	2.7%	85.3%
Other	34.8	50.7	43.2	56.5	30.8%	11.6%	62.6%
Addendum: Agriculture	52.1	118.2	101.2	118.5	17.0%	0.2%	127.6%
Addendum: Manufacturing	689.5	1,038.6	859.7	1,027.7	19.5%	-1.1%	49.0%
Addendum: Advanced Technology	227.4	270.1	244.7	273.4	11.7%	1.2%	20.2%

* Annualized based on January-November 2010 data.

Source: U.S. Department of Commerce, Balance of Payments basis for total, Census basis for sectors.

**Figure 3:
U.S. Goods Exports**



*2010 Annualized based on January-November 2010 data
Source: U.S. Department of Commerce

Exports from:	2000	2008	2009	2010*	09-10*	08-10*	00-10*
	<i>Billions of Dollars</i>				<i>Percent Changes</i>		
Canada	178.9	261.2	204.7	251.0	22.7%	-3.9%	40.3%
Mexico	111.3	151.2	128.9	163.8	27.1%	8.3%	47.1%
China	16.2	69.7	69.5	92.9	33.7%	33.2%	473.9%
Japan	64.9	65.1	51.1	61.0	19.2%	-6.4%	-6.1%
European Union (EU27)	168.5	271.8	220.6	238.1	7.9%	-12.4%	41.3%
Asian Pacific Rim, except Japan and China	121.5	161.1	133.9	176.0	31.4%	9.3%	44.9%
Latin America, except Mexico	59.3	136.9	109.5	139.8	27.6%	2.0%	135.7%
Addendum: Industrial Countries**	435.2	637.5	511.7	588.9	15.1%	-7.6%	35.3%
Addendum: Developing Countries**	346.7	650.0	544.3	691.1	27.0%	6.3%	99.3%

* Annualized based on January-November 2010 data.
** As defined by the International Monetary Fund.

Source: U.S. Department of Commerce, Census basis.

In 2010, U.S. goods exports increased to all major markets specified above (*table 2*), ranging from a high of 33.7 percent to China to a low of 7.9 percent to the European Union. Other markets in which U.S. goods exports increased by over 20 percent include Mexico, Canada, the Asian Pacific Rim (excluding Japan and China), and Latin America (excluding Mexico). Over the last year, U.S. goods exports increased by 27 percent to developing countries, and by 15 percent to industrial countries. Since 2000, U.S. goods exports to developing countries have grown almost three times as fast as U.S. goods exports to industrial countries, 99 percent compared to 35 percent. As a result, the share of U.S. goods exports going to developing countries has grown from 44 percent in 2000 to 54 percent in 2010.

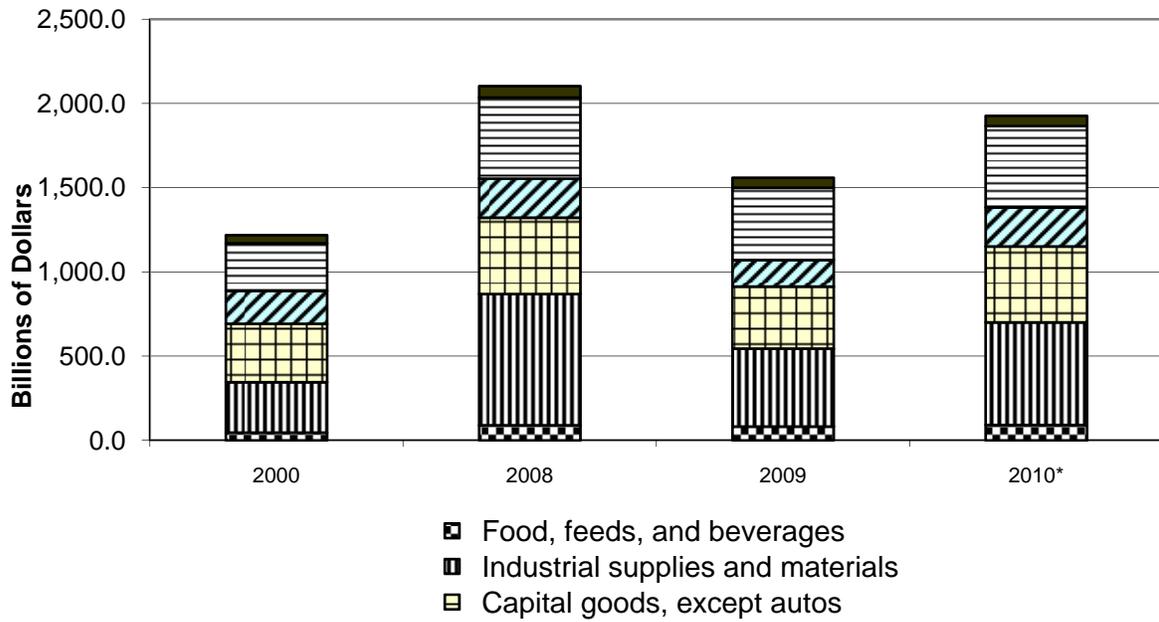
B. Import Growth

U.S. goods imports increased by 24 percent in 2010 (*table 3 and figure 4*), in contrast to the 26 percent decrease in 2009. Although U.S. goods imports recovered in 2010, they were still nine percent lower than the 2008 level. U.S. manufacturing imports, accounting for 75 percent of total goods imports, increased by 22 percent in 2010. Advanced technology imports, accounting for 19 percent of total goods imports, increased by 22 percent, while agriculture imports, accounting for four percent of total goods imports, increased by 14 percent in 2010.

Similar to U.S. goods exports, U.S. goods imports increased for every major end-use category in 2010, with increases ranging between 12 percent for the foods, feeds, and beverages category to 47 percent for the autos and auto parts category.

U.S. Goods Imports							
	2000	2008	2009	2010*	09-10*	08-10*	00-10*
Imports:	<i>Billions of Dollars</i>				<i>Percent Changes</i>		
Total (BOP basis)	1,226.7	2,139.5	1,575.4	1,948.8	23.7%	-8.9%	58.9%
Food, feeds, and beverages	46.0	89.0	81.6	91.5	12.2%	2.8%	99.0%
Industrial supplies and materials	299.0	779.5	462.5	609.1	31.7%	-21.9%	103.7%
Capital goods, except autos	347.0	453.7	369.3	450.3	21.9%	-0.8%	29.8%
Autos and auto parts	195.9	231.2	157.6	231.3	46.8%	0.0%	18.1%
Consumer goods	281.8	481.6	428.4	483.5	12.9%	0.4%	71.6%
Other	48.3	68.5	60.2	60.9	1.2%	-11.1%	26.0%
Addendum: Agriculture	39.2	80.7	71.8	82.0	14.1%	1.6%	109.2%
Addendum: Manufacturing	1,013.5	1,490.4	1,185.9	1,446.6	22.0%	-2.9%	42.7%
Addendum: Advanced Technology	222.1	331.2	300.9	357.3	18.7%	7.9%	60.9%
* Annualized based on January-November 2010 data.							
Source: U.S. Department of Commerce, Balance of Payments basis for total, Census basis for sectors.							

**Figure 4:
U.S. Goods Imports**



*2010 Annualized based on January-November 2010 data

Source: U.S. Department of Commerce

Table 4**U.S. Goods Imports from Selected Countries/Regions**

Imports from:	2000	2008	2009	2010*	09-10*	08-10*	00-10*
	<i>Billions of Dollars</i>				<i>Percent Changes</i>		
Canada	230.8	339.5	226.2	279.1	23.4%	-17.8%	20.9%
Mexico	135.9	215.9	176.7	233.0	31.9%	7.9%	71.4%
China	100.0	337.8	296.4	366.9	23.8%	8.6%	266.8%
Japan	146.5	139.3	95.8	121.0	26.3%	-13.1%	-17.4%
European Union (EU27)	227.6	367.6	281.8	319.6	13.4%	-13.1%	40.4%
Asian Pacific Rim, except Japan and China	171.5	176.9	140.8	169.3	20.3%	-4.3%	-1.3%
Latin America, except Mexico	73.3	160.0	108.1	131.8	21.9%	-17.6%	79.7%
Addendum: Industrial Countries**	622.3	872.6	627.2	745.5	18.9%	-14.6%	19.8%
Addendum: Developing Countries**	595.7	1,231.1	932.4	1,179.7	26.5%	-4.2%	98.0%
* Annualized based on January-November 2010 data.							
**As defined by the International Monetary Fund.							
Source: U.S. Department of Commerce, Census basis.							

The category with the second largest increase was in industrial supplies and materials, up 32 percent, primarily due to the increase in petroleum imports in 2010 (up two percent on a volume basis and up 36 percent on price). In fact, the increase in petroleum imports accounted for roughly 24 percent of the overall increase in U.S. goods imports in 2010.

U.S. goods imports have increased by 59 percent since 2000. U.S. agriculture imports have more than doubled since 2000, while imports of advanced technology products and manufactured goods have increased by 61 percent and 42 percent, respectively. For the major end-use categories, U.S. imports of industrial supplies and materials led growth since 2000 (up 104 percent), followed by foods, feeds, and beverages (up 99 percent) and consumer goods (up 72 percent).

On a major country/region basis, the growth of U.S. goods imports ranged between an increase of 13 percent from the European Union and 32 percent from Mexico in 2010 from those specified above (*table 4*). The increase in U.S. imports from Mexico, Japan, China, Canada, the Asian Pacific Rim (excluding Japan and China), and Latin America (excluding Mexico) all exceeded 20 percent in 2010. U.S. imports from industrial countries increased by 19 percent in 2010, compared to the 27 percent increase in imports from developing countries. Since 2000, U.S. goods imports from developing countries have exhibited higher growth (almost five times as much) than those from industrial countries, 98 percent compared with 20 percent. Accordingly, the share of U.S. imports from developing countries has increased from 49 percent in 2000 to 61 percent in 2010.

III. Services Trade

A. Export Growth

U.S. exports of services increased by eight percent in 2010 to \$543 billion. Services exports have fully recovered from their decline in 2009, and are two percent higher than the 2008 level (*table 5 and figure 5*). U.S. services exports accounted for 30 percent of the level of U.S. goods and services exports in 2010.

All of the major services export categories exhibited increases in 2010, led by passenger fares (up 18 percent), other transportation (up 12 percent), and the government category (up 12 percent). The increases in royalties and licensing fees (up nine percent) and other private services (up six percent) together accounted for 77 percent of total increase in U.S. services exports in 2010.

U.S. services exports have increased by 90 percent over the past 10 years. Of the \$257 billion increase in U.S. services exports between 2000 and 2010, the other private services category accounted for 56 percent of the increase, while the royalties and licensing fees category accounted for 21 percent.

Detailed sectoral breakdowns for exports of the other private services category as well as exports to countries/regions are available only through 2009.

In 2009, 33 percent of U.S. exports of other private services were to business related parties (to a foreign parent or affiliate). The largest categories for U.S. exports of other private services to related and unrelated parties, in 2009 were: business, professional, and technical services, \$117 billion; financial services, \$55 billion; and education, \$20 billion. The business, professional, and technical services category was led by management and consulting services (\$28 billion), research and development and testing services (\$18 billion), computer and information services (\$13 billion), and the installation, maintenance, and repair of equipment (\$11 billion).

The United Kingdom was the largest purchaser of U.S. private services exports in 2009, accounting for 11 percent (\$51 billion) of total U.S. private services exports. The next four largest purchasers of U.S. private services exports in 2009 were: Canada (\$42 billion); Japan (\$41 billion); Germany (\$24 billion); and Mexico (\$22 billion). Regionally, in 2009, the United States exported \$172 billion to the EU, \$125 billion to the Asia/Pacific region (\$69 billion excluding Japan and China), \$64 billion to NAFTA countries, and \$40 billion to Latin America (excluding Mexico).

Table 5

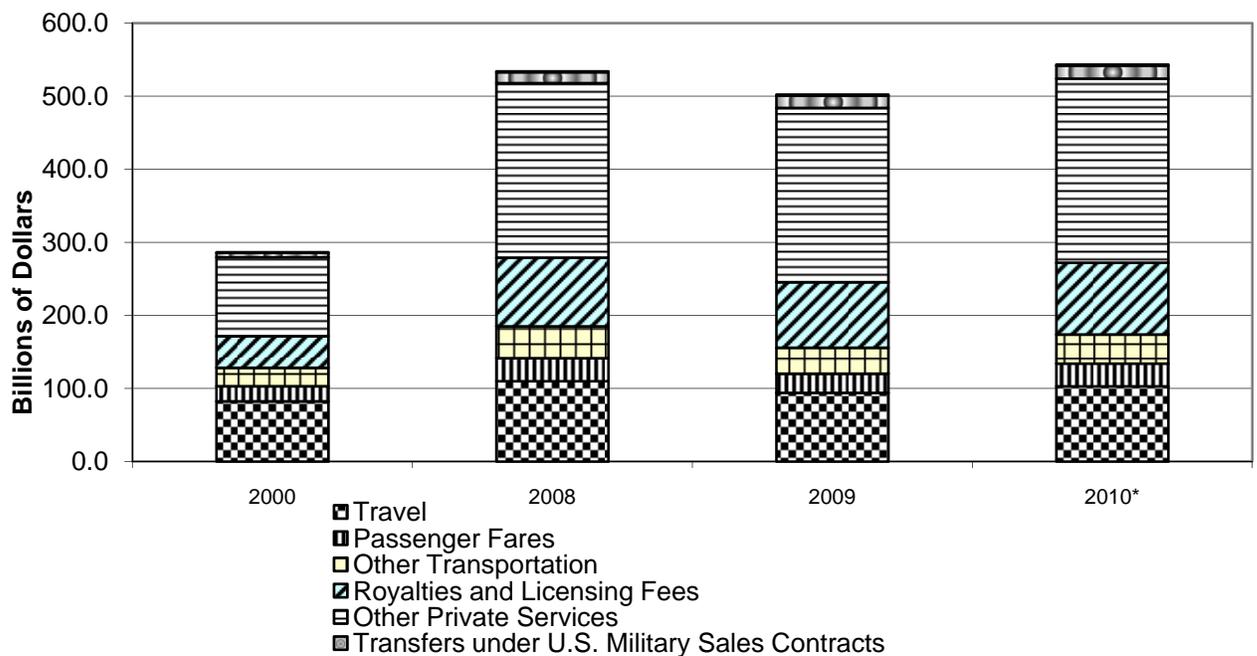
U.S. Services Exports

Exports:	2000	2008	2009	2010*	09-10*	08-10*	00-10*
	<i>Billions of Dollars</i>				<i>Percent Changes</i>		
Total (BOP basis)	286.4	534.1	502.3	543.4	8.2%	1.7%	89.7%
Travel	82.4	110.0	93.9	103.0	9.6%	-6.4%	24.9%
Passenger Fares	20.7	31.4	26.4	31.1	17.8%	-0.9%	50.5%
Other Transportation	25.3	43.7	35.4	39.8	12.3%	-9.0%	57.1%
Royalties and Licensing Fees	43.2	93.9	89.8	98.2	9.3%	4.5%	127.0%
Other Private Services	107.9	238.9	238.3	252.0	5.7%	5.5%	133.5%
Transfers under U.S. Military Sales Contracts	6.1	14.9	17.1	17.9	4.9%	20.1%	194.6%
U.S. Government Miscellaneous Services	0.8	1.2	1.3	1.5	12.1%	21.1%	90.1%

* Annualized based on January-November 2010 data.

Source: U.S. Department of Commerce, Balance of Payments basis.

**Figure 5:
U.S. Services Exports**



*2010 Annualized based on January-November 2010 data

Source: U.S. Department of Commerce

B. Import Growth

U.S. services imports increased in 2010 by six percent to \$394 billion (*table 6, figure 6*). This increase was less than the increase in services exports (up eight percent), and one fourth the rate of increase in goods imports (up 24 percent). Despite the increase in 2010, U.S. services imports are still slightly down (one percent) from 2008 levels. The other transportation category and royalties and licensing fees category showed the largest increases in 2009, up 18 percent and 17 percent, respectively. U.S. services imports accounted for roughly 17 percent of the level of U.S. goods and services imports in 2010.

U.S. services imports in 2010 are up 80 percent since 2000. Of the \$175 billion growth in services imports since 2000, the other private services category accounted for 66 percent of the increase.

As with exports, detailed sectoral breakdowns for imports of other private services are available only through 2009.

In 2009, 40 percent of U.S. imports of other private services were from business related parties (from a foreign parent or affiliate). The largest categories for U.S. imports of other private services from related and unrelated parties in 2009 were: business professional and technical services, \$82 billion; insurance services, \$55 billion; and financial services, \$16 billion. The business, professional and technical services category was led by management, and consulting services (\$22 billion), computer and information services (\$17 billion), and research, development, and testing services (\$16 billion).

The United Kingdom remained the largest supplier of private services to the United States, accounting for 13 percent of total U.S. private services imports in 2009. The top five suppliers of U.S. private services imports in 2009 were the United Kingdom (\$38 billion), Bermuda (\$24 billion), Germany (\$23 billion), Canada (\$22 billion), and Japan (\$21 billion).

Regionally, the U.S. imported \$145 billion of services from the EU in 2009, \$79 billion from the Asia/Pacific region (\$50 billion excluding Japan and China), \$36 billion from NAFTA, and \$20 billion from Latin America (excluding Mexico).

Table 6

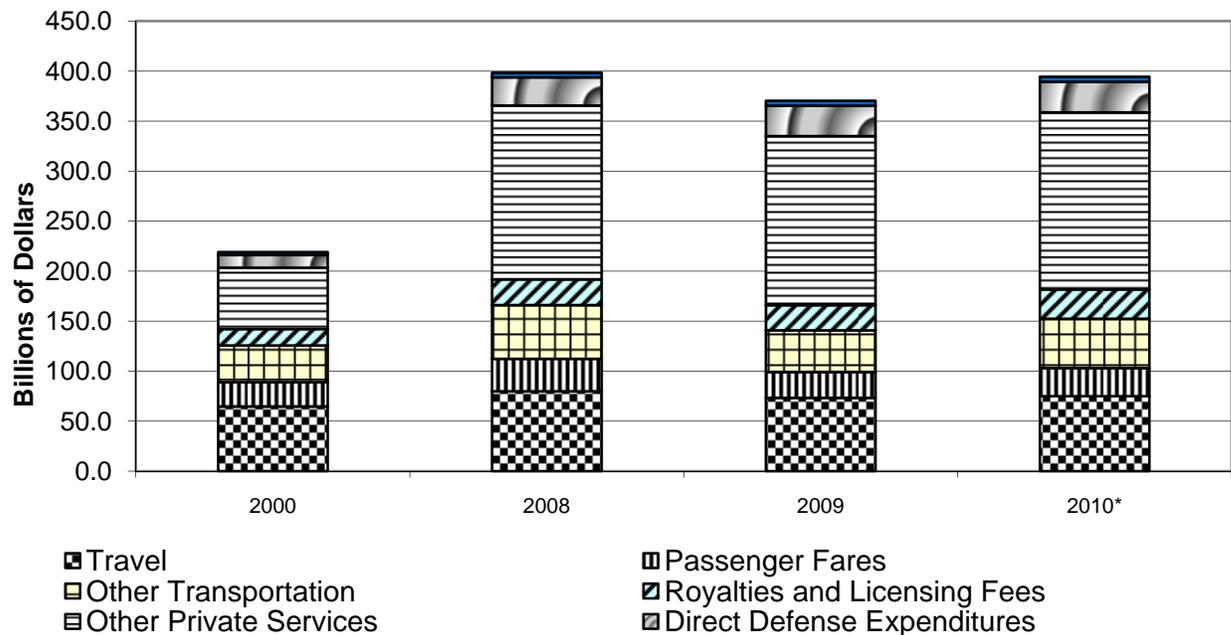
U.S. Services Imports

	2000	2008	2009	2010*	09-10*	08-10*	00-10*
Imports:	<i>Billions of Dollars</i>				<i>Percent Changes</i>		
Total (BOP basis)	219.0	398.3	370.3	394.3	6.5%	-1.0%	80.1%
Travel	64.7	79.7	73.2	74.9	2.3%	-6.0%	15.8%
Passenger Fares	24.3	32.6	26.0	28.1	8.1%	-13.8%	15.7%
Other Transportation	36.7	53.7	41.6	49.3	18.5%	-8.2%	34.2%
Royalties and Licensing Fees	16.5	25.8	25.2	29.5	16.9%	14.4%	79.1%
Other Private Services	61.2	173.7	168.9	177.0	4.8%	1.9%	189.1%
Direct Defense Expenditures	12.7	28.3	30.5	30.5	0.1%	7.7%	140.1%
U.S. Government Miscellaneous Services	2.9	4.5	4.9	5.1	4.7%	13.4%	77.0%

* Annualized based on January-November 2010 data.

Source: U.S. Department of Commerce, Balance of Payments basis.

**Figure 6:
U.S. Services Imports**



*2010 Annualized based on January-November 2010 data

Source: U.S. Department of Commerce

IV. The U.S. Trade Deficit

In 2010, the U.S. goods and services deficit increased by 36 percent (\$134 billion) to a level of \$509 billion (*table 7*) but was down by more than one quarter from 2008. The U.S. deficit in goods trade alone increased by \$151 billion to \$658 billion in 2010, while the U.S. surplus in services trade increased by \$17 billion to \$149 billion.

As a share of U.S. GDP, the goods and services trade deficit increased to 3.5 percent of GDP in 2010 from 2.7 percent of GDP in 2009, yet it was still below the 4.9 percent level in 2008 (*table 8*). The goods trade deficit increased from 3.6 percent of GDP in 2009 to 4.5 percent of GDP in 2010, while the services trade surplus increased from 0.9 percent of GDP in 2009 to 1.0 percent of GDP in 2010.

The regional distribution of the goods trade deficit for 2000, and 2008-2010 is shown in *table 9*.

Table 7				
U.S. Trade Balances with the World				
	2000	2008	2009	2010*
Balance:	<i>Billions of Dollars</i>			
Goods and Services (BOP Basis)	-387.2	-698.8	-374.9	-508.8
Goods (BOP Basis)	-454.7	-834.7	-506.9	-657.9
Services (BOP Basis)	67.5	135.9	132.0	149.1
* Annualized based on January-November 2010 data. Source: U.S. Department of Commerce				

Table 8				
U.S. Trade Balances as a Share of GDP				
	2000	2008	2009	2010*
Share of GDP:	<i>Percents</i>			
Goods and Services (BOP Basis)	-5.5	-7.0	-2.7	-3.5
Goods (BOP Basis)	-6.4	-8.4	-3.6	-4.5
Services (BOP Basis)	1.0	1.4	0.9	1.0
* Annualized based on January-November 2010 data. Source: U.S. Department of Commerce				

Table 9**U.S. Goods Trade Balances with Selected Countries/Regions**

	2000	2008	2009	2010*
Balance:	<i>Billions of Dollars</i>			
Canada	-51.9	-78.3	-21.6	-28.1
Mexico	-24.6	-64.7	-47.8	-69.2
China	-83.8	-268.0	-226.9	-274.0
Japan	-81.6	-74.1	-44.7	-60.0
European Union (EU27)	-59.1	-95.8	-61.2	-81.4
Asian Pacific Rim, except Japan and China	-50.0	-15.8	-6.9	6.7
Latin America, except Mexico	-14.1	-23.0	1.5	7.9
Addendum: Industrial Countries**	-187.1	-235.1	-115.5	-156.5
Addendum: Developing Countries**	-249.0	-581.1	-388.1	-488.6
* Annualized based on January-November 2010 data.				
** As defined by the International Monetary Fund				
Source: U.S. Department of Commerce				

ANNEX II

Background Information on the WTO

Doha Development Agenda

1. Doha Ministerial Declaration
2. Doha Declaration on the TRIPS Agreement and Public Health
3. Doha Declaration on Implementation-Related Issues and Concerns
4. Doha Work Program
5. Amendment of the TRIPS Agreement
6. Hong Kong Ministerial Declaration
7. U.S. Submissions to the WTO in Support of the Doha Development Agenda
8. WTO Affinity Groups in the DDA

Institutional Issues

1. Membership of the WTO
2. 2011 Budgets for the WTO
3. 2011 WTO Budget Contributions
4. Waivers Currently in Force
5. WTO Secretariat Personnel Statistics
6. WTO Accession Application and Status
7. Indicative List of Governmental and Non-Governmental Panelists
8. Appellate Body Membership
9. 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.

AGRICULTURE

13. We recognize the work already undertaken in the negotiations initiated in early 2000 under Article 20 of the Agreement on Agriculture, including the large number of negotiating proposals submitted on behalf of a total of 121 Members. We recall the long-term objective referred to in the Agreement to establish a fair and market-oriented trading system through a programme of fundamental reform encompassing strengthened rules and specific commitments on support and protection in order to correct and prevent restrictions and distortions in world agricultural markets. We reconfirm our commitment to this programme. Building on the work carried out to date and without prejudging the outcome of the negotiations we commit ourselves to comprehensive negotiations aimed at: substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support. We agree that special and differential treatment for developing countries shall be an integral part of all elements of the negotiations and shall be embodied in the Schedules of concessions and commitments and as appropriate in the rules and disciplines to be negotiated, so as to be operationally effective and to enable developing countries to effectively take account of their development needs, including food security and rural development. We take note of the non-trade concerns reflected in the negotiating proposals submitted by Members and confirm that non-trade concerns will be taken into account in the negotiations as provided for in the Agreement on Agriculture.

14. Modalities for the further commitments, including provisions for special and differential treatment, shall be established no later than 31 March 2003. Participants shall submit their comprehensive draft Schedules based on these modalities no later than the date of the Fifth Session of the Ministerial Conference. The negotiations, including with respect to rules and disciplines and related legal texts, shall be concluded as part and at the date of conclusion of the negotiating agenda as a whole.

SERVICES

15. The negotiations on trade in services shall be conducted with a view to promoting the economic growth of all trading partners and the development of developing and least-developed countries. We recognize the work already undertaken in the negotiations, initiated in January 2000 under Article XIX of the General Agreement on Trade in Services, and the large number of proposals submitted by Members on a wide range of sectors and several horizontal issues, as well as on movement of natural persons. We reaffirm the Guidelines and Procedures for the Negotiations adopted by the Council for Trade in Services on 28 March 2001 as the basis for continuing the negotiations, with a view to achieving the objectives of the General Agreement on Trade in Services, as stipulated in the Preamble, Article IV and Article XIX of that Agreement. Participants shall submit initial requests for specific commitments by 30 June 2002 and initial offers by 31 March 2003.

MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTS

16. We agree to negotiations which shall aim, by modalities to be agreed, to reduce or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs, and tariff escalation, as well as non-tariff barriers, in particular on products of export interest to developing countries. Product coverage shall be comprehensive and without *a priori* exclusions. The negotiations shall take fully into account the special needs and interests of developing and least-developed country participants, including through less than full reciprocity in reduction commitments, in accordance with the relevant provisions of Article XXVIII *bis* of GATT 1994 and the provisions cited in paragraph 50 below. To this end, the modalities to be agreed will include appropriate studies and capacity-building measures to assist least-developed countries to participate effectively in the negotiations.

TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS

17. We stress the importance we attach to implementation and interpretation of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) in a manner supportive of public health, by promoting both access to existing medicines and research and development into new medicines and, in this connection, are adopting a separate Declaration.

18. With a view to completing the work started in the Council for Trade-Related Aspects of Intellectual Property Rights (Council for TRIPS) on the implementation of Article 23.4, we agree to negotiate the establishment of a multilateral system of notification and registration of geographical indications for wines and spirits by the Fifth Session of the Ministerial Conference. We note that issues related to the extension of the protection of geographical indications provided for in Article 23 to products other than wines and spirits will be addressed in the Council for TRIPS pursuant to paragraph 12 of this Declaration.

19. We instruct the Council for TRIPS, in pursuing its work programme including under the review of Article 27.3(b), the review of the implementation of the TRIPS Agreement under Article 71.1 and the work foreseen pursuant to paragraph 12 of this Declaration, to examine, *inter alia*, the relationship between the TRIPS Agreement and the Convention on Biological Diversity, the protection of traditional knowledge and folklore, and other relevant new developments raised by Members pursuant to Article 71.1. In undertaking this work, the TRIPS Council shall be

guided by the objectives and principles set out in Articles 7 and 8 of the TRIPS Agreement and shall take fully into account the development dimension.

RELATIONSHIP BETWEEN TRADE AND INVESTMENT

20. Recognizing the case for a multilateral framework to secure transparent, stable and predictable conditions for long-term cross-border investment, particularly foreign direct investment, that will contribute to the expansion of trade, and the need for enhanced technical assistance and capacity-building in this area as referred to in paragraph 21, we agree that negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations.

21. We recognize the needs of developing and least-developed countries for enhanced support for technical assistance and capacity building in this area, including policy analysis and development so that they may better evaluate the implications of closer multilateral cooperation for their development policies and objectives, and human and institutional development. To this end, we shall work in cooperation with other relevant intergovernmental organisations, including UNCTAD, and through appropriate regional and bilateral channels, to provide strengthened and adequately resourced assistance to respond to these needs.

22. In the period until the Fifth Session, further work in the Working Group on the Relationship Between Trade and Investment will focus on the clarification of: scope and definition; transparency; non-discrimination; modalities for pre-establishment commitments based on a GATS-type, positive list approach; development provisions; exceptions and balance-of-payments safeguards; consultation and the settlement of disputes between Members. Any framework should reflect in a balanced manner the interests of home and host countries, and take due account of the development policies and objectives of host governments as well as their right to regulate in the public interest. The special development, trade and financial needs of developing and least-developed countries should be taken into account as an integral part of any framework, which should enable Members to undertake obligations and commitments commensurate with their individual needs and circumstances. Due regard should be paid to other relevant WTO provisions. Account should be taken, as appropriate, of existing bilateral and regional arrangements on investment.

INTERACTION BETWEEN TRADE AND COMPETITION POLICY

23. Recognizing the case for a multilateral framework to enhance the contribution of competition policy to international trade and development, and the need for enhanced technical assistance and capacity-building in this area as referred to in paragraph 24, we agree that negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations.

24. We recognize the needs of developing and least-developed countries for enhanced support for technical assistance and capacity building in this area, including policy analysis and development so that they may better evaluate the implications of closer multilateral cooperation for their development policies and objectives, and human and institutional development. To this end, we shall work in cooperation with other relevant intergovernmental organisations, including UNCTAD, and through appropriate regional and bilateral channels, to provide strengthened and adequately resourced assistance to respond to these needs.

25. In the period until the Fifth Session, further work in the Working Group on the Interaction between Trade and Competition Policy will focus on the clarification of: core principles, including transparency, non-discrimination and procedural fairness, and provisions on hardcore cartels; modalities for voluntary cooperation; and support for progressive reinforcement of competition institutions in developing countries through capacity building. Full account shall be taken of the needs of developing and least-developed country participants and appropriate flexibility provided to address them.

TRANSPARENCY IN GOVERNMENT PROCUREMENT

26. Recognizing the case for a multilateral agreement on transparency in government procurement and the need for enhanced technical assistance and capacity building in this area, we agree that negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations. These negotiations will build on the progress made in the Working Group on Transparency in Government Procurement by that time and take into account participants' development priorities, especially those of least-developed country participants. Negotiations shall be limited to the transparency aspects and therefore will not restrict the scope for countries to give preferences to domestic supplies and suppliers. We commit ourselves to ensuring adequate technical assistance and support for capacity building both during the negotiations and after their conclusion.

TRADE FACILITATION

27. Recognizing the case for further expediting the movement, release and clearance of goods, including goods in transit, and the need for enhanced technical assistance and capacity building in this area, we agree that negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations. In the period until the Fifth Session, the Council for Trade in Goods shall review and as appropriate, clarify and improve relevant aspects of Articles V, VIII and X of the GATT 1994 and identify the trade facilitation needs and priorities of Members, in particular developing and least-developed countries. We commit ourselves to ensuring adequate technical assistance and support for capacity building in this area.

WTO RULES

28. In the light of experience and of the increasing application of these instruments by Members, we agree to negotiations aimed at clarifying and improving disciplines under the Agreements on Implementation of Article VI of the GATT 1994 and on Subsidies and Countervailing Measures, while preserving the basic concepts, principles and effectiveness of these Agreements and their instruments and objectives, and taking into account the needs of developing and least-developed participants. In the initial phase of the negotiations, participants will indicate the provisions, including disciplines on trade distorting practices, that they seek to clarify and improve in the subsequent phase. In the context of these negotiations, participants shall also aim to clarify and improve WTO disciplines on fisheries subsidies, taking into account the importance of this sector to developing countries. We note that fisheries subsidies are also referred to in paragraph 31.

29. We also agree to negotiations aimed at clarifying and improving disciplines and procedures under the existing WTO provisions applying to regional trade agreements. The negotiations shall take into account the developmental aspects of regional trade agreements.

DISPUTE SETTLEMENT UNDERSTANDING

30. We agree to negotiations on improvements and clarifications of the Dispute Settlement Understanding. The negotiations should be based on the work done thus far as well as any additional proposals by Members, and aim to agree on improvements and clarifications not later than May 2003, at which time we will take steps to ensure that the results enter into force as soon as possible thereafter.

TRADE AND ENVIRONMENT

31. With a view to enhancing the mutual supportiveness of trade and environment, we agree to negotiations, without prejudging their outcome, on:

- (i) the relationship between existing WTO rules and specific trade obligations set out in multilateral environmental agreements (MEAs). The negotiations shall be limited in scope to the applicability of such existing WTO rules as among parties to the MEA in question. The negotiations shall not prejudice the WTO rights of any Member that is not a party to the MEA in question;
- (ii) procedures for regular information exchange between MEA Secretariats and the relevant WTO committees, and the criteria for the granting of observer status;
- (iii) the reduction or, as appropriate, elimination of tariff and non-tariff barriers to environmental goods and services.

We note that fisheries subsidies form part of the negotiations provided for in paragraph 28.

32. We instruct the Committee on Trade and Environment, in pursuing work on all items on its agenda within its current terms of reference, to give particular attention to:

- (i) the effect of environmental measures on market access, especially in relation to developing countries, in particular the least-developed among them, and those situations in which the elimination or reduction of trade restrictions and distortions would benefit trade, the environment and development;
- (ii) the relevant provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights; and
- (iii) labelling requirements for environmental purposes.

Work on these issues should include the identification of any need to clarify relevant WTO rules. The Committee shall report to the Fifth Session of the Ministerial Conference, and make recommendations, where appropriate, with respect to future action, including the desirability of negotiations. The outcome of this work as well as the negotiations carried out under paragraph 31. (i) and (ii) shall be compatible with the open and non-discriminatory nature of the

multilateral trading system, shall not add to or diminish the rights and obligations of Members under existing WTO agreements, in particular the Agreement on the Application of Sanitary and Phytosanitary Measures, nor alter the balance of these rights and obligations, and will take into account the needs of developing and least-developed countries.

33. We recognize the importance of technical assistance and capacity building in the field of trade and environment to developing countries, in particular the least-developed among them. We also encourage that expertise and experience be shared with Members wishing to perform environmental reviews at the national level. A report shall be prepared on these activities for the Fifth Session.

ELECTRONIC COMMERCE

34. We take note of the work which has been done in the General Council and other relevant bodies since the Ministerial Declaration of 20 May 1998 and agree to continue the Work Programme on Electronic Commerce. The work to date demonstrates that electronic commerce creates new challenges and opportunities for trade for Members at all stages of development, and we recognize the importance of creating and maintaining an environment which is favourable to the future development of electronic commerce. We instruct the General Council to consider the most appropriate institutional arrangements for handling the Work Programme, and to report on further progress to the Fifth Session of the Ministerial Conference. We declare that Members will maintain their current practice of not imposing customs duties on electronic transmissions until the Fifth Session.

SMALL ECONOMIES

35. We agree to a work programme, under the auspices of the General Council, to examine issues relating to the trade of small economies. The objective of this work is to frame responses to the trade-related issues identified for the fuller integration of small, vulnerable economies into the multilateral trading system, and not to create a sub-category of WTO Members. The General Council shall review the work programme and make recommendations for action to the Fifth Session of the Ministerial Conference.

TRADE, DEBT AND FINANCE

36. We agree to an examination, in a Working Group under the auspices of the General Council, of the relationship between trade, debt and finance, and of any possible recommendations on steps that might be taken within the mandate and competence of the WTO to enhance the capacity of the multilateral trading system to contribute to a durable solution to the problem of external indebtedness of developing and least-developed countries, and to strengthen the coherence of international trade and financial policies, with a view to safeguarding the multilateral trading system from the effects of financial and monetary instability. The General Council shall report to the Fifth Session of the Ministerial Conference on progress in the examination.

TRADE AND TRANSFER OF TECHNOLOGY

37. We agree to an examination, in a Working Group under the auspices of the General Council, of the relationship between trade and transfer of technology, and of any possible recommendations on steps that might be taken within the mandate of the WTO to increase flows of technology to developing countries. The General Council shall report to the Fifth Session of the Ministerial Conference on progress in the examination.

TECHNICAL COOPERATION AND CAPACITY BUILDING

38. We confirm that technical cooperation and capacity building are core elements of the development dimension of the multilateral trading system, and we welcome and endorse the New Strategy for WTO Technical Cooperation for Capacity Building, Growth and Integration. We instruct the Secretariat, in coordination with other relevant agencies, to support domestic efforts for mainstreaming trade into national plans for economic development and strategies for poverty reduction. The delivery of WTO technical assistance shall be designed to assist developing and least-developed countries and low-income countries in transition to adjust to WTO rules and disciplines, implement obligations and exercise the rights of membership, including drawing on the benefits of an open, rules-based multilateral trading system. Priority shall also be accorded to small, vulnerable, and transition economies, as well as to Members and Observers without representation in Geneva. We reaffirm our support for the valuable work of the International Trade Centre, which should be enhanced.

39. We underscore the urgent necessity for the effective coordinated delivery of technical assistance with bilateral donors, in the OECD Development Assistance Committee and relevant international and regional intergovernmental institutions, within a coherent policy framework and timetable. In the coordinated delivery of technical assistance, we instruct the Director-General to consult with the relevant agencies, bilateral donors and beneficiaries, to identify ways of enhancing and rationalizing the Integrated Framework for Trade-Related Technical Assistance to Least-Developed Countries and the Joint Integrated Technical Assistance Programme (JITAP).

40. We agree that there is a need for technical assistance to benefit from secure and predictable funding. We therefore instruct the Committee on Budget, Finance and Administration to develop a plan for adoption by the General Council in December 2001 that will ensure long-term funding for WTO technical assistance at an overall level no lower than that of the current year and commensurate with the activities outlined above.

41. We have established firm commitments on technical cooperation and capacity building in various paragraphs in this Ministerial Declaration. We reaffirm these specific commitments contained in paragraphs 16, 21, 24, 26, 27, 33, 38-40, 42 and 43, and also reaffirm the understanding in paragraph 2 on the important role of sustainably financed technical assistance and capacity-building programmes. We instruct the Director-General to report to the Fifth Session of the Ministerial Conference, with an interim report to the General Council in December 2002 on the implementation and adequacy of these commitments in the identified paragraphs.

LEAST-DEVELOPED COUNTRIES

42. We acknowledge the seriousness of the concerns expressed by the least-developed countries (LDCs) in the Zanzibar Declaration adopted by their Ministers in July 2001. We recognize that the integration of the LDCs into the multilateral trading system requires

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

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

SPECIAL AND DIFFERENTIAL TREATMENT

44. We reaffirm that provisions for special and differential treatment are an integral part of the WTO Agreements. We note the concerns expressed regarding their operation in addressing specific constraints faced by developing countries, particularly least-developed countries. In that connection, we also note that some Members have proposed a Framework Agreement on Special and Differential Treatment (WT/GC/W/442). We therefore agree that all special and differential treatment provisions shall be reviewed with a view to strengthening them and making them more precise, effective and operational. In this connection, we endorse the work programme on special and differential treatment set out in the Decision on Implementation-Related Issues and Concerns.

ORGANIZATION AND MANAGEMENT OF THE WORK PROGRAMME

45. The negotiations to be pursued under the terms of this Declaration shall be concluded not later than 1 January 2005. The Fifth Session of the Ministerial Conference will take stock of progress in the negotiations, provide any necessary political guidance, and take decisions as necessary. When the results of the negotiations in all areas have been established, a Special Session of the Ministerial Conference will be held to take decisions regarding the adoption and implementation of those results.

46. The overall conduct of the negotiations shall be supervised by a Trade Negotiations Committee under the authority of the General Council. The Trade Negotiations Committee shall

hold its first meeting not later than 31 January 2002. It shall establish appropriate negotiating mechanisms as required and supervise the progress of the negotiations.

47. With the exception of the improvements and clarifications of the Dispute Settlement Understanding, the conduct, conclusion and entry into force of the outcome of the negotiations shall be treated as parts of a single undertaking. However, agreements reached at an early stage may be implemented on a provisional or a definitive basis. Early agreements shall be taken into account in assessing the overall balance of the negotiations.

48. Negotiations shall be open to:

- (i) all Members of the WTO; and
- (ii) States and separate customs territories currently in the process of accession and those that inform Members, at a regular meeting of the General Council, of their intention to negotiate the terms of their membership and for whom an accession working party is established.

Decisions on the outcomes of the negotiations shall be taken only by WTO Members.

49. The negotiations shall be conducted in a transparent manner among participants, in order to facilitate the effective participation of all. They shall be conducted with a view to ensuring benefits to all participants and to achieving an overall balance in the outcome of the negotiations.

50. The negotiations and the other aspects of the Work Programme shall take fully into account the principle of special and differential treatment for developing and least-developed countries embodied in: Part IV of the GATT 1994; the Decision of 28 November 1979 on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries; the Uruguay Round Decision on Measures in Favour of Least-Developed Countries; and all other relevant WTO provisions.

51. The Committee on Trade and Development and the Committee on Trade and Environment shall, within their respective mandates, each act as a forum to identify and debate developmental and environmental aspects of the negotiations, in order to help achieve the objective of having sustainable development appropriately reflected.

52. Those elements of the Work Programme which do not involve negotiations are also accorded a high priority. They shall be pursued under the overall supervision of the General Council, which shall report on progress to the Fifth Session of the Ministerial Conference.

WORLD TRADE ORGANIZATION

WT/MIN(01)/DEC/2
20 November 2001

(01-5860)

MINISTERIAL CONFERENCE
Fourth Session
Doha, 9 - 14 November 2001

DECLARATION ON THE TRIPS AGREEMENT AND PUBLIC HEALTH

Adopted on 14 November 2001

1. We recognize the gravity of the public health problems afflicting many developing and least-developed countries, especially those resulting from HIV/AIDS, tuberculosis, malaria and other epidemics.
2. We stress the need for the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) to be part of the wider national and international action to address these problems.
3. We recognize that intellectual property protection is important for the development of new medicines. We also recognize the concerns about its effects on prices.
4. We agree that the TRIPS Agreement does not and should not prevent Members from taking measures to protect public health. Accordingly, while reiterating our commitment to the TRIPS Agreement, we affirm that the Agreement can and should be interpreted and implemented in a manner supportive of WTO Members' right to protect public health and, in particular, to promote access to medicines for all.

In this connection, we reaffirm the right of WTO Members to use, to the full, the provisions in the TRIPS Agreement, which provide flexibility for this purpose.

5. Accordingly and in the light of paragraph 4 above, while maintaining our commitments in the TRIPS Agreement, we recognize that these flexibilities include:
 - (a) In applying the customary rules of interpretation of public international law, each provision of the TRIPS Agreement shall be read in the light of the object and purpose of the Agreement as expressed, in particular, in its objectives and principles.
 - (b) Each Member has the right to grant compulsory licences and the freedom to determine the grounds upon which such licences are granted.

- (c) Each Member has the right to determine what constitutes a national emergency or other circumstances of extreme urgency, it being understood that public health crises, including those relating to HIV/AIDS, tuberculosis, malaria and other epidemics, can represent a national emergency or other circumstances of extreme urgency.
- (d) The effect of the provisions in the TRIPS Agreement that are relevant to the exhaustion of intellectual property rights is to leave each Member free to establish its own regime for such exhaustion without challenge, subject to the MFN and national treatment provisions of Articles 3 and 4.

6. We recognize that WTO Members with insufficient or no manufacturing capacities in the pharmaceutical sector could face difficulties in making effective use of compulsory licensing under the TRIPS Agreement. We instruct the Council for TRIPS to find an expeditious solution to this problem and to report to the General Council before the end of 2002.

7. We reaffirm the commitment of developed-country Members to provide incentives to their enterprises and institutions to promote and encourage technology transfer to least-developed country Members pursuant to Article 66.2. We also agree that the least-developed country Members will not be obliged, with respect to pharmaceutical products, to implement or apply Sections 5 and 7 of Part II of the TRIPS Agreement or to enforce rights provided for under these Sections until 1 January 2016, without prejudice to the right of least-developed country Members to seek other extensions of the transition periods as provided for in Article 66.1 of the TRIPS Agreement. We instruct the Council for TRIPS to take the necessary action to give effect to this pursuant to Article 66.1 of the TRIPS Agreement.

WORLD TRADE ORGANIZATION

WT/MIN(01)/17
20 November 2001

(01-5858)

MINISTERIAL CONFERENCE
Fourth Session
Doha, 9 - 14 November 2001

IMPLEMENTATION-RELATED ISSUES AND CONCERNS

Decision of 14 November 2001

The Ministerial Conference,

Having regard to Articles IV.1, IV.5 and IX of the Marrakesh Agreement Establishing the World Trade Organization (WTO);

Mindful of the importance that Members attach to the increased participation of developing countries in the multilateral trading system, and of the need to ensure that the system responds fully to the needs and interests of all participants;

Determined to take concrete action to address issues and concerns that have been raised by many developing-country Members regarding the implementation of some WTO Agreements and Decisions, including the difficulties and resource constraints that have been encountered in the implementation of obligations in various areas;

Recalling the 3 May 2000 Decision of the General Council to meet in special sessions to address outstanding implementation issues, and to assess the existing difficulties, identify ways needed to resolve them, and take decisions for appropriate action not later than the Fourth Session of the Ministerial Conference;

Noting the actions taken by the General Council in pursuance of this mandate at its Special Sessions in October and December 2000 (WT/L/384), as well as the review and further discussion undertaken at the Special Sessions held in April, July and October 2001, including the referral of additional issues to relevant WTO bodies or their chairpersons for further work;

Noting also the reports on the issues referred to the General Council from subsidiary bodies and their chairpersons and from the Director-General, and the discussions as well as the clarifications provided and understandings reached on implementation issues in the intensive informal and formal meetings held under this process since May 2000;

Decides as follows:

1. General Agreement on Tariffs and Trade 1994 (GATT 1994)
 - 1.1 Reaffirms that Article XVIII of the GATT 1994 is a special and differential treatment provision for developing countries and that recourse to it should be less onerous than to Article XII of the GATT 1994.
 - 1.2 Noting the issues raised in the report of the Chairperson of the Committee on Market Access (WT/GC/50) concerning the meaning to be given to the phrase "substantial interest" in paragraph 2(d) of Article XIII of the GATT 1994, the Market Access Committee is directed to give further consideration to the issue and make recommendations to the General Council as expeditiously as possible but in any event not later than the end of 2002.

2. Agreement on Agriculture
 - 2.1 Urges Members to exercise restraint in challenging measures notified under the green box by developing countries to promote rural development and adequately address food security concerns.
 - 2.2 Takes note of the report of the Committee on Agriculture (G/AG/11) regarding the implementation of the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries, and approves the recommendations contained therein regarding (i) food aid; (ii) technical and financial assistance in the context of aid programmes to improve agricultural productivity and infrastructure; (iii) financing normal levels of commercial imports of basic foodstuffs; and (iv) review of follow-up.
 - 2.3 Takes note of the report of the Committee on Agriculture (G/AG/11) regarding the implementation of Article 10.2 of the Agreement on Agriculture, and approves the recommendations and reporting requirements contained therein.
 - 2.4 Takes note of the report of the Committee on Agriculture (G/AG/11) regarding the administration of tariff rate quotas and the submission by Members of addenda to their notifications, and endorses the decision by the Committee to keep this matter under review.

3. Agreement on the Application of Sanitary and Phytosanitary Measures
 - 3.1 Where the appropriate level of sanitary and phytosanitary protection allows scope for the phased introduction of new sanitary and phytosanitary measures, the phrase "longer time-frame for compliance" referred to in Article 10.2 of the Agreement on the Application of Sanitary and Phytosanitary Measures, shall be understood to mean normally a period of not less than 6 months. Where the appropriate level of sanitary and phytosanitary protection does not allow scope for the phased introduction of a new measure, but specific problems are identified by a Member, the Member applying the measure shall upon request enter into consultations with the country with a view to finding a mutually

satisfactory solution to the problem while continuing to achieve the importing Member's appropriate level of protection.

- 3.2 Subject to the conditions specified in paragraph 2 of Annex B to the Agreement on the Application of Sanitary and Phytosanitary Measures, the phrase "reasonable interval" shall be understood to mean normally a period of not less than 6 months. It is understood that timeframes for specific measures have to be considered in the context of the particular circumstances of the measure and actions necessary to implement it. The entry into force of measures which contribute to the liberalization of trade should not be unnecessarily delayed.
- 3.3 Takes note of the Decision of the Committee on Sanitary and Phytosanitary Measures (G/SPS/19) regarding equivalence, and instructs the Committee to develop expeditiously the specific programme to further the implementation of Article 4 of the Agreement on the Application of Sanitary and Phytosanitary Measures.
- 3.4 Pursuant to the provisions of Article 12.7 of the Agreement on the Application of Sanitary and Phytosanitary Measures, the Committee on Sanitary and Phytosanitary Measures is instructed to review the operation and implementation of the Agreement on Sanitary and Phytosanitary Measures at least once every four years.
- 3.5 (i) Takes note of the actions taken to date by the Director-General to facilitate the increased participation of Members at different levels of development in the work of the relevant international standard setting organizations as well as his efforts to coordinate with these organizations and financial institutions in identifying SPS-related technical assistance needs and how best to address them; and

(ii) urges the Director-General to continue his cooperative efforts with these organizations and institutions in this regard, including with a view to according priority to the effective participation of least-developed countries and facilitating the provision of technical and financial assistance for this purpose.
- 3.6 (i) Urges Members to provide, to the extent possible, the financial and technical assistance necessary to enable least-developed countries to respond adequately to the introduction of any new SPS measures which may have significant negative effects on their trade; and

(ii) urges Members to ensure that technical assistance is provided to least-developed countries with a view to responding to the special problems faced by them in implementing the Agreement on the Application of Sanitary and Phytosanitary Measures.

4. Agreement on Textiles and Clothing

Reaffirms the commitment to full and faithful implementation of the Agreement on Textiles and Clothing, and agrees:

- 4.1 that the provisions of the Agreement relating to the early integration of products and the elimination of quota restrictions should be effectively utilised.
- 4.2 that Members will exercise particular consideration before initiating investigations in the context of antidumping remedies on textile and clothing exports from developing countries previously subject to quantitative restrictions under the Agreement for a period of two years following full integration of this Agreement into the WTO.
- 4.3 that without prejudice to their rights and obligations, Members shall notify any changes in their rules of origin concerning products falling under the coverage of the Agreement to the Committee on Rules of Origin which may decide to examine them.

Requests the Council for Trade in Goods to examine the following proposals:

- 4.4 that when calculating the quota levels for small suppliers for the remaining years of the Agreement, Members will apply the most favourable methodology available in respect of those Members under the growth-on-growth provisions from the beginning of the implementation period; extend the same treatment to least-developed countries; and, where possible, eliminate quota restrictions on imports of such Members;
- 4.5 that Members will calculate the quota levels for the remaining years of the Agreement with respect to other restrained Members as if implementation of the growth-on-growth provision for stage 3 had been advanced to 1 January 2000; and make recommendations to the General Council by 31 July 2002 for appropriate action.

5. Agreement on Technical Barriers to Trade

- 5.1 Confirms the approach to technical assistance being developed by the Committee on Technical Barriers to Trade, reflecting the results of the triennial review work in this area, and mandates this work to continue.
- 5.2 Subject to the conditions specified in paragraph 12 of Article 2 of the Agreement on Technical Barriers to Trade, the phrase "reasonable interval" shall be understood to mean normally a period of not less than 6 months, except when this would be ineffective in fulfilling the legitimate objectives pursued.
- 5.3 (i) Takes note of the actions taken to date by the Director-General to facilitate the increased participation of Members at different levels of development in the work of the relevant international standard setting organizations as well as his efforts to coordinate with these organizations and financial institutions in identifying TBT-related technical assistance needs and how best to address them; and

(ii) urges the Director-General to continue his cooperative efforts with these organizations and institutions, including with a view to according priority to the

effective participation of least-developed countries and facilitating the provision of technical and financial assistance for this purpose.

- 5.4 (i) Urges Members to provide, to the extent possible, the financial and technical assistance necessary to enable least-developed countries to respond adequately to the introduction of any new TBT measures which may have significant negative effects on their trade; and

(ii) urges Members to ensure that technical assistance is provided to least-developed countries with a view to responding to the special problems faced by them in implementing the Agreement on Technical Barriers to Trade.

6. Agreement on Trade-Related Investment Measures

- 6.1 Takes note of the actions taken by the Council for Trade in Goods in regard to requests from some developing-country Members for the extension of the five-year transitional period provided for in Article 5.2 of Agreement on Trade-Related Investment Measures.

- 6.2 Urges the Council for Trade in Goods to consider positively requests that may be made by least-developed countries under Article 5.3 of the TRIMs Agreement or Article IX.3 of the WTO Agreement, as well as to take into consideration the particular circumstances of least-developed countries when setting the terms and conditions including time-frames.

7. Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994

- 7.1 Agrees that investigating authorities shall examine with special care any application for the initiation of an anti-dumping investigation where an investigation of the same product from the same Member resulted in a negative finding within the 365 days prior to the filing of the application and that, unless this pre-initiation examination indicates that circumstances have changed, the investigation shall not proceed.

- 7.2 Recognizes that, while Article 15 of the Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 is a mandatory provision, the modalities for its application would benefit from clarification. Accordingly, the Committee on Anti-Dumping Practices is instructed, through its working group on Implementation, to examine this issue and to draw up appropriate recommendations within twelve months on how to operationalize this provision.

- 7.3 Takes note that Article 5.8 of the Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 does not specify the time-frame to be used in determining the volume of dumped imports, and that this lack of specificity creates uncertainties in the implementation of the provision. The Committee on Anti-Dumping Practices is instructed, through its working group on Implementation, to study this issue and draw up recommendations within 12

months, with a view to ensuring the maximum possible predictability and objectivity in the application of time frames.

- 7.4 Takes note that Article 18.6 of the Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 requires the Committee on Anti-Dumping Practices to review annually the implementation and operation of the Agreement taking into account the objectives thereof. The Committee on Anti-dumping Practices is instructed to draw up guidelines for the improvement of annual reviews and to report its views and recommendations to the General Council for subsequent decision within 12 months.
8. Agreement on the Implementation of Article VII of the General Agreement on Tariffs and Trade 1994
- 8.1 Takes note of the actions taken by the Committee on Customs Valuation in regard to the requests from a number of developing-country Members for the extension of the five-year transitional period provided for in Article 20.1 of Agreement on the Implementation of Article VII of the General Agreement on Tariffs and Trade 1994.
- 8.2 Urges the Council for Trade in Goods to give positive consideration to requests that may be made by least-developed country Members under paragraphs 1 and 2 of Annex III of the Customs Valuation Agreement or under Article IX.3 of the WTO Agreement, as well as to take into consideration the particular circumstances of least-developed countries when setting the terms and conditions including time-frames.
- 8.3 Underlines the importance of strengthening cooperation between the customs administrations of Members in the prevention of customs fraud. In this regard, it is agreed that, further to the 1994 Ministerial Decision Regarding Cases Where Customs Administrations Have Reasons to Doubt the Truth or Accuracy of the Declared Value, when the customs administration of an importing Member has reasonable grounds to doubt the truth or accuracy of the declared value, it may seek assistance from the customs administration of an exporting Member on the value of the good concerned. In such cases, the exporting Member shall offer cooperation and assistance, consistent with its domestic laws and procedures, including furnishing information on the export value of the good concerned. Any information provided in this context shall be treated in accordance with Article 10 of the Customs Valuation Agreement. Furthermore, recognizing the legitimate concerns expressed by the customs administrations of several importing Members on the accuracy of the declared value, the Committee on Customs Valuation is directed to identify and assess practical means to address such concerns, including the exchange of information on export values and to report to the General Council by the end of 2002 at the latest.

9. Agreement on Rules of Origin

- 9.1 Takes note of the report of the Committee on Rules of Origin (G/RO/48) regarding progress on the harmonization work programme, and urges the Committee to complete its work by the end of 2001.
- 9.2 Agrees that any interim arrangements on rules of origin implemented by Members in the transitional period before the entry into force of the results of the harmonisation work programme shall be consistent with the Agreement on Rules of Origin, particularly Articles 2 and 5 thereof. Without prejudice to Members' rights and obligations, such arrangements may be examined by the Committee on Rules of Origin.

10. Agreement on Subsidies and Countervailing Measures

- 10.1 Agrees that Annex VII(b) to the Agreement on Subsidies and Countervailing Measures includes the Members that are listed therein until their GNP per capita reaches US \$1,000 in constant 1990 dollars for three consecutive years. This decision will enter into effect upon the adoption by the Committee on Subsidies and Countervailing Measures of an appropriate methodology for calculating constant 1990 dollars. If, however, the Committee on Subsidies and Countervailing Measures does not reach a consensus agreement on an appropriate methodology by 1 January 2003, the methodology proposed by the Chairman of the Committee set forth in G/SCM/38, Appendix 2 shall be applied. A Member shall not leave Annex VII(b) so long as its GNP per capita in current dollars has not reached US \$1000 based upon the most recent data from the World Bank.
- 10.2 Takes note of the proposal to treat measures implemented by developing countries with a view to achieving legitimate development goals, such as regional growth, technology research and development funding, production diversification and development and implementation of environmentally sound methods of production as non-actionable subsidies, and agrees that this issue be addressed in accordance with paragraph 13 below. During the course of the negotiations, Members are urged to exercise due restraint with respect to challenging such measures.
- 10.3 Agrees that the Committee on Subsidies and Countervailing Measures shall continue its review of the provisions of the Agreement on Subsidies and Countervailing Measures regarding countervailing duty investigations and report to the General Council by 31 July 2002.
- 10.4 Agrees that if a Member has been excluded from the list in paragraph (b) of Annex VII to the Agreement on Subsidies and Countervailing Measures, it shall be re-included in it when its GNP per capita falls back below US\$ 1,000.
- 10.5 Subject to the provisions of Articles 27.5 and 27.6, it is reaffirmed that least-developed country Members are exempt from the prohibition on export subsidies set forth in Article 3.1(a) of the Agreement on Subsidies and Countervailing Measures, and thus have flexibility to finance their exporters, consistent with their development needs. It is understood that the eight-year period in Article

27.5 within which a least-developed country Member must phase out its export subsidies in respect of a product in which it is export-competitive begins from the date export competitiveness exists within the meaning of Article 27.6.

10.6 Having regard to the particular situation of certain developing-country Members, directs the Committee on Subsidies and Countervailing Measures to extend the transition period, under the rubric of Article 27.4 of the Agreement on Subsidies and Countervailing Measures, for certain export subsidies provided by such Members, pursuant to the procedures set forth in document G/SCM/39. Furthermore, when considering a request for an extension of the transition period under the rubric of Article 27.4 of the Agreement on Subsidies and Countervailing Measures, and in order to avoid that Members at similar stages of development and having a similar order of magnitude of share in world trade are treated differently in terms of receiving such extensions for the same eligible programmes and the length of such extensions, directs the Committee to extend the transition period for those developing countries, after taking into account the relative competitiveness in relation to other developing-country Members who have requested extension of the transition period following the procedures set forth in document G/SCM/39.

11. Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)

11.1 The TRIPS Council is directed to continue its examination of the scope and modalities for complaints of the types provided for under subparagraphs 1(b) and 1(c) of Article XXIII of GATT 1994 and make recommendations to the Fifth Session of the Ministerial Conference. It is agreed that, in the meantime, Members will not initiate such complaints under the TRIPS Agreement.

11.2 Reaffirming that the provisions of Article 66.2 of the TRIPS Agreement are mandatory, it is agreed that the TRIPS Council shall put in place a mechanism for ensuring the monitoring and full implementation of the obligations in question. To this end, developed-country Members shall submit prior to the end of 2002 detailed reports on the functioning in practice of the incentives provided to their enterprises for the transfer of technology in pursuance of their commitments under Article 66.2. These submissions shall be subject to a review in the TRIPS Council and information shall be updated by Members annually.

12. Cross-cutting Issues

12.1 The Committee on Trade and Development is instructed:

- (i) to identify those special and differential treatment provisions that are already mandatory in nature and those that are non-binding in character, to consider the legal and practical implications for developed and developing Members of converting special and differential treatment measures into mandatory provisions, to identify those that Members consider should be made mandatory, and to report to the General Council with clear recommendations for a decision by July 2002;
- (ii) to examine additional ways in which special and differential treatment provisions can be made more effective, to consider ways, including improved

information flows, in which developing countries, in particular the least-developed countries, may be assisted to make best use of special and differential treatment provisions, and to report to the General Council with clear recommendations for a decision by July 2002; and

- (iii) to consider, in the context of the work programme adopted at the Fourth Session of the Ministerial Conference, how special and differential treatment may be incorporated into the architecture of WTO rules.

The work of the Committee on Trade and Development in this regard shall take fully into consideration previous work undertaken as noted in WT/COMTD/W/77/Rev.1. It will also be without prejudice to work in respect of implementation of WTO Agreements in the General Council and in other Councils and Committees.

12.2 Reaffirms that preferences granted to developing countries pursuant to the Decision of the Contracting Parties of 28 November 1979 ("Enabling Clause")¹ should be generalised, non-reciprocal and non-discriminatory.

13. Outstanding Implementation 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.

² A list of these issues is compiled in document Job(01)/152/Rev.1.

Doha Work Programme

Decision Adopted by the General Council on 1 August 2004

1. The General Council reaffirms the Ministerial Declarations and Decisions adopted at Doha and the full commitment of all Members to give effect to them. The Council emphasizes Members' resolve to complete the Doha Work Programme fully and to conclude successfully the negotiations launched at Doha. Taking into account the Ministerial Statement adopted at Cancún on 14 September 2003, and the statements by the Council Chairman and the Director-General at the Council meeting of 15-16 December 2003, the Council takes note of the report by the Chairman of the Trade Negotiations Committee (TNC) and agrees to take action as follows:

a. Agriculture: the General Council adopts the framework set out in Annex A to this document.

b. Cotton: the General Council reaffirms the importance of the Sectoral Initiative on Cotton and takes note of the parameters set out in Annex A within which the trade-related aspects of this issue will be pursued in the agriculture negotiations. The General Council also attaches importance to the development aspects of the Cotton Initiative and wishes to stress the complementarity between the trade and development aspects. The Council takes note of the recent Workshop on Cotton in Cotonou on 23-24 March 2004 organized by the WTO Secretariat, and other bilateral and multilateral efforts to make progress on the development assistance aspects and instructs the Secretariat to continue to work with the development community and to provide the Council with periodic reports on relevant developments.

Members should work on related issues of development multilaterally with the international financial institutions, continue their bilateral programmes, and all developed countries are urged to participate. In this regard, the General Council instructs the Director General to consult with the relevant international organizations, including the Bretton Woods Institutions, the Food and Agriculture Organization and the International Trade Centre to direct effectively existing programmes and any additional resources towards development of the economies where cotton has vital importance.

c. Non-agricultural Market Access: the General Council adopts the framework set out in Annex B to this document.

d. Development:

Principles: development concerns form an integral part of the Doha Ministerial Declaration. The General Council rededicates and recommits Members to fulfilling the development

dimension of the Doha Development Agenda, which places the needs and interests of developing and least-developed countries at the heart of the Doha Work Programme. The Council reiterates the important role that enhanced market access, balanced rules, and well targeted, sustainably financed technical assistance and capacity building programmes can play in the economic development of these countries.

Special and Differential Treatment: the General Council reaffirms that provisions for special and differential (S&D) treatment are an integral part of the WTO Agreements. The Council recalls Ministers' decision in Doha to review all S&D treatment provisions with a view to strengthening them and making them more precise, effective and operational. The Council recognizes the progress that has been made so far. The Council instructs the Committee on Trade and Development in Special Session to expeditiously complete the review of all the outstanding Agreement-specific proposals and report to the General Council, with clear recommendations for a decision, by July 2005. The Council further instructs the Committee, within the parameters of the Doha mandate, to address all other outstanding work, including on the cross-cutting issues, the monitoring mechanism and the incorporation of S&D treatment into the architecture of WTO rules, as referred to in TN/CTD/7 and report, as appropriate, to the General Council.

The Council also instructs all WTO bodies to which proposals in Category II have been referred to expeditiously complete the consideration of these proposals and report to the General Council, with clear recommendations for a decision, as soon as possible and no later than July 2005. In doing so these bodies will ensure that, as far as possible, their meetings do not overlap so as to enable full and effective participation of developing countries in these discussions.

Technical Assistance: the General Council recognizes the progress that has been made since the Doha Ministerial Conference in expanding Trade-Related Technical Assistance (TRTA) to developing countries and low-income countries in transition. In furthering this effort the Council affirms that such countries, and in particular least-developed countries, should be provided with enhanced TRTA and capacity building, to increase their effective participation in the negotiations, to facilitate their implementation of WTO rules, and to enable them to adjust and diversify their economies. In this context the Council welcomes and further encourages the improved coordination with other agencies, including under the Integrated Framework for TRTA for the LDCs (IF) and the Joint Integrated Technical Assistance Programme (JITAP).

Implementation: concerning implementation-related issues, the General Council reaffirms the mandates Ministers gave in paragraph 12 of the Doha Ministerial Declaration and the Doha Decision on Implementation-Related Issues and Concerns, and renews Members' determination to find appropriate solutions to outstanding issues. The Council instructs the Trade Negotiations Committee, negotiating bodies and other WTO bodies concerned to redouble their efforts to find appropriate solutions as a priority. Without prejudice to the positions of Members, the Council requests the Director-General to continue with his consultative process on all outstanding implementation issues under paragraph 12(b) of the Doha Ministerial Declaration, including on issues related to the extension of the protection of geographical indications provided for in Article 23 of the TRIPS Agreement to products other than wines and spirits, if need be by appointing Chairpersons of concerned WTO bodies as his Friends and/or by holding dedicated consultations. The Director-General shall report to the TNC and the General Council no later than May 2005. The Council shall review progress and take any appropriate action no later than July 2005.

Other Development Issues: in the ongoing market access negotiations, recognising the fundamental principles of the WTO and relevant provisions of GATT 1994, special attention shall be given to the specific trade and development related needs and concerns of developing countries, including capacity constraints. These particular concerns of developing countries, including relating to food security, rural development, livelihood, preferences, commodities and net food imports, as well as prior unilateral liberalisation, should be taken into consideration, as appropriate, in the course of the Agriculture and NAMA negotiations. The trade-related issues identified for the fuller integration of small, vulnerable economies into the multilateral trading system, should also be addressed, without creating a sub-category of Members, as part of a work programme, as mandated in paragraph 35 of the Doha Ministerial Declaration.

Least-Developed Countries: the General Council reaffirms the commitments made at Doha concerning least-developed countries and renews its determination to fulfil these commitments. Members will continue to take due account of the concerns of least-developed countries in the negotiations. The Council confirms that nothing in this Decision shall detract in any way from the special provisions agreed by Members in respect of these countries.

e. Services: the General Council takes note of the report to the TNC by the Special Session of the Council for Trade in Services¹ and reaffirms Members' commitment to progress in this area of the negotiations in line with the Doha mandate. The Council adopts the recommendations agreed by the Special Session, set out in Annex C to this document, on the basis of which further progress in the services negotiations will be pursued. Revised offers should be tabled by May 2005.

f. Other negotiating bodies:

Rules, Trade & Environment and TRIPS: the General Council takes note of the reports to the TNC by the Negotiating Group on Rules and by the Special Sessions of the Committee on Trade and Environment and the TRIPS Council.² The Council reaffirms Members' commitment to progress in all of these areas of the negotiations in line with the Doha mandates.

Dispute Settlement: the General Council takes note of the report to the TNC by the Special Session of the Dispute Settlement Body³ 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.

¹ This report is contained in document TN/S/16.

² The reports to the TNC referenced in this paragraph are contained in the following documents: Negotiating Group on Rules - TN/RL/9; Special Session of the Committee on Trade and Environment - TN/TE/9; Special Session of the Council for TRIPS - TN/IP/10.

³ This report is contained in document TN/DS/10.

Relationship between Trade and Investment, Interaction between Trade and Competition Policy and Transparency in Government Procurement: the Council agrees that these issues, mentioned in the Doha Ministerial Declaration in paragraphs 20-22, 23-25 and 26 respectively, will not form part of the Work Programme set out in that Declaration and therefore no work towards negotiations on any of these issues will take place within the WTO during the Doha Round.

h. Other elements of the Work Programme: the General Council reaffirms the high priority Ministers at Doha gave to those elements of the Work Programme which do not involve negotiations. Noting that a number of these issues are of particular interest to developing-country Members, the Council emphasizes its commitment to fulfil the mandates given by Ministers in all these areas. To this end, the General Council and other relevant bodies shall report in line with their Doha mandates to the Sixth Session of the Ministerial Conference. The moratoria covered by paragraph 11.1 of the Doha Ministerial Decision on Implementation-related Issues and Concerns and paragraph 34 of the Doha Ministerial Declaration are extended up to the Sixth Ministerial Conference.

2. The General Council agrees that this Decision and its Annexes shall not be used in any dispute settlement proceeding under the DSU and shall not be used for interpreting the existing WTO Agreements.

3. The General Council calls on all Members to redouble their efforts towards the conclusion of a balanced overall outcome of the Doha Development Agenda in fulfilment of the commitments Ministers took at Doha. The Council agrees to continue the negotiations launched at Doha beyond the timeframe set out in paragraph 45 of the Doha Declaration, leading to the Sixth Session of the Ministerial Conference. Recalling its decision of 21 October 2003 to accept the generous offer of the Government of Hong Kong, China to host the Sixth Session, the Council further agrees that this Session will be held in December 2005.

Annex A

Framework for Establishing Modalities in Agriculture

1. The starting point for the current phase of the agriculture negotiations has been the mandate set out in Paragraph 13 of the Doha Ministerial Declaration. This in turn built on the long-term objective of the Agreement on Agriculture to establish a fair and market-oriented trading system through a programme of fundamental reform. The elements below offer the additional precision required at this stage of the negotiations and thus the basis for the negotiations of full modalities in the next phase. The level of ambition set by the Doha mandate will continue to be the basis for the negotiations on agriculture.

2. The final balance will be found only at the conclusion of these subsequent negotiations and within the Single Undertaking. To achieve this balance, the modalities to be developed will need to incorporate operationally effective and meaningful provisions for special and differential treatment for developing country Members. Agriculture is of critical importance to the economic development of developing country Members and they must be able to pursue agricultural policies that are supportive of their development goals, poverty reduction strategies, food security and livelihood concerns. Non-trade concerns, as referred to in Paragraph 13 of the Doha Declaration, will be taken into account.

3. The reforms in all three pillars form an interconnected whole and must be approached in a balanced and equitable manner.

4. The General Council recognizes the importance of cotton for a certain number of countries and its vital importance for developing countries, especially LDCs. It will be addressed ambitiously, expeditiously, and specifically, within the agriculture negotiations. The provisions of this framework provide a basis for this approach, as does the sectoral initiative on cotton. The Special Session of the Committee on Agriculture shall ensure appropriate prioritization of the cotton issue independently from other sectoral initiatives. A subcommittee on cotton will meet periodically and report to the Special Session of the Committee on Agriculture to review progress. Work shall encompass all trade-distorting policies affecting the sector in all three pillars of market access, domestic support, and export competition, as specified in the Doha text and this Framework text.

5. Coherence between trade and development aspects of the cotton issue will be pursued as set out in paragraph 1.b of the text to which this Framework is annexed.

DOMESTIC SUPPORT

6. The Doha Ministerial Declaration calls for "substantial reductions in trade-distorting domestic support". With a view to achieving these substantial reductions, the negotiations in this pillar will ensure the following:

- Special and differential treatment remains an integral component of domestic support. Modalities to be developed will include longer implementation periods and lower reduction coefficients for all types of trade-distorting domestic support and continued access to the provisions under Article 6.2.

- There will be a strong element of harmonisation in the reductions made by developed Members. Specifically, higher levels of permitted trade-distorting domestic support will be subject to deeper cuts.
- Each such Member will make a substantial reduction in the overall level of its trade-distorting support from bound levels.
- As well as this overall commitment, Final Bound Total AMS and permitted *de minimis* levels will be subject to substantial reductions and, in the case of the Blue Box, will be capped as specified in paragraph 15 in order to ensure results that are coherent with the long-term reform objective. Any clarification or development of rules and conditions to govern trade distorting support will take this into account.

Overall Reduction: A Tiered Formula

7. The overall base level of all trade-distorting domestic support, as measured by the Final Bound Total AMS plus permitted *de minimis* level and the level agreed in paragraph 8 below for Blue Box payments, will be reduced according to a tiered formula. Under this formula, Members having higher levels of trade-distorting domestic support will make greater overall reductions in order to achieve a harmonizing result. As the first instalment of the overall cut, in the first year and throughout the implementation period, the sum of all trade-distorting support will not exceed 80 per cent of the sum of Final Bound Total AMS plus permitted *de minimis* plus the Blue Box at the level determined in paragraph 15.

8. The following parameters will guide the further negotiation of this tiered formula:
- This commitment will apply as a minimum overall commitment. It will not be applied as a ceiling on reductions of overall trade-distorting domestic support, should the separate and complementary formulae to be developed for Total AMS, *de minimis* and Blue Box payments imply, when taken together, a deeper cut in overall trade-distorting domestic support for an individual Member.
 - The base for measuring the Blue Box component will be the higher of existing Blue Box payments during a recent representative period to be agreed and the cap established in paragraph 15 below.

Final Bound Total AMS: A Tiered Formula

9. To achieve reductions with a harmonizing effect:
- Final Bound Total AMS will be reduced substantially, using a tiered approach.
 - Members having higher Total AMS will make greater reductions.
 - To prevent circumvention of the objective of the Agreement through transfers of unchanged domestic support between different support categories, product-specific AMSs will be capped at their respective average levels according to a methodology to be agreed.

- Substantial reductions in Final Bound Total AMS will result in reductions of some product-specific support.

10. Members may make greater than formula reductions in order to achieve the required level of cut in overall trade-distorting domestic support.

De Minimis

11. Reductions in *de minimis* will be negotiated taking into account the principle of special and differential treatment. Developing countries that allocate almost all *de minimis* support for subsistence and resource-poor farmers will be exempt.

12. Members may make greater than formula reductions in order to achieve the required level of cut in overall trade-distorting domestic support.

Blue Box

13. Members recognize the role of the Blue Box in promoting agricultural reforms. In this light, Article 6.5 will be reviewed so that Members may have recourse to the following measures:

- Direct payments under production-limiting programmes if:
 - such payments are based on fixed and unchanging areas and yields; or
 - such payments are made on 85% or less of a fixed and unchanging base level of production; or
 - livestock payments are made on a fixed and unchanging number of head.

Or

- Direct payments that do not require production if:
 - such payments are based on fixed and unchanging bases and yields; or
 - livestock payments made on a fixed and unchanging number of head; and
 - such payments are made on 85% or less of a fixed and unchanging base level of production.

14. The above criteria, along with additional criteria will be negotiated. Any such criteria will ensure that Blue Box payments are less trade-distorting than AMS measures, it being understood that:

- Any new criteria would need to take account of the balance of WTO rights and obligations.
- Any new criteria to be agreed will not have the perverse effect of undoing ongoing reforms.

15. Blue Box support will not exceed 5% of a Member's average total value of agricultural production during an historical period. The historical period will be established in the negotiations. This ceiling will apply to any actual or potential Blue Box user from the beginning of the implementation period. In cases where a Member has placed an exceptionally large percentage of its trade-distorting support in the Blue Box, some flexibility will be provided on a

basis to be agreed to ensure that such a Member is not called upon to make a wholly disproportionate cut.

Green Box

16. Green Box criteria will be reviewed and clarified with a view to ensuring that Green Box measures have no, or at most minimal, trade-distorting effects or effects on production. Such a review and clarification will need to ensure that the basic concepts, principles and effectiveness of the Green Box remain and take due account of non-trade concerns. The improved obligations for monitoring and surveillance of all new disciplines foreshadowed in paragraph 48 below will be particularly important with respect to the Green Box.

EXPORT COMPETITION

17. The Doha Ministerial Declaration calls for "reduction of, with a view to phasing out, all forms of export subsidies". As an outcome of the negotiations, Members agree to establish detailed modalities ensuring the parallel elimination of all forms of export subsidies and disciplines on all export measures with equivalent effect by a credible end date.

End Point

18. The following will be eliminated by the end date to be agreed:

- Export subsidies as scheduled.
- Export credits, export credit guarantees or insurance programmes with repayment periods beyond 180 days.
- Terms and conditions relating to export credits, export credit guarantees or insurance programmes with repayment periods of 180 days and below which are not in accordance with disciplines to be agreed. These disciplines will cover, *inter alia*, payment of interest, minimum interest rates, minimum premium requirements, and other elements which can constitute subsidies or otherwise distort trade.
- Trade distorting practices with respect to exporting STEs including eliminating export subsidies provided to or by them, government financing, and the underwriting of losses. The issue of the future use of monopoly powers will be subject to further negotiation.
- Provision of food aid that is not in conformity with operationally effective disciplines to be agreed. The objective of such disciplines will be to prevent commercial displacement. The role of international organizations as regards the provision of food aid by Members, including related humanitarian and developmental issues, will be addressed in the negotiations. The question of providing food aid exclusively in fully grant form will also be addressed in the negotiations.

19. Effective transparency provisions for paragraph 18 will be established. Such provisions, in accordance with standard WTO practice, will be consistent with commercial confidentiality considerations.

Implementation

20. Commitments and disciplines in paragraph 18 will be implemented according to a schedule and modalities to be agreed. Commitments will be implemented by annual instalments. Their phasing will take into account the need for some coherence with internal reform steps of Members.

21. The negotiation of the elements in paragraph 18 and their implementation will ensure equivalent and parallel commitments by Members.

Special and Differential Treatment

22. Developing country Members will benefit from longer implementation periods for the phasing out of all forms of export subsidies.

23. Developing countries will continue to benefit from special and differential treatment under the provisions of Article 9.4 of the Agreement on Agriculture for a reasonable period, to be negotiated, after the phasing out of all forms of export subsidies and implementation of all disciplines identified above are completed.

24. Members will ensure that the disciplines on export credits, export credit guarantees or insurance programs to be agreed will make appropriate provision for differential treatment in favour of least-developed and net food-importing developing countries as provided for in paragraph 4 of the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries. Improved obligations for monitoring and surveillance of all new disciplines as foreshadowed in paragraph 48 will be critically important in this regard. Provisions to be agreed in this respect must not undermine the commitments undertaken by Members under the obligations in paragraph 18 above.

25. STEs in developing country Members which enjoy special privileges to preserve domestic consumer price stability and to ensure food security will receive special consideration for maintaining monopoly status.

Special Circumstances

26. In exceptional circumstances, which cannot be adequately covered by food aid, commercial export credits or preferential international financing facilities, ad hoc temporary financing arrangements relating to exports to developing countries may be agreed by Members. Such agreements must not have the effect of undermining commitments undertaken by Members in paragraph 18 above, and will be based on criteria and consultation procedures to be established.

MARKET ACCESS

27. The Doha Ministerial Declaration calls for "substantial improvements in market access". Members also agreed that special and differential treatment for developing Members would be an integral part of all elements in the negotiations.

The Single Approach: a Tiered Formula

28. To ensure that a single approach for developed and developing country Members meets all the objectives of the Doha mandate, tariff reductions will be made through a tiered formula that takes into account their different tariff structures.

29. To ensure that such a formula will lead to substantial trade expansion, the following principles will guide its further negotiation:

- Tariff reductions will be made from bound rates. Substantial overall tariff reductions will be achieved as a final result from negotiations.
- Each Member (other than LDCs) will make a contribution. Operationally effective special and differential provisions for developing country Members will be an integral part of all elements.
- Progressivity in tariff reductions will be achieved through deeper cuts in higher tariffs with flexibilities for sensitive products. Substantial improvements in market access will be achieved for all products.

30. The number of bands, the thresholds for defining the bands and the type of tariff reduction in each band remain under negotiation. The role of a tariff cap in a tiered formula with distinct treatment for sensitive products will be further evaluated.

Sensitive Products

Selection

31. Without undermining the overall objective of the tiered approach, Members may designate an appropriate number, to be negotiated, of tariff lines to be treated as sensitive, taking account of existing commitments for these products.

Treatment

32. The principle of ‘substantial improvement’ will apply to each product.

33. ‘Substantial improvement’ will be achieved through combinations of tariff quota commitments and tariff reductions applying to each product. However, balance in this negotiation will be found only if the final negotiated result also reflects the sensitivity of the product concerned.

34. Some MFN-based tariff quota expansion will be required for all such products. A base for such an expansion will be established, taking account of coherent and equitable criteria to be developed in the negotiations. In order not to undermine the objective of the tiered approach, for all such products, MFN based tariff quota expansion will be provided under specific rules to be negotiated taking into account deviations from the tariff formula.

Other Elements

35. Other elements that will give the flexibility required to reach a final balanced result include reduction or elimination of in-quota tariff rates, and operationally effective improvements

in tariff quota administration for existing tariff quotas so as to enable Members, and particularly developing country Members, to fully benefit from the market access opportunities under tariff rate quotas.

36. Tariff escalation will be addressed through a formula to be agreed.

37. The issue of tariff simplification remains under negotiation.

38. The question of the special agricultural safeguard (SSG) remains under negotiation.

Special and differential treatment

39. Having regard to their rural development, food security and/or livelihood security needs, special and differential treatment for developing countries will be an integral part of all elements of the negotiation, including the tariff reduction formula, the number and treatment of sensitive products, expansion of tariff rate quotas, and implementation period.

40. Proportionality will be achieved by requiring lesser tariff reduction commitments or tariff quota expansion commitments from developing country Members.

41. Developing country Members will have the flexibility to designate an appropriate number of products as Special Products, based on criteria of food security, livelihood security and rural development needs. These products will be eligible for more flexible treatment. The criteria and treatment of these products will be further specified during the negotiation phase and will recognize the fundamental importance of Special Products to developing countries.

42. A Special Safeguard Mechanism (SSM) will be established for use by developing country Members.

43. Full implementation of the long-standing commitment to achieve the fullest liberalisation of trade in tropical agricultural products and for products of particular importance to the diversification of production from the growing of illicit narcotic crops is overdue and will be addressed effectively in the market access negotiations.

44. The importance of long-standing preferences is fully recognised. The issue of preference erosion will be addressed. For the further consideration in this regard, paragraph 16 and other relevant provisions of TN/AG/W/1/Rev.1 will be used as a reference.

LEAST- DEVELOPED COUNTRIES

45. Least-Developed Countries, which will have full access to all special and differential treatment provisions above, are not required to undertake reduction commitments. Developed Members, and developing country Members in a position to do so, should provide duty-free and quota-free market access for products originating from least-developed countries.

46. Work on cotton under all the pillars will reflect the vital importance of this sector to certain LDC Members and we will work to achieve ambitious results expeditiously.

RECENTLY ACCEDED MEMBERS

47. The particular concerns of recently acceded Members will be effectively addressed through specific flexibility provisions.

MONITORING AND SURVEILLANCE

48. Article 18 of the Agreement on Agriculture will be amended with a view to enhancing monitoring so as to effectively ensure full transparency, including through timely and complete notifications with respect to the commitments in market access, domestic support and export competition. The particular concerns of developing countries in this regard will be addressed.

OTHER ISSUES

49. Issues of interest but not agreed: sectoral initiatives, differential export taxes, GIs.

50. Disciplines on export prohibitions and restrictions in Article 12.1 of the Agreement on Agriculture will be strengthened.

Annex B

Framework for Establishing Modalities in Market Access for Non-Agricultural Products

1. This Framework contains the initial elements for future work on modalities by the Negotiating Group on Market Access. Additional negotiations are required to reach agreement on the specifics of some of these elements. These relate to the formula, the issues concerning the treatment of unbound tariffs in indent two of paragraph 5, the flexibilities for developing-country participants, the issue of participation in the sectorial tariff component and the preferences. In order to finalize the modalities, the Negotiating Group is instructed to address these issues expeditiously in a manner consistent with the mandate of paragraph 16 of the Doha Ministerial Declaration and the overall balance therein.

2. We reaffirm that negotiations on market access for non-agricultural products shall aim to reduce or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs, and tariff escalation, as well as non-tariff barriers, in particular on products of export interest to developing countries. We also reaffirm the importance of special and differential treatment and less than full reciprocity in reduction commitments as integral parts of the modalities.

3. We acknowledge the substantial work undertaken by the Negotiating Group on Market Access and the progress towards achieving an agreement on negotiating modalities. We take note of the constructive dialogue on the Chair's Draft Elements of Modalities (TN/MA/W/35/Rev.1) and confirm our intention to use this document as a reference for the future work of the Negotiating Group. We instruct the Negotiating Group to continue its work, as mandated by paragraph 16 of the Doha Ministerial Declaration with its corresponding references to the relevant provisions of Article XXVIII *bis* of GATT 1994 and to the provisions cited in paragraph 50 of the Doha Ministerial Declaration, on the basis set out below.

4. We recognize that a formula approach is key to reducing tariffs, and reducing or eliminating tariff peaks, high tariffs, and tariff escalation. We agree that the Negotiating Group should continue its work on a non-linear formula applied on a line-by-line basis which shall take fully into account the special needs and interests of developing and least-developed country participants, including through less than full reciprocity in reduction commitments.

5. We further agree on the following elements regarding the formula:

- product coverage shall be comprehensive without *a priori* exclusions;
- tariff reductions or elimination shall commence from the bound rates after full implementation of current concessions; however, for unbound tariff lines, the basis for commencing the tariff reductions shall be [two] times the MFN applied rate in the base year;
- the base year for MFN applied tariff rates shall be 2001 (applicable rates on 14 November);
- credit shall be given for autonomous liberalization by developing countries provided that the tariff lines were bound on an MFN basis in the WTO since the conclusion of the Uruguay Round;

- all non-*ad valorem* duties shall be converted to *ad valorem* equivalents on the basis of a methodology to be determined and bound in *ad valorem* terms;
- negotiations shall commence on the basis of the HS96 or HS2002 nomenclature, with the results of the negotiations to be finalized in HS2002 nomenclature;
- the reference period for import data shall be 1999-2001.

6. We furthermore agree that, as an exception, participants with a binding coverage of non-agricultural tariff lines of less than [35] percent would be exempt from making tariff reductions through the formula. Instead, we expect them to bind [100] percent of non-agricultural tariff lines at an average level that does not exceed the overall average of bound tariffs for all developing countries after full implementation of current concessions.

7. We recognize that a sectorial tariff component, aiming at elimination or harmonization is another key element to achieving the objectives of paragraph 16 of the Doha Ministerial Declaration with regard to the reduction or elimination of tariffs, in particular on products of export interest to developing countries. We recognize that participation by all participants will be important to that effect. We therefore instruct the Negotiating Group to pursue its discussions on such a component, with a view to defining product coverage, participation, and adequate provisions of flexibility for developing-country participants.

8. We agree that developing-country participants shall have longer implementation periods for tariff reductions. In addition, they shall be given the following flexibility:

- a) applying less than formula cuts to up to [10] percent of the tariff lines provided that the cuts are no less than half the formula cuts and that these tariff lines do not exceed [10] percent of the total value of a Member's imports; or
- b) keeping, as an exception, tariff lines unbound, or not applying formula cuts for up to [5] percent of tariff lines provided they do not exceed [5] percent of the total value of a Member's imports.

We furthermore agree that this flexibility could not be used to exclude entire HS Chapters.

9. We agree that least-developed country participants shall not be required to apply the formula nor participate in the sectorial approach, however, as part of their contribution to this round of negotiations, they are expected to substantially increase their level of binding commitments.

10. Furthermore, in recognition of the need to enhance the integration of least-developed countries into the multilateral trading system and support the diversification of their production and export base, we call upon developed-country participants and other participants who so decide, to grant on an autonomous basis duty-free and quota-free market access for non-agricultural products originating from least-developed countries by the year [...].

11. We recognize that newly acceded Members shall have recourse to special provisions for tariff reductions in order to take into account their extensive market access commitments undertaken as part of their accession and that staged tariff reductions are still being implemented in many cases. We instruct the Negotiating Group to further elaborate on such provisions.

12. We agree that pending agreement on core modalities for tariffs, the possibilities of supplementary modalities such as zero-for-zero sector elimination, sectorial harmonization, and request & offer, should be kept open.

13. In addition, we ask developed-country participants and other participants who so decide to consider the elimination of low duties.

14. We recognize that NTBs are an integral and equally important part of these negotiations and instruct participants to intensify their work on NTBs. In particular, we encourage all participants to make notifications on NTBs by 31 October 2004 and to proceed with identification, examination, categorization, and ultimately negotiations on NTBs. We take note that the modalities for addressing NTBs in these negotiations could include request/offer, horizontal, or vertical approaches; and should fully take into account the principle of special and differential treatment for developing and least-developed country participants.

15. We recognize that appropriate studies and capacity building measures shall be an integral part of the modalities to be agreed. We also recognize the work that has already been undertaken in these areas and ask participants to continue to identify such issues to improve participation in the negotiations.

16. We recognize the challenges that may be faced by non-reciprocal preference beneficiary Members and those Members that are at present highly dependent on tariff revenue as a result of these negotiations on non-agricultural products. We instruct the Negotiating Group to take into consideration, in the course of its work, the particular needs that may arise for the Members concerned.

17. We furthermore encourage the Negotiating Group to work closely with the Committee on Trade and Environment in Special Session with a view to addressing the issue of non-agricultural environmental goods covered in paragraph 31 (iii) of the Doha Ministerial Declaration.

Annex C

Recommendations of the Special Session of the Council for Trade in Services

- (a) Members who have not yet submitted their initial offers must do so as soon as possible.
- (b) A date for the submission of a round of revised offers should be established as soon as feasible.
- (c) With a view to providing effective market access to all Members and in order to ensure a substantive outcome, Members shall strive to ensure a high quality of offers, particularly in sectors and modes of supply of export interest to developing countries, with special attention to be given to least-developed countries.
- (d) Members shall aim to achieve progressively higher levels of liberalization with no a priori exclusion of any service sector or mode of supply and shall give special attention to sectors and modes of supply of export interest to developing countries. Members note the interest of developing countries, as well as other Members, in Mode 4.
- (e) Members must intensify their efforts to conclude the negotiations on rule-making under GATS Articles VI:4, X, XIII and XV in accordance with their respective mandates and deadlines.
- (f) Targeted technical assistance should be provided with a view to enabling developing countries to participate effectively in the negotiations.
- (g) For the purpose of the Sixth Ministerial meeting, the Special Session of the Council for Trade in Services shall review progress in these negotiations and provide a full report to the Trade Negotiations Committee, including possible recommendations.

Annex D

Modalities for Negotiations on Trade Facilitation

1. Negotiations shall aim to clarify and improve relevant aspects of Articles V, VIII and X of the GATT 1994 with a view to further expediting the movement, release and clearance of goods, including goods in transit.⁴ Negotiations shall also aim at enhancing technical assistance and support for capacity building in this area. The negotiations shall further aim at provisions for effective cooperation between customs or any other appropriate authorities on trade facilitation and customs compliance issues.
2. The results of the negotiations shall take fully into account the principle of special and differential treatment for developing and least-developed countries. Members recognize that this principle should extend beyond the granting of traditional transition periods for implementing commitments. In particular, the extent and the timing of entering into commitments shall be related to the implementation capacities of developing and least-developed Members. It is further agreed that those Members would not be obliged to undertake investments in infrastructure projects beyond their means.
3. Least-developed country Members will only be required to undertake commitments to the extent consistent with their individual development, financial and trade needs or their administrative and institutional capabilities.
4. As an integral part of the negotiations, Members shall seek to identify their trade facilitation needs and priorities, particularly those of developing and least-developed countries, and shall also address the concerns of developing and least-developed countries related to cost implications of proposed measures.
5. It is recognized that the provision of technical assistance and support for capacity building is vital for developing and least-developed countries to enable them to fully participate in and benefit from the negotiations. Members, in particular developed countries, therefore commit themselves to adequately ensure such support and assistance during the negotiations.⁵
6. Support and assistance should also be provided to help developing and least-developed countries implement the commitments resulting from the negotiations, in accordance with their nature and scope. In this context, it is recognized that negotiations could lead to certain commitments whose implementation would require support for infrastructure development on the part of some Members. In these limited cases, developed-country Members will make every effort to ensure support and assistance directly related to the nature and scope of the commitments in order to allow implementation. It is understood, however, that in cases where required support and assistance for such infrastructure is not forthcoming, and where a developing or least-developed Member continues to lack the necessary capacity, implementation will not be required. While every effort will be made to ensure the necessary support and assistance, it is understood that the commitments by developed countries to provide such support are not open-ended.

⁴ It is understood that this is without prejudice to the possible format of the final result of the negotiations and would allow consideration of various forms of outcomes.

⁵ In connection with this paragraph, Members note that paragraph 38 of the Doha Ministerial Declaration addresses relevant technical assistance and capacity building concerns of Members.

7. Members agree to review the effectiveness of the support and assistance provided and its ability to support the implementation of the results of the negotiations.

8. In order to make technical assistance and capacity building more effective and operational and to ensure better coherence, Members shall invite relevant international organizations, including the IMF, OECD, UNCTAD, WCO and the World Bank to undertake a collaborative effort in this regard.

9. Due account shall be taken of the relevant work of the WCO and other relevant international organizations in this area.

10. Paragraphs 45-51 of the Doha Ministerial Declaration shall apply to these negotiations. At its first meeting after the July session of the General Council, the Trade Negotiations Committee shall establish a Negotiating Group on Trade Facilitation and appoint its Chair. The first meeting of the Negotiating Group shall agree on a work plan and schedule of meetings.

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 included¹;
 - (b) "eligible importing Member" means any least-developed country Member, and any other Member that has made a notification² 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 Members³ and that some other Members have stated that, if they use the system, it would be in no more than situations of national emergency or other circumstances of extreme urgency;
 - (c) "exporting Member" means a Member using the system to produce pharmaceutical products for, and export them to, an eligible importing Member.
2. The terms referred to in paragraph 1 of Article 31*bis* are that:
 - (a) the eligible importing Member(s)⁴ has made a notification² to the Council for TRIPS, that:
 - (i) specifies the names and expected quantities of the product(s) needed⁵;
 - (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

¹ This subparagraph is without prejudice to subparagraph 1(b).

² It is understood that this notification does not need to be approved by a WTO body in order to use the system.

³ Australia, Canada, the European Communities with, for the purposes of Article 31*bis* and this Annex, its member States, Iceland, Japan, New Zealand, Norway, Switzerland, and the United States.

⁴ Joint notifications providing the information required under this subparagraph may be made by the regional organizations referred to in paragraph 3 of Article 31*bis* on behalf of eligible importing Members using the system that are parties to them, with the agreement of those parties.

⁵ The notification will be made available publicly by the WTO Secretariat through a page on the WTO website dedicated to the system.

with Articles 31 and 31*bis* of this Agreement and the provisions of this Annex⁶;

- (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 website⁷ 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 notify⁸ the Council for TRIPS of the grant of the licence, including the conditions attached to it.⁹ The information provided shall include the name and address of the licensee, the product(s) for which the licence has been granted, the quantity(ies) for which it has been granted, the country(ies) to which the product(s) is (are) to be supplied and the duration of the licence. The notification shall also indicate the address of the website referred to in subparagraph (b)(iii) above.

3. In order to ensure that the products imported under the system are used for the public health purposes underlying their importation, eligible importing Members shall take reasonable measures within their means, proportionate to their administrative capacities and to the risk of trade diversion to prevent re-exportation of the products that have actually been imported into their territories under the system. In the event that an eligible importing Member that is a developing country Member or a least-developed country Member experiences difficulty in implementing this provision, developed country Members shall provide, on request and on mutually agreed terms and conditions, technical and financial cooperation in order to facilitate its implementation.

⁶ This subparagraph is without prejudice to Article 66.1 of this Agreement.

⁷ The licensee may use for this purpose its own website or, with the assistance of the WTO Secretariat, the page on the WTO website dedicated to the system.

⁸ It is understood that this notification does not need to be approved by a WTO body in order to use the system.

⁹ The notification will be made available publicly by the WTO Secretariat through a page on the WTO website dedicated to the system.

4. Members shall ensure the availability of effective legal means to prevent the importation into, and sale in, their territories of products produced under the system and diverted to their markets inconsistently with its provisions, using the means already required to be available under this Agreement. If any Member considers that such measures are proving insufficient for this purpose, the matter may be reviewed in the Council for TRIPS at the request of that Member.

5. With a view to harnessing economies of scale for the purposes of enhancing purchasing power for, and facilitating the local production of, pharmaceutical products, it is recognized that the development of systems providing for the grant of regional patents to be applicable in the Members described in paragraph 3 of Article 31*bis* should be promoted. To this end, developed country Members undertake to provide technical cooperation in accordance with Article 67 of this Agreement, including in conjunction with other relevant intergovernmental organizations.

6. Members recognize the desirability of promoting the transfer of technology and capacity building in the pharmaceutical sector in order to overcome the problem faced by Members with insufficient or no manufacturing capacities in the pharmaceutical sector. To this end, eligible importing Members and exporting Members are encouraged to use the system in a way which would promote this objective. Members undertake to cooperate in paying special attention to the transfer of technology and capacity building in the pharmaceutical sector in the work to be undertaken pursuant to Article 66.2 of this Agreement, paragraph 7 of the Declaration on the TRIPS Agreement and Public Health and any other relevant work of the Council for TRIPS.

7. The Council for TRIPS shall review annually the functioning of the system with a view to ensuring its effective operation and shall annually report on its operation to the General Council.

APPENDIX TO THE ANNEX TO THE TRIPS AGREEMENT

Assessment of Manufacturing Capacities in the Pharmaceutical Sector

Least-developed country Members are deemed to have insufficient or no manufacturing capacities in the pharmaceutical sector.

For other eligible importing Members insufficient or no manufacturing capacities for the product(s) in question may be established in either of the following ways:

(i) the Member in question has established that it has no manufacturing capacity in the pharmaceutical sector;

or

(ii) where the Member has some manufacturing capacity in this sector, it has examined this capacity and found that, excluding any capacity owned or controlled by the patent owner, it is currently insufficient for the purposes of meeting its needs. When it is established that such capacity has become sufficient to meet the Member's needs, the system shall no longer apply.

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 fulfill the Doha objectives, in particular, we are resolved to establish modalities no later than 30 April 2006 and to submit comprehensive draft Schedules based on these modalities no later than 31 July 2006.

Cotton

11. We recall the mandate given by the Members in the Decision adopted by the General Council on 1 August 2004 to address cotton ambitiously, expeditiously and specifically, within the agriculture negotiations in relation to all trade-distorting policies affecting the sector in all three pillars of market access, domestic support and export competition, as specified in the Doha text and the July 2004 Framework text. We note the work already undertaken in the Sub-Committee on Cotton and the proposals made with regard to this matter. Without prejudice to Members' current WTO rights and obligations, including those flowing from actions taken by the Dispute Settlement Body, we reaffirm our commitment to ensure having an explicit decision on cotton within the agriculture negotiations and through the Sub-Committee on Cotton ambitiously, expeditiously and specifically as follows:

- All forms of export subsidies for cotton will be eliminated by developed countries in 2006.
- On market access, developed countries will give duty and quota free access for cotton exports from least-developed countries (LDCs) from the commencement of the implementation period.
- Members agree that the objective is that, as an outcome for the negotiations, trade distorting domestic subsidies for cotton production be reduced more ambitiously than under whatever general formula is agreed and that it should be implemented over a shorter period of time than generally applicable. We commit ourselves to give priority in the negotiations to reach such an outcome.

12. With regard to the development assistance aspects of cotton, we welcome the Consultative Framework process initiated by the Director-General to implement the decisions on these aspects pursuant to paragraph 1.b of the Decision adopted by the General Council on 1 August 2004. We take note of his Periodic Reports and the positive evolution of development assistance noted therein. We urge the

Director-General to further intensify his consultative efforts with bilateral donors and with multilateral and regional institutions, with emphasis on improved coherence, coordination and enhanced implementation and to explore the possibility of establishing through such institutions a mechanism to deal with income declines in the cotton sector until the end of subsidies. Noting the importance of achieving enhanced efficiency and competitiveness in the cotton producing process, we urge the development community to further scale up its cotton-specific assistance and to support the efforts of the Director-General. In this context, we urge Members to promote and support South-South cooperation, including transfer of technology. We welcome the domestic reform efforts by African cotton producers aimed at enhancing productivity and efficiency, and encourage them to deepen this process. We reaffirm the complementarity of the trade policy and development assistance aspects of cotton. We invite the Director-General to furnish a third Periodic Report to our next Session with updates, at appropriate intervals in the meantime, to the General Council, while keeping the Sub-Committee on Cotton fully informed of progress. Finally, as regards follow up and monitoring, we request the Director-General to set up an appropriate follow-up and monitoring mechanism.

*NAMA
negotiations*

13. We reaffirm our commitment to the mandate for negotiations on market access for non-agricultural products as set out in paragraph 16 of the Doha Ministerial Declaration. We also reaffirm all the elements of the NAMA Framework adopted by the General Council on 1 August 2004. We take note of the report by the Chairman of the Negotiating Group on Market Access on his own responsibility (TN/MA/16, contained in Annex B). We welcome the progress made by the Negotiating Group on Market Access since 2004 and recorded therein.

14. We adopt a Swiss Formula with coefficients at levels which shall *inter alia*:

- Reduce or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs and tariff escalation, in particular on products of export interest to developing countries; and
- Take fully into account the special needs and interests of developing countries, including through less than full reciprocity in reduction commitments.

We instruct the Negotiating Group to finalize its structure and details as soon as possible.

15. We reaffirm the importance of special and differential treatment and less than full reciprocity in reduction commitments, including paragraph 8 of the NAMA Framework, as integral parts of the modalities. We instruct the Negotiating Group to finalize its details as soon as possible.

16. In furtherance of paragraph 7 of the NAMA Framework, we recognize that Members are pursuing sectoral initiatives. To this end, we instruct the Negotiating Group to review proposals with a view to identifying those which could garner sufficient participation to be realized. Participation should be on a non-mandatory basis.

17. For the purpose of the second indent of paragraph 5 of the NAMA Framework, we adopt a non-linear mark-up approach to establish base rates for commencing tariff reductions. We instruct the Negotiating Group to finalize its details as soon as possible.

18. We take note of the progress made to convert non *ad valorem* duties to *ad valorem* equivalents on the basis of an agreed methodology as contained in JOB(05)/166/Rev.1.

19. We take note of the level of common understanding reached on the issue of product coverage and direct the Negotiating Group to resolve differences on the limited issues that remain as quickly as possible.

20. As a supplement to paragraph 16 of the NAMA Framework, we recognize the challenges that may be faced by non-reciprocal preference beneficiary Members as a consequence of the MFN liberalization that will result from these negotiations. We instruct the Negotiating Group to intensify work on the assessment of the scope of the problem with a view to finding possible solutions.

21. We note the concerns raised by small, vulnerable economies, and instruct the Negotiating Group to establish ways to provide flexibilities for these Members without creating a sub-category of WTO Members.

22. We note that the Negotiating Group has made progress in the identification, categorization and examination of notified NTBs. We also take note that Members are developing bilateral, vertical and horizontal approaches to the NTB negotiations, and that some of the NTBs are being addressed in other fora including other Negotiating Groups. We recognize the need for specific negotiating proposals and encourage participants to make such submissions as quickly as possible.

23. However, we recognize that much remains to be done in order to establish modalities and to conclude the negotiations. Therefore, we agree to intensify work on all outstanding issues to fulfil the Doha objectives, in particular, we are resolved to establish modalities no later than 30 April 2006 and to submit comprehensive draft Schedules based on these modalities no later than 31 July 2006.

*Balance
between
Agriculture and
NAMA*

24. We recognize that it is important to advance the development objectives of this Round through enhanced market access for developing countries in both Agriculture and NAMA. To that end, we instruct our negotiators to ensure that there is a comparably high level of ambition in market access for Agriculture and NAMA. This ambition is to be achieved in a balanced and proportionate manner consistent with the principle of special and differential treatment.

*Services
negotiations*

25. The negotiations on trade in services shall proceed to their conclusion with a view to promoting the economic growth of all trading partners and the development of developing and least-developed countries, and with due respect for the right of Members to regulate. In this regard, we recall and reaffirm the objectives and principles stipulated in the GATS, the Doha Ministerial Declaration, the Guidelines and Procedures for the Negotiations on Trade in Services adopted

by the Special Session of the Council for Trade in Services on 28 March 2001 and the Modalities for the Special Treatment for Least-Developed Country Members in the Negotiations on Trade in Services adopted on 3 September 2003, as well as Annex C of the Decision adopted by the General Council on 1 August 2004.

26. We urge all Members to participate actively in these negotiations towards achieving a progressively higher level of liberalization of trade in services, with appropriate flexibility for individual developing countries as provided for in Article XIX of the GATS. Negotiations shall have regard to the size of economies of individual Members, both overall and in individual sectors. We recognize the particular economic situation of LDCs, including the difficulties they face, and acknowledge that they are not expected to undertake new commitments.

27. We are determined to intensify the negotiations in accordance with the above principles and the Objectives, Approaches and Timelines set out in Annex C to this document with a view to expanding the sectoral and modal coverage of commitments and improving their quality. In this regard, particular attention will be given to sectors and modes of supply of export interest to developing countries.

*Rules
negotiations*

28. We recall the mandates in paragraphs 28 and 29 of the Doha Ministerial Declaration and reaffirm our commitment to the negotiations on rules, as we set forth in Annex D to this document.

*TRIPS
negotiations*

29. We take note of the report of the Chairman of the Special Session of the Council for TRIPS setting out the progress in the negotiations on the establishment of a multilateral system of notification and registration of geographical indications for wines and spirits, as mandated in Article 23.4 of the TRIPS Agreement and paragraph 18 of the Doha Ministerial Declaration, contained in document TN/IP/14, and agree to intensify these negotiations in order to complete them within the overall time-frame for the conclusion of the negotiations that were foreseen in the Doha Ministerial Declaration.

*Environment
negotiations*

30. We reaffirm the mandate in paragraph 31 of the Doha Ministerial Declaration aimed at enhancing the mutual supportiveness of trade and environment and welcome the significant work undertaken in the Committee on Trade and Environment (CTE) in Special Session. We instruct Members to intensify the negotiations, without prejudging their outcome, on all parts of paragraph 31 to fulfil the mandate.

31. We recognize the progress in the work under paragraph 31(i) based on Members' submissions on the relationship between existing WTO rules and specific trade obligations set out in multilateral environmental agreements (MEAs). We further recognize the work undertaken under paragraph 31(ii) towards developing effective procedures for regular information exchange between MEA Secretariats and the relevant WTO committees, and criteria for the granting of observer status.

32. We recognize that recently more work has been carried out under paragraph 31(iii) through numerous submissions by Members and discussions in the CTE in Special Session, including technical discussions, which were also held in informal information exchange sessions without prejudice to Members'

positions. We instruct Members to complete the work expeditiously under paragraph 31(iii).

*Trade
Facilitation
negotiations*

33. We recall and reaffirm the mandate and modalities for negotiations on Trade Facilitation contained in Annex D of the Decision adopted by the General Council on 1 August 2004. We note with appreciation the report of the Negotiating Group, attached in Annex E to this document, and the comments made by our delegations on that report as reflected in document TN/TF/M/11. We endorse the recommendations contained in paragraphs 3, 4, 5, 6 and 7 of the report.

*DSU
negotiations*

34. We take note of the progress made in the Dispute Settlement Understanding negotiations as reflected in the report by the Chairman of the Special Session of the Dispute Settlement Body to the Trade Negotiations Committee (TNC) and direct the Special Session to continue to work towards a rapid conclusion of the negotiations.

S&D treatment

35. We reaffirm that provisions for special and differential (S&D) treatment are an integral part of the WTO Agreements. We renew our determination to fulfil the mandate contained in paragraph 44 of the Doha Ministerial Declaration and in the Decision adopted by the General Council on 1 August 2004, that all S&D treatment provisions be reviewed with a view to strengthening them and making them more precise, effective and operational.

36. We take note of the work done on the Agreement-specific proposals, especially the five LDC proposals. We agree to adopt the decisions contained in Annex F to this document. However, we also recognize that substantial work still remains to be done. We commit ourselves to address the development interests and concerns of developing countries, especially the LDCs, in the multilateral trading system, and we recommit ourselves to complete the task we set ourselves at Doha. We accordingly instruct the Committee on Trade and Development in Special Session to expeditiously complete the review of all the outstanding Agreement-specific proposals and report to the General Council, with clear recommendations for a decision, by December 2006.

37. We are concerned at the lack of progress on the Category II proposals that had been referred to other WTO bodies and negotiating groups. We instruct these bodies to expeditiously complete the consideration of these proposals and report periodically to the General Council, with the objective of ensuring that clear recommendations for a decision are made no later than December 2006. We also instruct the Special Session to continue to coordinate its efforts with these bodies, so as to ensure that this work is completed on time.

38. We further instruct the Special Session, within the parameters of the Doha mandate, to resume work on all other outstanding issues, including on the cross-cutting issues, the monitoring mechanism, and the incorporation of S&D treatment into the architecture of WTO rules, and report on a regular basis to the General Council.

Implementation

39. We reiterate the instruction in the Decision adopted by the General Council on 1 August 2004 to the TNC, negotiating bodies and other WTO bodies concerned

to redouble their efforts to find appropriate solutions as a priority to outstanding implementation-related issues. We take note of the work undertaken by the Director-General in his consultative process on all outstanding implementation issues under paragraph 12(b) of the Doha Ministerial Declaration, including on issues related to the extension of the protection of geographical indications provided for in Article 23 of the TRIPS Agreement to products other than wines and spirits and those related to the relationship between the TRIPS Agreement and the Convention on Biological Diversity. We request the Director-General, without prejudice to the positions of Members, to intensify his consultative process on all outstanding implementation issues under paragraph 12(b), if need be by appointing Chairpersons of concerned WTO bodies as his Friends and/or by holding dedicated consultations. The Director-General shall report to each regular meeting of the TNC and the General Council. The Council shall review progress and take any appropriate action no later than 31 July 2006.

*TRIPS &
Public Health*

40. We reaffirm the importance we attach to the General Council Decision of 30 August 2003 on the Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health, and to an amendment to the TRIPS Agreement replacing its provisions. In this regard, we welcome the work that has taken place in the Council for TRIPS and the Decision of the General Council of 6 December 2005 on an Amendment of the TRIPS Agreement.

*Small
Economies*

41. We reaffirm our commitment to the Work Programme on Small Economies and urge Members to adopt specific measures that would facilitate the fuller integration of small, vulnerable economies into the multilateral trading system, without creating a sub-category of WTO Members. We take note of the report of the Committee on Trade and Development in Dedicated Session on the Work Programme on Small Economies to the General Council and agree to the recommendations on future work. We instruct the Committee on Trade and Development, under the overall responsibility of the General Council, to continue the work in the Dedicated Session and to monitor progress of the small economies' proposals in the negotiating and other bodies, with the aim of providing responses to the trade-related issues of small economies as soon as possible but no later than 31 December 2006. We instruct the General Council to report on progress and action taken, together with any further recommendations as appropriate, to our next Session.

*Trade, Debt &
Finance*

42. We take note of the report transmitted by the General Council on the work undertaken and progress made in the examination of the relationship between trade, debt and finance and on the consideration of any possible recommendations on steps that might be taken within the mandate and competence of the WTO as provided in paragraph 36 of the Doha Ministerial Declaration and agree that, building on the work carried out to date, this work shall continue on the basis of the Doha mandate. We instruct the General Council to report further to our next Session.

*Trade
& Transfer
of
Technology*

43. We take note of the report transmitted by the General Council on the work undertaken and progress made in the examination of the relationship between trade and transfer of technology and on the consideration of any possible recommendations on steps that might be taken within the mandate of the WTO to

increase flows of technology to developing countries. Recognizing the relevance of the relationship between trade and transfer of technology to the development dimension of the Doha Work Programme and building on the work carried out to date, we agree that this work shall continue on the basis of the mandate contained in paragraph 37 of the Doha Ministerial Declaration. We instruct the General Council to report further to our next Session.

*Doha
paragraph 19*

44. We take note of the work undertaken by the Council for TRIPS pursuant to paragraph 19 of the Doha Ministerial Declaration and agree that this work shall continue on the basis of paragraph 19 of the Doha Ministerial Declaration and the progress made in the Council for TRIPS to date. The General Council shall report on its work in this regard to our next Session.

*TRIPS non-
violation and
situation
complaints*

45. We take note of the work done by the Council for Trade-Related Aspects of Intellectual Property Rights pursuant to paragraph 11.1 of the Doha Decision on Implementation-Related Issues and Concerns and paragraph 1.h of the Decision adopted by the General Council on 1 August 2004, and direct it to continue its examination of the scope and modalities for complaints of the types provided for under subparagraphs 1(b) and 1(c) of Article XXIII of GATT 1994 and make recommendations to our next Session. It is agreed that, in the meantime, Members will not initiate such complaints under the TRIPS Agreement.

E-commerce

46. We take note of the reports from the General Council and subsidiary bodies on the Work Programme on Electronic Commerce, and that the examination of issues under the Work Programme is not yet complete. We agree to reinvigorate that work, including the development-related issues under the Work Programme and discussions on the trade treatment, *inter alia*, of electronically delivered software. We agree to maintain the current institutional arrangements for the Work Programme. We declare that Members will maintain their current practice of not imposing customs duties on electronic transmissions until our next Session.

LDCs

47. We reaffirm our commitment to effectively and meaningfully integrate LDCs into the multilateral trading system and shall continue to implement the WTO Work Programme for LDCs adopted in February 2002. We acknowledge the seriousness of the concerns and interests of the LDCs in the negotiations as expressed in the Livingstone Declaration, adopted by their Ministers in June 2005. We take note that issues of interest to LDCs are being addressed in all areas of negotiations and we welcome the progress made since the Doha Ministerial Declaration as reflected in the Decision adopted by the General Council on 1 August 2004. Building upon the commitment in the Doha Ministerial Declaration, developed-country Members, and developing-country Members declaring themselves in a position to do so, agree to implement duty-free and quota-free market access for products originating from LDCs as provided for in Annex F to this document. Furthermore, in accordance with our commitment in the Doha Ministerial Declaration, Members shall take additional measures to provide effective market access, both at the border and otherwise, including simplified and transparent rules of origin so as to facilitate exports from LDCs. In the services negotiations, Members shall implement the LDC modalities and give priority to the sectors and modes of supply of export interest to LDCs, particularly with regard to movement of service providers under Mode 4. We agree to facilitate and accelerate

negotiations with acceding LDCs based on the accession guidelines adopted by the General Council in December 2002. We commit to continue giving our attention and priority to concluding the ongoing accession proceedings as rapidly as possible. We welcome the Decision by the TRIPS Council to extend the transition period under Article 66.1 of the TRIPS Agreement. We reaffirm our commitment to enhance effective trade-related technical assistance and capacity building to LDCs on a priority basis in helping to overcome their limited human and institutional trade-related capacity to enable LDCs to maximize the benefits resulting from the Doha Development Agenda (DDA).

*Integrated
Framework*

48. We continue to attach high priority to the effective implementation of the Integrated Framework (IF) and reiterate our endorsement of the IF as a viable instrument for LDCs' trade development, building on its principles of country ownership and partnership. We highlight the importance of contributing to reducing their supply side constraints. We reaffirm our commitment made at Doha, and recognize the urgent need to make the IF more effective and timely in addressing the trade-related development needs of LDCs.

49. In this regard, we are encouraged by the endorsement by the Development Committee of the World Bank and International Monetary Fund (IMF) at its autumn 2005 meeting of an enhanced IF. We welcome the establishment of a Task Force by the Integrated Framework Working Group as endorsed by the IF Steering Committee (IFSC) as well as an agreement on the three elements which together constitute an enhanced IF. The Task Force, composed of donor and LDC members, will provide recommendations to the IFSC by April 2006. The enhanced IF shall enter into force no later than 31 December 2006.

50. We agree that the Task Force, in line with its Mandate and based on the three elements agreed to, shall provide recommendations on how the implementation of the IF can be improved, *inter alia*, by considering ways to:

1. provide increased, predictable, and additional funding on a multi-year basis;
2. strengthen the IF in-country, including through mainstreaming trade into national development plans and poverty reduction strategies; more effective follow-up to diagnostic trade integration studies and implementation of action matrices; and achieving greater and more effective coordination amongst donors and IF stakeholders, including beneficiaries;
3. improve the IF decision-making and management structure to ensure an effective and timely delivery of the increased financial resources and programmes.

51. We welcome the increased commitment already expressed by some Members in the run-up to, and during, this Session. We urge other development partners to significantly increase their contribution to the IF Trust Fund. We also urge the six IF core agencies to continue to cooperate closely in the implementation of the IF, to increase their investments in this initiative and to intensify their assistance in trade-related infrastructure, private sector development and institution building to help LDCs expand and diversify their export base.

*Technical
Cooperation*

52. We note with appreciation the substantial increase in trade-related technical assistance since our Fourth Session, which reflects the enhanced commitment of Members to address the increased demand for technical assistance, through both bilateral and multilateral programmes. We note the progress made in the current approach to planning and implementation of WTO's programmes, as embodied in the Technical Assistance and Training Plans adopted by Members, as well as the improved quality of those programmes. We note that a strategic review of WTO's technical assistance is to be carried out by Members, and expect that in future planning and implementation of training and technical assistance, the conclusions and recommendations of the review will be taken into account, as appropriate.

53. We reaffirm the priorities established in paragraph 38 of the Doha Ministerial Declaration for the delivery of technical assistance and urge the Director-General to ensure that programmes focus accordingly on the needs of beneficiary countries and reflect the priorities and mandates adopted by Members. We endorse the application of appropriate needs assessment mechanisms and support the efforts to enhance ownership by beneficiaries, in order to ensure the sustainability of trade-related capacity building. We invite the Director-General to reinforce the partnerships and coordination with other agencies and regional bodies in the design and implementation of technical assistance programmes, so that all dimensions of trade-related capacity building are addressed, in a manner coherent with the programmes of other providers. In particular, we encourage all Members to cooperate with the International Trade Centre, which complements WTO work by providing a platform for business to interact with trade negotiators, and practical advice for small and medium-sized enterprises (SMEs) to benefit from the multilateral trading system. In this connection, we note the role of the Joint Integrated Technical Assistance Programme (JITAP) in building the capacity of participating countries.

54. In order to continue progress in the effective and timely delivery of trade-related capacity building, in line with the priority Members attach to it, the relevant structures of the Secretariat should be strengthened and its resources enhanced. We reaffirm our commitment to ensure secure and adequate levels of funding for trade-related capacity building, including in the Doha Development Agenda Global Trust Fund, to conclude the Doha Work Programme and implement its results.

*Commodity
Issues*

55. We recognize the dependence of several developing and least-developed countries on the export of commodities and the problems they face because of the adverse impact of the long-term decline and sharp fluctuation in the prices of these commodities. We take note of the work undertaken in the Committee on Trade and Development on commodity issues, and instruct the Committee, within its mandate, to intensify its work in cooperation with other relevant international organizations and report regularly to the General Council with possible recommendations. We agree that the particular trade-related concerns of developing and least-developed countries related to commodities shall also be addressed in the course of the agriculture and NAMA negotiations. We further acknowledge that these countries may need support and technical assistance to overcome the particular problems they face, and urge Members and relevant international organizations to consider favourably requests by these countries for support and assistance.

- Coherence* 56. We welcome the Director-General's actions to strengthen the WTO's cooperation with the IMF and the World Bank in the context of the WTO's Marrakesh mandate on Coherence, and invite him to continue to work closely with the General Council in this area. We value the General Council meetings that are held with the participation of the heads of the IMF and the World Bank to advance our Coherence mandate. We agree to continue building on that experience and expand the debate on international trade and development policymaking and inter-agency cooperation with the participation of relevant UN agencies. In that regard, we note the discussions taking place in the Working Group on Trade, Debt and Finance on, *inter alia*, the issue of Coherence, and look forward to any possible recommendations it may make on steps that might be taken within the mandate and competence of the WTO on this issue.
- Aid for Trade* 57. We welcome the discussions of Finance and Development Ministers in various fora, including the Development Committee of the World Bank and IMF, that have taken place this year on expanding Aid for Trade. Aid for Trade should aim to help developing countries, particularly LDCs, to build the supply-side capacity and trade-related infrastructure that they need to assist them to implement and benefit from WTO Agreements and more broadly to expand their trade. Aid for Trade cannot be a substitute for the development benefits that will result from a successful conclusion to the DDA, particularly on market access. However, it can be a valuable complement to the DDA. We invite the Director-General to create a task force that shall provide recommendations on how to operationalize Aid for Trade. The Task Force will provide recommendations to the General Council by July 2006 on how Aid for Trade might contribute most effectively to the development dimension of the DDA. We also invite the Director-General to consult with Members as well as with the IMF and World Bank, relevant international organisations and the regional development banks with a view to reporting to the General Council on appropriate mechanisms to secure additional financial resources for Aid for Trade, where appropriate through grants and concessional loans.
- Recently-acceded Members* 58. We recognize the special situation of recently-acceded Members who have undertaken extensive market access commitments at the time of accession. This situation will be taken into account in the negotiations.
- Accessions* 59. We reaffirm our strong commitment to making the WTO truly global in scope and membership. We welcome those new Members who have completed their accession processes since our last Session, namely Nepal, Cambodia and Saudi Arabia. We note with satisfaction that Tonga has completed its accession negotiations to the WTO. These accessions further strengthen the rules-based multilateral trading system. We continue to attach priority to the 29 ongoing accessions with a view to concluding them as rapidly and smoothly as possible. We stress the importance of facilitating and accelerating the accession negotiations of least-developed countries, taking due account of the guidelines on LDC accession adopted by the General Council in December 2002.
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Annex A

Agriculture

Report by the Chairman of the Special Session of the Committee on Agriculture to the TNC

1. The present report has been prepared on my own responsibility. I have done so in response to the direction of Members as expressed at the informal Special Session of the Committee on Agriculture on 11 November 2005. At that meeting, following the informal Heads of Delegation meeting the preceding day, Members made it crystal clear that they sought from me at this point an objective factual summary of where the negotiations have reached at this time. It was clear from that meeting that Members did not expect or desire anything that purported to be more than that. In particular, it was clear that, following the decision at the Heads of Delegation meeting that full modalities will not be achieved at Hong Kong, Members did not want anything that suggested implicit or explicit agreement where it did not exist.

2. This is not, of course, the kind of paper that I would have chosen or preferred to have prepared at this point. Ideally, my task should have been to work with Members to generate a draft text of modalities. But this text reflects the reality of the present situation. There will be – because there must be if we are to conclude these negotiations – such a draft text in the future. I look at this now as a task postponed, but the precise timing of this is in the hands of Members.

3. As for this paper, it is precisely what it is described to be. No more, no less. It is the Chairman's report and, as such, it goes from me to the TNC. It is not anything more than my personal report – in particular, it is not in any sense an agreed text of Members. It does not, therefore, in any way prejudge or prejudice the positions of Members on any matter within it or outside of it. And, it certainly does not bind Members in any way. It should go without saying that the agreed basis of our work is, and shall remain, the Doha Mandate itself and the Framework in the Decision adopted by the General Council on 1 August 2004.

4. As to the character of the paper, I have endeavoured to reflect what I discerned as the wishes of Members when they directed me to prepare this paper. I have tried to capture as clearly as I can such conditional progress and convergence as has developed in the post-July 2004 period. In doing so, I have not tried to brush under the carpet divergences that remain, and the paper tries to be just as clear on those points. Of course, it is a summary report. As such, it cannot – and does not – recapitulate each and every detail on each and every issue. But I took from Members' comments that they would prefer a paper which could 'orient' further discussion.

5. In that regard, I hope that anyone reading this paper would be able to get a pretty clear idea of what it is that remains to be done. Members made it clear that it was not my task as Chair to prescribe what is to be done next in a programmatic way. My task was to register where we are now, but I confess to having done so with an eye to genuinely clarifying where key convergences exist or key divergences remain, rather than obscuring or overcomplicating matters.

6. My own sense, when I review this myself, is the compelling urgency of seizing the moment and driving the process to a conclusion as rapidly as possible. We have made – particularly since August of this year – genuine and material progress. Indeed, it has come at a relatively rapid pace. It is also clear to me that it has been the product of a genuinely negotiating process. In other words, it has been a case of making proposals and counterproposals. That is why the matters covered in this report have an essentially conditional character. As I see it, the reality is that we have yet to find that last bridge to agreement that we need to secure modalities. But it would be a grave error, in my view, to imagine that we can take much time to find that bridge. As Chair, I am convinced that we must maintain momentum.

You don't close divergences by taking time off to have a cup of tea. If you do so, you will find that everyone has moved backwards in the meantime. That, it seems to me, is a profound risk to our process. I would like to believe that this report at least underlines to us that there is indeed something real and important still within our grasp and we ought not to risk losing it. Our over-riding challenge and responsibility is to meet the development objective of the Doha Development Agenda. To meet this challenge and achieve this goal, we must act decisively and with real urgency.

7. The future life of this paper, if any, is a matter entirely in the hands of TNC Members to decide. This, as I see it, is the proper safeguard of the integrity of what has come to be described as a "bottom-up" process.

DOMESTIC SUPPORT

8. There has been very considerable potential convergence, albeit on a manifestly conditional basis.

Overall Cut

- There is a working hypothesis of three bands for overall cuts by developed countries. There is a strongly convergent working hypothesis that the thresholds for the three bands be US\$ billion 0-10; 10-60; >60. On this basis, the European Communities would be in the top band, the United States and Japan in the second band, and all other developed countries at least in the third band. For developing countries, there is a view that either developing countries are assigned to the relevant integrated band (the bottom) or that there is a separate band for them.¹
- Based on post-July 2005 proposals, there has been an undeniably significant convergence on the range of cuts. Of course, this has been conditional. But subject to that feature, a great deal of progress has been made since the bare bones of the July 2004 Framework. The following matrix provides a snapshot:

Bands	Thresholds (US\$ billion)	Cuts
1	0-10	31%-70%
2	10-60	53%-75%
3	> 60	70%-80%

De Minimis

- On product-specific *de minimis* and non-product-specific *de minimis*, there is a zone of engagement for cuts between 50% and 80% for developed countries.
- As regards developing countries, there are still divergences to be bridged. In addition to the exemption specifically provided for in the Framework, there is a view that, for all developing countries, there should be no cut in *de minimis* at all. Alternatively, at least for those with no

¹ On the proposed basis that cut remains to be determined for those developing countries with an AMS. In any case, there is a view (not shared by all) that cuts for developing countries should be less than 2/3 of the cut for developed countries.

AMS, there should be no cut and, in any case, any cut for those with an AMS should be less than 2/3 of the cut for developed countries.

Blue Box

9. There is important and significant convergence on moving beyond (i.e. further constraining) Blue Box programme payments envisaged in the July 2004 Framework. However, the technique for achieving this remains to be determined. One proposal is to shrink the current 5% ceiling to 2.5%.² Another proposal rejects this in favour of additional criteria disciplining the so-called "new" Blue Box only. Others favour a combination of both, including additional disciplines on the "old" Blue Box.

AMS

- There is a working hypothesis of three bands for developed countries.
- There is close (but not full) convergence on the thresholds for those bands. There appears to be convergence that the top tier should be US\$25 billion and above. There is some remaining divergence over the ceiling for the bottom band: between US\$12 billion and 15 billion.
- There has been an undeniably significant convergence on the range of cuts. Of course, this has been conditional. But, that understood, a great deal of progress has been made since the bare bones of the July 2004 Framework. The following matrix³ 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.

² The exact extent of the flexibility to be provided pursuant to paragraph 15 of the July 2004 Framework remains to be agreed.

³ Of course, this needs to be viewed as illustrative rather than overly literally, if for no other reason than that these are conditional figures. For instance, while the European Communities has indicated it could be prepared to go as far as 70% in the top tier, they make it clear that this is acceptable only if the United States will go to 60% in the second tier. The United States for its part, however, has only indicated preparedness to go to that 60% if the European Communities is prepared to go as high as 83% - which it has not indicated it is prepared to do.

- On the base period for product-specific caps, certain proposals (such as for 1995-2000 and 1999-2001) are on the table. This needs to be resolved appropriately, including the manner in which special and differential treatment should be applied.

Green Box

10. The review and clarification commitment has not resulted in any discernible convergence on operational outcomes. There is, on the one side, a firm rejection of anything that is seen as departing from the existing disciplines while there is, on the other, an enduring sense that more could be done to review the Green Box without undermining ongoing reform. Beyond that there is, however, some tangible openness to finding appropriate ways to ensure that the Green Box is more "development friendly" i.e. better tailored to meet the realities of developing country agriculture but in a way that respects the fundamental requirement of at most minimal trade distortion.

EXPORT COMPETITION

End Date

11. While concrete proposals⁴ have been made on the issue of an end date for elimination of all forms of export subsidies, there is at this stage no convergence. There are suggestions for the principle of front-loading or accelerated elimination for specific products, including particularly cotton.

Export Credits

12. Convergence has been achieved on a number of elements of disciplines with respect to export credits, export credit guarantee or insurance programmes with repayment periods of 180 days and below. However, a number of critical issues remain.⁵

Exporting State Trading Enterprises

13. There has been material convergence on rules to address trade-distorting practices identified in the July 2004 Framework text, although there are still major differences regarding the scope of practices to be covered by the new disciplines. Fundamentally opposing positions remain, however, on the issue of the future use of monopoly powers. There have been concrete drafting proposals on such matters as definition of entities and practices to be addressed as well as transparency. But there has been no genuine convergence in such areas.

Food Aid

14. There is consensus among Members that the WTO shall not stand in the way of the provision of genuine food aid. There is also consensus that what is to be eliminated is commercial displacement. There

⁴ One Member has proposed the year 2010 for "export subsidies", with accelerated elimination for "specific" products. Another group of Members have proposed a period "no longer than five years" for all forms of export subsidies, with "direct" export subsidies subject to front-loading within that period.

⁵ This includes, but is not limited to: exemptions, if any, to the 180 day rule; whether the disciplines should allow for pure cover only or also permit direct financing; the appropriate period for programmes to fully recover their costs and losses through the premia levied from the exporters (principle of self-financing - there needs to be convergence between position which range from one year to fifteen years); the disciplines regarding special circumstances; and the question of special and differential treatment, including whether, as some Members argue, developing countries should be allowed longer repayment terms for export credits extended by them to other developing countries and the specifics of differential treatment in favour of least-developed and net food-importing developing countries.

have been detailed and intensive discussions, some of which have even been text-based, but not to a point where a consolidated draft text could be developed. This has been precluded by Members clinging to fundamentally disparate conceptual premises. There are proposals that in the disciplines a distinction should be made between at least two types of food aid: emergency food aid and food aid to address other situations. However, there is not yet a common understanding where emergency food aid ends and other food aid begins, reflecting concerns that this distinction should not become a means to create a loophole in disciplines. A fundamental sticking point is whether, except in exceptional, genuine emergency situations, Members should (albeit gradually) move towards untied, in-cash food aid only, as some Members propose but other Members strongly oppose.⁶

Special and Differential Treatment

15. Framework provisions for special and differential treatment, including with respect to the monopoly status of state trading enterprises in developing countries and an extended lifetime for Article 9.4, have been uncontroversial, but details remain to be established.

Special Circumstances

16. Work on the criteria and consultation procedures to govern any ad hoc temporary financing arrangements relating to exports to developing countries in exceptional circumstances is not much developed.

MARKET ACCESS

Tiered Formula

- We have progressed on *ad valorem* equivalents.⁷ This has successfully created a basis for allocating items into bands for the tiered formula.
- We have a working hypothesis of four bands for structuring tariff cuts.
- There has been very considerable convergence on adopting a linear-based approach for cuts within those bands. Members have, of course, by no means formally abandoned positions that are even more divergent.⁸ We need now to narrow the extent of divergence that remains. This will include whether or not to include any "pivot" in any band.
- Members have made strong efforts to promote convergence on the size of actual cuts to be undertaken within those bands. But, even though genuine efforts have been made to move from formal positions (which of course remain), major gaps are yet to be bridged. Somewhat

⁶ This fundamental divergence has effectively precluded convergence on such matters as what disciplines, if any, should be established with respect to monetization of food aid or the question of the provision of food aid in fully grant form only. The importance of operationally effective transparency requirements is generally acknowledged, but details have still to be developed, particularly those relating to the role of the WTO in this context. Further work is required to clarify the role of recipient countries and relevant international organizations or other entities in triggering or providing food aid.

⁷ The method for calculating the AVEs for the sugar lines is still to be established.

⁸ At one end of the spectrum, as it were, a "harmonisation" formula within the bands; at the other end "flexibility" within the formula.

greater convergence has been achieved as regards the thresholds for the bands. Substantial movement is clearly essential to progress.⁹

- Some Members continue to reject completely the concept of a tariff cap. Others have proposed¹⁰ a cap between 75-100%.

Sensitive Products

- Members have been prepared to make concrete - albeit conditional - proposals on the number of sensitive products. But, in a situation where proposals extend from as little as 1% to as much as 15% of tariff lines, further bridging this difference is essential to progress.
- The fundamental divergence over the basic approach to treatment of sensitive products needs to be resolved.¹¹ Beyond that, there needs to be convergence on the consequential extent of liberalisation for such products.

Special and Differential Treatment

- Just as for developed countries, there is a working hypothesis of four bands for developing countries. There is no disagreement on lesser cuts within the bands. A certain body of opinion is open to considering cuts of two-thirds of the amount of the cuts for developed countries as a plausible zone in which to search more intensively for convergence.¹² But

⁹ The matrix below is an illustrative table that portrays the extent of divergences that remain, even on the basis of post-August 2005 proposals. This does not entirely cover all the subtleties of those proposals to utilize a "pivot" (although most are in fact within the ranges tabulated), but is intended to convey a snapshot of the status of average cuts proposed post-August.

	Thresholds	Range of cuts (%)
Band 1	0% - 20/30%	20-65
Band 2	20/30% - 40/60%	30-75
Band 3	40/60% - 60/90%	35-85
Band 4	>60/90%	42-90

¹⁰ As an element in certain conditional proposals on overall market access, tabled post-July 2005.

¹¹ Some see this as being tariff quota based and expressed as a percentage of domestic consumption, with proposals of up to 10%. Others propose *pro rata* expansion on an existing trade basis, including taking account of current imports. Some also propose no new TRQs, with sensitivity in such cases to be provided through other means, e.g. differential phasing. There is also a proposal for a "sliding scale" approach.

¹² In this pillar, as well as in the other two, there is general convergence on the point that developing countries will have entitlement to longer implementation periods, albeit that concrete precision remains to be determined.

significant disagreement on that remains, and divergence is, if anything, somewhat more marked on the connected issue of higher thresholds for developing countries.¹³

- Some Members continue to reject completely the concept of a tariff cap for developing countries. Others have proposed¹⁴ a cap at 150%.
- For sensitive products, there is no disagreement that there should be greater flexibility for developing countries, but the extent of this needs to be further defined.¹⁵

Special Products

- Regarding *designation* of special products, there has been a clear divergence between those Members which consider that, prior to establishment of schedules, a list of non-exhaustive and illustrative criteria-based indicators should be established and those Members which are looking for a list which would act as a filter or screen for the selection of such products. Latterly, it has been proposed (but not yet discussed with Members as a whole) that a developing country Member should have the right to designate at least 20 per cent of its agricultural tariff lines as Special Products, and be further entitled to designate an SP where, for that product, an AMS has been notified and exports have taken place. This issue needs to be resolved as part of modalities so that there is assurance of the basis upon which Members may designate special products.
- Some moves toward convergence on *treatment* of Special Products have been made recently. Some Members had considered that special products should be fully exempt from any new market access commitments whatsoever and have automatic access to the SSM. Others had argued there should be some degree of market opening for these products, albeit reflecting

¹³ The matrix below is an illustrative table that portrays the extent of divergences that remain, just on the basis of post-August 2005 proposals.

	Thresholds	Range of cuts (%)
Band 1	0% - 20/50%	15-25*
Band 2	20/50% - 40/100%	20-30*
Band 3	40/100% - 60/150%	25-35*
Band 4	>60-150%	30-40*

*There is also a proposal that cuts for developing countries should be "slightly lesser" than the upper tariff cuts for developed countries shown in the preceding table (i.e.: "slightly lesser" than 65, 75, 85 and 90%).

¹⁴ As an element in certain conditional proposals on overall market access, tabled post-July 2005.

¹⁵ While the eventual zone of convergence for developed countries undoubtedly has a bearing in this area, it has been proposed by a group of Members that the principles of sensitive products generally and for TRQs specifically should be different for developing countries. Another group of Members has proposed, in the post-August period, an entitlement for developing countries of at least 50% more than the maximum number of lines used by any developed Member. This would (based on developed country proposals) amount to a potential variation between 1.5% and 22.5% of tariff lines. This latter group has also proposed that products relating to long-standing preferences shall be designated as sensitive and that any TRQ expansion should not be "at the detriment of existing ACP quotas". This particular view has been, however, strongly opposed by other Members which take the firm position that tropical and diversification products should not at all be designated as sensitive products.

more flexible treatment than for other products. In the presence of this fundamental divergence, it had clearly been impossible to undertake any definition of what such flexibility would be. Genuine convergence is obviously urgently needed. There is now a new proposal for a tripartite categorization of Special Products involving limited tariff cuts for at least a proportion of such products which remains to be fully discussed. It remains to be seen whether this discussion can help move us forward.

Special Safeguard Mechanism

- There is agreement that there would be a special safeguard mechanism and that it should be tailored to the particular circumstances and needs of developing countries. There is no material disagreement with the view that it should have a quantity trigger. Nor is there disagreement with the view that it should at least be capable of addressing effectively what might be described as import "surges". Divergence remains over whether, or if so how, situations that are lesser than "surge" are to be dealt with. There is, however, agreement that any remedy should be of a temporary nature. There remains strong divergence however on whether, or if so how, a special safeguard should be "price-based" to deal specifically with price effects.
- There is some discernible openness, albeit at varying levels, to at least consider coverage of products that are likely to undergo significant liberalisation effects, and/or are already bound at low levels and/or are special products. Beyond that, however, there remains a fundamental divergence between those considering all products should be eligible for such a mechanism and those opposing such a blanket approach.

Other Elements

17. There has been no further material convergence on the matters covered by paragraphs 35 and 37 of the July 2004 Framework text. The same may be said for paragraph 36 on tariff escalation, albeit that there is full agreement on the need for this to be done, and a genuine recognition of the particular importance of this for commodities exporters. Certain concrete proposals have been made on paragraph 38 (SSG) and met with opposition from some Members.

18. Concrete proposals have been made and discussed on how to implement paragraph 43 of the July 2004 Framework on tropical and diversification products. But there remains divergence over the precise interpretation of this section of the July Framework¹⁶ and no common approach has been established.

19. The importance of long-standing preferences pursuant to paragraph 44 of the July 2004 Framework is fully recognised and concrete proposals regarding preference erosion have been made and discussed.¹⁷ There seems not to be inherent difficulty with a role for capacity building. However, while there is some degree of support for e.g. longer implementation periods for at least certain products in order to facilitate adjustment, there is far from convergence on even this. Some argue it is not sufficient or certainly not in all cases, while others that it is not warranted at all.

¹⁶ It is argued by some Members that this is to be interpreted as meaning full duty- and tariff quota-free access, but by others as less than that.

¹⁷ Note 15 above refers.

LEAST-DEVELOPED COUNTRIES

20. There is no questioning of the terms of paragraph 45 of the July Framework agreement, which exempts least-developed countries from any reduction requirement. The stipulation that "developed Members, and developing country Members in a position to do so, should provide duty-free and quota-free market access for products originating from least-developed countries" is not at this point concretely operational for all Members. At this stage, several Members have made undertakings. Proposals for this to be bound remain on the table.¹⁸

COTTON

21. While there is genuine recognition of the problem to be addressed and concrete proposals have been made, Members remain at this point short of concrete and specific achievement that would be needed to meet the July Framework direction to address this matter ambitiously, expeditiously and specifically. There is no disagreement with the view that all forms of export subsidies are to be eliminated for cotton although the timing and speed remains to be specified. Proposals to eliminate them immediately or from day one of the implementation period are not at this point shared by all Members. In the case of trade distorting support, proponents seek full elimination with "front-loaded" implementation.¹⁹ There is a view that the extent to which this can occur, and its timing, can only be determined in the context of an overall agreement. Another view is that there could be at least substantial and front-loaded reduction on cotton specifically from day one of implementation, with the major implementation achieved within twelve months, and the remainder to be completed within a period shorter than the overall implementation period for agriculture.²⁰

RECENTLY-ACCEDED MEMBERS

22. Concrete proposals have been made and discussed, but no specific flexibility provisions have commanded consensus.

MONITORING AND SURVEILLANCE

23. A proposal has been made but there is no material advance at this point.

OTHER ISSUES

24. On paragraph 49 (sectoral initiatives, differential export taxes, GIs) certain positions and proposals have been tabled and/or referred to. They are issues that remain of interest but not agreed.

¹⁸ It is also proposed that this should be accompanied by simple and transparent rules of origin and other measures to address non-tariff barriers.

¹⁹ Concrete proposals have been made, with a three-step approach: 80% on day one, an additional 10% after 12 months and the last 10% a year later.

²⁰ A Member has indicated that it is prepared to implement all its commitments from day one and, in any case, to autonomously ensure that its commitments on eliminating the most trade-distorting domestic support, eliminating all forms of export subsidies and providing mfn duty- and quota-free access for cotton will take place from 2006.

25. At this point, proposals on paragraph 50 have not advanced materially.
26. In the case of small and vulnerable economies, a concrete proposal has been made recently. It has not yet been subject to consultation.
27. There is openness to the particular concerns of commodity-dependent developing and least-developed countries facing long-term decline and/or sharp fluctuations in prices. There is, at this point (where, overall, precise modalities are still pending), support for the view that such modalities should eventually be capable of addressing effectively key areas for them.²¹

²¹ This would appear to include in particular such a matter as tariff escalation, where it discourages the development of processing industries in the commodity producing countries. The idea of a review and clarification of what the current status is of GATT 1994 provisions relating to the stabilisation of prices through the adoption of supply management systems by producing countries, and the use of export taxes and restrictions under such systems is also on the table. Proponents would seek something more than this such as more concrete undertakings in the area of non-tariff measures and actual revision of existing provisions. There is, at this point, no consensus in these latter areas, but an appreciation at least of the underlying issues at stake.

Annex B

Market Access for Non-Agricultural Products

Report by the Chairman of the Negotiating Group on Market Access to the TNC

B. INTRODUCTION

1. A Chairman's commentary of the state of play of the NAMA negotiations was prepared in July 2005 and circulated in document JOB(05)/147 and Add.1 (hereinafter referred to as the "Chairman's commentary"). The current report, made on my responsibility, reflects the state of play of the NAMA negotiations at this juncture of the Doha Development Agenda, and supplements that commentary.

2. With an eye on the forthcoming Ministerial, Section B of this report attempts to highlight those areas of convergence and divergence on the elements of Annex B of Decision adopted by the General Council on 1 August 2004, (hereinafter referred to as the "NAMA framework"), and to provide some guidance as to what may be a possible future course of action with respect to some of the elements. Section C of the report provides some final remarks about possible action by Ministers at Hong Kong.

3. In preparing this report, use has been made of documents provided by Members (as listed in TN/MA/S/16/Rev.2) as well as the discussions in the open-ended sessions of the Group, plurilateral meetings and bilateral contacts, as long as they were not in the nature of confessionals.

C. SUMMARY OF THE STATE OF PLAY

4. Full modalities must have detailed language and, where required, final numbers on all elements of the NAMA framework. Such an agreement should also contain a detailed work plan concerning the process after the establishment of full modalities for the purpose of the submission, verification and annexation of Doha Schedules to a legal instrument. While acknowledging that progress has been made since the adoption of the NAMA framework, the establishment of full modalities is, at present, a difficult prospect given the lack of agreement on a number of elements in the NAMA framework including the formula, paragraph 8 flexibilities and unbound tariffs.

5. Regarding the structure of this section, generally Members recognize that the issues identified in the preceding paragraph are the three elements of the NAMA framework on which solutions are required as a matter of priority, and that there is a need to address them in an interlinked fashion. So, this report will commence with these three subjects before moving on to the other elements of the NAMA framework in the order in which they are presented therein.

Formula (paragraph 4 of the NAMA framework)

6. On the non-linear formula, there has been movement since the adoption of the NAMA framework. There is a more common understanding of the shape of the formula that Members are willing to adopt in these negotiations. In fact, Members have been focusing on a Swiss formula. During the past few months, much time and effort has been spent examining the impact of such a formula from both a defensive and offensive angle. In terms of the specifics of that formula, there are basically two variations on the table: a formula with a limited number of negotiated coefficients and a formula where the value of each country's coefficient would be based essentially on the tariff average of bound rates of that Member, resulting in multiple coefficients.

7. In order to move beyond a debate on the merits of the two options (and in recognition of the fact that what matters in the final analysis is the level of the coefficient) more recently Members have engaged in a discussion of numbers. Such a debate has been particularly helpful, especially as it demonstrated in a quantifiable manner to what extent the benchmarks established in paragraph 16 of the Doha Ministerial Declaration would be achieved. While it is evident that one of the characteristics of such a formula is to address tariff peaks, tariff escalation and high tariffs (as it brings down high tariffs more than low tariffs), one benchmark which has been the subject of differences of opinion has been that of "less than full reciprocity in reduction commitments" and how it should be measured. Some developing Members are of the view that this means less than average percentage cuts *i.e.* as translated through a higher coefficient in the formula, than those undertaken by developed country Members. However, the latter have indicated that there are other measurements of less than full reciprocity in reduction commitments including the final rates after the formula cut which in their markets would be less than in developing country markets. Also, in their view, such a measurement of less than full reciprocity in reduction commitments has to take into account not only the additional effort made by them in all areas but also of paragraph 8 flexibilities and the fact that several developing Members and the LDCs would be exempt from formula cuts.

8. Other objectives put forward by developed Members and some developing Members as being part of the Doha NAMA mandate are: harmonization of tariffs between Members; cuts into applied rates; and improvement of South-South trade. However, these objectives have been challenged by other developing Members who believe that, on the contrary, they are not part of that mandate.

9. During the informal discussions, many Members engaged in an exchange on the basis of an approach with two coefficients. In the context of such debates, the coefficients which were mentioned for developed Members fell generally within the range of 5 to 10, and for developing Members within the range of 15 to 30, although some developing Members did propose lower coefficients for developed Members and higher coefficients for developing Members. In addition, a developing country coefficient of 10 was also put forward by some developed Members. However, while this discussion of numbers is a positive development, the inescapable reality is that the range of coefficients is wide and reflects the divergence that exists as to Members' expectations regarding the contributions that their trading partners should be making.

Flexibilities for developing Members subject to a formula (paragraph 8 of the NAMA framework)

10. A central issue concerning the paragraph 8 flexibilities has been the question of linkage or non-linkage between these flexibilities and the coefficient in the formula. A view was expressed that the flexibilities currently provided for in paragraph 8 are equivalent to 4-5 additional points to the coefficient in the formula, and as a result there was need to take this aspect into account in the developing country coefficient. In response, the argument has been made by many developing Members that those flexibilities are a stand alone provision as reflected in the language of that provision, and should not be linked to the coefficient. Otherwise, this would amount to re-opening the NAMA framework. Some of those Members have also expressed the view that the numbers currently within square brackets are the minimum required for their sensitive tariff lines, and have expressed concern about the conditions attached to the use of such flexibilities, such as the capping of the import value. In response, the point has been made by developed Members that they are not seeking to remove the flexibilities under paragraph 8, and therefore are not re-opening the NAMA framework. They further point out that the numbers in paragraph 8 are within square brackets precisely to reflect the fact that they are not fixed and may need to be adjusted downwards depending on the level of the coefficient. In addition, the need for more transparency and predictability with regard to the tariff lines which would be covered by paragraph 8 flexibilities has been raised by some of these Members. Some developing Members have also advanced the idea that there should be the option for those developing Members not wanting to use paragraph 8 flexibilities to have recourse to a higher coefficient in the formula in the interest of having a balanced outcome.

Unbound Tariff Lines (paragraph 5, indent two of the NAMA framework)

11. There has been progress on the discussion of unbound tariff lines. There is an understanding that full bindings would be a desirable objective of the NAMA negotiations, and a growing sense that unbound tariff lines should be subject to formula cuts provided there is a pragmatic solution for those lines with low applied rates. However, some Members have stressed that their unbound tariff lines with high applied rates are also sensitive and due consideration should be given to those lines. There now appears to be a willingness among several Members to move forward on the basis of a non-linear mark-up approach to establish base rates, and in the case of some of these Members, provided that such an approach yields an equitable result. A non-linear mark-up approach envisages the addition of a certain number of percentage points to the applied rate of the unbound tariff line in order to establish the base rate on which the formula is to be applied. There are two variations of such an approach. In one case, a constant number of percentage points are added to the applied rate in order to establish the base rate. The other variation consists of having a different number of percentage points depending on the level of the applied rate. In other words, the lower the applied rate the higher the mark-up and the higher the applied rate, the lower the mark-up. There is also one proposal on the table of a target average approach where an average is established through the use of a formula, with the unbound tariff lines expected to have final bindings around that average.

12. On a practical level, in their discussions on unbound tariff lines, Members have been referring mostly to the constant mark-up methodology to establish base rates. In the context of such discussions, the number for the mark-up has ranged from 5 to 30 percentage points. Once again the gap between the two figures is wide, but Members have displayed willingness to be flexible.

Other elements of the formula (paragraph 5 of the NAMA framework)

13. Concerning product coverage (indent 1), Members have made good progress to establish a list of non-agricultural products as reflected in document JOB(05)/226/Rev.2. The main issue is whether the outcome of this exercise should be an agreed list or guidelines. It would appear that several Members are in favour of the former outcome, however, some have expressed their preference for the latter. In any event, there are only a limited number of items (17) on which differences exist and Members should try and resolve these differences as quickly as possible.

14. On ad valorem equivalents (indent 5), agreement was reached to convert non *ad valorem* duties to *ad valorem* equivalents on the basis of the methodology contained in JOB(05)/166/Rev.1 and to bind them in *ad valorem* terms. To date, four Members have submitted their preliminary AVE calculations, but there are many more due. Those Members would need to submit this information as quickly as possible so as to allow sufficient time for the multilateral verification process.

15. The subject of how credit is to be given for autonomous liberalization (indent 4) by developing countries provided that the tariff lines are bound on an MFN basis in the WTO since the conclusion of the Uruguay Round has not been discussed in detail since the adoption of the NAMA framework. However, this issue may be more usefully taken up once there is a clearer picture of the formula.

16. All the other elements of the formula such as tariff cuts commencing from bound rates after full implementation of current commitments (indent 2), the base year (indent 3), the nomenclature (indent 6) and reference period for import data (indent 7) have not been discussed any further since July 2004, as they were acceptable to Members as currently reflected in the NAMA framework.

Other flexibilities for developing Members

Members with low binding coverage (paragraph 6 of the NAMA framework)

17. A submission by a group of developing Members, covered under paragraph 6 provisions, was made in June 2005. The paper proposed that Members falling under this paragraph should be encouraged to substantially increase their binding coverage, and bind tariff lines at a level consistent with their individual development, trade, fiscal and strategic needs. A preliminary discussion of this proposal revealed that there were concerns about this proposal re-opening this paragraph by seeking to enhance the flexibilities contained therein. Further discussion of this proposal is required. However, it appears that the issue of concern to some of the paragraph 6 Members is not related so much to the full binding coverage, but rather to the average level at which these Members would be required to bind their tariffs.

Flexibilities for LDCs (paragraph 9 of the NAMA framework)

18. There appears to be a common understanding that LDCs will be the judge of the extent and level of the bindings that they make. At the same time, Members have indicated that this substantial increase of the binding commitments which LDCs are expected to undertake should be done with a good faith effort. In this regard, some yardsticks for this effort were mentioned including the coverage and level of bindings made in the Uruguay Round by other LDCs as well as the more recently acceded LDCs.

Small, vulnerable economies

19. A paper was submitted recently by a group of Members which proposes *inter alia* lesser and linear cuts to Members identified by a criterion using trade share. While some developing and developed Members were sympathetic to the situation of such Members, concerns were expressed with respect to the threshold used to establish eligibility, and also the treatment envisaged. Other developing Members expressed serious reservations about this proposal which in their view appeared to be creating a new category of developing Members, and to be further diluting the ambition of the NAMA negotiations. The sponsors of this proposal stressed that the small, vulnerable economies had characteristics which warranted special treatment.

20. This is an issue on which there is a serious divergence of opinion among developing Members. This subject will need to be debated further. Discussions may be facilitated through additional statistical analysis.

Sectorals (paragraph 7 of the NAMA framework)

21. It appears that good progress is being made on the sectoral tariff component of the NAMA negotiations. Work which is taking place in an informal Member-driven process has focused on *inter alia* identification of sectors, product coverage, participation, end rates and adequate provisions of flexibilities for developing countries. Besides the sectorals based on a critical mass approach identified in the Chairman's commentary – bicycles, chemicals, electronics/electrical equipment, fish, footwear, forest products, gems and jewellery, pharmaceuticals and medical equipment, raw materials and sporting goods – I understand that work is ongoing on other sectors namely apparel, auto/auto parts and textiles.

22. While this component of the NAMA negotiations is recognized in the NAMA framework to be a key element to delivering on the objectives of paragraph 16 of the Doha NAMA mandate, some developing Members have questioned the rationale of engaging in sectoral negotiations before having the formula finalized. Many have also re-iterated their view that sectorals are voluntary in nature. The point has also been made by other developing Members that sectorals harm smaller developing Members due to an erosion of their preferences. However, the proponents of such initiatives have argued that sectorals are

another key element of the NAMA negotiations and an important modality for delivering on the elimination of duties as mandated in paragraph 16 of the Doha Ministerial Declaration. In addition, they have pointed out that some of the sectorals were initiated by developing Members. Moreover, such initiatives require substantive work and were time-consuming to prepare. Concerning preference erosion, this was a cross-cutting issue.

23. Members will need to begin considering time-lines for the finalization of such work, and the submission of the outcomes which will be applied on an MFN basis.

Market Access for LDCs (paragraph 10 of the NAMA framework)

24. In the discussions on this subject, it was noted that the Committee on Trade and Development in Special Session is examining the question of duty-free and quota-free access for non-agricultural products originating from LDCs. Consequently, there is recognition by Members that the discussions in that Committee would most probably have an impact on this element of the NAMA framework, and would need to be factored in at the appropriate time.

Newly Acceded Members (paragraph 11 of the NAMA framework)

25. Members recognize the extensive market access commitments made by the NAMs at the time of their accession. From the discussions held on this subject, it was clarified that those NAMs which are developing Members have access to paragraph 8 flexibilities. As special provisions for tariff reductions for the NAMs, some Members are willing to consider longer implementation periods than those to be provided to developing Members. Other proposals such as a higher coefficient and "grace periods" for the NAMs were also put forward, but a number of Members have objected to these ideas. There has also been a submission by four low-income economies in transition who have requested to be exempt from formula cuts in light of their substantive contributions at the time of their WTO accession and the current difficult state of their economies. While some Members showed sympathy for the situation of these Members, they expressed the view that other solutions may be more appropriate. Some developing Members also expressed concern about this proposal creating a differentiation between Members. Further discussion is required on these issues.

NTBs (paragraph 14 of the NAMA framework)

26. Since adoption of the July 2004 framework, Members have been focusing their attention on non-tariff barriers in recognition of the fact that they are an integral and equally important part of the NAMA negotiations. Some Members claim that they constitute a greater barrier to their exports than tariffs. The Group has spent a considerable amount of time identifying, categorizing and examining the notified NTBs. Members are using bilateral, vertical and horizontal approaches to the NTB negotiations. For example, many Members are raising issues bilaterally with their trading partners. Vertical initiatives are ongoing on automobiles, electronic products and wood products. There have been some proposals of a horizontal nature concerning export taxes, export restrictions and remanufactured products. On export taxes, some Members have expressed the view that such measures fall outside the mandate of the NAMA negotiations. Some Members have also raised in other Negotiating Groups some of the NTBs they had notified initially in the context of the NAMA negotiations. For example, a number of trade facilitation measures are now being examined in the Negotiating Group on Trade Facilitation. Some other Members have also indicated their intention to bring issues to the regular WTO Committees. NTBs currently proposed for negotiation in the NAMA Group are contained in document JOB(05)/85/Rev.3.

27. Some proposals have been made of a procedural nature in order to expedite the NTB work, including a suggestion to hold dedicated NTB sessions. Further consideration will need to be given to

this and other proposals. Members will also need to begin considering some time-lines for the submission of specific negotiating proposals and NTB outcomes.

Appropriate Studies and Capacity Building Measures (paragraph 15 of the NAMA framework)

28. There has been no discussion as such on this element as it is an ongoing and integral part of the negotiating process. Several papers have been prepared by the Secretariat during the course of the negotiations and capacity building activities by the Secretariat have increased considerably since the launch of the Doha Development Agenda. Such activities will need to continue taking into account the evolution of the negotiations.

Non-reciprocal preferences (paragraph 16 of the NAMA framework)

29. In response to calls by some Members for a better idea of the scope of the problem, the ACP Group circulated an indicative list of products (170 HS 6-digit tariff lines) vulnerable to preference erosion in the EC and US markets as identified through a vulnerability index. Simulations were also submitted by the African Group. Some developing Members expressed concern that the tariff lines listed covered the majority of their exports, or covered critical exports to those markets and were also precisely the lines on which they sought MFN cuts. As a result, for these Members, it was impossible to entertain any solution which related to less than full formula cuts or longer staging. In this regard, concern was expressed by them that non-trade solutions were not being examined. For the proponents of the issue, a trade solution was necessary as this was a trade problem. According to them, their proposal would not undermine trade liberalization because they were seeking to manage such liberalization on a limited number of products.

30. This subject is highly divisive precisely because the interests of the two groups of developing Members are in direct conflict. Additionally, it is a cross-cutting issue which makes it even more sensitive. While, the aforementioned list of products has been helpful in providing a sense of the scope of the problem and may help Members to engage in a more focused discussion, it is clear that pragmatism will need to be shown by all concerned.

Environmental Goods (paragraph 17 of the NAMA framework)

31. Since the adoption of the July framework in 2004, limited discussions have been held on this subject in the Group. However, it is noted that much work under paragraph 31(iii) of the Doha Ministerial Declaration has been undertaken by the Committee on Trade and Environment in Special Session. There would need to be close coordination between the two negotiating groups and a stock taking of the work undertaken in that Committee would be required at the appropriate time by the NAMA Negotiating Group.

Other elements of the NAMA framework

32. On the other elements of the NAMA framework, such as supplementary modalities (paragraph 12), elimination of low duties (paragraph 13) and tariff revenue dependency (paragraph 16) the Group has not had a substantive debate. This has in part to do with the nature of the issue or because more information is required from the proponents. Regarding supplementary modalities, such modalities will become more relevant once the formula has been finalized. On elimination of low duties, this issue may be more suitable to consider once there is a better sense of the likely outcome of the NAMA negotiations. On tariff revenue dependency, more clarity is required from the proponents on the nature and scope of the problem.

D. FINAL REMARKS

33. As may be observed from the above report, Members are far away from achieving full modalities. This is highly troubling. It will take a major effort by all if the objective of concluding the NAMA negotiations by the end of 2006 is to be realized.

34. To this end, I would highlight as a critical objective for Hong Kong a common understanding on the formula, paragraph 8 flexibilities and unbound tariffs. It is crucial that Ministers move decisively on these elements so that the overall outcome is acceptable to all. This will give the necessary impetus to try and fulfill at a date soon thereafter the objective of full modalities for the NAMA negotiations.

35. Specifically, Ministers should:

- Obtain agreement on the final structure of the formula and narrow the range of numbers.
- Resolve their basic differences over paragraph 8 flexibilities.
- Clarify whether the constant mark-up approach is the way forward, and if so, narrow the range of numbers.

Annex C

Services

Objectives

1. In order to achieve a progressively higher level of liberalization of trade in services, with appropriate flexibility for individual developing country Members, we agree that Members should be guided, to the maximum extent possible, by the following objectives in making their new and improved commitments:

- (a) Mode 1
 - (i) commitments at existing levels of market access on a non-discriminatory basis across sectors of interest to Members
 - (ii) removal of existing requirements of commercial presence
- (b) Mode 2
 - (i) commitments at existing levels of market access on a non-discriminatory basis across sectors of interest to Members
 - (ii) commitments on mode 2 where commitments on mode 1 exist
- (c) Mode 3
 - (i) commitments on enhanced levels of foreign equity participation
 - (ii) removal or substantial reduction of economic needs tests
 - (iii) commitments allowing greater flexibility on the types of legal entity permitted
- (d) Mode 4
 - (i) new or improved commitments on the categories of Contractual Services Suppliers, Independent Professionals and Others, de-linked from commercial presence, to reflect *inter alia*:
 - removal or substantial reduction of economic needs tests
 - indication of prescribed duration of stay and possibility of renewal, if any
 - (ii) new or improved commitments on the categories of Intra-corporate Transferees and Business Visitors, to reflect *inter alia*:
 - removal or substantial reduction of economic needs tests
 - indication of prescribed duration of stay and possibility of renewal, if any
- (e) MFN Exemptions

- (i) removal or substantial reduction of exemptions from most-favoured-nation (MFN) treatment
 - (ii) clarification of remaining MFN exemptions in terms of scope of application and duration
- (f) Scheduling of Commitments
 - (i) ensuring clarity, certainty, comparability and coherence in the scheduling and classification of commitments through adherence to, *inter alia*, the Scheduling Guidelines pursuant to the Decision of the Council for Trade in Services adopted on 23 March 2001
 - (ii) ensuring that scheduling of any remaining economic needs tests adheres to the Scheduling Guidelines pursuant to the Decision of the Council for Trade in Services adopted on 23 March 2001.

2. As a reference for the request-offer negotiations, the sectoral and modal objectives as identified by Members may be considered.²²

3. Members shall pursue full and effective implementation of the Modalities for the Special Treatment for Least-Developed Country Members in the Negotiations on Trade in Services (LDC Modalities) adopted by the Special Session of the Council for Trade in Services on 3 September 2003, with a view to the beneficial and meaningful integration of LDCs into the multilateral trading system.

4. Members must intensify their efforts to conclude the negotiations on rule-making under GATS Articles X, XIII, and XV in accordance with their respective mandates and timelines:

- (a) Members should engage in more focused discussions in connection with the technical and procedural questions relating to the operation and application of any possible emergency safeguard measures in services.
- (b) On government procurement, Members should engage in more focused discussions and in this context put greater emphasis on proposals by Members, in accordance with Article XIII of the GATS.
- (c) On subsidies, Members should intensify their efforts to expedite and fulfil the information exchange required for the purpose of such negotiations, and should engage in more focused discussions on proposals by Members, including the development of a possible working definition of subsidies in services.

5. Members shall develop disciplines on domestic regulation pursuant to the mandate under Article VI:4 of the GATS before the end of the current round of negotiations. We call upon Members to develop text for adoption. In so doing, Members shall consider proposals and the illustrative list of possible elements for Article VI:4 disciplines.²³

²² As attached to the Report by the Chairman to the Trade Negotiations Committee on 28 November 2005, contained in document TN/S/23. This attachment has no legal standing.

²³ As attached to the Report of the Chairman of the Working Party on Domestic Regulation to the Special Session of the Council for Trade in Services on 15 November 2005, contained in document JOB(05)/280.

Approaches

6. Pursuant to the principles and objectives above, we agree to intensify and expedite the request-offer negotiations, which shall remain the main method of negotiation, with a view to securing substantial commitments.

7. In addition to bilateral negotiations, we agree that the request-offer negotiations should also be pursued on a plurilateral basis in accordance with the principles of the GATS and the Guidelines and Procedures for the Negotiations on Trade in Services. The results of such negotiations shall be extended on an MFN basis. These negotiations would be organized in the following manner:

- (a) Any Member or group of Members may present requests or collective requests to other Members in any specific sector or mode of supply, identifying their objectives for the negotiations in that sector or mode of supply.
- (b) Members to whom such requests have been made shall consider such requests in accordance with paragraphs 2 and 4 of Article XIX of the GATS and paragraph 11 of the Guidelines and Procedures for the Negotiations on Trade in Services.
- (c) Plurilateral negotiations should be organised with a view to facilitating the participation of all Members, taking into account the limited capacity of developing countries and smaller delegations to participate in such negotiations.

8. Due consideration shall be given to proposals on trade-related concerns of small economies.

9. Members, in the course of negotiations, shall develop methods for the full and effective implementation of the LDC Modalities, including expeditiously:

- (a) Developing appropriate mechanisms for according special priority including to sectors and modes of supply of interest to LDCs in accordance with Article IV:3 of the GATS and paragraph 7 of the LDC Modalities.
- (b) Undertaking commitments, to the extent possible, in such sectors and modes of supply identified, or to be identified, by LDCs that represent priority in their development policies in accordance with paragraphs 6 and 9 of the LDC Modalities.
- (c) Assisting LDCs to enable them to identify sectors and modes of supply that represent development priorities.
- (d) Providing targeted and effective technical assistance and capacity building for LDCs in accordance with the LDC Modalities, particularly paragraphs 8 and 12.
- (e) Developing a reporting mechanism to facilitate the review requirement in paragraph 13 of the LDC Modalities.

10. Targeted technical assistance should be provided through, *inter alia*, the WTO Secretariat, with a view to enabling developing and least-developed countries to participate effectively in the negotiations. In particular and in accordance with paragraph 51 on Technical Cooperation of this Declaration, targeted technical assistance should be given to all developing countries allowing them to fully engage in the negotiation. In addition, such assistance should be provided on, *inter alia*, compiling and analyzing statistical data on trade in services, assessing interests in and gains from services trade, building regulatory capacity, particularly on those services sectors where liberalization is being undertaken by developing countries.

Timelines

11. Recognizing that an effective timeline is necessary in order to achieve a successful conclusion of the negotiations, we agree that the negotiations shall adhere to the following dates:

- (a) Any outstanding initial offers shall be submitted as soon as possible.
- (b) Groups of Members presenting plurilateral requests to other Members should submit such requests by 28 February 2006 or as soon as possible thereafter.
- (c) A second round of revised offers shall be submitted by 31 July 2006.
- (d) Final draft schedules of commitments shall be submitted by 31 October 2006.
- (e) Members shall strive to complete the requirements in 9(a) before the date in 11(c).

Review of Progress

12. The Special Session of the Council for Trade in Services shall review progress in the negotiations and monitor the implementation of the Objectives, Approaches and Timelines set out in this Annex.

Annex D

Rules

I. Anti-Dumping and Subsidies and Countervailing Measures including Fisheries Subsidies

We:

1. *acknowledge* that the achievement of substantial results on all aspects of the Rules mandate, in the form of amendments to the Anti-Dumping (AD) and Subsidies and Countervailing Measures (SCM) Agreements, is important to the development of the rules-based multilateral trading system and to the overall balance of results in the DDA;
2. *aim* to achieve in the negotiations on Rules further improvements, in particular, to the transparency, predictability and clarity of the relevant disciplines, to the benefit of all Members, including in particular developing and least-developed Members. In this respect, the development dimension of the negotiations must be addressed as an integral part of any outcome;
3. *call on* Participants, in considering possible clarifications and improvements in the area of anti-dumping, to take into account, *inter alia*, (a) the need to avoid the unwarranted use of anti-dumping measures, while preserving the basic concepts, principles and effectiveness of the instrument and its objectives where such measures are warranted; and (b) the desirability of limiting the costs and complexity of proceedings for interested parties and the investigating authorities alike, while strengthening the due process, transparency and predictability of such proceedings and measures;
4. *consider* that negotiations on anti-dumping should, as appropriate, clarify and improve the rules regarding, *inter alia*, (a) determinations of dumping, injury and causation, and the application of measures; (b) procedures governing the initiation, conduct and completion of antidumping investigations, including with a view to strengthening due process and enhancing transparency; and (c) the level, scope and duration of measures, including duty assessment, interim and new shipper reviews, sunset, and anti-circumvention proceedings;
5. *recognize* that negotiations on anti-dumping have intensified and deepened, that Participants are showing a high level of constructive engagement, and that the process of rigorous discussion of the issues based on specific textual proposals for amendment to the AD Agreement has been productive and is a necessary step in achieving the substantial results to which Ministers are committed;
6. *note* that, in the negotiations on anti-dumping, the Negotiating Group on Rules has been discussing in detail proposals on such issues as determinations of injury/causation, the lesser duty rule, public interest, transparency and due process, interim reviews, sunset, duty assessment, circumvention, the use of facts available, limited examination and all others rates, dispute settlement, the definition of dumped imports, affiliated parties, product under consideration, and the initiation and completion of investigations, and that this process of discussing proposals before the Group or yet to be submitted will continue after Hong Kong;
7. *note*, in respect of subsidies and countervailing measures, that while proposals for amendments to the SCM Agreement have been submitted on a number of issues, including the definition of a subsidy, specificity, prohibited subsidies, serious prejudice, export credits and guarantees, and the

allocation of benefit, there is a need to deepen the analysis on the basis of specific textual proposals in order to ensure a balanced outcome in all areas of the Group's mandate;

8. *note* the desirability of applying to both anti-dumping and countervailing measures any clarifications and improvements which are relevant and appropriate to both instruments;
9. *recall* our commitment at Doha to enhancing the mutual supportiveness of trade and environment, *note* that there is broad agreement that the Group should strengthen disciplines on subsidies in the fisheries sector, including through the prohibition of certain forms of fisheries subsidies that contribute to overcapacity and over-fishing, and *call on* Participants promptly to undertake further detailed work to, *inter alia*, establish the nature and extent of those disciplines, including transparency and enforceability. Appropriate and effective special and differential treatment for developing and least-developed Members should be an integral part of the fisheries subsidies negotiations, taking into account the importance of this sector to development priorities, poverty reduction, and livelihood and food security concerns;
10. *direct* the Group to intensify and accelerate the negotiating process in all areas of its mandate, on the basis of detailed textual proposals before the Group or yet to be submitted, and complete the process of analysing proposals by Participants on the AD and SCM Agreements as soon as possible;
11. *mandate* the Chairman to prepare, early enough to assure a timely outcome within the context of the 2006 end date for the Doha Development Agenda and taking account of progress in other areas of the negotiations, consolidated texts of the AD and SCM Agreements that shall be the basis for the final stage of the negotiations.

II. Regional Trade Agreements

1. We welcome the progress in negotiations to clarify and improve the WTO's disciplines and procedures on regional trade agreements (RTAs). Such agreements, which can foster trade liberalization and promote development, have become an important element in the trade policies of virtually all Members. Transparency of RTAs is thus of systemic interest as are disciplines that ensure the complementarity of RTAs with the WTO.

2. We commend the progress in defining the elements of a transparency mechanism for RTAs, aimed, in particular, at improving existing WTO procedures for gathering factual information on RTAs, without prejudice to the rights and obligations of Members. We instruct the Negotiating Group on Rules to intensify its efforts to resolve outstanding issues, with a view to a provisional decision on RTA transparency by 30 April 2006.

3. We also note with appreciation the work of the Negotiating Group on Rules on WTO's disciplines governing RTAs, including *inter alia* on the "substantially all the trade" requirement, the length of RTA transition periods and RTA developmental aspects. We instruct the Group to intensify negotiations, based on text proposals as soon as possible after the Sixth Ministerial Conference, so as to arrive at appropriate outcomes by end 2006.

Annex E

Trade Facilitation

Report by the Negotiating Group on Trade Facilitation to the TNC

1. Since its establishment on 12 October 2004, the Negotiating Group on Trade Facilitation met eleven times to carry out work under the mandate contained in Annex D of the Decision adopted by the General Council on 1 August 2004. The negotiations are benefiting from the fact that the mandate allows for the central development dimension of the Doha negotiations to be addressed directly through the widely acknowledged benefits of trade facilitation reforms for all WTO Members, the enhancement of trade facilitation capacity in developing countries and LDCs, and provisions on special and differential treatment (S&DT) that provide flexibility. Based on the Group's Work Plan (TN/TF/1), Members contributed to the agreed agenda of the Group, tabling 60 written submissions sponsored by more than 100 delegations. Members appreciate the transparent and inclusive manner in which the negotiations are being conducted.

2. Good progress has been made in all areas covered by the mandate, through both verbal and written contributions by Members. A considerable part of the Negotiating Group's meetings has been spent on addressing the negotiating objective of improving and clarifying relevant aspects of GATT Articles V, VIII and X, on which about 40 written submissions¹ have been tabled by Members representing the full spectrum of the WTO's Membership. Through discussions on these submissions and related questions and answers (JOB(05)/222), Members have advanced their understanding of the measures in question and are working towards common ground on many aspects of this part of the negotiating mandate. Many of these submissions also covered the negotiating objective of enhancing technical assistance and support for capacity building on trade facilitation, as well as the practical application of the principle of S&DT. The Group also discussed other valuable submissions dedicated to these issues.² Advances have also been made on the objective of arriving at provisions for effective cooperation between customs or any other appropriate authorities on trade facilitation and customs compliance issues, where two written proposals have been discussed.³ Members have also made valuable contributions on the identification of trade facilitation needs and priorities, development aspects, cost implications and inter-agency cooperation.⁴

3. Valuable input has been provided by a number of Members in the form of national experience papers⁵ 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

¹ TN/TF/W/6-W/15, W/17-W/26, W/28, W/30-W32, W/34-36, W/38-W/40, W/42, W/44-W/49, W/53, W/55, W/58, W/60-W/62, W/64-W/67, W/69, W/70.

² TN/TF/W/33, W/41, W/56, W/63, W/73 and W/74.

³ TN/TF/W/57 and W/68.

⁴ TN/TF/W/29, W/33, W/41, W/62 and W/63.

⁵ TN/TF/W/48, W/50, W/53, W/55, W/58, W/60, W/61, W/65, W/69 and W/75.

authorities on trade facilitation and customs compliance; and, (III) cross-cutting submissions; is provided below to facilitate further negotiations. In carrying out this work and in tabling further proposals, Members should be mindful of the overall deadline for finishing the negotiations and the resulting need to move into focussed drafting mode early enough after the Sixth Ministerial Conference so as to allow for a timely conclusion of text-based negotiations on all aspects of the mandate.

5. Work needs to continue and broaden on the process of identifying individual Member's trade facilitation needs and priorities, and the cost implications of possible measures. The Negotiating Group recommends that relevant international organizations be invited to continue to assist Members in this process, recognizing the important contributions being made by them already, and be encouraged to continue and intensify their work more generally in support of the negotiations.

6. In light of the vital importance of technical assistance and capacity building to allow developing countries and LDCs to fully participate in and benefit from the negotiations, the Negotiating Group recommends that the commitments in Annex D's mandate in this area be reaffirmed, reinforced and made operational in a timely manner. To bring the negotiations to a successful conclusion, special attention needs to be paid to support for technical assistance and capacity building that will allow developing 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**

E. 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

F. TIME PERIODS BETWEEN PUBLICATION AND IMPLEMENTATION

- Interval between Publication and Entry into Force

G. CONSULTATION AND COMMENTS ON NEW AND AMENDED RULES

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

H. ADVANCE RULINGS

- Provision of Advance Rulings

I. APPEAL PROCEDURES

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

J. 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

K. 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

L. 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

M. CONSULARIZATION

- Prohibition of Consular Transaction Requirement

N. BORDER AGENCY COOPERATION

- Coordination of Activities and Requirement of all Border Agencies

O. 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

P. TARIFF CLASSIFICATION

- Objective Criteria for Tariff Classification

Q. MATTERS RELATED TO GOODS TRANSIT

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

(b) Between Authorities and the Private Sector

- Operationalization and Clarification of Terms

II. PROPOSED PROVISIONS FOR EFFECTIVE COOPERATION BETWEEN CUSTOMS AND OTHER AUTHORITIES ON TRADE FACILITATION AND CUSTOMS COMPLIANCE

- Multilateral Mechanism for the Exchange and Handling of Information

III. CROSS-CUTTING SUBMISSIONS

1. Needs and Priorities Identification

- General tool to assess needs and priorities and current levels of trade facilitation
- Take result of assessment as one basis for establishing trade facilitation rules, arranging S&D treatment and providing technical assistance and capacity building support

2. Technical Assistance and Capacity Building

- Technical Assistance and Capacity Building in the Course of the Negotiations

- Identification of Needs and Priorities
- Compilation of Needs and Priorities of Individual Members
- Support for Clarification and Educative Process Including Training

- Technical Assistance and Capacity Building Beyond the Negotiations Phase

- Implementation of the Outcome
- Coordination Mechanisms for Implementing Needs and Priorities as well as Commitments

3. Multiple-Areas

- Identification of Trade Facilitation Needs and Priorities of Members
- Cost Assessment
- Inter-Agency Cooperation
- Links and Inter-relationship between the Elements of Annex D
- Inventory of Trade Facilitation Measures
- Assessment of the Current Situation
- Timing and Sequencing of Measures

Annex F

Special and Differential Treatment

LDC Agreement-specific Proposals

23) Understanding in Respect of Waivers of Obligations under the GATT 1994

- (i) We agree that requests for waivers by least-developed country Members under Article IX of the WTO Agreement and the Understanding in respect of Waivers of Obligations under the GATT 1994 shall be given positive consideration and a decision taken within 60 days.
- (ii) When considering requests for waivers by other Members exclusively in favour of least-developed country Members, we agree that a decision shall be taken within 60 days, or in exceptional circumstances as expeditiously as possible thereafter, without prejudice to the rights of other Members.

36) Decision on Measures in Favour of Least-Developed Countries

We agree that developed-country Members shall, and developing-country Members declaring themselves in a position to do so should:

- (a) (i) Provide duty-free and quota-free market access on a lasting basis, for all products originating from all LDCs by 2008 or no later than the start of the implementation period in a manner that ensures stability, security and predictability.
 - (ii) Members facing difficulties at this time to provide market access as set out above shall provide duty-free and quota-free market access for at least 97 per cent of products originating from LDCs, defined at the tariff line level, by 2008 or no later than the start of the implementation period. In addition, these Members shall take steps to progressively achieve compliance with the obligations set out above, taking into account the impact on other developing countries at similar levels of development, and, as appropriate, by incrementally building on the initial list of covered products.
 - (iii) Developing-country Members shall be permitted to phase in their commitments and shall enjoy appropriate flexibility in coverage.
- (b) Ensure that preferential rules of origin applicable to imports from LDCs are transparent and simple, and contribute to facilitating market access.

Members shall notify the implementation of the schemes adopted under this decision every year to the Committee on Trade and Development. The Committee on Trade and Development shall annually review the steps taken to provide duty-free and quota-free market access to the LDCs and report to the General Council for appropriate action.

We urge all donors and relevant international institutions to increase financial and technical support aimed at the diversification of LDC economies, while providing additional financial and technical assistance through appropriate delivery mechanisms to meet their implementation obligations, including fulfilling SPS and TBT requirements, and to assist them in managing their adjustment processes, including those necessary to face the results of MFN multilateral trade liberalisation.

38) Decision on Measures in Favour of Least-Developed Countries

It is reaffirmed that least-developed country Members will only be required to undertake commitments and concessions to the extent consistent with their individual development, financial or trade needs, or their administrative and institutional capacities.

Within the context of coherence arrangements with other international institutions, we urge donors, multilateral agencies and international financial institutions to coordinate their work to ensure that LDCs are not subjected to conditionalities on loans, grants and official development assistance that are inconsistent with their rights and obligations under the WTO Agreements.

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84) Agreement on Trade-Related Investment Measures

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)
- US Communication on US Product-Specific Blue Box Limits (JOB(08)/10)
- Elements of Special Products Modalities - Communication from Australia, Canada, Costa Rica, Malaysia, New Zealand, Paraguay, Thailand, United States and Uruguay (JOB(08)/24)
- Agriculture Templates – An Approach and Initial Thoughts on Base Data and Base Data Templates (JOB(09)/104)
- Agriculture Templates - Domestic Support Base Data Templates (JOB(09)/115)
- Agriculture Templates - Market Access Base Data Templates (JOB(09)/125)
- Agriculture Templates - Market Access Doha Development Agenda (DDA) Tariff Rate Quotas (TRQs) Template (JOB(09)/172)

Council on Trade in Services, Special Session

- Framework for Negotiation (S/CSS/W/4)
- Proposals for Negotiation (JOB(00)/8376)
- Accounting Services (S/CSS/W/20)
- Audiovisual and Related Services (S/CSS/W/21)
- Distribution Services (S/CSS/W/22)
- Higher (Tertiary) Education, Adult Education and Training (S/CSS/W/23)
- Energy Services (S/CSS/W/24)
- Environmental Services (S/CSS/W/25)
- Express Delivery Services (S/CSS/W/26)
- Financial Services (S/CSS/W/27)
- Legal Services (S/CSS/W/28)
- Movement of Natural Persons (S/CSS/W/29)
- Market Access in Telecommunications and Complementary Services (S/CSS/W/30)

- Tourism and Hotels (S/CSS/W/31)
- Transparency in Domestic Regulation (S/CSS/W/102)
- Advertising and Related Services (S/CSS/W/100)
- Desirability of a Safeguard Mechanism for Services: Promoting Liberalization of Trade in Services (S/WPGR/W/37)
- Modalities for the Special Treatment For Least-Developed Country Members in the Negotiations on Trade In Services – JOB(03)/133
- U.S. Government Points of Contact in Least-Developed Country Members (JOB (03)/33)
- Proposed Guide for Scheduling Commitments on Energy Services in the WTO (JOB(03)/89)
- Small and Medium Sized Enterprises (TN/S/W/5)
- Initial Offer (TN/S/O/USA)
- An Assessment of Services Trade and Liberalization in the United States and Developing Economies (TN/S/W/12)
- Joint Statement on Market Access in Services (JOB(04)/176)
- U.S. Proposal for Transparency Disciplines in Domestic Regulation: Building on Existing International Disciplines and Proposals (JOB(04)/128)
- Communication from the United States: Horizontal Transparency Disciplines in Domestic Regulation (JOB(06)/182)
- Outline of the U.S. position on a Draft Consolidated Text in the WPDR (JOB(06)/223)
- Classification in the Telecommunications Sector under the WTO-GATS Framework (TN/S/W/35 and S/CSC/W/45)
- Guidelines for Scheduling Commitments Concerning Postal and Courier Services, including Express Delivery (TN/S/W/30)
- Joint Statement on Liberalization of Logistics Services (TN/S/W/34)
- Joint Statement on Legal Services (TN/S/W/37 and S/CSC/W/46)
- Legal Services – Objectives for Further Liberalisation and Limitations to be Removed (JOB(05)/276)
- Joint Statement on Liberalization of Construction and Related Engineering Services (JOB(05)/130)
- Joint Statement on Liberalization of Financial Services (JOB(05)/17)
- Working Toward a Productive Information Exchange (in the Working Party on GATS Rules) (JOB(05)/5)
- Statement on Services of Common Interest in the Energy Sector (JOB(06)/17)
- Implementation of the Modalities for the Special Treatment for Least-Developed Country Members in the Trade in Services Negotiations (JOB(06)/77)
- Revised Services Offer (TN/S/O/USA/Rev.1)
- Review of Progress in Telecommunications Services (JOB(07)/199)
- Review of Progress in Postal and Courier Services, including Express Delivery Collective Request (JOB(07)/200)

Negotiating Group on Market Access

- Tariffs & Trade Data Needs Assessment (TN/MA/W/2)
- Negotiations on Environmental Goods (TN/MA/W/3 and TN/TE/W/8)
- Modalities Proposal (TN/MA/W/18)
- Proposal on Modalities for Addressing Non-Tariff Barriers (NTBs) (TN/MA/W/18/Add.1)
- Revenue Implications of Trade Liberalization (TN/MA/W/18/Add.2)
- Vertical NTB Modality (TN/MA/W/18/Add.3)
- Contribution on an Environmental Goods Modality (TN/TE/W/38) & (TN/MA/W/18/Add.5)
- Liberalizing Trade in Environmental Goods (TN/MA/W/3, TN/MA/W/18/Add.4, Add.5, and Add.7)
- Non-Tariff Barrier Notifications (TN/MA/W/46/Add.8)
- Non-Tariff Barrier Notifications – Revision (TN/MA/W/46/Add.8/Rev.1)

- Non-Agricultural Market Access: Modalities (TN/MA/W/44)
- Contribution by Canada, European Communities and United States, Non-Agricultural Market Access: Modalities (JOB(03)/163)
- Progress Report: Discussions on Forestry NTBs (TN/MA/W/48/Add.1)
- Negotiating NTBs Related to Remanufacturing and Refurbishing (TN/MA/W/18/Add.11)
- A View To Harmonize Textile, Apparel, and Footwear Labeling Requirements (TN/MA/W/18/Add.12)
- Progress Report: WTO NAMA Discussions on Autos NTBs (TN/MA/W/18/Add.9)
- Tariff Elimination in the Gems and Jewelry Sector (TN/MA/W/61)
- Tariff Liberalization in the Forest Products Sector (TN/MA/W/64)
- Tariff Elimination in the Electronics/Electrical Sector (TN/MA/W/59)
- Initial List of Environmental Goods (TN/MA/W/18/Add.7 or TN/TE/W/52)
- Treatment of Non Ad Valorem Technical Tariffs (TN/MA/W/18/Add.8)
- Tariff Liberalization in the Chemicals Sector (TN/MA/W/58)
- How to Create a Critical Mass Sectoral Initiative (TN/MA/W/55)
- U.S. Proposal on Negotiating NTBs Related to the Auto Sector (TN/MA/W/18/Add.6)
- Non-Tariff Barriers Building Codes and the Wood Products Sector (TN/MA/W/48)
- Non-Tariff Barriers – Requests (TN/MA/NTR/3)
- Tariff Elimination in the Electronics/Electrical Sector (TN/MA/W/69)
- Open Access to Enhanced Healthcare (JOB(06)/35)
- Progress Report: NTB Discussions Related to Remanufactured and Refurbished Goods (TN/MA/W/18/Add.10) and (TN/MA/W/18/Add.10/Corr.1)
- Tariff Liberalisation in the Forest Products Sector (TN/MA/W/75)
- Negotiating Text on Textiles, Apparel, Footwear and Travel Goods Labeling Requirements (TN/MA/W/18/Add.14)
- Tariff Liberalization in the Chemicals Sector (TN/MA/W/72)
- Progress Report: Sectoral Discussions on Tariff Elimination in the Chemicals Sector (TN/MA/W/18/Add.1)
- Tariff Elimination in the Electronics/Electrical Sector JOB(06)/85
- Negotiating Proposal on Tariff Liberalisation in the Forest Products Sector JOB(06)/128
- Market Access for Environmental Goods TN/MA/W/70
- Negotiating Proposal on Tariff Elimination in the Gems and Jewellery Sector TN/MA/W/61/Add.2
- Swiss Dual Proposal JOB(05)/36
- Analytical Contributions June 2005 JOB(05)/97
- Room Document for Simulation Presentation March 06. Actual doc # unknown.
- Negotiating Text on Liberalizing Trade in Remanufactured Goods (TN/MA/W/18/Add.15)
- Revised U.S. Negotiating Text on Liberalizing Trade in Remanufactured Goods (TN/MA/W/18/Add.16)
- Regulation of Remanufactured Goods: Answers to Frequently Asked Questions (JOB(07)/60)
- Non-Tariff Barriers – Requests (TN/MA/NTR/3/Add.2)
- Proposal for Modifications to "Ministerial Decision on Procedures for the Facilitation of Solutions to Non-Tariff Barriers" (TN/MA/W/88) NTBs (JOB(07)/145)
- Reducing Non-Tariff Barriers to Trade Related to Labeling of Textiles, Apparel, Footwear and Travel Goods – HS Classifications of Travel Goods (JOB(07)/59)
- Reducing Non-Tariff Barriers to Trade Related to Labelling of Textiles, Apparel, Footwear and Travel Goods - U.S. Responses to U.S. Questions (JOB(06)/266/Add.1)
- Non-Tariff Barriers to Trade related to Textiles, Clothing and Footwear - U.S. answers to Questionnaire by the European Communities (JOB(07)/22)

- Communication from the European Communities and the United States on NTBs related to Textiles, Apparel, Footwear and Clothing (TN/MA/W/93)
- Negotiating Text on Liberalizing Trade in Remanufactured Goods (TN/MA/W/18/Add.16/Rev.1)
- Illustrative Examples of Remanufactured Goods (JOB(07)/224)
- Negotiating Text on Non-Tariff Barriers Pertaining to the Electrical Safety and Electromagnetic Compatibility (EMC) of Electronic Goods (TN/MA/W/105 Rev.1)
- Negotiating Protocol on Enhanced Transparency on Export Licensing (TN/MA/W/15/Add.4/Rev.1)
- Communication from the United States on Automotive NTBs (JOB(08)/39)
- Non Paper on “Committee-First” for the “Horizontal Mechanism”, TN/MA/W/106 of 9 May 2008 (JOB(08)/45)
- Agreement on Non-Tariff Barriers Pertaining to Standards, Technical Regulations, and Conformity Assessment Procedures for Automotive Products (JOB (08)/46)
- Sectoral Negotiations in Non-Agricultural Market Access (NAMA) (TN/MA/W/97/Rev.1)
- Joint paper on Revised Draft Modalities for Non-Agricultural Market Access (NAMA) (TN/MA/W/95)
- Communication from the European Communities and the United States for an Anti-Concentration Clause in NAMA (TN/MA/W/96)
- Tariff Elimination in the Sports Equipment Sector (TN/MA/W/85)
- Answers by the Co-sponsors to Questions from the Republic of Korea on Negotiating Text on Textiles, Apparel Footwear and Travel Goods Labeling (TN/MA/W/113)
- Answers to Frequently Asked Questions on Negotiating Text on Textiles, Apparel Footwear and Travel Goods Labeling (TN/MA/W/114)
- Answers by the Co-sponsors to Questions from Singapore on Negotiating Text on Textiles, Apparel Footwear and Travel Goods Labeling (TN/MA/W/116)
- Revised Negotiating Text on Textiles, Apparel Footwear and Travel Goods Labeling (TN/MA/W/93/Rev/1)
- Answers by the Co-sponsors to Questions from New Zealand, Switzerland, and China on Negotiating Text on Textiles, Apparel Footwear and Travel Goods Labeling (JOB(09)/162)
- Compendium of Questions and Answers on Negotiating Text on Textiles, Apparel Footwear and Travel Goods Labeling (TN/MA/W/123)
- Revised Negotiating Text on NTBs Pertaining to the Electrical Safety and Electromagnetic Compatibility of Electronic Goods (TN/MA/W/105/Rev.2)
- Answers to Questions from Singapore on U.S. Negotiating Text on NTBs Pertaining to the Electrical Safety and Electromagnetic Compatibility of Electronic Goods (TN/MA/W/115)
- Answers to Questions from Thailand on U.S. Negotiating Text on NTBs Pertaining to the Electrical Safety and Electromagnetic Compatibility of Electronic Goods (JOB(09)/37)
- Answers to Questions from Canada on U.S. Autos and Electronics NTBs Negotiating Texts (JOB(09)/157)
- Compendium of Questions and Answers on Agreement on NTBs Pertaining to the Electrical Safety and Electromagnetic Compatibility of Electronic Goods (TN/MA/W/125)
- Revised Agreement on Non-Tariff Barriers Pertaining to Standards, Technical Regulations, and Conformity Assessment Procedures for Automotive Products (TN/MA/W/120)
- Answers to Questions from Singapore on Agreement on Non-Tariff Barriers Pertaining to Standards, Technical Regulations, and Conformity Assessment Procedures for Automotive Products (TN/MA/W/121)
- Compendium of Questions and Answers on Agreement on Non-Tariff Barriers Pertaining to Standards, Technical Regulations, and Conformity Assessment Procedures for Automotive Products (TN/MA/W/126)

- Answers by the Co-sponsors to Questions from the Republic of Korea on the Ministerial Decision on Trade in Remanufactured Goods (TN/MA/W/112)
- Answers by the Co-sponsors to Questions from Singapore on the Ministerial Decision on Trade in Remanufactured Goods (TN/MA/W/117)
- Revised Negotiating Text on Liberalizing Trade in Remanufactured Goods (TN/MA/W/18/Add.16/Rev.3)
- Answers by the Co-sponsors to Questions from Malaysia on the Ministerial Decision on Trade in Remanufactured Goods (JOB(09)/155)
- Answer by the Co-sponsors to Questions from China on Remanufacturing (TN/MA/W/122)
- Compendium of Questions and Answers on Ministerial Decision on Trade in Remanufactured Goods (TN/MA/W/124)
- Report on 4 November 2009 Remanufacturing Workshops (JOB(09)/179)
- Revised Negotiating Text on Enhanced Transparency in Export Licensing (TN/MA/W/Add.4/Rev.4)
- Answers by the Co-sponsors to Questions from Malaysia on Negotiating Text on Enhanced Transparency in Export Licensing (JOB(09)/127)
- Compendium on Questions and Answers on Negotiating Text on Enhanced Transparency in Export Licensing (TN/MA/W/130)

Negotiating Group on Rules

- Fisheries Subsidies -- Joint communication from the United States, Australia, Chile, Ecuador, Iceland, New Zealand, Peru, and the Philippines (TN/RL/W/3)
- Fisheries Subsidies (TN/RL/W/21)
- OECD Steel Paper (TN/RL/W/24)
- Questions on Papers Submitted to Rules Negotiating Group (TN/RL/W/25)
- Basic Concepts of the Trade Remedies Rules (TN/RL/W/27)
- Special and Differential Treatment and the Subsidies Agreement (TN/RL/W/33)
- Second Set of Questions from the United States on Papers Submitted to the Rules Negotiating Group (TN/RL/W/34)
- Investigatory Procedures Under The Antidumping and Subsidies Agreements (TN/RL/W/35)
- Communication From The United States Attaching A Communiqué From The Organization For Economic Cooperation And Development (OECD) (TN/RL/W/49)
- Circumvention (TN/RL/W/50)
- Replies To Questions Presented To The United States On Submission TN/RI/W/27 (TN/RL/W/53)
- Third Set Of Questions From The United States On Papers Submitted To The Rules Negotiating Group (TN/RL/W/54)
- Responses By The United States To Questions From Australia On Investigatory Procedures Under The Anti-Dumping And Subsidies Agreements (TN/RL/W/71)
- Identification Of Certain Major Issues Under The Anti-Dumping And Subsidies Agreements (TN/RL/W/72)
- Possible Approaches To Improved Disciplines On Fisheries Subsidies (TN/RL/W/77)
- Subsidies Disciplines Requiring Clarification And Improvement (TN/RL/W/78)
- Elements Of A Steel Subsidies Agreement (TN/RL/W/95)
- Identification of Additional Issues under the Anti-dumping and Subsidies Agreements (TN/RL/W/98)
- Fourth Set Of Questions From The United States On Papers Submitted To The Rules Negotiating Group (TN/RL/W/103)
- Further Issues Identified Under The Anti-Dumping And Subsidies Agreements For Discussion By the Negotiating Group On Rules (TN/RL/W/130)
- Replies to the Questions from India on TN/RL/W/35 (TN/RL/W/147)
- Three Issues Identified by the United States (TN/RL/W/153)

- Accrual of Interest (TN/RL/W/168)
- Additional Views on the Structure of the Fisheries Subsidies Negotiations (TN/RL/W/169)
- Fisheries Subsidies (TN/RL/W/196) (co-sponsored with Brazil, Chile, Colombia, Ecuador, Iceland, New Zealand, Pakistan and Peru)
- Offsets for Non-Dumped Comparisons (TN/RL/W/208)
- Allocation of Subsidy Benefits Over Time (TN/RL/GEN/4)
- Exchange Rates (TN/RL/W/GEN/5)
- New Shipper Reviews (TN/RL/GEN/11)
- Allocation Periods for Subsidy Benefits (TN/RL/GEN/12)
- Prompt Access to Non-Confidential Information (TN/RL/GEN/13)
- Conduct of Verifications (TN/RL/GEN/15)
- All-Others Rate (TN/RL/GEN/16)
- Expensing Versus Allocating Subsidy Benefits (TN/RL/GEN/17/Rev.1)
- Preliminary Determinations (TN/RL/GEN/25)
- Circumvention (TN/RL/GEN/29)
- Fisheries Subsidies – Programmes for Decommissioning of Vessels and Licence Retirement (TN/RL/GEN/41)
- Further Submission on When and How to Allocate Subsidy Benefits Over Time (TN/RL/GEN/45)
- Further Comments on Lesser Duty Proposals (TN/RL/GEN/58)
- Causation (TN/RL/GEN/59)
- Submission on Circumvention (TN/RL/GEN/71)
- Identification of Parties (TN/RL/GEN/89) (co-sponsored with Brazil)
- Access to Non-Confidential Information (TN/RL/GEN/90)
- New Shipper Reviews (TN/RL/GEN/91)
- Expanding the Prohibited “Red Light“ Subsidy Category (TN/RL/GEN/94)
- Further Submission on Facts Available (TN/RL/GEN/105)
- Circumvention (TN/RL/GEN/106)
- Exchange Rates (TN/RL/GEN/107)
- Disclosure of Essential Preliminary Legal and Factual Considerations (Mandatory Preliminary Determinations) (TN/RL/GEN/108)
- Fisheries Subsidies (TN/RL/GEN/127)
- Causation (TN/RL/GEN/128)
- Definition of Domestic Industry for Perishable, Seasonal Agricultural Products (TN/RL/GEN/129)
- Allocation and Expensing of Subsidies Benefits (TN/RL/GEN/130)
- Collection of Anti-Dumping Duties under Article 9.3 (TN/RL/GEN/131)
- Conduct of On-the-Spot Investigations (TN/RL/GEN/132)
- Disclosure of Calculations in Preliminary and Final Determinations (TN/RL/GEN/133)
- Fisheries Subsidies: Proposed New Disciplines (TN/RL/GEN/145)
- Expanding the Prohibited Red Light Subsidy Category – Draft Text (TN/RL/GEN/146)
- Proposal on Offsets for Non-Dumped Comparisons (TN/RL/GEN/147)
- Fisheries Subsidies (TN/RL/W/235) (co-sponsored with Australia and New Zealand)
- Fisheries Subsidies – Articles I.2, II, IV, and V (TN/RL/GEN/165)

Dispute Settlement Body, Special Session

- Contribution of the United States to the Improvement of the Dispute Settlement Understanding of the WTO-Related to Transparency (TN/DS/W/13)
- Negotiations on Improvements And Clarifications of the Dispute Settlement Understanding on Improving Flexibility and Member Control in WTO Dispute Settlement (TN/DS/W/28)

- Further Contribution of The United States to The Improvement of The Dispute Settlement Understanding of the WTO Related to Transparency (TN/DS/W/46)
- Negotiations on Improvements and Clarifications of the Dispute Settlement Understanding on Improving Flexibility and Member Control in WTO Dispute Settlement, Joint communication from United States and Chile (TN/DS/W/52)
- Some Questions for Consideration on Item(f) (TN/DS/W/74)
- Contribution of the United States on Some Practical Considerations in Improving the Dispute Settlement Understanding of the WTO Related to Transparency and Open Meetings (TN/DS/W/79)
- Further Contribution of the United States on Improving Flexibility and Member Control in WTO Dispute Settlement (TN/DS/W/82)
- Further Contribution of the United States on Improving Flexibility and Member Control in WTO Dispute Settlement, Addendum (TN/DS/W/82/Add.1)
- Further Contribution of the United States on Improving Flexibility and Member Control in WTO Dispute Settlement, Addendum, Corrigendum (TN/DS/W/82/Add.1/Corr.1)
- Further Contribution of the United States to the Improvement of the Dispute Settlement Understanding of the WTO Related to Transparency - Revised Legal Drafting (TN/DS/W/86)
- Dispute Settlement Body - Special Session - Negotiations on Improvements and Clarifications of the Dispute Settlement Understanding - Further Contribution of the United States on Improving Flexibility and Member Control - Addendum (TN/DS/W/82/Add.2)
- Flexibility and Member Control - Revised Textual Proposal by Chile and the United States (TN/DS/W/89)

Trade Facilitation

- Article VIII - Fees and Formalities (G/C/W/384)
- Article X - Publication and Administration (G/C/W/400)
- Integrated and Comprehensive Approach to Special and Differential Treatment (G/C/W/451)
- Communication on Trade Facilitation (JOB(04)/103)
- Introduction to Proposals by the United States of America (TN/TF/W/11)
- Advance Binding Rulings (TN/TF/W/12)
- Proposal on Transparency and Publication (TN/TF/W/13)
- Communication from the United States (TN/TF/W/14)
- Express Shipments (TN/TF/W/15)
- Release of Goods (TN/TF/W/21)
- Consularization - Proposal from Uganda and the United States (TN/TF/W/22)
- Multilateral Mechanism - Proposal from India and the United States (TN/TF/W/57)
- United States Assistance on Trade Facilitation (TN/TF/W/71)
- Communication from Australia, Canada and the United States - Draft Text on Advance Rulings (TN/TF/W/125)
- Communication from Uganda and the United States – Consularization (TN/TF/W/86 and Add.1)
- Communication from Uganda and the United States – Consularization (TN/TF/W/104)
- Communication from the United States - Express Shipments (TN/TF/W/91)
- Communication from Chile, Peru, and the United States - Internet Publication (TN/TF/W/89)
- Communication from Australia, Canada, and the United States - Common Elements of Advance Rulings (TN/TF/W/80)
- Communication from the United States – Draft Text on Internet Publication (TN/TF/W/145)
- Communication from the United States – Draft Text on Expedited Shipments (TN/TF/W/144 and Rev.1,2 &3)
- Communication from the United States United States – Assistance on Trade Facilitation (TN/TF/W/151)

- Communication From Australia, Canada, Turkey And The United States – Draft Text On Advance Rulings (TN/TF/W/153 and Rev.1)
- Communication From Uganda And The United States – Prohibiting Consularization Requirements: Fulfilling A Longstanding Trade Facilitation Objective (TN/TF/W/156)
- Communication from the United States – Transition Provisions for Developing and Least-Developed Country Members (TN/TF/W/166)
- Communication by the United States - Draft Text on Penalty Disciplines (TN/TF/W/169)

Committee on Trade and Environment, Regular and Special Session

- Sub-Paragraph 31 (i) of the Doha Declaration – Relationship between existing WTO rules and specific trade obligations set out in Multilateral Environmental Agreements (MEAs) (TN/TE/W/20 and TN/TE/W/40)
- Sub-Paragraph 31 (ii) of the Doha Declaration - Procedures for information exchange between MEA Secretariats and relevant WTO committees and criteria for granting MEA observer status (TN/TE/W/5 and TN/TE/W/70)
- Sub-Paragraph 31(iii) of the Doha Declaration – Market access for environmental goods and services (TN/TE/W/8, TN/TE/W/34, TN/TE/W/38, TN/TE/W/52, TN/TE/W/64, TN/TE/W/65, JOB(06)140 and JOB(06)169, JOB(07)/54, and JOB(07)193)
- Paragraph 33 of the Doha Declaration (WT/CTE/W/227)

Six dual submissions on Environmental Goods to the Committee on Trade and Environment Special Session and the Negotiating Group on Market Access are also listed under the Negotiating Group on Market Access.

Council on TRIPS, Regular & Special Session

- Questions and Answers: Comparison of Proposals (TN/IP/W/1)
- Issues for Discussion, Article 23.4 (TN/IP/W/2)
- Proposal for a Multilateral System of Registration and Protection of Geographic Indications for Wine & Spirits Based on Article 23.4 of the TRIPS Agreement (TN/IP/W/5)
- Multilateral System of Registration and Protection of Geographic Indications for Wine & Spirits (TN/IP/W/6)
- Paragraph 6 of the Doha Declaration on TRIPS and Public Health (IP/C/W/340)
- Second Submission on Paragraph 6 of the Doha Declaration on TRIPS and Public Health (IP/C/W/358)
- Implications of Article 23 Extension (IP/C/W/386)
- Moratorium to Address Needs of Developing and Least-Developed Members with No or Insufficient Manufacturing Capacities in the Pharmaceutical Sector (IP/C/W/396)
- Joint Proposal for a Multilateral System of Notification and Registration of Geographical Indications for Wines and Spirits (TN/IP/W/9)
- Article 27.3(B), Relationship between the TRIPS Agreement and the CBD, and the Protection of Traditional Knowledge and Folklore (IP/C/W/434)
- Technology Transfer Practices of the U.S. National Cancer Institute's Departmental Therapeutics Program (IP/C/W/341)
- Access to Genetic Resources: Regime of the United States' National Parks (IP/C/W/393)
- Proposed Draft TRIPS Council Decision on the Establishment of a Multilateral System of Notification and Registration of Geographical Indications for Wines and Spirits (TN/IP/W/10 and Add.1)

- Article 27.3(B), Relationship between the TRIPS Agreement and the CBD and the Protection of Traditional Knowledge and Folklore (IP/C/W/449)
- Comments on Implementation of the 30 August 2003 Agreement (Solution) on the TRIPS Agreement and Public Health (IP/C/W/444)
- Relationship between the Trips Agreement and the CBD, and the Protection of Traditional Knowledge and Folklore (IP/C/W/469)

Committee on Trade and Development, Special Session

- Remarks on the Review of Special and Differential Treatment (TN/CTD/W/9)
- Monitoring Mechanism (TN/CTD/W/19)
- Approach to Agreement-Specific Proposals (TN/CTD/W/27)

Working Group on Transparency in Government Procurement

- Capacity Building Questions (WT/WGTGP/W/34)
- Workplan Proposal (WT/WGTGP/W/35)
- Considerations Related to Enforcement of an Agreement on Transparency in Government Procurement (WT/WGTGP/W/38)

Work Program on Electronic Commerce

- Work Program on Electronic Commerce (WT/GC/W/493/Rev.1)

Working Group on the Relationship between Trade and Investment

- Covering FDI & Portfolio Investment in an Agreement (WT/WGTI/W/142)

Working Group on the Interaction between Trade and Competition Policy

- Technical Assistance (WT/WGTCP/W/185)
- Hardcore Cartels (WT/WGTCP/W/203)
- Voluntary Cooperation (WT/WGTCP/W/204)
- Transparency & Non-discrimination (WT/WGTCP/W/218)
- Procedural Fairness (WT/WGTCP/W/219)
- The Benefits of Peer Review in the WTO Competition Context (WT/WGTCP/W/233)

Updated: 28 Dec 2010

WTO Affinity Groups in the DDA
(As of December 31, 2010)

G-20	G-33	G-10	NAMA-11	LDCs in WTO
Argentina	Antigua- Barbuda	Chinese Taipei	Argentina	Angola
Bolivia	Barbados	Iceland	Brazil**	Bangladesh
Brazil**	Belize	Israel	Egypt	Benin
Chile	Benin	Japan	India**	Burkina Faso
China	Bolivia	Korea	Indonesia	Burundi
Cuba	Botswana	Liechtenstein	Namibia	Cambodia
Ecuador	China	Mauritius	Philippines	Central Africa Rep
Egypt	Congo	Norway	South Africa**	Chad
Guatemala	Cote d'Ivoire	Switzerland**	Tunisia	Congo, DRC
India	Cuba		Venezuela	Djibouti
Indonesia	Dominica			Gambia
Mexico	Dominican Republic.			Guinea
Nigeria	El Salvador			Guinea Bissau
Pakistan	Grenada			Haiti
Paraguay	Guatemala			Lesotho
Peru	Guyana			Madagascar
Philippines	Haiti			Malawi
South Africa	Honduras			Maldives
Tanzania	India			Mali
Thailand	Indonesia**			Mauritania
Uruguay	Jamaica			Mozambique
Venezuela	Kenya			Myanmar (Burma)
Zimbabwe	Korea			Nepal
	Madagascar			Niger
	Mauritius			Rwanda
	Mongolia			Senegal
	Mozambique			Sierra Leone
	Nicaragua			Solomon Islands
	Nigeria			Tanzania
	Pakistan			Togo
	Panama			Uganda
	Peru			Zambia
	Philippines			
	St. Kitts & Nevis			LDCs acceding:
	St. Lucia			Afghanistan
	St. Vincent & Grenadines			Bhutan
	Senegal			Comoros
	Sri Lanka			Equatorial Guinea
	Suriname			Ethiopia
	Tanzania			Laos
	Trinidad & Tobago			Liberia
	Turkey			Samoa
	Uganda			Sao Tome & Principe
	Venezuela			Sudan
	Zambia			Vanuatu
	Zimbabwe			Yemen
				WTO Observers:
				Holy See*

** = Group Coordinator

*Permanent Observer Status

MEMBERSHIP OF THE WORLD TRADE ORGANIZATION

as of December 31, 2010 (153 Members)

Government	Entry into Force/ Membership	Government	Entry into Force/ Membership
Albania	September 8, 2000	Dominican Republic	March 9, 1995
Angola	November 23, 1996	Ecuador	January 21, 1996
Antigua and Barbuda	January 1, 1995	Egypt	June 30, 1995
Argentina	January 1, 1995	El Salvador	May 7, 1995
Armenia	February 5, 2003	Estonia	November 13, 1999
Australia	January 1, 1995	European Union	January 1, 1995
Austria	January 1, 1995	Fiji	January 14, 1996
Bahrain	January 1, 1995	Finland	January 1, 1995
Bangladesh	January 1, 1995	France	January 1, 1995
Barbados	January 1, 1995	Gabon	January 1, 1995
Belgium	January 1, 1995	Georgia	June 14, 2000
Belize	January 1, 1995	Germany	January 1, 1995
Benin	February 22, 1996	Ghana	January 1, 1995
Bolivia	September 12, 1995	Greece	January 1, 1995
Botswana	May 31, 1995	Grenada	February 22, 1996
Brazil	January 1, 1995	Guatemala	July 21, 1995
Brunei Darussalam	January 1, 1995	Guinea	October 25, 1995
Bulgaria	December 1, 1996	Guinea Bissau	May 31, 1995
Burkina Faso	June 3, 1995	Guyana	January 1, 1995
Burundi	July 23, 1995	Haiti	January 30, 1996
Cambodia	October 12, 2004	Honduras	January 1, 1995
Cameroon	December 13, 1995	Hong Kong, China	January 1, 1995
Canada	January 1, 1995	Hungary	January 1, 1995
Cape Verde	July 23, 2008	Iceland	January 1, 1995
Central African Republic	May 31, 1995	India	January 1, 1995
Chad	October 19, 1996	Indonesia	January 1, 1995
Chile	January 1, 1995	Ireland	January 1, 1995
China	December 11, 2001	Israel	April 21, 1995
Colombia	April 30, 1995	Italy	January 1, 1995
Congo	March 27, 1997	Jamaica	March 9, 1995
Costa Rica	January 1, 1995	Japan	January 1, 1995
Côte d'Ivoire	January 1, 1995	Israel	April 21, 1995
Croatia	November 30, 2000	Italy	January 1, 1995
Cuba	April 20, 1995	Jamaica	March 9, 1995
Cyprus	July 30, 1995	Japan	January 1, 1995
Czech Republic	January 1, 1995	Jordan	April 11, 2000
Democratic Republic of the Congo	January 1, 1997	Kenya	January 1, 1995
Denmark	January 1, 1995	Korea, Republic of	January 1, 1995
Djibouti	May 31, 1995	Kuwait	January 1, 1995
Dominica	January 1, 1995	Kyrgyz Republic	December 20, 1998

MEMBERSHIP OF THE WORLD TRADE ORGANIZATION (cont.)

Government	Entry into Force/ Membership	Government	Entry into Force/ Membership
Latvia	February 10, 1999	Saint Kitts and Nevis	February 21, 1996
Lesotho	May 31, 1995	Saint Lucia	January 1, 1995
Liechtenstein	September 1, 1995	Saint Vincent and the Grenadines	January 1, 1995
Lithuania	May 31, 2001	Saudi Arabia	December 11, 2005
Luxembourg	January 1, 1995	Senegal	January 1, 1995
Macao, China	January 1, 1995	Sierra Leone	July 23, 1995
Macedonia	April 4, 2003	Singapore	January 1, 1995
Madagascar	November 17, 1995	Slovak Republic	January 1, 1995
Malawi	May 31, 1995	Slovenia	July 30, 1995
Malaysia	January 1, 1995	Solomon Islands	July 26, 1996
Maldives	May 31, 1995	South Africa	January 1, 1995
Mali	May 31, 1995	Spain	January 1, 1995
Malta	January 1, 1995	Sri Lanka	January 1, 1995
Mauritania	May 31, 1995	Suriname	January 1, 1995
Mauritius	January 1, 1995	Swaziland	January 1, 1995
Mexico	January 1, 1995	Sweden	January 1, 1995
Moldova	July 26, 2001	Switzerland	July 1, 1995
Mongolia	January 29, 1997	Taiwan (referred to in the WTO as Chinese Taipei)	January 1, 2002
Morocco	January 1, 1995	Tanzania	January 1, 1995
Mozambique	August 26, 1995	Thailand	January 1, 1995
Myanmar	January 1, 1995	The Gambia	October 23, 1996
Namibia	January 1, 1995	Togo	May 31, 1995
Nepal	April 14, 2003	Tonga	July 27, 2007
Netherlands - For the Kingdom in Europe and Netherlands Antilles	January 1, 1995	Trinidad and Tobago	March 1, , 1995
New Zealand	January 1, 1995	Tunisia	March 29, 1995
Nicaragua	September 3, 1995	Turkey	March 26, 1995
Niger	December 13, 1996	Uganda	January 1, 1995
Nigeria	January 1, 1995	Ukraine	May 16, 2008
Norway	January 1, 1995	United Arab Emirates	April 10, 1996
Oman	November 9, 2000	United Kingdom	January 1, 1995
Pakistan	January 1, 1995	United States of America	January 1, 1995
Panama	September 6, 1997	Uruguay	January 1, 1995
Papua New Guinea	June 9, 1996	Venezuela	January 1, 1995
Paraguay	January 1, 1995	Vietnam	January 11, 2007
Peru	January 1, 1995	Zambia	January 1, 1995
Philippines	January 1, 1995	Zimbabwe	March 5, 1995
Poland	July 1, 1995		
Portugal	January 1, 1995		
Qatar	January 13, 1996		
Romania	January 1, 1995		
Rwanda	May 22, 1996		

**2011 CONSOLIDATED REVISED BUDGET FOR THE WTO SECRETARIAT AND THE APPELLATE BODY
AND ITS SECRETARIAT
(in Swiss francs)**

Part	Section	Item	Original Budget 2011	Revised Budget Proposal 2011	Difference CHF	Difference %
A	Sect 1 Work Years	(a) Salary	90,818,100	89,084,300	(1,733,800)	(1.91%)
		(b) Pension	19,183,200	18,770,100	(413,100)	(2.15%)
		(c) Common Staff Costs	18,506,200	18,456,200	(50,000)	(0.27%)
	Sect 2 Temporary Assistance		15,992,700	15,992,700	0	0.00%
B	Sect 3 Communications	(a) Telecommunications	506,500	506,500	0	0.00%
		(b) Postal Charges	1,280,000	1,280,000	0	0.00%
	Sect 4 Building Facilities	(a) Rental	625,000	625,000	0	0.00%
		(b) Utilities	1,929,000	1,929,000	0	0.00%
		(c) Maintenance and Insurance	1,312,000	1,312,000	0	0.00%
	Sect 5 Permanent Equipment	(a) Permanent Equipment	1,025,000	1,025,000	0	0.00%
		(b) Permanent Equipment Lease	64,000	64,000	0	0.00%
	Sect 6 Expendable Supplies		1,281,000	1,281,000	0	0.00%
	Sect 7 Contractual Services.	(a) Reproduction	1,620,600	1,620,600	0	0.00%
		(b) Office Automation	3,365,000	3,365,000	0	0.00%
		(c) Other	238,000	238,000	0	0.00%
		(d) Security Outsourcing	4,013,000	4,013,000	0	0.00%
	C	Sect 8 Staff Overheads	(a) Training	1,525,000	1,525,000	0
(b) Insurance			3,011,000	3,011,000	0	0.00%
(c) Joint Services			255,000	255,000	0	0.00%
(d) Miscellaneous			36,000	36,000	0	0.00%
Sect 9 Missions	(a) Missions Official	1,533,000	1,533,000	0	0.00%	
	(b) Missions Technical	1,406,000	1,406,000	0	0.00%	
Sect 10 Trade Policy Courses		3,315,000	3,315,000	0	0.00%	
Sect 11 Various	(a) Representation and Hospitality	299,000	299,000	0	0.00%	
	(b) Dispute Settlement Panels	987,000	987,000	0	0.00%	
	(c) Experts	50,000	50,000	0	0.00%	
	(d) Appellate Body Members	797,300	793,500	(3,800)	(0.48%)	
	(e) Library	700,000	700,000	0	0.00%	
	(f) Publications	803,000	803,000	0	0.00%	
	(g) Public Information Activities	380,000	380,000	0	0.00%	
	(h) External Auditors	50,000	50,000	0	0.00%	
	(i) Ministerial Operating Fund	600,000	600,000	0	0.00%	
	(j) ISO	57,000	57,000	0	0.00%	
	(k) Other	130,000	130,000	0	0.00%	
	(l) Appellate Body Operating Fund	1,600,000	1,600,000	0	0.00%	
D	Sect 13 ITC		18,911,000	18,911,000	0	0.00%
Grand Total			198,204,600	196,003,900	(2,200,700)	(1.11%)

2011 REVISED BUDGET FOR THE WTO SECRETARIAT
(in Swiss francs)

Part	Section	Item	Original Budget 2011	Revised Budget Proposal 2011	Difference CHF	Difference %
A	Sect 1 Work Years	(a) Salary	88,670,100	86,975,300	(1,694,800)	(1.91%)
		(b) Pension	18,727,200	18,326,100	(401,100)	(2.14%)
		(c) Common Staff Costs	18,071,200	18,027,200	(44,000)	(0.24%)
	Sect 2 Temporary Assistance		15,927,100	15,927,100	0	0.00%
B	Sect 3 Communications	(a) Telecommunications	500,000	500,000	0	0.00%
		(b) Postal Charges	1,280,000	1,280,000	0	0.00%
	Sect 4 Building Facilities	(a) Rental	625,000	625,000	0	0.00%
		(b) Utilities	1,916,000	1,916,000	0	0.00%
		(c) Maintenance and Insurance	1,307,000	1,307,000	0	0.00%
	Sect 5 Permanent Equipment	(a) Permanent Equipment	1,000,000	1,000,000	0	0.00%
		(b) Permanent Equipment Lease	64,000	64,000	0	0.00%
Sect 6 Expendable Supplies		1,261,000	1,261,000	0	0.00%	
Sect 7 Contractual Services	(a) Reproduction	1,605,600	1,605,600	0	0.00%	
	(b) Office Automation	3,355,000	3,355,000	0	0.00%	
	(c) Other	238,000	238,000	0	0.00%	
	(d) Security Outsourcing	4,013,000	4,013,000	0	0.00%	
C	Sect 8 Staff Overheads	(a) Training	1,500,000	1,500,000	0	0.00%
		(b) Insurance	2,999,000	2,999,000	0	0.00%
		(c) Joint Services	255,000	255,000	0	0.00%
		(d) Miscellaneous	34,000	34,000	0	0.00%
Sect 9 Missions	(a) Missions Official	1,496,000	1,496,000	0	0.00%	
	(b) Missions Technical	1,406,000	1,406,000	0	0.00%	
Sect 10 Trade Policy Courses		3,315,000	3,315,000	0	0.00%	
Sect 11 Various	(a) Representation and Hospitality	298,000	298,000	0	0.00%	
	(b) Dispute Settlement Panels	987,000	987,000	0	0.00%	
	(c) Experts	50,000	50,000	0	0.00%	
	(e) Library	690,000	690,000	0	0.00%	
	(f) Publications	803,000	803,000	0	0.00%	
	(g) Public Information Activities	380,000	380,000	0	0.00%	
	(h) External Auditors	50,000	50,000	0	0.00%	
	(i) Ministerial Operating Fund	600,000	600,000	0	0.00%	
	(j) ISO	57,000	57,000	0	0.00%	
	(k) Other	130,000	130,000	0	0.00%	
	D	Sect 13 ITC		18,911,000	18,911,000	0
Grand Total			192,521,200	190,381,300	(2,139,900)	(1.11%)

2011 REVISED BUDGET FOR THE APPELLATE BODY AND ITS SECRETARIAT
(in Swiss francs)

Part	Section	Item	Original Budget 2011	Revised Budget Proposal 2011	Difference CHF	Difference %
A	Sect 1 Work Years	(a) Salary	2,148,000	2,109,000	(39,000)	(1.82%)
		(b) Pension	456,000	444,000	(12,000)	(2.63%)
		(c) Common Staff Costs	435,000	429,000	(6,000)	(1.38%)
	Sect 2 Temporary Assistance		65,600	65,600	0	0.00%
B	Sect 3 Communications	(a) Telecommunications	6,500	6,500	0	0.00%
		(b) Postal Charges	0	0	0	0
	Sect 4 Building Facilities	(b) Utilities	13,000	13,000	0	0.00%
		(c) Maintenance and Insurance	5,000	5,000	0	0.00%
	Sect 5 Permanent Equipment		25,000	25,000	0	0.00%
	Sect 6 Expendable Supplies		20,000	20,000	0	0.00%
Sect 7 Contractual Services	(a) Reproduction	15,000	15,000	0	0.00%	
	(b) Office Automation	10,000	10,000	0	0.00%	
C	Sect 8 Staff Overheads	(a) Training	25,000	25,000	0	0.00%
		(b) Insurance	12,000	12,000	0	0.00%
		(d) Miscellaneous	2,000	2,000	0	0.00%
		(a) Missions Official	37,000	37,000	0	0.00%
	Sect 9 Missions					
	Sect 11 Various	(a) Representation and Hospitality	1,000	1,000	0	0.00%
(d) Appellate Body Members		797,300	793,500	(3,800)	(0.48%)	
(e) Library		10,000	10,000	0	0.00%	
(g) Public Information Activities		0	0	0	0	
(l) Appellate Body Operating Fund		1,600,000	1,600,000	0	0.00%	
Grand Total			5,683,400	5,622,600	(60,800)	(1.07%)

PROPOSED REVISED SCALE OF CONTRIBUTIONS FOR 2011
(Minimum contribution of 0.015 per cent)

Member	2011 Revised Contribution CHF	2011 Contribution %	Interest earned in 2009 for 2011 CHF ¹	2011 net Contribution CHF
Albania	50,518	0.026%	59	50,459
Angola	388,600	0.200%	286	388,314
Antigua and Barbuda	29,145	0.015%	43	29,102
Argentina	691,708	0.356%	191	691,517
Armenia	29,145	0.015%	31	29,114
Australia	2,312,170	1.190%	3,237	2,308,933
Austria	2,461,781	1.267%	4,062	2,457,719
Bahrain	184,585	0.095%	154	184,431
Bangladesh	200,129	0.103%	229	199,900
Barbados	29,145	0.015%	27	29,118
Belgium	4,731,205	2.435%	6,213	4,724,992
Belize	29,145	0.015%	21	29,124
Benin	29,145	0.015%	0	29,145
Bolivia	54,404	0.028%	0	54,404
Botswana	64,119	0.033%	31	64,088
Brazil	1,985,746	1.022%	1,685	1,984,061
Brunei Darussalam	73,834	0.038%	99	73,735
Bulgaria	334,196	0.172%	360	333,836
Burkina Faso	29,145	0.015%	2	29,143
Burundi	29,145	0.015%	0	29,145
Cambodia	69,948	0.036%	3	69,945
Cameroon	71,891	0.037%	10	71,881
Canada	5,869,803	3.021%	8,696	5,861,107
Cape Verde	29,145	0.015%	23	29,122
Central African Republic	29,145	0.015%	0	29,145
Chad	44,689	0.023%	0	44,689
Chile	730,568	0.376%	375	730,193
China, People's Republic of	13,363,954	6.878%	922	13,363,032
Colombia	411,916	0.212%	32	411,884
Congo	54,404	0.028%	0	54,404
Costa Rica	159,326	0.082%	223	159,103
Côte d'Ivoire	112,694	0.058%	0	112,694
Croatia	328,367	0.169%	267	328,100
Cuba	141,839	0.073%	129	141,710
Cyprus	134,067	0.069%	184	133,883
Czech Republic	1,534,970	0.790%	1,581	1,533,389
Democratic Republic of the Congo	62,176	0.032%	0	62,176
Denmark	1,896,368	0.976%	2,619	1,893,749
Djibouti	29,145	0.015%	0	29,145
Dominica	29,145	0.015%	0	29,145
Dominican Republic	163,212	0.084%	0	163,212

¹ Interest earned in 2009 under the Early Payment Encouragement Scheme (L/6384) to be deducted from the 2011 contributions.

Member	2011 Revised Contribution CHF	2011 Contribution %	Interest earned in 2009 for 2011 CHF ¹	2011 net Contribution CHF
Ecuador	192,357	0.099%	231	192,126
Egypt	551,812	0.284%	648	551,164
El Salvador	95,207	0.049%	0	95,207
Estonia	188,471	0.097%	235	188,236
European Communities	0	0.000%	0	0
Fiji	29,145	0.015%	39	29,106
Finland	1,259,064	0.648%	1,804	1,257,260
Former Yugoslav Republic of Macedonia	56,347	0.029%	32	56,315
France	8,722,127	4.489%	8,249	8,713,878
Gabon	40,803	0.021%	11	40,792
Gambia	29,145	0.015%	0	29,145
Georgia	48,575	0.025%	53	48,522
Germany	17,207,208	8.856%	25,379	17,181,829
Ghana	89,378	0.046%	0	89,378
Greece	983,158	0.506%	974	982,184
Grenada	29,145	0.015%	0	29,145
Guatemala	137,953	0.071%	178	137,775
Guinea	29,145	0.015%	0	29,145
Guinea-Bissau	29,145	0.015%	0	29,145
Guyana	29,145	0.015%	35	29,110
Haiti	29,145	0.015%	6	29,139
Honduras	101,036	0.052%	0	101,036
Hong Kong, China	5,110,090	2.630%	8,288	5,101,802
Hungary	1,257,121	0.647%	80	1,257,041
Iceland	91,321	0.047%	133	91,188
India	2,933,930	1.510%	519	2,933,411
Indonesia	1,472,794	0.758%	1,446	1,471,348
Ireland	2,308,284	1.188%	3,190	2,305,094
Israel	880,179	0.453%	645	879,534
Italy	7,268,763	3.741%	8,979	7,259,784
Jamaica	79,663	0.041%	98	79,565
Japan	9,643,109	4.963%	9,802	9,633,307
Jordan	149,611	0.077%	164	149,447
Kenya	95,207	0.049%	0	95,207
Kingdom of Saudi Arabia	2,183,932	1.124%	2,319	2,181,613
Korea, Republic of	5,216,955	2.685%	4,924	5,212,031
Kuwait	598,444	0.308%	311	598,133
Kyrgyz Republic	29,145	0.015%	38	29,107
Latvia	157,383	0.081%	183	157,200
Lesotho	29,145	0.015%	15	29,130
Liechtenstein	46,632	0.024%	71	46,561
Lithuania	275,906	0.142%	0	275,906
Luxembourg	818,003	0.421%	0	818,003
Macao, China	149,611	0.077%	169	149,442
Madagascar	29,145	0.015%	21	29,124
Malawi	29,145	0.015%	40	29,105
Malaysia	2,242,222	1.154%	3,324	2,238,898
Maldives	29,145	0.015%	31	29,114
Mali	29,145	0.015%	0	29,145
Malta	77,720	0.040%	76	77,644

Member	2011 Revised Contribution CHF	2011 Contribution %	Interest earned in 2009 for 2011 CHF ¹	2011 net Contribution CHF
Mauritania	29,145	0.015%	0	29,145
Mauritius	60,233	0.031%	96	60,137
Mexico	3,604,265	1.855%	4,481	3,599,784
Moldova	34,974	0.018%	41	34,933
Mongolia	29,145	0.015%	30	29,115
Morocco	351,683	0.181%	338	351,345
Mozambique	38,860	0.020%	54	38,806
Myanmar, Union of	40,803	0.021%	65	40,738
Namibia	42,746	0.022%	55	42,691
Nepal	29,145	0.015%	35	29,110
Netherlands	6,281,719	3.233%	8,907	6,272,812
New Zealand	460,491	0.237%	710	459,781
Nicaragua	42,746	0.022%	0	42,746
Niger	29,145	0.015%	0	29,145
Nigeria	637,304	0.328%	352	636,952
Norway	1,740,928	0.896%	2,053	1,738,875
Oman	275,906	0.142%	124	275,782
Pakistan	359,455	0.185%	462	358,993
Panama	169,041	0.087%	150	168,891
Papua New Guinea	33,031	0.017%	0	33,031
Paraguay	77,720	0.040%	30	77,690
Peru	310,880	0.160%	0	310,880
Philippines	749,998	0.386%	1,127	748,871
Poland	2,040,150	1.050%	2,473	2,037,677
Portugal	981,215	0.505%	997	980,218
Qatar	396,372	0.204%	71	396,301
Romania	681,993	0.351%	531	681,462
Rwanda	29,145	0.015%	42	29,103
Saint Kitts and Nevis	29,145	0.015%	0	29,145
Saint Lucia	29,145	0.015%	24	29,121
Saint Vincent and the Grenadines	29,145	0.015%	0	29,145
Senegal	40,803	0.021%	0	40,803
Sierra Leone	29,145	0.015%	0	29,145
Singapore	4,278,486	2.202%	6,412	4,272,074
Slovak Republic	705,309	0.363%	762	704,547
Slovenia	374,999	0.193%	479	374,520
Solomon Islands	29,145	0.015%	35	29,110
South Africa	1,088,080	0.560%	1,340	1,086,740
Spain	5,084,831	2.617%	3,419	5,081,412
Sri Lanka	137,953	0.071%	87	137,866
Suriname	29,145	0.015%	35	29,110
Swaziland	29,145	0.015%	20	29,125
Sweden	2,556,988	1.316%	3,760	2,553,228
Switzerland	2,607,506	1.342%	3,973	2,603,533
Chinese Taipei	3,248,696	1.672%	713	3,247,983
Tanzania	60,233	0.031%	40	60,193
Thailand	2,075,124	1.068%	2,985	2,072,139
Togo	29,145	0.015%	0	29,145
Tonga	29,145	0.015%	36	29,109
Trinidad and Tobago	112,694	0.058%	111	112,583

Member	2011 Revised Contribution CHF	2011 Contribution %	Interest earned in 2009 for 2011 CHF ¹	2011 net Contribution CHF
Tunisia	242,875	0.125%	274	242,601
Turkey	1,836,135	0.945%	1,522	1,834,613
Uganda	34,974	0.018%	0	34,974
Ukraine	790,801	0.407%	467	790,334
United Arab Emirates	1,981,860	1.020%	2,038	1,979,822
United Kingdom	9,406,063	4.841%	14,808	9,391,255
United States	24,135,946	12.422%	2,087	24,133,859
Uruguay	83,549	0.043%	34	83,515
Venezuela	722,796	0.372%	81	722,715
Viet Nam	681,993	0.351%	612	681,381
Zambia	48,575	0.025%	17	48,558
Zimbabwe	29,145	0.015%	23	29,122
TOTAL	194,300,000	100.000%	183,952	194,116,048

WAIVERS CURRENTLY IN FORCE
(As at 29 July 2010)

WAIVERS	GRANTED	EXPIRY	DECISION
LDCs – Article 70.9 of the TRIPS Agreement with respect to pharmaceutical products	8 July 2002	1 January 2016	WT/L/478
European Communities – European Communities' preferences for Albania, Bosnia and Herzegovina, Croatia, Serbia and Montenegro, and the Former Yugoslav Republic of Macedonia	28 July 2006	31 December 2011	WT/L/654
Canada – CARIBCAN	15 December 2006	31 December 2011	WT/L/677
Cuba – Article XV:6 of GATT 1994	15 December 2006	31 December 2011	WT/L/678
Australia, Botswana, Brazil, Canada, Croatia, India, Israel, Japan, Korea, Mauritius, Mexico, Norway, Philippines, Sierra Leone, Chinese Taipei, Thailand, United Arab Emirates, United States, Venezuela - Kimberley Process Certification Scheme for rough diamonds – Extension of waiver	15 December 2006	31 December 2012	WT/L/676
United States – Former Trust Territory of the Pacific Islands	27 July 2007	31 December 2016	WT/L/694
Mongolia - Export duties on raw cashmere	27 July 2007	29 January 2012	WT/L/695
European Communities – Application of Autonomous Preferential Treatment to Moldova	7 May 2008	31 December 2013	WT/L/722
Argentina, Australia, Brazil, China, Costa Rica, Croatia, El Salvador, European Communities, Iceland, India, Republic of Korea, Mexico, New Zealand, Norway, Thailand, United States and Uruguay- Introduction of Harmonized System 2002 Changes into WTO Schedules of Tariff Concessions	18 December 2008	31 December 2010	WT/L/786

WAIVERS	GRANTED	EXPIRY	DECISION
Argentina, Australia, Brazil, Canada, China, Costa Rica, Croatia, El Salvador, European Communities, Guatemala, Honduras; Hong Kong, China; India, Korea; Macao, China; Malaysia, Mexico, New Zealand, Nicaragua, Norway, Pakistan, Singapore, Switzerland, Thailand, United States and Uruguay- Introduction of Harmonized System 2007 Changes into WTO Schedules of Tariff Concessions	18 December 2008	31 December 2010	WT/L/787
United States - Caribbean Basin Economic Recovery Act	27 May 2009	31 December 2014	WT/L/753
United States – African Growth and Opportunity Act	27 May 2009	30 September 2015	WT/L/754
United States – Andean Trade Preference Act	27 May 2009	31 December 2014	WT/L/755
Argentina - Introduction of Harmonized System 1996 Changes into WTO Schedules of Tariff Concessions	29 July 2010	30 April 2011	WT/L/801
Panama - Introduction of Harmonized System 1996 Changes into WTO Schedules of Tariff Concessions	27 May 2009	30 April 2010	WT/L/758
Preferential Tariff Treatment for Least-Developed Countries	27 May 2009	30 June 2019	WT/L/759

**Number of WTO Staff Members by Job Category on 1 January 2011
(as per information available on 13 December 2010)**

Country	Senior	Professional	Support	Total
Argentina		4	5	9
Australia		8	2	10
Austria		5		5
Bangladesh		1		1
Barbados		1		1
Belgium		2	3	5
Benin		1		1
Bolivia		3		3
Brazil		8	2	10
Bulgaria		3		3
Burundi		1		1
Canada		22	3	25
Chile	1	1	2	4
China		9	1	10
Colombia		8	2	10
Congo, The Democratic Republic of the		1		1
Costa Rica		2		2
Côte d'Ivoire			1	1
Croatia		1		1
Cuba			1	1
Denmark		1	1	2
Ecuador		2		2
Egypt		6		6
Estonia		1		1
Finland		3	3	6

France	1	57	132	190
Germany		18	2	20
Ghana		2		2
Greece		3	2	5
Guatemala		1		1
Guinea		2		2
Honduras			1	1
Hong Kong, China		1		1
Hungary		1		1
India	1	11	2	14
Ireland		5	7	12
Italy		11	3	14
Japan		3		3
Korea, Republic of		4		4
Lesotho		1		1
Malawi		1		1
Malaysia		2	1	3
Mauritius		1	1	2
Mexico		5	1	6
Morocco		3		3
Netherlands		6	1	7
New Zealand		4	1	5
Nigeria		1		1
Norway		1	1	2
Pakistan		2		2
Paraguay			1	1
Peru		1	6	7
Philippines		8	2	10
Poland		2	2	4
Portugal		1	1	2

Romania		1	1	2
Rwanda	1	1		2
Saint Lucia		1		1
Senegal		1	1	2
South Africa		1		1
Spain		23	22	45
Sri Lanka		1	2	3
Sweden		3	1	4
Switzerland		18	19	37
Tanzania		1		1
Thailand		1		1
Trinidad and Tobago		1		1
Tunisia		4	2	6
Turkey		3		3
Uganda		3		3
United Kingdom		27	42	69
United States of America	1	23	5	29
Uruguay		3	4	7
Venezuela		4		4
Zambia		1		1
Zimbabwe		1	1	2
Total	5	374	293	672

Note: Senior Management includes the Director-General and Deputies Director-General.

Annual Average Base Salary
Senior Management 273,936 CHF
Professional staff 162,979 CHF
Support staff 98,734 CHF

Source: WTO Secretariat as of December 31, 2010

CESSION APPLICATIONS AND STATUS (as of 01-01-11)¹

Applicant	Status of Multilateral and Bilateral Work
Afghanistan* (2004)	Responses to questions on its initial documentation were submitted in July 2010. First Working Party (WP) meeting is scheduled for late January 2011. The United States is providing technical assistance through the United States Agency for International Development (USAID), including drafting documentation, training, legal drafting, and institution building.
Algeria (1987)	Most recent WP meeting held in January 2008 to review draft WP report and status of market access negotiations. No WP meetings held in 2009 or in 2010.
Andorra (1997)	Inactive. Last WP meeting on October 13, 1999 reviewed legislative implementation schedule and goods and services market access offers.
Azerbaijan (1997)	Eighth WP meeting was held in October 2010. Next meeting will occur when Azerbaijan has submitted the necessary documentation. The United States is providing technical assistance through USAID, including assistance on issues in the accession process and economic reforms.
The Bahamas (2001)	Responses to questions on its initial documentation were submitted in April 2010 and the first WP meeting was held in September 2010.
Belarus (1993)	Belarus' last WP was held in October 2005. Chairman's Consultations in June 2009 confirmed willingness of WP Members to resume WP deliberations based on Belarus' demonstration that it intends to implement WTO provisions. Belarus has provided updated documentation on its trade regime, a number of charts detailing the trade regime's consistency with WTO Agreements on TBT, SPS, Licensing, and Customs Valuation, as well as an improved offer on services market access. Some of the requested legislation has been provided. Next WP meeting not scheduled. WTO Members will evaluate Belarus' submissions and decide how to proceed.
Bhutan* (1999)	Inactive. Fourth WP was held in January 2008 to review additional documentation and conduct market access negotiations for goods and services. Bhutan did not seek further work on its WTO accession in 2010, and no further meetings are scheduled at this time.
Bosnia and Herzegovina (1999)	Ninth WP meeting will be held in January 2011 to review the revised draft WP report, and a revised legislative action plan, and to conduct market access negotiations. Multilateral work is advancing, but political issues in Sarajevo have blocked necessary legislative work. Market access negotiations are proceeding slowly on goods; services negotiations are more advanced.
Comoros* (2007)	Application was accepted at October 2007 General Council meeting; Comoros has not yet submitted initial documentation to activate 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
Equatorial Guinea (2008)	Application was accepted at February 2008 General Council meeting; Equatorial Guinea has not yet submitted initial documentation to activate the accession negotiations.
Ethiopia* (2003)	Ethiopia circulated its responses to questions and comments from Members at its first WP meeting and related documentation in April and June 2009. A new WP Chair was selected in October 2010, and a second WP meeting could be scheduled in 2011. No market access offers have been circulated to date.
Iraq (2004)	Iraq's second WP meeting was held in April 2008. A third meeting will be scheduled following Iraq's submission of initial market access offers for goods and services and written responses to questions and comments from the previous meeting. The United States provides technical assistance in the form of a team of resident advisors funded through USAID, to help with drafting documentation, training, legal drafting, and institution building.
Iran (2005)	Initial documentation to activate the accession negotiations was provided in November 2009. WTO Members submitted questions and comments in January 2010 and Iran reportedly is making progress on developing responses. The General Council Chairman is consulting with WTO Members on the designation of a WP Chair. Once Iran's responses to the written questions have been circulated to and reviewed by the WTO Members and a WP Chair has been selected, a first WP meeting may be scheduled.
Kazakhstan (1996)	Kazakhstan resumed negotiations on its WTO accession in late 2009. Intensive negotiations with the United States and the EU throughout 2010 brought work on goods and services market access to an advanced stage. Kazakhstan's revised tables laying out its domestic support for agriculture were examined in a Plurilateral meeting in December 2010. The next WP meeting will be scheduled following Kazakhstan's submission of responses to questions from the previous WP meeting in July 2008 and additional information on the changes being made to its trade regime and to tariff and other commitments offered in the WTO accession process to date. Through USAID, the United States provides technical assistance in the form of an advisor resident in Bishkek, Kyrgyz Republic, for drafting WTO 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)	Sixth WP meeting was held in September 2010 to continue review of the trade regime (including a revised factual summary). Bilaterals were held in Washington D.C. in July 2010 and also on the margins of Laos' WP meeting in Geneva and addressed the interrelationship between Laos' WTO commitments and the provisions of our Bilateral Trade Agreement and focused on Laos' implementation of WTO provisions. The next WP meeting may be scheduled in 2011. The United States is providing technical assistance through USAID in implementing reforms necessary to accede to the World Trade Organization and to implement the U.S.-Lao PDR Bilateral Trade Agreement. Specific training has been provided in drafting subsidy notifications.

Applicant	Status of Multilateral and Bilateral Work
Lebanon (1999)	There were no meetings on Lebanon's WTO accession in 2010. Lebanon's efforts on legislative implementation have been blocked by domestic political issues, delaying completion of the accession process. Lebanon has provided an improved offer on services market access, but there has been no movement on its goods offer. At this time, no WP meeting is scheduled. Through USAID, the United States continues to provide strong technical assistance in the form of long terms advisors and short term specific assistance. Assistance provided in drafting WTO documentation, training, legal drafting, and institution building, with focus on customs procedures, intellectual property rights protection, services, and standards.
Liberia* (2007)	Application was accepted at December 2007 General Council meeting. No documentation or market access offers circulated to date. In June 2010, the MCC Board approved a Threshold Program for Liberia that will include assistance in preparing Liberia's "Memorandum on the Foreign Trade Regime" and in other aspects of Liberia's WTO accession.
Libya (2004)	Application was accepted at July 2004 General Council meeting. No documentation or market access offers circulated to date.
Montenegro (2005)	Multilateral negotiations are substantially completed; Montenegro is still negotiating bilateral market access commitments with one WP Member (Ukraine). Once these negotiations conclude, a final WP meeting can be called to adopt the WP report and the consolidated goods and services market access Schedules.
Russia (1993)	Work on Russia's WTO accession process resumed in late 2009. At Russia's request, the WP Chairman convened three informal meetings with WP members during 2010 to resume multilateral work based on submission by Russia of updated information on the changes being made to its trade regime and to its tariff and other commitments offered in the WTO accession process to date. By the end of 2010, the Draft Working Party report text circulated in 2008 had been partially updated and Russia's consolidated schedule of commitments on trade in services had been circulated for verification. Plurilateral meetings examined updated data on Russia's domestic agricultural supports. Completion of the revised draft WP report text and the consolidation of Russia's goods market access commitments will be the focus of work in early 2011.
Samoa* (1998)	Informal WP meetings were held in March and June 2010 to review the revised draft WP report and Samoa made progress towards completing its market access negotiations. The United States completed work on goods market access and narrowed outstanding issues on services. Bilateral contacts on outstanding bilateral and multilateral issues continued throughout the year, as Samoa focused on efforts to enact legislation necessary to implement commitments offered in the course of negotiations. Responses to the last round of written questions were circulated in November and a revised draft WP report was submitted in December 2010. The next WP meeting is scheduled for February 2011.
Sao Tome and Principe* (2005)	Application was accepted at May 2005 General Council meeting; Sao Tome and Principe has not yet submitted initial documentation to activate the accession negotiations.
Serbia (2005)	Eighth WP meeting was held in October 2010 to review revised draft WP report and other new documentation and to assess status of legislative implementation. Next WP meeting likely during spring 2011, depending upon legislative activity in Serbia. Bilateral negotiations on goods and services are advanced.

Applicant	Status of Multilateral and Bilateral Work
The Seychelles (1995)	Seychelles is resuming its WTO accession negotiations after a hiatus of twelve years. Responses to questions submitted on its updated documentation were circulated in June 2010 and the first WP meeting was held in November 2010. Next WP meeting will be scheduled after the Seychelles provides revised goods and services offers as well as additional requested documentation.
Sudan* (1995)	Inactive. Second WP meeting was held March 10, 2004. Market access offers for goods and services were last tabled in October 2006.
Syria (2010)	Application was accepted at May 2010 General Council meeting; Syria has not yet submitted initial documentation to activate the accession negotiations.
Tajikistan (2001)	Fifth WP meeting was held in November 2010 to continue review of Tajikistan's trade regime (including a first draft of the elements of a WP Report) and the status of legislative implementation of WTO provisions. Bilateral market access negotiations were held as well. Next meeting will occur when Tajikistan has submitted the necessary documentation. The United States provides technical assistance through USAID in the form of an advisor resident in Bishkek, for drafting documentation, training, legal drafting, and institution building.
Uzbekistan (1995)	Inactive. Third WP meeting was held in October 2005 to review additional documentation and initial market access offers. No meetings were held in 2009 or in 2010.
Vanuatu* (1995)	Vanuatu has resumed efforts to complete its WTO accession process after a hiatus of nine years. During 2010, Vanuatu worked with the WTO Secretariat and interested WTO Members to help Vanuatu produce an updated accession package that could be presented to the General Council. The revised accession package was circulated in October and an informal WP meeting to review it has been scheduled in January 2011.
Yemen* (2000)	Eighth WP meeting was held in September 2010 and an informal WP meeting convened in December 2010. Bilaterals with the United States were held in April 2010 in Washington D.C. Close bilateral engagement resulted in bilateral agreement on market access negotiations for goods and services in December 2010. Next WP meeting may be scheduled for early 2011. The United States has provided help with orientation and the development of documentation through USAID and the United States - Middle East Partnership Initiative.

**INDICATIVE LIST OF GOVERNMENTAL AND
NON-GOVERNMENTAL PANELISTS**

Revision

To assist in the selection of panelists, the DSU provides in Article 8.4 that the Secretariat shall maintain an indicative list of governmental and non-governmental individuals.

In accordance with the proposals for the administration of the indicative list of panelists approved by the DSB on 31 May 1995, the list should be completely updated every two years. For practical purposes, the proposals for the administration of the indicative list approved by the DSB on 31 May 1995 are reproduced as an Annex to this document.

The attached is a revised consolidated list of governmental and non-governmental panelists.⁸⁹ The list is based on the previous indicative list issued on 6 September 2010 (WT/DSB/44/Rev.11). It includes an additional name approved by the DSB at its meeting on 23 November 2010.⁹⁰ Any future modifications or additions to this list submitted by Members will be circulated in periodic revisions of this list.

⁸⁹ Curricula Vitae containing more detailed information are available to WTO Members upon request from the Secretariat (CTNC Division).

⁹⁰ See document: WT/DSB/W/437.

MEMBER	NAME	SECTORAL EXPERIENCE
ARGENTINA	BARDONESCHI, Mr. Rodrigo C.	Trade in Goods
	CHIARADIA, Mr. Alfredo Vicente	Trade in Goods
	DUMONT, Mr. Alberto Juan	Trade in Goods
	LUNAZZI, Mr. Gustavo Nerio	Trade in Goods
	MAKUC, Mr. Adrián Jorge	Trade in Services
	MÉNDEZ, Mr. Gustavo Héctor	Trade in Goods
	MORELLI, Mr. Esteban Andrés	Trade in Goods
	NEGRO, Ms. Sandra Cecilia	Trade in Goods
	NISCOVOLOS, Mr. Luis Pablo	Trade in Goods and Services
	PAN, Ms. Julia Adriana Gabriela	Trade in Goods
	PÉREZ GABILONDO, Mr. José Luis	Trade in Goods; TRIPS
	PETRI, Mr. Gerardo Luis	Trade in Goods
	PIÑEIRO, Mr. Martín Enrique	Trade in Goods
	RAITERI, Ms. María Valeria	Trade in Goods
	REGÚNAGA, Mr. Marcelo	Trade in Goods
RIABOI, Mr. Jorge B.	Trade in Goods	
STANCANELLI, Mr. Néstor Edgardo	Trade in Goods	
AUSTRALIA	CHESTER, Mr. Douglas Owen	TRIPS
	CHURCHE, Mr. Milton	Trade in Goods

MEMBER	NAME	SECTORAL EXPERIENCE
	DEADY, Mr. Stephen	Trade in Goods
	FARBENBLOOM, Mr. Simon	Trade in Goods and Services
AUSTRALIA (cont'd)	GALLAGHER, Mr. Peter	Trade in Goods; TRIPS
	GOSPER, Mr. Bruce	Trade in Goods
	HOLMES, Ms. Patricia Ann	Trade in Goods
	JENNINGS, Mr. Mark	Trade in Goods; TRIPS
	McCARTHY, Ms. Caroline	TRIPS
	MITCHELL, Mr. Andrew	Trade in Goods and Services; TRIPS
	MORETTA, Mr. Remo	Trade in Goods and Services
	MULGREW, Mr. Michael	Trade in Goods
	MYLER, Mr. Paul	Trade in Goods and Services
	O'CONNOR, Mr. Paul Richard	Trade in Goods
	RAPER, Ms. Cathy	Trade in Goods and Services
	SIN FAR LEE, Ms. Stephanie	Trade in Goods
	SPENCER, Mr. David	Trade in Goods
	VOON, Ms. Tania Su Lien	Trade in Goods and Services; TRIPS
	WITBREUK, Ms. Trudy	Trade in Goods and Services
	YOUNG, Ms. Elizabeth	Trade in Goods
BOLIVIA	ZELADA CASTEDO, Mr. Alberto	Trade in Goods
BRAZIL	ABREU, Mr. Marcelo de Paiva	Trade in Goods and Services

MEMBER	NAME	SECTORAL EXPERIENCE
	BARRAL, Mr. Welber Oliveira	Trade in Goods
	BARTHEL-ROSA, Mr. Paulo	Trade in Goods
	BASSO, Ms. Maristela	Trade in Goods; TRIPS
BRAZIL (cont'd)	LEMME, Ms. Marta Calmon	Trade in Goods
	MAGALHÃES, Mr. José Carlos	Trade in Goods
	MARCONINI, Mr. Mario	Trade in Services
	MOURA ROCHA, Mr. Bolívar	Trade in Services
	NAIDIN, Ms. Leane Cornet	Trade in Goods
	RIOS, Ms. Sandra Polônia	Trade in Goods
	THORSTENSEN, Ms. Vera Helena	Trade in Goods
CAMEROON	NGANGJOH HODU, Mr. Yenkong	Trade in Goods and Services; TRIPS
CANADA	BERNIER, Mr. Ivan	Trade in Goods and Services
	BRADFORD, Mr. Meriel V. M.	Trade in Goods and Services
	BROWN, Ms. Catherine Anne	Trade in Goods and Services; TRIPS
	CLARK, Mr. Peter James	Trade in Goods and Services
	CLOSE, Ms. Patricia Margaret	Trade in Goods
	DE MESTRAL, Mr. Armand	Trade in Goods
	EYTON, Mr. Anthony T.	Trade in Goods
	GHERSON, Mr. Randolph	Trade in Goods

MEMBER	NAME	SECTORAL EXPERIENCE
	GOODWIN, Ms. Kirsten M.	Trade in Goods and Services; TRIPS
	HALLIDAY, Mr. Anthony L. HERMAN, Mr. Lawrence L. HINES, Mr. Wilfred Roy MACMILLAN, Ms. Kathleen E.	Trade in Goods and Services Trade in Goods Trade in Goods Trade in Goods
CANADA (cont'd)	MCRAE, Mr. Donald Malcolm OSTRY, Ms. Sylvia RITCHIE, Mr. Gordon THOMAS, Mr. Christopher WINHAM, Mr. Gilbert R.	Trade in Goods Trade in Goods Trade in Goods Trade in Goods and Services Trade in Goods
CHILE	BIGGS, Mr. Gonzalo ERNST, Mr. Felipe ESPINOZA, Mr. Alvaro MATUS, Mr. Mario MLADINIC, Mr. Carlos PEÑA, Ms. Gloria SAEZ, Mr. Sebastián SATELER, Mr. Ricardo SOSA, Ms. Luz TIRONI, Mr. Ernesto	Trade in Goods Trade in Goods and Services Trade in Goods Trade in Goods Trade in Goods Trade in Goods Trade in Goods and Services TRIPS Trade in Goods and Services Trade in Goods

MEMBER	NAME	SECTORAL EXPERIENCE
CHINA	DONG, Mr. Shizhong	Trade in Goods and Services; TRIPS
	E, Mr. Defeng	Trade in Goods
	HAN, Mr. Liyu	Trade in Goods; TRIPS
	LI, Mr. Enheng	Trade in Goods and Services
	LI, Ms. Yongjie	Trade in Goods and Services
	LI, Mr. Zhongzhou	Trade in Goods
CHINA (cont'd)	YANG, Mr. Guohua	Trade in Goods; TRIPS
	ZENG, Mr. Lingliang	Trade in Goods
	ZHANG, Ms. Liping	Trade in Goods and Services
	ZHANG, Mr. Yuqing	Trade in Goods and Services; TRIPS
	ZHU, Ms. Lanye	Trade in Services; TRIPS
COLOMBIA	IBARRA PARDO, Mr. Gabriel	Trade in Goods
	JARAMILLO, Mr. Felipe	Trade in Goods and Services
	LOZANO FERRO, Ms. Olga Lucia	Trade in Goods; TRIPS
	OROZCO GOMEZ, Ms. Angela María	Trade in Goods
	OROZCO, Ms. Claudia	Trade in Goods
	PRIETO, Mr. Diego	Trade in Goods and Services
	ROJAS ARROYO, Mr. Santiago	Trade in Goods; TRIPS
	TANGARIFE, Mr. Marcel	Trade in Goods; TRIPS

MEMBER	NAME	SECTORAL EXPERIENCE
CÔTE D'IVOIRE	GOSSET, Ms. Marie	Trade in Goods; TRIPS
CROATIA	ŠARČEVIĆ, Mr. Petar	Trade in Goods and Services
CUBA	CABALLERO RODRÍGUEZ, Mr. Eumelio HERNÁNDEZ, Mr. Arnaldo MARZIOTA DELGADO, Mr. Ernesto Antonio	Trade in Goods and Services Trade in Goods and Services Trade in Goods and Services
ECUADOR	PINOARGOTE CEVALLOS, Mr. Alfredo	Trade in Goods
EGYPT	ABOUL-ENEIN, Mr. Mohamed Ibrahim Mostafa FAWZY, Mr. Abdelrahman	Trade in Goods and Services Trade in Goods and Services
EGYPT (cont'd)	HATEM, Mr. Samy Affify RIAD, Mr. Tarek Fouad SHAHIN, Ms. Magda SHARAF ELDIN, Mr. Ahmed ZAHKAN, Mr. Mohamed Mounir	Trade in Goods Trade in Goods and Services; TRIPS Trade in Goods and Services; TRIPS Trade in Goods; TRIPS Trade in Goods and Services; TRIPS
<u>EUROPEAN UNION</u>		
AUSTRIA	BENEDEK, Mr. Wolfgang MARTINS, Mr. Rudolf REITERER, Mr. Michael G. K. WAAS, Mr. Gerhard WEISS, Mr. Johann Friedrich	Trade in Goods Trade in Goods Trade in Goods and Services; TRIPS Trade in Goods and Services; TRIPS Trade in Goods and Services; TRIPS

MEMBER	NAME	SECTORAL EXPERIENCE
	ZEHETNER, Mr. Franz	Trade in Goods
BELGIUM	DASSESE, Mr. Marc Paul Albert DIDIER, Mr. Pierre VAN DER BORGHT, Mr. Kim VANDER SCHUEREN, Ms. Paulette WOUTERS, Mr. Jan ZONNEKEYN, Mr. Geert A.	Trade in Goods and Services Trade in Goods Trade in Goods Trade in Goods and Services Trade in Goods and Services Trade in Goods
CZECH REP.	JUNG, Mr. Zdeněk PALEČKA, Mr. Peter PRAVDA, Mr. Miroslav	Trade in Goods and Services Trade in Goods and Services Trade in Goods
<u>EUROPEAN UNION (cont'd)</u>		
CZECH REP. (cont'd)	ŠRONĚK, Mr. Ivan	TRIPS
DENMARK	BOESGAARD, Mr. Hendrik	Trade in Goods
EUROPEAN UNION	CARL, Mr. Mogens Peter KUIJPER, Mr. Pieter Jan WHITE, Mr. Eric	Trade in Goods and Services; TRIPS Trade in Goods and Services; TRIPS Trade in Goods and Services; TRIPS
FINLAND	BERGHOLM, Mr. Kari Axel JULIN, Mr. Jorma Kari Johannes LUOTONEN, Mr. Yrjö Kim David	Trade in Goods Trade in Goods and Services Trade in Goods

MEMBER	NAME	SECTORAL EXPERIENCE
	PULLINEN, Mr. Matti Johannes	Trade in Goods
	RANTANEN, Mr. Paavo	Trade in Goods
FRANCE	ARMAIGNAC, Ms. Marie-Christine	Trade in Services; TRIPS
	BOISSON DE CHAZOURNES, Mrs. Laurence	Trade in Goods and Services
	COMBALDIEU, Mr. Jean Claude	TRIPS
	DELLEUR, Mr. Philippe	Trade in Services
	JENNY, Mr. Frédéric Yves	Trade in Goods and Services; TRIPS
	METZGER, Mr. Jean-Marie	Trade in Goods
	STERN, Ms. Brigitte	Trade in Goods
	VAN PHI, Mr. Phan	Trade in Goods and Services
GERMANY	DELBRÜCK, Mr. Kilian	Trade in Goods
	HERRMANN, Mr. Christoph Walter	Trade in Goods; TRIPS
EUROPEAN UNION (cont'd)		
GERMANY (cont'd)	HILF, Mr. Meinhard	Trade in Goods and Services
	MENG, Mr. Werner	Trade in Goods, TRIPS
	OPPERMANN, Mr. Thomas	Trade in Goods; TRIPS
	PETERSMANN, Mr. Ernst-Ulrich	Trade in Goods and Services; TRIPS
	TANGERMANN, Mr. Stefan	Trade in Goods
GREECE	MYROGIANNIS, Mr. George	Trade in Goods
	STANGOS, Mr. Petros N.	Trade in Goods and Services; TRIPS

MEMBER	NAME	SECTORAL EXPERIENCE
HUNGARY	FURULYÁS, Mr. Ferenc	Trade in Goods
	HALGAND DANI, Ms. Virág	Trade in Goods and Services; TRIPS
	LAKATOS, Mr. Andrés	Trade in Goods and Services
IRELAND	LONG, Mr. Ronald	Trade in Goods; TRIPS
	MATTHEWS, Mr. Alan Henry	Trade in Goods
	MOCKLER, Mr. Thomas F.	Trade in Goods
ITALY	GERBINO, Mr. Mario	Trade in Goods
	GIARDINA, Mr. Andrea	Trade in Goods and Services
	MENSI, Mr. Maurizio	Trade in Goods
	SCHIRATTI, Mr. Giampiero	Trade in Goods
NETHERLANDS	BLOKKER, Mr. Nicolaas Max	Trade in Goods
	BRINKHORST, Mr. Laurens Jan	Trade in Goods and Services
	BRONCKERS, Mr. Marco	Trade in Goods and Services; TRIPS
<u>EUROPEAN UNION (cont'd)</u>		
NETHERLANDS (cont'd)	ENGERING, Mr. Franciscus Aloysius	Trade in Goods and Services
POLAND	HOEKMAN, Mr. Bernard Marco	Trade in Goods and Services; TRIPS
	PIETRAS, Mr. Jaroslaw	Trade in Services
PORTUGAL	CALHEIROS DA GAMA, Mr. José Sérgio	TRIPS

MEMBER	NAME	SECTORAL EXPERIENCE
ROMANIA	BERINDE, Mr. Mihai	Trade in Goods
	CAMPEANU, Ms. Victoria	Trade in Goods
	FLORINA, Ms. Fratita Carmen	Trade in Goods
	RADU, Mr. Vasile	Trade in Goods
SPAIN	CASTILLO URRUTIA, Mr. Juan Antonio	Trade in Goods
	DÍAZ MIER, Mr. Miguel Ángel	Trade in Services
	LÓPEZ DE SILANES MARTÍNEZ Mr. Juan Pablo	Trade in Goods and Services
	PÉREZ SANCHEZ, Mr. José Luis	Trade in Goods and Services; TRIPS
	RIGO, Mr. Andrés	Trade in Services
SWEDEN	AHNLID, Mr. Anders Gustav Ragnar	Trade in Goods and Services; TRIPS
	ANDERSSON, Mr. Thomas Martin	Trade in Goods
	ANELL, Mr. Lars	Trade in Goods; TRIPS
	BÄVERBRANT, Mr. Johan C.	Trade in Goods and Services; TRIPS
	BECKER, Ms. Gunnela Marianne	Trade in Goods and Services; TRIPS
	DAHLIN, Ms. Karin Elisabeth	Trade in Goods and Services; TRIPS
<u>EUROPEAN UNION (cont'd)</u>		
SWEDEN (cont'd)	FALLENIOUS, Mr. Christer H.	Trade in Goods
	HÅKANSSON, Mr. Gösta PER-Olov	Trade in Services
	HOLGERSSON, Mr. Jörgen	Trade in Goods and Services

MEMBER	NAME	SECTORAL EXPERIENCE
	KLEEN, Mr. Peter	Trade in Goods
	LINDSTRÖM, Mr. Jan Mikael	Trade in Goods
	MANHUSEN, Mr. Christer	Trade in Goods and Services
	OLOFSGÅRD, Ms. Eva-Kajsa Buzaglo	Trade in Goods and Services; TRIPS
	RAHLÉN, Ms. Christina	Trade in Goods and Services; TRIPS
	RISINGGÅRD, Mr. Axel Börje	Trade in Goods
	RODIN, Mr. Arne	Trade in Goods; TRIPS
	STÅLBERG, Mr. Lars	Trade in Goods
	TAURIAINEN, Mr. Teppo Markus	Trade in Goods and Services; TRIPS
UNITED KINGDOM	ARKELL, Mr. Julian	Trade in Services
	BETHLEHEM, Mr. Daniel	Trade in Goods and Services; TRIPS
	CROFT, Mr. Roy Henry Francis	Trade in Services
	HINDLEY, Mr. Brian Vernon	Trade in Goods and Services
	JOHNSON, Mr. Michael David Clarke	Trade in Goods
	MUIR, Mr. Tom	Trade in Goods and Services; TRIPS
	PLENDER, Mr. Richard	Trade in Goods
	QURESHI, Mr. Asif Hasan	Trade in Goods
	ROBERTS, Mr. Christopher William	Trade in Goods and Services
	ROBERTS, Mr. David F.	Trade in Goods

MEMBER	NAME	SECTORAL EXPERIENCE
	SAROOSHI, Mr. Dan	Trade in Services
	TOULMIN, Mr. John Kelvin	Trade in Services

MEMBER	NAME	SECTORAL EXPERIENCE
GHANA	OPOKU AWUKU, Mr. Emmanuel	Trade in Goods and Services; TRIPS
HONG KONG, CHINA	CARTLAND, Mr. Michael David	Trade in Goods and Services
	CHEUNG, Mr. Peter Kam Fai	TRIPS
	LEUNG, Ms. Ada Ka Lai	TRIPS
	LITTLE, Mr. David	Trade in Goods and Services
	MILLER, Mr. Tony J.A.	Trade in Goods and Services
ICELAND	BJÖRGVINSSON, Mr. David Thór	Trade in Goods and Services
	JÓHANNSSON, Mr. Einar M.	Trade in Goods
	SANDHOLT, Mr. Brynjolfur	Trade in Goods
INDIA	AGARWAL, Mr. Vinod Kumar	Trade in Goods; TRIPS
	AGRAWAL, Mr. Rameshwar Pal	Trade in Goods and Services; TRIPS
	BHATTACHARYA, Mr. G. C.	Trade in Goods
	CHANDRASEKHAR, Mr. Kesava Menon	Trade in Goods and Services; TRIPS
	CHAUDHURI, Mr. Sumanta	Trade in Goods and Services; TRIPS
	DAS, Mr. Bhagirath Lal	Trade in Goods
	DASGUPTA, Mr. Jayant	Trade in Goods

MEMBER	NAME	SECTORAL EXPERIENCE
	GOPALAN, Mr. Rajarangamani	Trade in Goods
	GOYAL, Mr. Arun	Trade in Services
	KAUSHIK, Mr. Atul	Trade in Goods; TRIPS
	KUMAR, Mr. Mohan	Trade in Goods and Services
INDIA (cont'd)	MOHANTY, Mr. Prasant Kumar	Trade in Goods
	MUKERJI, Mr. Asoke Kumar	Trade in Goods and Services; TRIPS
	NARAYANAN, Mr. Srinivasan	Trade in Goods; TRIPS
	PRABHU, Mr. Pandurang Palimar	Trade in Goods; TRIPS
	PRASAD, Ms. Anjali	Trade in Goods and Services; TRIPS
	RAI, Mr. Pushpendra	TRIPS
	RAMAKRISHNAN, Mr. N.	Trade in Goods
	RAO, Mr. Pemmaraju Sreenivasa	Trade in Goods
	REGE, Mr. Narayan Vinod	Trade in Goods
	SAJJANHAR, Mr. Ashok	Trade in Goods
	SHARMA, Mr. Lalit	Trade in Goods and Services; TRIPS
	VENUGOPAL, Mr. Krishnan	Trade in Goods; TRIPS
	ZUTSHI, Mr. B. K.	Trade in Goods and Services; TRIPS
ISRAEL	ALTUVIA, Mr. Magen	Trade in Goods
	GABAY, Mr. Mayer	TRIPS

MEMBER	NAME	SECTORAL EXPERIENCE
	HARAN, Mr. Ephraim F. HOROVITZ, Mr. Dan POLINER, Mr. Howard Zvi	Trade in Services Trade in Goods and Services TRIPS
ISRAEL (cont'd)	SEMADAR, Mr. Moshe SHATON, Mr. Michael Marcel TALBAR, Mr. Michael Adin WEILER, Mr. Joseph H.H.	Trade in Goods Trade in Goods and Services Trade in Goods Trade in Goods
JAPAN	ARAKI, Mr. Ichiro ASAKAI, Mr. Kazuo ASAKURA, Mr. Hironori HASEBE, Mr. Masamichi ISHIGURO, Mr. Kazunori IWASAWA, Mr. Yuji KANDA, Mr. Hideki KAZEKI, Mr. Jun KEMMOCHI, Mr. Nobuaki KOTERA, Mr. Akira OHARA, Mr. Yoshio SANO, Mr. Tadakatsu SHIMIZU, Mr. Akio	Trade in Goods and Services; TRIPS Trade in Goods Trade in Goods Trade in Goods and Services Trade in Goods and Services; TRIPS Trade in Goods Trade in Services Trade in Goods and Services Trade in Goods and Services Trade in Goods; TRIPS Trade in Goods Trade in Goods

MEMBER	NAME	SECTORAL EXPERIENCE
	SUZUKI, Mr. Masabumi TAKAHASHI, Ms. Misako	Trade in Goods; TRIPS Trade in Services
	TSURUOKA, Mr. Koji YAMANE, Ms. Hiroko	Trade in Services Trade in Goods; TRIPS
KOREA	AHN, Mr. Dukgeun AHN, Mr. Ho-Young AHN, Mr. Myung-soo	Trade in Goods Trade in Goods Trade in Goods
KOREA (cont'd)	CHANG, Mr. Seung Wha CHO, Mr. Tae-Yul CHOI, Mr. Byung-il CHOI, Mr. Won-Mog KIM, Mr. Jong Bum LEE, Mr. Jaemin PARK, Mr. Nohyoung WOO, Mr. Jooha	Trade in Goods Trade in Goods Trade in Services Trade in Goods and Services; TRIPS Trade in Goods Trade in Goods Trade in Goods Trade in Goods and Services
LIECHTENSTEIN	ZIEGLER, Mr. Andreas R.	Trade in Services; TRIPS
MADAGASCAR	ANDRIANARIVONY, Mr. Minoarison	Trade in Goods and Services; TRIPS
MAURITIUS	BEEKARRY, Mr. Navin BHUGLAH, Mr. Achad	Trade in Goods and Services Trade in Goods and Services

MEMBER	NAME	SECTORAL EXPERIENCE
MEXICO	AGUILAR ÁLVAREZ, Mr. Guillermo	Trade in Goods and Services; TRIPS
	AMIGO CASTAÑEDA, Mr. Jorge	TRIPS
	BOLÍVAR, Ms. Gisela	Trade in Goods and Services
	DE LA PEÑA, Mr. Alejandro	Trade in Goods and Services; TRIPS
	DELGADO, Mr. Sergio	Trade in Goods and Services
	DE MATEO VENTURINI, Mr. Fernando	Trade in Services
	JASSO TORRES, Mr. Humberto	Trade in Goods
	ORTEGA, Mr. Armando	Trade in Goods and Services; TRIPS
	PEREZCANO DÍAZ, Mr. Hugo Manuel	Trade in Goods and Services; TRIPS
MEXICO (cont'd)	POBLANO, Mr. José F.	Trade in Services; TRIPS
	REYES, Ms. Luz Elena	Trade in Goods
	TRASLOSHEROS HERNÁNDEZ, Mr. José Gerardo	Trade in Goods and Services; TRIPS
	ZABLUDOVSKY KUPER, Mr. Jaime	Trade in Goods and Services; TRIPS
NEPAL	PANDEY, Mr. Posh Raj	Trade in Goods and Services
	SUBEDI, Mr. Surya P.	Trade in Goods and Services; TRIPS
NEW ZEALAND	ARMSTRONG, Mr. Wade Mowatt Valentine	Trade in Goods; TRIPS
	CARSON, Mr. Christopher Barr	Trade in Goods
	FALCONER, Mr. Crawford Dunlop	Trade in Goods
	FALCONER, Mr. William John	Trade in Goods and Services; TRIPS

MEMBER	NAME	SECTORAL EXPERIENCE
	GROSER, Mr. Tim HAMILTON, Mr. Peter William HARVEY, Mr. Martin Wilfred	Trade in Goods Trade in Goods Trade in Goods
	HIGGIE, Ms. Dell Clark KENNEDY, Mr. Peter Douglas MACEY, Mr. Adrian MCPHAIL, Mr. Alexander Hugh NOTTAGE, Mr. Richard Frederick SLADE, Ms. Michelle TRAINOR, Mr. Mark Julian WALKER, Mr. David John	Trade in Goods Trade in Goods Trade in Goods; TRIPS Trade in Goods Trade in Goods Trade in Goods and Services; TRIPS Trade in Goods; TRIPS Trade in Goods and Services
NEW ZEALAND (cont'd)	WOODFIELD, Mr. Edward A	Trade in Goods
NIGER	TANKOANO, Mr. Amadou	Trade in Goods and Services; TRIPS
NIGERIA	AGAH, Mr. Yonov Frederick NNONA, Mr. George C.	Trade in Goods and Services; TRIPS Trade in Goods and Services; TRIPS
NORWAY	GLENNE, Mr. Eirik HOLTEN, Ms. Inger LILLERUD, Mr. Kjell LUNDBY, Mr. Ole	Trade in Goods and Services Trade in Goods; TRIPS Trade in Goods and Services Trade in Goods and Services; TRIPS

MEMBER	NAME	SECTORAL EXPERIENCE
	SELAND, Mr. Helge A. TØNSETH, Mr. Didrik	Trade in Goods and Services; TRIPS Trade in Goods and Services; TRIPS
PAKISTAN	ARIF, Mr. Muhammad Ikram	Trade in Goods
	BASHIR, Mr. Shahid HAMID ALI, Mr. Muhammad HUSAIN, Mr. Ishrat KHAN, Mr. Mujeeb Ahmed MALIK, Mr. Riaz Ahmad	Trade in Goods Trade in Goods; TRIPS Trade in Services Trade in Goods; TRIPS Trade in Goods
PANAMA	FERRER, Mr. Alejandro FRANCIS LANUZA, Ms. Yavel Mireya GONZALEZ, Mr. Carlos Ernesto HARRIS ROTKIN, Mr. Norman SALAZAR FONG, Ms. Diana Alejandrina	Trade in Goods and Services Trade in Goods and Services Trade in Goods and Services Trade in Goods and Services Trade in Goods
PANAMA (cont'd)	SHEFFER MONTES, Mr. Leroy Jhon	Trade in Goods and Services
PERU	BELAÚNDE G., Mr. Victor Andres DIEZ LIZARDO, Mr. Juan LEÓN-THORNE, Mr. Raúl	TRIPS Trade in Goods Trade in Goods and Services
QATAR	MAKKI, Mr. Fadi	Trade in Goods and Services
SRI LANKA	JAYASEKERA, Mr. Douglas	Trade in Goods; TRIPS

MEMBER	NAME	SECTORAL EXPERIENCE
SWITZERLAND	ADDOR, Mr. Felix	TRIPS
	BREINING, Ms. Christine	Trade in Services
	CHAMBOVEY, Mr. Didier	Trade in Goods
	COTTIER, Mr. Thomas	Trade in Goods and Services; TRIPS
	GETAZ, Mr. Henri Alexandre	Trade in Services
	HÄBERLI, Mr. Christian	Trade in Goods
	INEICHEN-FLEISCH, Ms. Marie-Gabrielle	Trade in Goods and Services
	KRAFFT, Mr. Mathias-Charles	Trade in Goods
	LEGLER, Mr. Thomas	TRIPS
	MEYER, Mr. Matthias	Trade in Goods and Services; TRIPS
	PANNATIER, Mr. Serge Nicolas	Trade in Goods
	TSCHÄENI, Mr. Hanspeter	Trade in Goods
	WASESCHA, Mr. Luzius	Trade in Goods and Services; TRIPS
WEBER, Mr. Rolf H.	Trade in Services	
THE SEPARATE CUSTOMS TERRITORY OF TAIWAN, PENGHU, KINMEN AND MATSU	LO, Mr. Chang-Fa	Trade in Goods and Services
	YANG, Ms. Guang-Hwa	Trade in Goods and Services
TURKEY	GÜRAKAN, Ms. Tulû	Trade in Goods
	KAÇAR, Mr. Bayram	Trade in Goods
	MOLLASALIHOĞLU, Mr. Yavuz	Trade in Goods

MEMBER	NAME	SECTORAL EXPERIENCE
	YAMAN, Mr. Şahin	Trade in Goods
	YENAL, Mr. Aytaç	Trade in Goods
UNITED STATES	BIRENBAUM, Mr. David E.	Trade in Goods
	BROWN-WEISS, Ms. Edith	Trade in Goods and Services
	CONNELLY, Mr. Warren	Trade in Goods
	GANTZ, Mr. David A.	Trade in Goods
	GORDON, Mr. Michael Wallace	Trade in Goods
	HODGSON, Ms. Mélida	Trade in Goods and Services
	KASSINGER, Mr. Theodore W.	Trade in Goods and Services
	KHO, Mr. Stephen	Trade in Goods and Services; TRIPS
	KIRK, Mr. Michael K.	TRIPS
	LAYTON, Mr. Duane	Trade in Goods
	LICHTENSTEIN, Ms. Cynthia Crawford	Trade in Services
	McGINNIS, Mr. John Oldham	Trade in Goods; TRIPS
	PARTAN, Mr. Daniel G.	Trade in Goods
	POWELL, Mr. Stephen J.	Trade in Goods
UNITED STATES (cont'd)	REYNA, Mr. Jimmie V.	Trade in Goods and Services
	SANDSTROM, Mr. Mark R.	Trade in Goods and Services
	THOMPSON, Mr. George W.	Trade in Goods

MEMBER	NAME	SECTORAL EXPERIENCE
	TROSSEVIN, Ms. Marguerite	Trade in Goods
	VERRILL, Jr. Mr. Charles Owen	Trade in Goods
URUGUAY	AMORÍN, Mr. Carlos	Trade in Goods; TRIPS
	CAYRÚS, Mr. Hugo	Trade in Goods and Services
	EHLERS, Mr. William	Trade in Goods
	ROSSELLI, Mr. Elbio	Trade in Goods
	VANERIO, Mr. Gustavo	Trade in Goods and Services
	WHITELAW, Mr. James A.	Trade in Goods
VENEZUELA	ESCOBAR, Mr. José Benjamín	Trade in Services
	MARQUEZ, Mr. Guillermo	Trade in Services
	ROJAS PENSO, Mr. Juan Francisco	Trade in Goods and Services

ANNEX

Administration of the Indicative List

1. To assist in the selection of panelists, the DSU provides in Article 8.4 that the Secretariat shall maintain an indicative list of qualified governmental and non-governmental individuals. Accordingly, the Chairman of the DSB proposed at the 10 February meeting that WTO Members review the roster of non-governmental panelists established on 30 November 1984 (BISD 31S/9) (hereinafter referred to as the "1984 GATT Roster") and submit nominations for the indicative list by mid-June 1995. On 14 March, The United States delegation submitted an informal paper discussing, amongst other issues, what information should accompany the nomination of individuals, and how names might be removed from the list. The DSB further discussed the matter in informal consultations on 15 and 24 March, and at the DSB meeting on 29 March. This note puts forward some proposals for the administration of the indicative list, based on the previous discussions in the DSB.

General DSU requirements

2. The DSU requires that the indicative list initially include "the roster of governmental and non-governmental panelists established on 30 November 1984 (BISD 31S/9) and other rosters and indicative lists established under any of the covered agreements, and shall retain names of persons on those rosters and indicative lists at the time of entry into force of the WTO Agreement" (DSU 8.4). Additions to the indicative list are to be made by Members who may "periodically suggest names of governmental and non-governmental individuals for inclusion on the indicative list, providing relevant information on their knowledge of international trade and of the sectors or subject matter of the covered agreements". The names "shall be added to the list upon approval by the DSB" (DSU 8.4).

Submission of information

3. As a minimum, the information to be submitted regarding each nomination should clearly reflect the requirements of the DSU. These provide that the list "shall indicate specific areas of experience or expertise of the individuals in the sectors or subject matter of the covered agreements" (DSU 8.4). The DSU also requires that panelists be "well-qualified governmental and/or non-governmental individuals, including persons who have served on or presented a case to a panel, served as a representative of a Member or of a contracting party to GATT 1947 or as a representative to the Council or Committee of any covered agreement or its predecessor agreement, or in the Secretariat, taught or published on international trade law or policy, or served as a senior trade policy official of a Member" (DSU 8.1).

4. The basic information required for the indicative list could best be collected by use of a standardized form. Such a form, which could be called a Summary Curriculum Vitae, would be filled out by all nominees to ensure that relevant information is obtained. This would also permit information on the indicative list to be stored in an electronic database, making the list easily updateable and readily available to Members and the Secretariat. As well as supplying a completed Summary Curriculum Vitae form, persons proposed for inclusion on the indicative list could also, if they wished, supply a full Curriculum Vitae. This would not, however, be entered into the electronic part of the database.

Updating of indicative list

5. The DSU does not specifically provide for the regular updating of the indicative list. In order to maintain the credibility of the list, it should however be completely updated every two years. Within the first month of each two-year period, Members would forward updated Curricula Vitae of persons appearing on the indicative list. At any time, Members would be free to modify the indicative list by proposing new names for inclusion, or specifically requesting removal of names of persons proposed by the Member who were no longer in a position to serve, or by updating the summary Curriculum Vitae.

6. Names on the 1984 GATT Roster that are not specifically resubmitted, together with up-to-date summary Curriculum Vitae, by a Member before 31 July 1995 would not appear after that date on the indicative list.

Other rosters

7. The Decision on Certain Dispute Settlement Procedures for the GATS (S/L/2 of 4 April 1995), adopted by the Council for Trade in Services on 1 March 1995, provides for a special roster of panelists with sectoral expertise. It states that "panels for disputes regarding sectoral matters shall have the necessary expertise relevant to the specific services sectors which the dispute concerns". It directs the Secretariat to maintain the roster and "develop procedures for its administration in consultation with the Chairman of the Council". A working document (S/C/W/1 of 15 February 1995) noted by the Council for Trade in Services states that "the roster to be established under the GATS pursuant to this Decision would form part of the indicative list referred to in the DSU". The specialized roster of panelists under the GATS should therefore be integrated into the indicative list, taking care that the latter provides for a mention of any service sectoral expertise of persons on the list.

8. A suggested format for the Summary Curriculum Vitae form for the purposes of maintaining the Indicative List is attached.

**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)
12. **Language capabilities**
 - a. English
 - b. French
 - c. Spanish
 - d. Other language(s)ability to work as a panelist in
WTO-official languages and any
other language capability

***** Members putting forward an individual for inclusion on the indicative list are requested to provide full contact details for this individual separately. The Summary Curriculum Vitae and the contact details should be sent electronically to the Secretariat.

**WORLD TRADE
ORGANIZATION**

WT/DSB/44/Rev.12/Corr.1
8 December 2010

(10-6589)

**INDICATIVE LIST OF GOVERNMENTAL AND
NON-GOVERNMENTAL PANELISTS**

Corrigendum

Page 10 of document WT/DSB/44/Rev.12, which due to technical reasons was incorrectly presented, should be replaced with the attached.

MEMBERSHIP OF THE WTO APPELLATE BODY

From December 1, 2010, to December 31, 2010, the membership of the WTO Appellate Body was as follows:

Ms. Lilia R. Bautista (Philippines),
Mr. Shotaro Oshima (Japan),
Mr. David Unterhalter (South Africa),
Ms. Yuejiao Zhang (China)

Ms. Jennifer Hillman (United States),
Mr. Ricardo Ramírez Hernández (Mexico),
Mr. Peter Van den Bossche (Belgium),

BIOGRAPHICAL NOTES:

Lilia R. Bautista

Born in the Philippines on 16 August 1935, Ms. Lilia R Bautista is currently Consultant to the Philippine Judicial Academy which is the training school for Philippine justices, judges and lawyers. She is also a member of several corporate boards.

Ms. Bautista was the Chairperson of the Securities and Exchange Commission of the Philippines from 2000 to 2004. Between 1999 and 2000, she served as Senior Undersecretary and Special Trade Negotiator at the Department of Trade and Industry in Manila. From December 1992 to June 1999, Ms. Bautista was the Philippine Permanent Representative in Geneva to the United Nations, WTO, WHO, ILO and other international organizations. During her assignment in Geneva, she chaired several bodies, including the WTO Council for Trade in Services. Her long career in the Philippine Government also included posts as Legal Officer in the Office of the President, Chief Legal Officer of the Board of Investments, and acting Trade Minister from February to June 1992.

Ms. Bautista earned her Bachelor of Laws Degree and a Masters Degree in Business Administration from the University of the Philippines. She was conferred the degree of Master of Laws by the University of Michigan as a Dewitt Fellow.

Jennifer Hillman

Born in the United States on 29 January 1957, Ms. Jennifer Hillman serves as a Fellow and Adjunct Professor of Law at the Georgetown University Law Center's Institute of International Economic Law. Her work focuses on the WTO dispute settlement system, the WTO agreements related to trade remedies, and the WTO jurisprudence related to trade remedies.

From 1998 to 2007, Ms. Hillman served as a member of the US International Trade Commission — an independent, quasi-judicial agency responsible for making determinations in anti-dumping and countervailing proceedings, and conducting safeguard investigations.

From 1995 to 1997, Ms. Hillman served as the chief legal counsel to the USTR, overseeing the legal developments necessary to complete the implementation of the Uruguay Round Agreement

From 1993 to 1995, Ms. Hillman was responsible for negotiating all US bilateral textile agreements prior to the adoption of the Agreement on Textiles and Clothing.

Ms. Hillman has a Bachelor of Arts and Master of Education from Duke University, North Carolina, and a Juris Doctor degree from Harvard Law School in Cambridge, Massachusetts.

Shotaro Oshima

Born in Japan on 20 September 1943, Mr. Shotaro Oshima is a law graduate from the University of Tokyo, with almost 40 years experience as a diplomat in Japan's Foreign Service, most recently as Ambassador to the Republic of Korea.

From 2002 to 2005, Mr Oshima was Japan's Permanent Representative to the WTO, during which time he served as Chair of the General Council and the Dispute Settlement Body.

Prior to his time in Geneva, Mr Oshima served as Deputy Foreign Minister responsible for economic matters and was designated as Prime Minister Koizumi's Personal Representative to the G8 Summit in Canada in June 2002. In the same year he served as the Prime Minister's Personal Representative to the UN World Summit on Sustainable Development in South Africa.

Ricardo Ramírez Hernández

Born in Mexico on 17 October 1968, Ricardo Ramírez is Counsel and Head of the International Trade Practice for Latin America at the law firm of Chadbourne & Parke in Mexico City. His practice has focused on issues related to NAFTA and trade across Latin America, including international trade dispute resolution. He holds the Chair of International Trade Law at the Mexican National University (UNAM) in Mexico City.

Prior to practicing with a law firm, Mr. Ramírez was Deputy General Counsel for Trade Negotiations of the Ministry of Economy in Mexico for more than a decade. In this capacity, he provided advice on trade and competition policy matters related to 11 Free Trade Agreements signed by Mexico, as well as with respect to multilateral agreements, including those related to the WTO, the Free Trade Area of the Americas (FTAA), and the Latin American Integration Association (ALADI).

Mr. Ramírez also represented Mexico in complex international trade litigation and investment arbitration proceedings. He acted as lead counsel to the Mexican government in several WTO disputes. He has also served on NAFTA panels.

Mr. Ramírez holds an LL.M. degree in International Business Law from the Washington College of Law of the American University, and a law degree from the Universidad Autónoma Metropolitana.

David Unterhalter

Born in South Africa on 18 November 1958, David Unterhalter holds degrees from Trinity College, Cambridge, the University of the Witwatersrand, and University College Oxford. David Unterhalter has been a Professor of Law at the University of the Witwatersrand in South Africa since 1998, and from 2000

– 2006, he was the Director of the Mandela Institute, University of the Witwatersrand, an institute focusing upon global law.

Mr. Unterhalter is a member of the Johannesburg Bar; as a practicing advocate he has appeared in a large number of cases in the fields of trade law, competition law, constitutional law, and commercial law. His experience includes representing different parties in anti-dumping and countervailing duty cases. He has acted as an advisor to the South African Department of Trade and Industry. In addition, he has served on a number of WTO dispute settlement panels.

Mr. Unterhalter has published widely in the fields of public law and competition law.

Peter Van den Bossche

Born in Belgium on 31 March 1959, Peter Van den Bossche is currently Professor of International Economic Law and Head of the Department of International and European Law at Maastricht University, the Netherlands. He also serves as the Academic Director of Maastricht University's Institute for Globalization and International Regulation and is on the faculty of the World Trade Institute in Berne, and the Institute of European Studies of Macau.

Mr. Van den Bossche has extensive experience in academia and has published extensively in the field of international economic law. The second edition of his textbook *The Law and Policy of the World Trade Organization* was published by Cambridge University Press in 2008. Mr. Van den Bossche is a Member of the Board of Editors of the *Journal of International Economic Law*. He has also acted as a consultant to many developing countries.

From 1997 to 2001, Mr. Van den Bossche was Counsellor and subsequently Acting Director of the WTO Appellate Body Secretariat. From 1990 to 1992, he served as a *Référéndaire* of Advocate General W. van Gerven at the European Court of Justice in Luxembourg.

Mr. Van den Bossche holds a Doctorate in Law from the European University Institute, Florence, an LL.M. from the University of Michigan Law School, and a *Licentiaat in de Rechten magna cum laude* from the University of Antwerp.

Yuejiao Zhang

Born in China on 25 October 1944, Ms. Yuejiao Zhang is Professor of Law at Shantou University in China. She is an Arbitrator on China's International Trade and Economic Arbitration Commission and practices law as a private attorney. Ms. Zhang also serves as Vice President of China's International Economic Law Society.

Between 1998 and 2004, Ms. Zhang held various positions at the Asian Development Bank. Prior to this, Ms. Zhang held several positions in government and academia in China, including as Director-General of Law and Treaties at the Ministry of Foreign Trade and Economic Cooperation (1984-1997) where she was involved in drafting many of China's trade laws, such as the Foreign Trade Law, the Anti-Dumping Regulation and the Anti-Subsidy Regulation.

From 1987 to 1996, Ms. Zhang was one of China's chief negotiators on intellectual property and was involved in the preparation of China's patent law, trade mark law, and copyright law. She also served as

the chief legal counsel for China's GATT resumption and WTO accession. Between 1982 and 1985, Ms. Zhang worked as legal counsel at the World Bank.

Ms. Zhang was a Member of UNIDROIT from 1987-1999. She has a Bachelor of Arts from China High Education College and a Master of Laws from Georgetown University Law Center.

Source: WTO Secretariat

Where to Find More Information on the WTO

Information about the WTO and trends in international trade is available to the public at the following websites:

The USTR home page: <http://www.ustr.gov>

The WTO home page: <http://www.wto.org>

U.S. submissions are available electronically on the WTO website using Documents Online, which can retrieve an electronic copy by the “document symbol”. Electronic copies of U.S. submissions are also available at the USTR website.

Examples of information available on the WTO home page include:

Descriptions of the Structure and Operations of the WTO, such as:

- WTO Organizational Chart
- Biographic backgrounds
- Membership
- General Council activities

WTO News, such as:

- Status of dispute settlement cases
- 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/Fora, such as:

- Media and NGOs
- General public news and chat rooms

Trade Topics, such as:

- Briefing Papers on WTO activities in individual sectors, including goods, services, intellectual property, other topics
- Disputes and Dispute Reports

WTO publications may be ordered directly from the following sources:

1. The World Trade Organization
Publications Services
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Toll Free: 800/274-4888
fax: 301/459-0056
Toll Free: 800/865-3450
e-mail: query@bernan.com
e-mail: order@bernan.com

ANNEX III

ANNEX III: U.S. Trade-Related Agreements and Declarations

I. Agreements That Have Entered Into Force

Following is a list of trade agreements entered into by the United States since 1984 and monitored by the Office of the United States Trade Representative for compliance.

Multilateral and Plurilateral Agreements

- ▶ Marrakesh Agreement Establishing the World Trade Organization (WTO) (signed April 15, 1994), the Ministerial Decisions and Declarations adopted by the Uruguay Round Trade Negotiations Committee on December 15, 1993, and subsequent WTO agreements.
 - a. Multilateral Agreements on Trade in Goods
 - i. General Agreement on Tariffs and Trade 1994
 - ii. Agreement on Agriculture
 - iii. Agreement on the Application of Sanitary and Phytosanitary Measures
 - iv. Agreement on Technical Barriers to Trade
 - v. Agreement on Trade-Related Investment Measures
 - vi. Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994
 - vii. Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994
 - viii. Agreement on Preshipment Inspection
 - ix. Agreement on Rules of Origin
 - x. Agreement on Import Licensing Procedures
 - xi. Agreement on Subsidies and Countervailing Measures
 - xii. Agreement on Safeguards
 - b. General Agreement on Trade in Services (GATS)
 - i. Fourth Protocol to the GATS (Basic Telecommunications Services) (February 5, 1998)
 - ii. Fifth Protocol to the GATS (Financial Services) (March 1, 1999)
 - c. Agreement on Trade-Related Aspects of Intellectual Property Rights
 - d. Plurilateral Trade Agreements
 - i. Agreement on Trade in Civil Aircraft (April 12, 1979; amended in 1986)
 - ii. Agreement on Government Procurement (April 15, 1994)
- ▶ WTO Ministerial Declaration on Trade in Information Technology Products (Information Technology Agreement (ITA)) (March 26, 1997)

- ▶ International Tropical Timber Agreement (successor to the 1983 International Tropical Timber Agreement, January 1, 1997)
- ▶ International Coffee Agreement (successor to the 1994 International Coffee Agreement; entered into force provisionally October 1, 2001 and definitively May 17, 2005; U.S. Instrument of accession deposited February 3, 2005)
- ▶ North American Free Trade Agreement (January 1, 1994)
 - i. Agreement with Mexico and Canada to a first round of NAFTA Accelerated Tariff Elimination (March 26, 1997)
 - ii. Agreement with Mexico and Canada to a second round of NAFTA Accelerated Tariff Elimination (July 27, 1998)
 - iii. Agreement with Mexico to a third round of NAFTA Accelerated Tariff Elimination (November 29, 2000)
 - iv. Agreement with Mexico to a fourth round of NAFTA Accelerated Tariff Elimination (December 5, 2001)
 - v. Agreement with Mexico and Canada on adjustments to the NAFTA Rules of Origin (November 27, 2002)
 - vi. Agreement with Mexico and Canada on adjustments to the NAFTA Rules of Origin (October 8, 2004)
 - vii. Agreement with Mexico and Canada on adjustments to the NAFTA Rules of Origin (March 8, 2006)
 - viii. Agreement with Mexico and Canada on adjustments to the NAFTA Rules of Origin (April 11, 2008)
 - ix. Agreement with Mexico and Canada on adjustments to the NAFTA Rules of Origin (April 9, 2009)
- ▶ North American Agreement on Environmental Cooperation (January 1, 1994)
- ▶ North American Agreement on Labor Cooperation (January 1, 1994)
- ▶ Statement Concerning Semiconductors by the European Commission and the Governments of the United States, Japan, and Korea (June 10, 1999)
- ▶ Agreement on Mutual Acceptance of Oenological Practices (December 18, 2001)
- ▶ The Dominican Republic-Central America-United States Free Trade Agreement (Costa Rica

(January 1, 2009); the Dominican Republic (March 1, 2007); El Salvador (March 1, 2006); Guatemala (July 1, 2006); Honduras (April 1, 2006); and Nicaragua (April 1, 2006)

- i. Amendment to the Dominican Republic-Central America-United States Free Trade Agreement relating to Article 22.5 (March 29, 2006)
 - ii. Amendment to the Dominican Republic-Central America-United States Free Trade Agreement relating to Textiles Matters (August 15, 2008)
 - iii. Amendment to the Dominican Republic-Central America-United States Free Trade Agreement relating to Guatemala Tariffs on Beer (February 4, 2009)
- ▶ Agreement Establishing a Secretariat for Environmental Matters Under the Dominican Republic-Central America-United States Free Trade Agreement (August 25, 2006)
 - ▶ Agreement on Duty-Free Treatment of Multi-Chips Integrated Circuits (MCPs) (January 18, 2006) (Korea, Taiwan, Japan, European Union and the United States)
 - ▶ Agreement on Requirements for Wine Labeling (January 23, 2007) (Australia, Argentina, Canada, Chile, New Zealand and the United States)

Bilateral Agreements

Albania

- ▶ Agreement on Bilateral Trade Relations (May 14, 1992)
- ▶ Bilateral Investment Treaty (January 4, 1998)

Argentina

- ▶ Private Courier Mail Agreement (May 25, 1989)
- ▶ Bilateral Investment Treaty (October 20, 1994)

Armenia

- ▶ Agreement on Bilateral Trade Relations (April 7, 1992)
- ▶ Bilateral Investment Treaty (March 29, 1996)

Australia

- ▶ Settlement on Leather Products Trade (November 25, 1996)
- ▶ Understanding on Automotive Leather Subsidies (June 20, 2000)

- ▶ Agreement to Implement Phase I of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (October 19, 2002)
- ▶ United States -Australia Free Trade Agreement (January 1, 2005)

Azerbaijan

- ▶ Agreement on Bilateral Trade Relations (April 21, 1995)
- ▶ Bilateral Investment Treaty (August 2, 2001)

Bahrain

- ▶ Bilateral Investment Treaty (May 30, 2001)
- ▶ United States-Bahrain Free Trade Agreement (August 1, 2006)

Bangladesh

- ▶ Bilateral Investment Treaty (July 25, 1989)

Belarus

- ▶ Agreement on Bilateral Trade Relations (February 16, 1993)

Bolivia

- ▶ Bilateral Investment Treaty (June 6, 2001)

Brazil

- ▶ Memorandum of Understanding between the Government of Brazil and the Government of the United States Concerning Trade Measures in the Automotive Sector (March 16, 1998)
- ▶ Memorandum of Understanding Between the Government of the United States of America and the Government of the Federative Republic of Brazil Regarding a Fund for Technical Assistance and Capacity Building with Respect to the Cotton Dispute (WT/DS267) in the World Trade Organization (April 20, 2010)
- ▶ Framework for a Mutually Agreed Solution to the Cotton Dispute in the World Trade Organization (WT/DS267) (June 25, 2010)

Bulgaria

- ▶ Agreement on Trade Relations (November 22, 1991)
- ▶ Bilateral Investment Treaty (June 2, 1994; amended January 1, 2007)
- ▶ Agreement Concerning Intellectual Property Rights (July 6, 1994)

Cambodia

- ▶ Agreement between the United States of America and the Kingdom of Cambodia on Trade Relations and Intellectual Property Rights Protection (October 8, 1996)

Cameroon

- ▶ Bilateral Investment Treaty (April 6, 1989)

Canada

- ▶ Agreement on Salmon & Herring (May 11, 1993)
- ▶ Agreement Regarding Tires (May 25, 1993)
- ▶ Memorandum of Understanding on Provincial Beer Marketing Practices (August 5, 1993)
- ▶ Agreement on Ultra-High Temperature Milk (September 1993)
- ▶ Agreement on Beer Market Access in Quebec and British Columbia Beer Antidumping Cases (April 4, 1994)
- ▶ Agreement on Salmon & Herring (April 1994)
- ▶ Agreement on Barley Tariff-Rate Quota (September 8, 1997)
- ▶ Record of Understanding on Agriculture (December 1998)
- ▶ Agreement on Magazines (Periodicals) (May 1999)
- ▶ Agreement on Implementation of the WTO Decision on Canada's Dairy Support Programs (December 1999)
- ▶ Agreement to Implement Phase I of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (January 17, 2002)
- ▶ Agreement to Implement Phase II of the Asia Pacific Economic Cooperation (APEC) Mutual

Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (January 28, 2003)

- ▶ United States-Canada Understanding on Implementation of the Decision of the WTO General Council of August 30, 2003, on “Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health” as Interpreted by the Accompanying Statement of the Chairman of the General Council of the Same Date (July 16, 2004)
- ▶ Softwood Lumber Agreement between the Government of the United States of America and the Government of Canada (SLA 2006) (October 12, 2006)
- ▶ Technical Arrangement between the United States and Canada concerning Trade in Potatoes (November 1, 2007)
- ▶ Agreement Between the Government of the United States and the Government of Canada on Government Procurement (February 16, 2010).

Chile

- ▶ United States-Chile Free Trade Agreement (January 1, 2004)
- ▶ United States-Chile Agreement on Accelerated Tariff Elimination (November 14, 2008)
- ▶ United States-Chile Agreement on Trade in Table Grapes (November 21, 2008)
- ▶ United States-Chile Agreement on Beef Grade Labeling (March 26, 2009)

China

- ▶ Accord on Industrial and Technological Cooperation (January 12, 1984)
- ▶ Memorandum of Understanding on the Protection of Intellectual Property Rights (January 17, 1992)
- ▶ Memorandum of Understanding on Prohibiting Import and Export in Prison Labor Products (June 18, 1992)
- ▶ Memorandum of Understanding Concerning Market Access (October 10, 1992)
- ▶ Agreement on Trade Relations between the United States of America and the People’s Republic of China (February 1, 1980)
- ▶ Agreement on Providing Intellectual Property Rights Protection (February 26, 1995)
- ▶ Report on China’s Measures to Enforce Intellectual Property Protections and Other Measures

(June 17, 1996)

- ▶ Interim Agreement on Market Access for Foreign Financial Information Companies (Xinhua) (October 24, 1997)
- ▶ Bilateral Agriculture Agreement (April 10, 1999)
- ▶ Memorandum of Understanding between China and the United States Regarding China's Value-Added Tax on Integrated Circuits (July 14, 2004)
- ▶ Memorandum of Understanding between the Governments of the United States of America and the People's Republic of China Concerning Trade in Textile and Apparel Products (November 8, 2005)
- ▶ Memorandum of Understanding between the United States of America and the People's Republic of China Regarding Certain Measures Granting Refunds, Reductions, or Exemptions from Taxes or Other Payments (November 29, 2007)
- ▶ Memorandum of Understanding between the United States of America and the People's Republic of China Regarding Certain Measures Affecting Foreign Suppliers of Financial Information Services (November 13, 2008)

Colombia

- ▶ Memorandum of Understanding on Trade in Bananas (January 9, 1996)
- ▶ Exchange of Letters between the United States and Colombia on Sanitary and Phyto-sanitary Measures and Technical Barriers to Trade Issues (February 27, 2006)
- ▶ Exchange of Letters between United States and Colombia on Beef Sanitary and Phyto-sanitary Issues (August 21, 2006)

Congo, Democratic Republic of the (formerly Zaire)

- ▶ Bilateral Investment Treaty (July 28, 1989)

Congo, Republic of the

- ▶ Bilateral Investment Treaty (August 13, 1994)

Costa Rica

- ▶ Memorandum of Understanding on Trade in Bananas (January 9, 1996)

Croatia

- ▶ Memorandum of Understanding on Intellectual Property Rights (May 26, 1998)
- ▶ Bilateral Investment Treaty (June 20, 2001)

Czech Republic

- ▶ Bilateral Investment Treaty (December 19, 1992; amended May 1, 2004)

Dominican Republic

- ▶ Exchange of Letters on Trade in Textile and Apparel Goods (October 21, 2006)

Ecuador

- ▶ Agreement on Intellectual Property Rights Protection (October 15, 1993)
- ▶ Bilateral Investment Treaty (May 11, 1997)

Egypt

- ▶ Bilateral Investment Treaty (June 27, 1992)

Estonia

- ▶ Bilateral Investment Treaty (February 16, 1997; amended May 1, 2004)

European Economic Area – European Free Trade Association (EEA EFTA States -- Norway, Iceland, and Liechtenstein)

- ▶ Agreement on Mutual Recognition between the United States of America and the EEA EFTA States (March 1, 2006).
- ▶ Agreement between the United States of America and the EEA EFTA States on the Mutual Recognition of Certificates of Conformity for Marine Equipment (March 1, 2006)

European Union

- ▶ Wine Accord (July 1983)
- ▶ Agreement for the Conclusion of Negotiations between the United States and the European Community under GATT Article XXIV:6 (January 30, 1987)
- ▶ Agreement on Exports of Pasta with Settlement, Annex and Related Letter (September 15, 1987)

- ▶ Agreement on Canned Fruit (updated) (April 14, 1992)
- ▶ Agreement on Meat Inspection Standards (November 13, 1992)
- ▶ Corn Gluten Feed Exchange of Letters (December 4 and 8, 1992)
- ▶ Malt-Barley Sprouts Exchange of Letters (December 4 and 8, 1992)
- ▶ Oilseeds Agreement (December 4 and 8, 1992)
- ▶ Agreement on Recognition of Bourbon Whiskey and Tennessee Whisky as Distinctive U.S. Products (March 28, 1994)
- ▶ Memorandum of Understanding on Government Procurement (April 15, 1994)
- ▶ Letter on Financial Services Confirming Assurances to Provide Full MFN and National Treatment (July 14, 1995)
- ▶ Agreement on EU Grains Margin of Preference (signed July 22, 1996; retroactively effective December 30, 1995)
- ▶ Exchange of Letters Concerning Implementation of the Marrakesh Agreement Establishing the World Trade Organization and Related Matters (June 26, 1996)
- ▶ Exchange of Letters between the United States of America and the European Community on a Settlement for Cereals and Rice, and Accompanying Exchange of Letters on Rice Prices (July 22, 1996)
- ▶ Agreement for the Conclusion of Negotiations between the United States of America and the European Community under GATT Article XXIV:6, and Accompanying Exchange of Letters (signed July 22, 1996; retroactively effective December 30, 1995)
- ▶ Tariff Initiative on Distilled Spirits (February 28, 1997)
- ▶ Agreement on Global Electronic Commerce (December 9, 1997)
- ▶ Agreed Minute on Humane Trapping Standards (December 18, 1997)
- ▶ Agreement on Mutual Recognition between the United States of America and the European Community (December 1, 1998)
- ▶ Agreement between the United States and the European Community on Sanitary Measures to Protect Public and Animal Health in Trade in Live Animals and Animal Products (July 20, 1999)
- ▶ Understanding on Bananas (April 11, 2001)

- ▶ Agreement on the Mutual Acceptance of Oenological Practices (December 18, 2001)
- ▶ Agreement between the United States of America and the European Community on the Mutual Recognition of Certificates of Conformity for Marine Equipment (July 1, 2004)
- ▶ Agreement in the Form of an Exchange of Letters between the United States and the European Community Relating to the Method of Calculation of Applied Duties for Husked Rice (June 30, 2005; retroactively effective March 1, 2005)
- ▶ Agreement between the United States and European Community on Trade in Wine (March 10, 2006)
- ▶ Agreement for the Conclusion of Negotiations between the United States of America and the European Community under GATT Article XXIV:6, and Accompanying Exchange of Letters (March 22, 2006)
- ▶ Joint Letter from the United States and the European Communities on implementation of GATS Article XXI procedures relating to the accession to the European Communities of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Austria, Poland, Slovenia, the Slovak Republic, Finland, and Sweden (August 7, 2006)
- ▶ Memorandum of Understanding Between the United States and European Commission Regarding the Importation of Beef from Animals Not Treated with Certain Growth-Promoting Hormones and Increased Duties Applied to Certain Products of the European Communities (May 13, 2009)

Georgia

- ▶ Agreement on Bilateral Trade Relations (August 13, 1993)
- ▶ Bilateral Investment Treaty (August 17, 1997)

Grenada

- ▶ Bilateral Investment Treaty (March 3, 1989)

Haiti

- ▶ Exchange of Letters on Trade in Textile and Apparel Goods (September 18, 2008)

Hong Kong

- ▶ Agreement to Implement Phase I and Phase II of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (April 4, 2005)

- ▶ Memorandum of Understanding between the United States of America and the Hong Kong Special Administrative Region Concerning Cooperation in Trade in Textile and Apparel Goods (August 1, 2005)

Honduras

- ▶ Memorandum of Understanding on Worker Rights (November 15, 1995)
- ▶ Bilateral Investment Treaty (July 11, 2001)

Hungary

- ▶ Agreement on Trade Relations (July 7, 1978)
- ▶ Agreement on Intellectual Property Rights Protection (September 29, 1993)

India

- ▶ Agreement Regarding Indian Import Policy for Motion Pictures (February 5, 1992)
- ▶ Reduction of Tariffs on In-Shell Almonds (May 27, 1992)
- ▶ Agreement on Intellectual Property Rights Protection (March 1993)
- ▶ Agreement on Import Restrictions (December 28, 1999)
- ▶ Agreement on Textile Tariff Bindings (September 15, 2000)

Indonesia

- ▶ Conditions for Market Access for Films and Videos into Indonesia (April 19, 1992)
- ▶ Memorandum of Understanding with Indonesia Concerning Cooperation in Trade in Textile and Apparel Goods (September 26, 2006)

Israel

- ▶ United States-Israel Free Trade Agreement (August 19, 1985)
- ▶ United States-Israel Agreement Concerning Certain Aspects of Trade in Agricultural Products (July 27, 2004; extended by Exchange of Letters December 10, 2008)
- ▶ United States-Israel Agreement Concerning Certain Aspects of Trade in Agricultural Products (July 27, 2004; extended by Exchange of Letters (December 10, 2008)

- ▶ United States-Israel Agreement Concerning Certain Aspects of Trade in Agricultural Products (July 27, 2004; extended by Exchange of Letters (December 6, 2009)
- ▶ United States-Israel Agreement Concerning Certain Aspects of Trade in Agricultural Products (July 27, 2004; extended by Exchange of Letters (December 12, 2010)

Jamaica

- ▶ Agreement on Intellectual Property (February 1994)
- ▶ Bilateral Investment Treaty (March 7, 1997)

Japan

- ▶ Market-Oriented Sector-Selective (MOSS) Agreement on Medical Equipment and Pharmaceuticals (January 9, 1986)
- ▶ Exchange of Letters Regarding Tobacco (October 6, 1986)
- ▶ Foreign Lawyers Agreement (February 27, 1987)
- ▶ Science and Technology Agreement (June 20, 1988; extended June 16, 1993)
- ▶ Procedures to Introduce Supercomputers (June 15, 1990)
- ▶ Measures Relating to Wood Products (June 15, 1990)
- ▶ Policies and Procedures Regarding Satellite Research and Development/Procurement (June 15, 1990)
- ▶ Policies and Procedures Regarding International Value-Added Network Services and Network Channel Terminating Equipment (July 31, 1990)
- ▶ Joint Announcement on Amorphous Metals (September 21, 1990)
- ▶ Measures Further to 1990 Policies and Procedures regarding International Value-Added Network Services (April 27, 1991)
- ▶ Measures Regarding International Value-Added Network Services Investigation Mechanisms (June 25, 1991)
- ▶ United States-Japan Major Projects Arrangement (July 31, 1991; originally negotiated 1988)
- ▶ Measures Related to Japanese Public Sector Procurement of Computer Products and Services (January 22, 1992)

- ▶ United States-Japan Framework for a New Economic Partnership (July 10, 1993)
- ▶ Exchange of Letters Regarding Apples (September 13, 1993)
- ▶ United States-Japan Public Works Agreement (January 18, 1994)
- ▶ Mutual Understanding on Intellectual Property Rights between the Japanese Patent Office and the U.S. Patent and Trademark Office (January 20, 1994)
- ▶ Rice (April 15, 1994)
- ▶ Harmonized Chemical Tariffs (April 15, 1994)
- ▶ Copper (April 15, 1994)
- ▶ Market Access (April 15, 1994)
- ▶ Actions to be Taken by the Japanese Patent Office and the U.S. Patents and Trademark Office pursuant to the January 20, 1994, Mutual Understanding on Intellectual Property Rights (August 16, 1994)
- ▶ Measures by the Government of the United States and the Government of Japan Regarding Insurance (October 11, 1994)
- ▶ Measures on Japanese Public Sector Procurement of Telecommunications Products and Services (November 1, 1994)
- ▶ Measures Related to Japanese Public Sector Procurement of Medical Technology Products and Services (November 1, 1994)
- ▶ Measures Regarding Financial Services (February 13, 1995)
- ▶ Policies and Measures Regarding Inward Direct Investment and Buyer-Supplier Relationships (June 20, 1995)
- ▶ Exchange of Letters on Financial Services (July 26 and 27, 1995)
- ▶ Interim Understanding for the Continuation of Japan-U.S. Insurance Talks (September 30, 1996)
- ▶ United States-Japan Insurance Agreement (December 24, 1996)
- ▶ Japan's Recognition of U.S.-Grade marked Lumber (January 13, 1997)
- ▶ Resolution of WTO dispute with Japan on Sound Recordings (January 13, 1997)

- ▶ National Policy Agency Procurement of VHF Radio Communications System (March 31, 1997)
- ▶ United States-Japan Enhanced Initiative on Deregulation and Competition Policy (June 19, 1997)
- ▶ United States-Japan Agreement on Distilled Spirits (December 17, 1997)
- ▶ First Joint Status Report on Deregulation and Competition Policy (May 29, 1998)
- ▶ United States-Japan Joint Report on Investment (April 28, 1999)
- ▶ Second Joint Status Report on Deregulation and Competition Policy (May 3, 1999)
- ▶ United States-Japan Agreement on NTT Procurement Procedures (July 1, 1999)
- ▶ Third Joint Status Report on Deregulation and Competition Policy (July 19, 2000)
- ▶ Fourth Joint Status Report on Deregulation and Competition Policy (June 30, 2001)
- ▶ United States-Japan Economic Partnership for Growth (June 30, 2001)
- ▶ First Report to the Leaders on the U.S.-Japan Regulatory Reform and Competition Policy Initiative (June 25, 2002)
- ▶ Second Report to the Leaders on the U.S.-Japan Regulatory Reform and Competition Policy Initiative (May 23, 2003)
- ▶ Third Report to the Leaders on the U.S.-Japan Regulatory Reform and Competition Policy Initiative (June 8, 2004)
- ▶ Fourth Report to the Leaders on the U.S.-Japan Regulatory Reform and Competition Policy Initiative (November 2, 2005)
- ▶ Fifth Report to the Leaders on the U.S.-Japan Regulatory Reform and Competition Policy Initiative (June 29, 2006)
- ▶ Sixth Report to the Leaders on the U.S.-Japan Regulatory Reform and Competition Policy Initiative (June 6, 2007)
- ▶ Agreement on Mutual Recognition of Results of Conformity Assessment Procedures between the United States of America and Japan (U.S.-Japan Telecom MRA) (January 1, 2008)
- ▶ Seventh Report to the Leaders on the U.S.-Japan Regulatory Reform and Competition Policy Initiative (July 5, 2008)

- ▶ Eighth Report to the Leaders on the U.S.-Japan Regulatory Reform and Competition Policy Initiative (July 6, 2009)
- ▶ Memorandum Between the Relevant Authorities of the United States and the Ministry of Health, Labour and Welfare of Japan Concerning Enforcement of Japan's Pesticide Maximum Residue Levels (July 28, 2009)

Jordan

- ▶ Agreement between the United States and Hashemite Kingdom of Jordan on the Establishment of a Free Trade Area (December 17, 2001)
- ▶ Bilateral Investment Treaty (June 12, 2003)

Kazakhstan

- ▶ Agreement on Bilateral Trade Relations (February 18, 1993)
- ▶ Bilateral Investment Treaty (January 12, 1994)

Korea

- ▶ Record of Understanding on Intellectual Property Rights (August 28, 1986)
- ▶ Agreement on Access of U.S. Firms to Korea's Insurance Markets (August 28, 1986)
- ▶ Record of Understanding Concerning Market Access for Cigarettes (May 27, 1988; amended October 16, 1989)
- ▶ Agreement Concerning the Korean Capital Market Promotion Law (September 1, 1988)
- ▶ Agreement on the Importation and Distribution of Foreign Motion Pictures (December 30, 1988)
- ▶ Agreement on Market Access for Wine and Wine Products (January 18, 1989)
- ▶ Investment Agreement (May 19, 1989)
- ▶ Agreement on Liberalization of Agricultural Imports (May 25, 1989)
- ▶ Record of Understanding on Telecommunications (January 23, 1990)
- ▶ Record of Understanding on Telecommunications (February 15, 1990)
- ▶ Exchange of Letters Regarding the 1986 Intellectual Property Rights Agreement: Product Pipeline Protection (February 22, 1990)

- ▶ Record of Understanding on Beef (March 21, 1990)
- ▶ Exchange of Letters on Beef (April 26 and 27, 1990)
- ▶ Agreement on Wine Access (December 19, 1990)
- ▶ Record of Understanding on Telecommunications (February 7, 1991)
- ▶ Agreement on International Value-Added Services (June 20, 1991)
- ▶ Understanding on Telecommunications (February 17, 1992)
- ▶ Exchange of Letters Relating to Korea Telecom Company's Procurement of AT&T Switches (March 31, 1993)
- ▶ Beef Agreements (June 26, 1993; December 29, 1993)
- ▶ Record of Understanding on Agricultural Market Access in the Uruguay Round (December 13, 1993)
- ▶ Exchange of Letters on Telecommunications Issues Relating to Equipment Authorization and Korea Telecom Company's Procurement (March 29, 1995)
- ▶ Agreement on Steel (July 14, 1995)
- ▶ Shelf-Life Agreement (July 20, 1995)
- ▶ Revised Cigarette Agreement (August 25, 1995)
- ▶ Memorandum of Understanding to Increase Market Access for Foreign Passenger Vehicles in Korea (September 28, 1995)
- ▶ Exchange of Letters on Implementation of the 1992 Telecommunications Agreement (April 12, 1996)
- ▶ Korean Commitments on Trade in Telecommunications Goods and Services (July 23, 1997)
- ▶ Agreement on Korean Motor Vehicle Market (October 20, 1998)
- ▶ Exchange of Letters Regarding Tobacco Sector Related Issues (June 14, 2001)
- ▶ Exchange of Letters on Data Protection (March 12, 2002)
- ▶ Record of Understanding between the Governments of the United States and the Republic of Korea Regarding the Extension of Special Treatment for Rice (February 2005)

- ▶ Agreement to Implement Phase I of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (May 10, 2005)

Kyrgyzstan

- ▶ Agreement on Bilateral Trade Relations (May 8, 1992)
- ▶ Bilateral Investment Treaty (January 12, 1994)

Latvia

- ▶ Agreement on Bilateral Trade Relations (August 21, 1992)
- ▶ Bilateral Investment Treaty (November 26, 1996; amended May 1, 2004)
- ▶ Agreement on Trade & Intellectual Property Rights Protection (January 20, 1995)

Lithuania

- ▶ Bilateral Investment Treaty (November 22, 2001; amended May 1, 2004)

Laos

- ▶ Bilateral Trade Agreement (February 4, 2005)

Macao

- ▶ Memorandum of Understanding with Macao Concerning Cooperation in Trade in Textile and Apparel Goods (August 8, 2005)

Mexico

- ▶ Agreement with Mexico on Tire Certification (March 8, 1996)
- ▶ Memorandum of Understanding between the United States and Mexico Regarding Areas of Food and Agriculture Trade (April 4, 2002)
- ▶ United States-Mexico Exchange of Letters Regarding Mexico's NAFTA Safeguard on Certain Poultry Products (July 24-25, 2003)
- ▶ Understanding Regarding the Implementation of the WTO Decision on Mexico's Telecommunications Services (June 1, 2004)
- ▶ Agreement between the U.S. Trade Representative and Secretaria de Economia of the

United Mexican State on Trade in Tequila (January 17, 2006)

- ▶ Agreement between the U.S. Trade Representative and Secretaria de Economia of the United Mexican State on Trade in Cement (April 3, 2006)
- ▶ United States-Mexico Exchange of Letters Regarding Trade in Sweetener Goods (July 27, 2006)
- ▶ Bilateral Agreement on Customs Cooperation regarding Claims of Origin Under FTA Cumulation Provisions (January 26, 2007)
- ▶ Customs Cooperation Agreement with Mexico relating to Textiles Matters (August 15, 2008)

Moldova

- ▶ Agreement on Bilateral Trade Relations (July 2, 1992)
- ▶ Bilateral Investment Treaty (November 25, 1994)

Mongolia

- ▶ Agreement on Bilateral Trade Relations (January 23, 1991)
- ▶ Bilateral Investment Treaty (January 1, 1997)

Morocco

- ▶ Bilateral Investment Treaty (May 29, 1991)
- ▶ United States- Morocco Free Trade Agreement (January 1, 2006)

Mozambique

- ▶ Bilateral Investment Treaty (March 2, 2005)

Nicaragua

- ▶ Bilateral Intellectual Property Rights Agreement with Nicaragua (December 22, 1997)
- ▶ Exchange of Letters on Trade in Textile and Apparel Goods (March 24, 2006)

Norway

- ▶ Agreement on Procurement of Toll Equipment (April 26, 1990)

Oman

- ▶ United States-Oman Free Trade Agreement (January 1, 2009)

Panama

- ▶ Bilateral Investment Treaty (May 30, 1991)
- ▶ Agreement on Bilateral Trade Relations (1994)
- ▶ Agreement on Cooperation in Agricultural Trade (December 20, 2006)
- ▶ Agreement regarding Certain Sanitary and Phytosanitary Measures and Technical Standards Affecting Agricultural Products (December 20, 2006)

Paraguay

- ▶ Memorandum of Understanding on Intellectual Property Rights (March 30, 2004; renewed May 2006, April 2008, and November 2009)

Peru

- ▶ United States-Peru Trade Promotion Agreement (February 1, 2009)
- ▶ Memorandum of Understanding on Intellectual Property Rights (May 23, 1997)
- ▶ Exchange of Letters on Sanitary and Phytosanitary Measures and Technical Barriers to Trade Issues (January 5, 2006)
- ▶ Additional Letter Exchange on Sanitary and Phytosanitary Measures and Technical Barriers to Trade Issues (April 10, 2006)

Philippines

- ▶ Protection and Enforcement of Intellectual Property Rights (April 6, 1993)
- ▶ Agreement regarding Pork and Poultry Meat (February 13, 1998)
- ▶ Memorandum of Understanding with the Philippines Concerning Cooperation in Trade in Textile and Apparel Goods (August 23, 2006)

Poland

- ▶ Business and Economic Relations Treaty (August 6, 1994; amended May 1, 2004)

Romania

- ▶ Agreement on Bilateral Trade Relations (April 3, 1992)
- ▶ Bilateral Investment Treaty (January 15, 1994; amended January 1, 2007)

Russia

- ▶ Trade Agreement Concerning Most Favored Nation and Nondiscriminatory Treatment (June 17, 1992)
- ▶ Joint Memorandum of Understanding on Market Access for Aircraft (January 30, 1996)
- ▶ Agreed Minutes regarding exports of poultry products from the United States to Russia (March 15, March 25, and March 29, 1996)
- ▶ Agreement on Russian Firearms & Ammunition (April 3, 1996; amended 2003)
- ▶ Protocol of the Negotiations between the Experts of Russia and the United States of America on the Issue of U.S. Poultry Meat Imports into the Russian Federation (March 31, 2002)
- ▶ Agreement between the Government of the United States of America and the Government of the Russian Federation on Trade in Certain Types of Poultry, Beef and Pork (June 15, 2005; amended December 29, 2008)
- ▶ Agreement between the Government of the United States of America and the Government of the Russian Federation on Protection and Enforcement of Intellectual Property Rights (November 19, 2006)
- ▶ Agreement between the Government of the United States of America and the Government of the Russian Federation on Market Access for Beef and Beef By-Products (November 16, 2006)
- ▶ Agreement between the Government of the United States of America and the Government of the Russian Federation on Importation of Pork and Pork By-Products into the Russian Federation (November 19, 2006)
- ▶ Agreement between the Government of the United States of America and the Government of the Russian Federation on Inspection of Facilities for Exporting Pork and Poultry to the Russian Federation (November 19, 2006)
- ▶ Agreement between the Government of the United States of America and the Government of the Russian Federation on Agricultural Biotechnology (November 19, 2006)
- ▶ Agreement between the Government of the United States of America and the Government of the Russian Federation on Establishment of Import licensing Procedures for Imports of

Goods Containing Encryption Technology (November 19, 2006)

- ▶ Exchange of Letters between the Government of the United States of America and the Government of the Russian Federation on Tariff Treatment of Certain Aircraft Imported Under Operational Lease (November 19, 2006)
- ▶ Exchange of Letters between the Ministry of Economic Development and Trade of the Russian Federation and the Office of the U.S. Trade Representative on Tariff Treatment of Certain Combine Harvester-Threshers and Self-Propelled Forage Harvesters (November 19, 2006)
- ▶ Letter on Market Access between the United States and the Russian Federation for Service Suppliers in Certain Energy Related Sectors (November 19, 2006)
- ▶ Letter on Market Access between the United States and the Russian Federation for Certain Insurance Firms (November 19, 2006)
- ▶ Bilateral Agreement on Verification of Pathogen Reduction Treatments and Resumption of Trade in Poultry (July 14, 2010)

Senegal

- ▶ Bilateral Investment Treaty (October 25, 1990)

Singapore

- ▶ Agreement on Intellectual Property Rights Protection (April 27, 1987)
- ▶ Agreement to Implement Phase I and Phase II of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (October 8, 2003)
- ▶ United States-Singapore Free Trade Agreement (January 1, 2004)

Slovakia

- ▶ Bilateral Investment Treaty (December 19, 1992; amended May 1, 2004)

Sri Lanka

- ▶ Agreement on the Protection and Enforcement of Intellectual Property Rights (September 20, 1991)
- ▶ Bilateral Investment Treaty (May 1, 1993)

Suriname

- ▶ Agreement on Bilateral Trade Relations (1993)

Switzerland

- ▶ Exchange of Letters on Financial Services (November 9 and 27, 1995)

Taiwan

- ▶ Agreement on Customs Valuation (August 22, 1986)
- ▶ Agreement on Export Performance Requirements (August 1986)
- ▶ Agreement Concerning Beer, Wine, and Cigarettes (1987)
- ▶ Agreement on Turkeys and Turkey Parts (March 16, 1989)
- ▶ Agreement on Beef (June 18, 1990)
- ▶ Agreement on Intellectual Property Protection (June 5, 1992)
- ▶ Agreement on Intellectual Property Protection (Trademark) (April 1993)
- ▶ Agreement on Intellectual Property Protection (Copyright) (July 16, 1993)
- ▶ Agreement on Market Access (April 27, 1994)
- ▶ Telecommunications Liberalization by Taiwan (July 19, 1996)
- ▶ United States-Taiwan Medical Device Issue: List of Principles (September 30, 1996)
- ▶ Agreement on Market Access (February 20, 1998)
- ▶ Agreement to Implement Phase I of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (March 16, 1999)
- ▶ Understanding on Government Procurement (August 23, 2001)
- ▶ Protocol of Bovine Spongiform Encephalopathy (BSE)-Related Measures for the Importation of Beef and Beef Products for Human Consumption from the Territory of the Authorities Represented by the American Institute in Taiwan (November 2, 2009)

Tajikistan

- ▶ Agreement on Bilateral Trade Relations (November 24, 1993)

Thailand

- ▶ Agreement on Cigarette Imports (November 23, 1990)
- ▶ Agreement on Intellectual Property Protection and Enforcement (December 19, 1991)

Trinidad and Tobago

- ▶ Agreement on Intellectual Property Protection and Enforcement (September 26, 1994)
- ▶ Bilateral Investment Treaty (December 26, 1996)

Tunisia

- ▶ Bilateral Investment Treaty (February 7, 1993)

Turkey

- ▶ Bilateral Investment Treaty (May 18, 1990)
- ▶ WTO Settlement Concerning Taxation of Foreign Film Revenues (July 14, 1997)

Turkmenistan

- ▶ Agreement on Bilateral Trade Relations (October 25, 1993)

Ukraine

- ▶ Agreement on Bilateral Trade Relations (June 23, 1992)
- ▶ Bilateral Investment Treaty (November 16, 1996)
- ▶ Agreement between the Government of the United States of America and the Government of the Republic of Ukraine on Sanitary and Phytosanitary Measures (February 21, 2007)
- ▶ Agreement between the U.S. and the Ukraine on Export Duties on Ferrous and Non-Ferrous Scrap Metal (February 22, 2007)

Uruguay

- ▶ Bilateral Investment Treaty (November 1, 2006)

Uzbekistan

- ▶ Agreement on Bilateral Trade Relations (January 13, 1994)

Vietnam

- ▶ Agreement between the United States and Vietnam on Trade Relations (December 10, 2001)
- ▶ Copyright Agreement (June 27, 1997)
- ▶ Exchange of Letters on Equivalence of Food Safety Inspection Systems (May 31, 2006)
- ▶ Exchange of Letters on Beef (May 31, 2006)
- ▶ Exchange of Letters on Biotechnology (May 31, 2006)
- ▶ Exchange of Letters on Energy Services (May 31, 2006)
- ▶ Exchange of Letters on Elimination of Prohibited Subsidies to Textile and Garment Sector (May 31, 2006)
- ▶ Bilateral Agreement on Export Duties on Ferrous and Nonferrous Scrap Metals (May 31, 2006)
- ▶ Exchange of Letters on Shelf Life (May 31, 2006)
- ▶ Acceptance of U.S. Certificates for Exports of Poultry Meat and Meat Products (May 31, 2006)
- ▶ Agreement to Implement Phase I of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (June 19, 2008)

II. Agreements that have been Negotiated but have not yet Entered into Force

Following is a list of trade agreements concluded by the United States since 1984 that have not yet entered into force.

Multilateral Agreements

- ▶ OECD Agreement on Shipbuilding (December 21, 1994; interested parties evaluating implementing legislation)
- ▶ International Tropical Timber Agreement (concluded January 27, 2006; when enters into force, it will replace the International Tropical Timber Agreement, 1997)
- ▶ International Coffee Agreement (concluded September 28, 2007; when enters into force it will replace the International Coffee Agreement, 2001)

- ▶ Anti Counterfeiting Trade Agreement (Negotiations concluded on October 2, 2010).

Bilateral Agreements

Belarus

- ▶ Bilateral Investment Treaty (signed January 15, 1994; pending exchange of instruments)

Colombia

- ▶ United States-Colombia Trade Promotion Agreement (signed November 22, 2006; entry into force pending); Protocol of Amendment (signed June 28, 2007)

El Salvador

- ▶ Bilateral Investment Treaty (signed March 10, 1999; pending exchange of instruments)

European Union

- ▶ Agreement on Trade in Bananas Between the United States of American and the European Union (signed June 8, 2010; pending entry into force).

Estonia

- ▶ Trade and Intellectual Property Rights Agreement (April 19, 1994; requires approval by Estonian legislature)

Korea

- ▶ United States-Korea Free Trade Agreement (signed June 30, 2007; approval pending)

Lithuania

- ▶ Trade and Intellectual Property Rights Agreement (April 26, 1994; requires approval by Lithuanian legislature)

Libya

- ▶ United States-Libya Trade and Investment Agreement (signed May 20, 2010, entry into force pending exchange of letters)

Nicaragua

- ▶ Bilateral Investment Treaty (signed July 1, 1995; pending ratification by United States and

exchange of instruments of ratification.)

Panama

- ▶ United States-Panama Trade Promotion Agreement (signed June 28, 2007; entry into force pending)

Russia

- ▶ Bilateral Investment Treaty (signed June 17, 1992; pending approval by Russian Parliament and exchange of instruments of ratification)

Uzbekistan

- ▶ Bilateral Investment Treaty (signed December 16, 1994; pending exchange of instruments)

III. Other Trade-Related Agreements and Declarations

Following is a list of other trade-related agreements and declarations negotiated by the Office of the United States Trade Representative from January 1993 through December 2009. These documents provide the framework for negotiations leading to future trade agreements or establish mechanisms for structured dialogue in order to develop specific steps and strategies for addressing and resolving trade, investment, intellectual property and other issues among the signatories.

Multilateral Agreements and Declarations

- ▶ Second Ministerial of the World Trade Organization, Ministerial Declaration on Global Electronic Commerce (May 20, 1998)
- ▶ WTO Guidelines for the Negotiation of Mutual Recognition Agreements on Accountancy (May 29, 1997)
- ▶ Free Trade Area of the Americas
 - ▶ First Summit of the Americas, Declaration of Principles and Plan of Action, Miami, Florida (December 11, 1994)
 - ▶ Trade Ministerial Joint Declaration, Denver, USA (June 30, 1995)
 - ▶ Second Ministerial Trade Meeting Joint Declaration, Cartagena, Colombia (March 21, 1996)
 - ▶ Third Trade Ministerial Meeting Joint Declaration, Belo Horizonte, Brazil (May 16, 1997)

- ▶ Fourth Trade Ministerial Joint Declaration, San Jose, Costa Rica (March 19, 1998)
- ▶ Second Summit of the Americas Declaration of Principles and Plan of Action, Santiago, Chile (April 19, 1998)
- ▶ Fifth Trade Ministerial Meeting, Declaration of Ministers, Toronto, Canada (November 4, 1999)
- ▶ Sixth Meeting of Ministers of Trade of the Hemisphere Ministerial Declaration, Buenos Aires, Argentina (April 7, 2001)
- ▶ Third Summit of the Americas Declaration of Principles and Plan of Action, Quebec City, Canada (April 22, 2001)
- ▶ Seventh Meeting of Ministers of Trade of the Hemisphere Ministerial Declaration, Quito, Ecuador (November 1, 2002)
- ▶ Eighth Ministerial Meeting, Ministerial Declaration, Miami, USA (November 20, 2003)
- ▶ Fourth Summit of the Americas Declaration of Mar Del Plata and Plan of Action, Mar del Plata, Argentina (November 5, 2005)
- ▶ Fifth Summit of the Americas Declaration of Commitment of Port of Spain, Trinidad and Tobago (April 19, 2009)

- ▶ Asia Pacific Economic Cooperation
 - ▶ 1st Joint Ministerial Statement (November 6-7, 1989)
 - ▶ 2nd Joint Ministerial Statement (July 29-31, 1990)
 - ▶ 3rd Joint Ministerial Statement (November 12-14, 1991)
 - ▶ 4th Joint Ministerial Statement (September 10-11, 1992)
 - ▶ 5th Joint Ministerial Statement (November 17-19, 1993)
 - ▶ Leaders' Economic Vision Statement (November 20, 1993)
 - ▶ Ministers Responsible for Trade Statement (October 6, 1994)
 - ▶ 6th Joint Ministerial Statement (November 11-12, 1999)
 - ▶ Leaders' Declaration of Common Resolve (November 15, 1994)

- ▶ 7th Joint Ministerial Statement (November 16-17, 1995)
- ▶ Leaders' Declaration for Action (November 19, 1995)
- ▶ Ministers Responsible for Trade Statement (July 15-16, 1996)
- ▶ 8th Joint Ministerial Statement (November 22-23, 1996)
- ▶ Leaders' Declaration: From Vision to Action (November 25, 1996)
- ▶ Ministers Responsible for Trade Statement (May 8-10, 1997)
- ▶ 9th Joint Ministerial Statement (November 21-22, 1997)
- ▶ Leaders' Declaration on Connecting the APEC Community (November 25, 1997)
- ▶ Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Agreement (June 5, 1998)
- ▶ Ministers Responsible for Trade Statement (June 22-23, 1998)
- ▶ 10th Joint Ministerial Statement (November 14-15, 1998)
- ▶ Leaders' Declaration on Strengthening the Foundations for Growth (November 18, 1998)
- ▶ Ministers Responsible for Trade Statement (June 29-30, 1999)
- ▶ 11th Joint Ministerial Statement (September 9-10, 1999)
- ▶ Leaders' Declaration: The Auckland Challenge (September 13, 1999)
- ▶ Ministers Responsible for Trade Statement (June 6-7, 2000)
- ▶ 12th Joint Ministerial Statement (November 12-13, 2000)
- ▶ Leaders' Declaration: Delivering to the Community (November 16, 2000)
- ▶ Ministers Responsible for Trade Statement (June 6-7, 2001)
- ▶ 13th Joint Ministerial Statement (October 17-18, 2001)
- ▶ Leaders' Declaration: Meeting New Challenges in the New Century (October 21, 2001)
- ▶ Ministers Responsible for Trade Statement (May 29-30, 2002)

- ▶ 14th Joint Ministerial Statement (October 23-24, 2002)
- ▶ Leaders' Declaration: Expanding the Benefits of Cooperation for Economic Growth and Development - Implementing the Vision (October 27, 2002)
- ▶ Ministers Responsible for Trade Statement (June 2-3, 2003)
- ▶ 15th Joint Ministerial Statement (October 17-18, 2003)
- ▶ Declaration: A World of Differences - Partnership for the Future (October 21, 2003)
- ▶ Ministers Responsible for Trade Statement (June 4-5, 2004)
- ▶ 16th Joint Ministerial Statement (November 17-18, 2004)
- ▶ Leaders' Declaration: One Community, Our Future (November 20-21, 2004)
- ▶ Ministers Responsible for Trade Statement (June 2-3, 2005)
- ▶ 17th Joint Ministerial Statement (November 15-16, 2005)
- ▶ Leaders' Declaration: Towards One Community: Meet the Challenge, Make the Change (November 18-19, 2005)
- ▶ Ministers Responsible for Trade Statement (June 1-2, 2006)
- ▶ 18th Joint Ministerial Statement (November 15-16, 2006)
- ▶ Leaders' Declaration: Towards a Dynamic Community for Sustainable Development and Prosperity (November 18-19, 2006)
- ▶ Ministers Responsible for Trade Statement (July 5-6, 2007)
- ▶ 19th Joint Ministerial Statement (September 5-6, 2007)
- ▶ Leaders' Declaration: Strengthening our Community, Building a Sustainable Future (September 9, 2007)
- ▶ Ministers Responsible for Trade Statement (May 31-June 1, 2008)
- ▶ 20th Joint Ministerial Statement (November 19-20, 2008)
- ▶ Leaders' Declaration: A New Commitment to Asia-Pacific Development (November 22-23, 2008)

- ▶ Ministers Responsible for Trade Statement (July 21-22, 2009)
 - ▶ 21st Joint Ministerial Statement (November 11-12, 2009)
 - ▶ Leaders' Declaration: Sustaining Growth, Connecting The Region (November 14-15, 2009)
 - ▶ Ministers Responsible for Trade Statement (June 5-6, 2010)
 - ▶ 22nd Joint Ministerial Statement (November 10-11, 2010)
 - ▶ Leaders' Declaration: The Yokohama Vision - Bogor and Beyond (November 13-14, 2010)
- ▶ Organization of American States (OAS), Inter-American Telecommunications Commission (CITEL) Mutual Recognition Agreement for Conformity Assessment of Telecommunications Equipment (October 29, 1999)
 - ▶ United States-Andean Community Trade and Investment Council Agreement (October 30, 1998)
 - ▶ United States-Central American Regional Trade and Investment Framework Agreement (March 20, 1998)
 - ▶ United States-Association of Southeast Asian Nations Trade and Investment Framework Arrangement (August 25, 2006)

Bilateral Documents and Declarations

Afghanistan

- ▶ United States-Afghanistan Trade and Investment Framework Agreement (September 21, 2004)

Algeria

- ▶ United States-Algeria Trade and Investment Framework Agreement (July 13, 2001)

Angola

- ▶ United States-Angola Trade and Investment Framework Agreement (May 19, 2009)

Argentina

- ▶ Bilateral Council on Trade and Investment (February 2002)

Association of Southeast Asian Nations (ASEAN)

- ▶ United States-ASEAN Trade and Investment Framework Agreement (August 5, 2006)

Bolivia

- ▶ Agreement between the Government of the United States of America and the Government of the Republic of Bolivia concerning a United States-Bolivia Council on Trade and Investment (May 8, 1990)

Brazil

- ▶ Bilateral Consultative Mechanism (June 25, 2001)

Brunei Darussalam

- ▶ United States-Brunei Darussalam Trade and Investment Framework Agreement (December 16, 2002)

Cambodia

- ▶ United States-Cambodia Trade and Investment Framework Agreement (July 14, 2006)

Caribbean Common Market

- ▶ United States-Caribbean Common Market Trade and Investment Framework Agreement (1991)

Central Asian Economies

- ▶ United States-Central Asian Trade and Investment Framework Agreement (June 1, 2004)

China

- ▶ United States-China Joint Commission on Commerce and Trade Agreements (April 21, 2004)
- ▶ United States-China Joint Commission on Commerce and Trade Agreements (July 11, 2005)
- ▶ Memorandum of Understanding on Combating Illegal Logging and Associated Trade (May 5, 2008)

Common Market for Eastern and Southern Africa

- ▶ United States-Common Market for Eastern and Southern Africa Trade and Investment Framework Agreement (October 2001)

East African Community

- ▶ United States-East African Community Trade and Investment Framework Agreement (July 16, 2008)

Ecuador

- ▶ Agreement between the Government of the United States of America and the Government of the Republic of Ecuador concerning a United States-Ecuador Council on Trade and Investment (July 23, 1990)

Egypt

- ▶ United States-Egypt Trade and Investment Framework Agreement (July 1, 1999)

European Union

- ▶ United States-EU Transatlantic Economic Partnership (May 18, 1998)
- ▶ United States-EU Joint Action Plan for the Transatlantic Economic Partnership (November 9, 1998)

Georgia

- ▶ United States-Georgia Trade and Investment Framework Agreement (June 20, 2007)

Ghana

- ▶ United States-Ghana Trade and Investment Framework Agreement (February 26, 1999)

Iceland

- ▶ United States-Iceland Trade and Investment Cooperation Forum Agreement (January 15, 2009)

India

- ▶ United States-India Trade Policy Forum , Framework for Cooperation on Trade and Investment (March 17, 2010)

Indonesia

- ▶ United States-Indonesia Understanding on a Trade and Investment Council (July 16, 1996)
- ▶ Memorandum of Understanding on Combating Illegal Logging and Associated Trade (November 16, 2006)

Israel

- ▶ Understanding regarding Israel's intellectual property regime for pharmaceutical products (February 18, 2010)

Iraq

- ▶ United States-Iraq Trade and Investment Framework Agreement (July 11, 2005)

Japan

- ▶ United States-Japan Joint Statement on the Bilateral Steel Dialogue (September 24, 1999)
- ▶ Exchange of Letters between the United States and Japan—Letters Regarding Electro-Magnetic Compatibility (EMC) Testing of Unintentional Radiators and Industrial Scientific and Medical (ISM) Equipment (February 26, 2007)

Kuwait

- ▶ United States-Kuwait Trade and Investment Framework Agreement (February 6, 2004)

Lebanon

- ▶ United States-Lebanon Trade and Investment Framework Agreement (November 30, 2006)

Liberia

- ▶ United States-Liberia Trade and Investment Framework Agreement (February 15, 2007)

Malaysia

- ▶ United States-Malaysia Trade and Investment Framework Agreement (May 10, 2004)

Maldives

- ▶ United States-Maldives Trade and Investment Framework Agreement (October 17, 2009)

Mauritius

- ▶ United States-Mauritius Trade and Investment Framework Agreement (September 18, 2006)

Mongolia

- ▶ United States-Mongolia Trade and Investment Framework Agreement (July 15, 2004)

Mozambique

- ▶ United States-Mozambique Trade and Investment Framework Agreement (June 21, 2005)

New Zealand

- ▶ United States-New Zealand Trade and Investment Framework Agreement (October 2, 1992)

Nigeria

- ▶ United States-Nigeria Trade and Investment Framework Agreement (February 16, 2000)

Oman

- ▶ United States-Oman Trade and Investment Framework Agreement (July 7, 2004)

Pakistan

- ▶ United States-Pakistan Trade and Investment Framework Agreement (June 25, 2003)

Paraguay

- ▶ Joint Commission on Trade and Investment (September 26, 2003)

Philippines

- ▶ United States-Philippines Trade and Investment Framework Agreement (1989)

Qatar

- ▶ United States-Qatar Trade and Investment Framework Agreement (March 19, 2004)

Rwanda

- ▶ United States-Rwanda Trade and Investment Framework Agreement (June 7, 2006)

Saudi Arabia

- ▶ United States-Saudi Arabia Trade and Investment Framework Agreement (July 31, 2003)

South Africa

- ▶ United States-South Africa Trade and Investment Framework Agreement (February 18, 1999)

Southern Africa Customs Union

- ▶ United States-Southern Africa Customs Union Trade, Investment, and Development Cooperative Agreement (July 16, 2008)

Sri Lanka

- ▶ United States-Sri Lanka Trade and Investment Framework Agreement (July 25, 2002)

Switzerland

- ▶ United States-Switzerland Trade and Investment Cooperation Forum Agreement (May 25, 2006)

Taiwan

- ▶ United States-Taiwan Trade and Investment Framework Agreement (September 19, 1994)

Thailand

- ▶ United States-Thailand Trade and Investment Framework Agreement (October 23, 2002)

Tunisia

- ▶ United States-Tunisia Trade and Investment Framework Agreement (October 2, 2002)

Turkey

- ▶ United States-Turkey Trade and Investment Framework Agreement (September 29, 1999)

Ukraine

- ▶ United States-Ukraine Trade and Investment Cooperation Agreement (March 28, 2008)

United Arab Emirates (UAE)

- ▶ United States-United Arab Emirates Trade and Investment Framework Agreement (March 15, 2004)

Uruguay

- ▶ United States-Uruguay Bilateral and Commercial Trade Review (May 20, 1999)
- ▶ Joint Commission on Trade and Investment (January 25, 2007)
- ▶ United States-Uruguay Trade and Investment Framework Agreement (January 25, 2007)
 - i. United States-Uruguay Trade and Investment Framework Agreement Protocol Concerning Trade and Environment Public Participation (October 2, 2008)
 - ii. United States-Uruguay Trade and Investment Framework Agreement Protocol Concerning Trade Facilitation (October 2, 2008)

Vietnam

- ▶ United States-Vietnam Trade and Investment Framework Agreement (June 21, 2007)

West African Economic and Monetary Union

- ▶ United States-West African Economic and Monetary Union Trade and Investment Framework Agreement (April 24, 2002)

Yemen

- ▶ United States-Yemen Trade and Investment Framework Agreement (February 6, 2004)

