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## **Chapter Three**

### **WTO ACTIVITIES**

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This chapter provides an outline of the main activities of the WTO during 2002.

### I. The Doha Development Agenda (DDA)

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

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

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

The negotiations should be concluded no later than 1 January 2005. Negotiations on the Dispute Settlement Understanding are to end in May 2003; those on a multilateral register of geographical indications for wines and spirits, by the next Ministerial Conference in 2003. Progress is to be reviewed at the Fifth Ministerial Conference in Cancún, Mexico, 10-14 September 2003.

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

#### Trade Negotiations Committee (TNC)

The first TNC meeting was held on 28 January and 1 February 2002. On the basis of proposals made by the General Council Chairman following consultations, the TNC appointed the Director-General in an *ex officio* capacity to chair the TNC until the deadline of 1 January 2005 established in the Doha Declaration. It also agreed to a structure for the work it would oversee, involving seven negotiating bodies: negotiating groups were established for market access and rules; and the negotiations on agriculture, services, TRIPS, dispute settlement and environment would take place in Special Sessions of existing bodies. The General Council subsequently agreed to the slate of names for the negotiating body Chairpersons proposed by its Chairman on 15 February.

At each of its four subsequent meetings in 2002, the TNC took up reports on the work of the negotiating bodies by the individual Chairpersons. During the year, the Chairpersons

reported on how their negotiating bodies moved from procedural discussions to substance, and on how they saw the work evolving. At the TNC's second meeting in April, the Chairman stressed that although the immediate post-Doha phase was almost over, there was no room for complacency; substantive progress would have to be made in the negotiations by the next meeting. The TNC also took note of understandings proposed by the Chairman on participation in the negotiations (concerning acceding Observers) and on the status of Observer governments for whom an accession working party had not been established.

At the third meeting in July, the Chairman said that work was moving at a steady and deliberate speed, and everyone was aware that time was the only thing that could not be replaced or recycled. He sensed a constructive mood among participants, and considered that a good start had been made on the negotiations. The Chairman concluded the fourth meeting in October by saying that he was encouraged that there was a widespread sense of the globality of the negotiations, of the need to make progress across a broad front and to build a balanced overall result. Everyone had a shared responsibility to move the negotiations on to a timely and positive conclusion. He warned against the use of delaying tactics, stressing again the importance of the upcoming deadlines. He urged delegations to break out of defensive positions – participants could not remind themselves often enough that this was not a zero-sum game. It was certainly about national interests, but it was also about shared interest in a system which delivered for all its members.

At the fifth meeting in December, delegations generally agreed with the Chairman's assessment – the situation was rather mixed, in as much as progress had been made on all fronts, but in an uneven way, and perhaps not as quickly as was needed. Under a separate agenda item, the TNC also took up a number of reports on outstanding implementation issues by relevant WTO bodies pursuant to paragraph 12(b) of the Doha Ministerial Declaration. The Chairman reported on his consultations on possible approaches to these issues, setting out a number of options. While the TNC was able to take note of the consensus reached on one issue, it was clear that no agreement was possible on appropriate action for the other 23 issues. The Chairman announced he would consult informally on possible next steps, and the TNC would take this matter up at its next meeting in February 2003.

## Work Programme

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

### Implementation-related issues and concerns

*"12. We attach the utmost importance to the implementation-related issues and concerns raised by Members and are determined to find appropriate solutions to them. In this connection, and having regard to the General Council Decisions of 3 May and 15 December 2000, we further adopt the Decision on Implementation-Related Issues and Concerns in document WT/MIN(01)/17 to address a number of implementation problems faced by Members. We agree that negotiations on outstanding implementation issues shall be an integral part of the Work Programme we are establishing, and that agreements reached at an early stage in these negotiations shall be treated in accordance with the provisions of paragraph 47 below. In this regard, we shall proceed as follows: (a) where we provide a specific negotiating mandate in this Declaration, the relevant implementation issues shall be addressed under that mandate; (b) the other outstanding implementation issues shall be addressed as a matter of priority by the relevant WTO bodies, which shall report to the Trade Negotiations Committee, established under paragraph 46 below, by the end of 2002 for appropriate action."*

**Agriculture** The work in the regular meetings of the Committee on Agriculture covered three distinct implementation-related issues and concerns: (i) an examination of possible means of improving the effectiveness of the implementation of the Marrakesh Ministerial Decision on Measures concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries; (ii) the implementation of Article 10.2 of the Agreement on Agriculture which relates to the development of internationally agreed disciplines to govern the provision of export credits, export credit guarantees or insurance programmes, and (iii) the review of addenda to notifications submitted by Members with tariff quotas to ensure that their tariff quota regimes are administered in a transparent, equitable and non-discriminatory manner.<sup>1</sup>

**Anti-dumping** At the Fourth Ministerial Conference, in their Decision on Implementation-Related Issues and Concerns, Ministers referred three implementation-related issues to the Committee on Anti-Dumping Practices ("the Committee") or its

<sup>1</sup> See related report by the Committee on Agriculture in document G/AG/14 dated 9 October 2002.

Working Group on Implementation for consideration and recommendations, to be completed within 12 months. The Working Group on Implementation was directed to examine modalities for the application of Article 15 of the Agreement and draw up recommendations on how to operationalize it, and to draw up recommendations concerning the time-frame to be used in determining a *de minimis* volume of imports under Article 5.8 of the Agreement. The Committee was directed to draw up guidelines for the improvement of the annual reviews under Article 18.5 of the Agreement. (WT/MIN(01)/17, paras. 7.2, 7.3., and 7.4).

The Chairman reported to the General Council on 12 December 2002 concerning the Committee's actions under the Ministerial mandate (G/ADP/11). The Chairman reported that the Committee had adopted recommendations with respect to the time-frame to be used in determining a *de minimis* volume of imports under Article 5.8 of the Agreement (G/ADP/8) and annual reviews (G/ADP/9) at a special meeting on 27 November 2002. With respect to the third matter, operationalizing Article 15, the Chairman reported that there continued to exist substantially divergent views, that he was unable to identify any significant basis for consensus on a recommendation, and that the issues raised in the proposals, as developed and clarified through the discussions, may yet form the basis for further discussion, should any Member submit proposals concerning them for discussion in an appropriate forum.

**Balance of payments** In accordance with paragraph 12(b) of the Doha Ministerial Declaration, the Committee on Balance-of-Payments Restrictions discussed outstanding implementation issues and submitted its report to the TNC. The Committee also completed its first annual review under the Transitional review mechanism of China's Protocol of Accession.

**Customs valuation** The Committee on Customs Valuation received a mandate from Ministers at Doha to address five outstanding implementation-related issues and to carry out the work in paragraph 8.3 of the Decision on Implementation-Related Issues and Concerns, in accordance with paragraph 12 of the Ministerial Declaration. The five outstanding issues concern specific provisions of the Agreement on Customs Valuation, and paragraph 8.3 deals with information exchange among customs administrations aimed at relieving concerns related to the accuracy of the declared value. The Committee addressed these issues in seven informal and formal meetings during the reporting period. In accordance with the mandates, it submitted its report on the outstanding implementation-related issues (G/VAL/49) to the TNC and its report on paragraph 8.3 concerns (G/VAL/50) to the General Council in December. An important feature of the latter is the attached Terms of Reference to the Technical Committee on Customs Valuation (administered by the World Customs Organization in Brussels). The Committee agreed to request the Technical Committee to examine specific technical issues and to report by 15 May 2003 with advice and technical input so that the Committee may continue its work under paragraph 8.3 of WT/MIN(01)/17.

**Market access** Paragraph 1.2 of the Ministerial Decision on Implementation-Related Issues and Concerns, directs the Market Access Committee to give further consideration to the issue of "substantial interest" in paragraph 2(d) of Article XIII of the GATT 1994 and make recommendations to the General Council as expeditiously as possible but in any event not later than the end of 2002. The Market Access Committee considered this issue during 2002 and made a report of its deliberations to the General Council in document G/MA/119. It indicated that it was unable to reach a consensus on any recommendations and referred the matter to the General Council for consideration.

In paragraph 13 of the Ministerial Decision on Implementation-Related Issues and Concerns reference is made to "Outstanding Implementation Issues which are compiled in document JOB(01)152/Rev.1". It was agreed that these issues should be addressed in accordance with paragraph 12 of the Ministerial Declaration.

One outstanding implementation issue (contained in Tired 99) was considered in the Market Access Committee during 2002, following a decision by the Council for Trade in Goods in March 2002, that this issue fell in the area of competence of that Committee. In accordance with paragraph 12(b) of the Ministerial Declaration a report was also to be made by that Committee to the TNC by the end of 2002 on this issue. Tired 99 refers to "Measures designed to secure a redistribution of negotiating rights in favour of small and medium-sized exporting members in trade negotiations".

In its report to the TNC (G/MA/118), the Committee indicated that it had undertaken a useful but inconclusive discussion on this matter which it noted went beyond its mandate. Accordingly, it referred the matter to the TNC for consideration and stated that this referral did not preclude an individual Member from raising this issue or aspects of this issue in any other forum as it deemed appropriate.

**Safeguards** In accordance with paragraph 12 of the Ministerial Declaration of 14 November 2001, and section 13 of the Ministerial Decision on Implementation-Related Issues and Concerns of 14 November 2001, the Committee on Safeguards ("the Committee") discussed outstanding implementation issue "tired 84" during 2002. Tired 84 set forth a proposal by Colombia to amend Article 9.1 of the Safeguards Agreement. The

Committee reported to the TNC on 5 December 2002 that there was no consensus on that proposal (document G/SG/59).

**Sanitary and phytosanitary measures** The Committee on Sanitary and Phytosanitary Measures received a mandate from Ministers at Doha to address two implementation-related issues. One concerned a proposal that the transparency provisions of the SPS Agreement should ensure that when the introduction of a sanitary or phytosanitary measure might have a significant effect on trade opportunities for products of interest to developing countries, the member taking the measure shall notify the WTO and inform the concerned member prior to the application of the measure, and further notify subsequent decisions derived from a previously notified measure. At its meeting in March 2002, the SPS Committee agreed to revised recommended procedures for implementing the transparency provisions of the SPS Agreement (G/SPS/7/Rev.2). These agreed procedures include recommendations that members should notify changes in the status of a previously notified regulation, including when the scope of application is extended in terms of members affected or products covered. Detailed guidance and formats for the notification of such addendums or revisions were also developed by the SPS Committee.

**Subsidies and countervailing measures** During 2002, the Committee on Subsidies and Countervailing Measures ("the Committee") conducted the review of the provisions of the Agreement regarding countervailing duty investigations, mandated by paragraph 10.3 of the Decision on Implementation-Related Issues and Concerns adopted on 14 November 2001 at the Doha Ministerial Conference. The substance of the review was conducted at a series of informal and special meetings on the basis of proposals from Brazil and India which were originally tabled prior to the Doha Ministerial Conference (see G/SCM/36 and G/SCM/38.) The Chairman submitted a report to the General Council on the review on 29 July 2002 (see G/SCM/45).

In addition, pursuant to Article 27.4 of the Agreement, developing country Members subject to the eight-year transition period in Article 27.2(b) for the elimination of export subsidies (which period expired 31 December 2002), had the possibility, not later than 31 December 2001, to enter into consultations with the Committee to seek extension of this transition period, if those Members deemed it necessary to apply such subsidies beyond the eight-year period. A total of 22 Members sought extensions in respect of specific programmes pursuant to Article 27.4.<sup>2</sup> Most of these were requests based on the special procedures contained in G/SCM/39 which had been approved by Ministers at Doha in the Decision on Implementation-Related Issues and Concerns; one Member's request in respect of two programmes was based on the language in paragraph 10.6 of that same Implementation Decision; and several others were based on Article 27.4 alone.<sup>3</sup> In addition, four Members listed in Annex VII(b)<sup>4</sup> reserved rights, as provided for in the special procedures in G/SCM/39, to seek extensions in the event that they graduate from Annex VII during the period in which other Members have extensions in effect pursuant to G/SCM/39. The Committee approved the requests for extension in respect of 43 programmes of 19 developing country Members on the basis of the special procedures in G/SCM/39; two programmes of one developing country Member on the basis of paragraph 10.6 of the Doha Implementation Decision; and eight programmes of four developing country Members on the basis of Article 27.4 alone (documents G/SCM/50-102).

In paragraph 10.1 of the Decision on Implementation-Related Issues and Concerns, Ministers agreed that Annex VII(b) to the Agreement included the Members that were listed therein until their GNP per capita reached US\$1,000 in constant 1990 dollars for three consecutive years. This decision was to enter into effect upon the adoption by the Committee of an appropriate methodology for calculating constant 1990 dollars or, if no such consensus was reached by the Committee, then, as of 1 January 2003, the methodology set forth in G/SCM/38, Appendix 2, shall be applied. In the absence of any proposals concerning methodology, the methodology in G/SCM/38, Appendix 2, therefore applies since 1 January 2003.

**Technical barriers to trade** Following the Second Triennial Review of the Operation and Implementation of the Agreement, the Committee continued to develop a demand driven TBT-related Technical Cooperation Programme as confirmed and mandated by Ministers at Doha and continued discussions on a number of elements taken up during that Review. The Committee carried out the mandate provided by Ministers at Doha to address the outstanding implementation issues, and also conducted the annual transitional review mandated in the Protocol of Accession of the People's Republic of China.

**Textiles and clothing** The Doha Ministerial Decision on Implementation-Related Issues and Concerns contains several proposals relating to textiles and clothing, of which two relate to possible market access improvements in the context of the ATC, through changes in the methodology for the application of quota growth rates. It called upon the CTG to examine these two proposals and to make recommendations for appropriate action to the General Council by the end of July 2002.

<sup>2</sup> Antigua & Barbuda; Barbados; Belize; Colombia; Costa Rica; Dominica; Dominican Republic; El Salvador; Fiji; Grenada; Guatemala; Jamaica; Jordan; Mauritius; Panama; Papua New Guinea; St. Kitts & Nevis; St. Lucia; St. Vincent and the Grenadines; Thailand; Uruguay. Suriname originally made a request, but subsequently withdrew it.

<sup>3</sup> Paragraph 10.6 of the Doha Ministerial Decision on Implementation-Related Issues and Concerns states:

"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."

<sup>4</sup> Bolivia; Honduras; Kenya and Sri Lanka.

Given the differences in views and understandings among Members, the Chairman of the CTG presented an oral report on the situation to the General Council on 31 July 2002. In his summing-up remarks, the Acting Chairman of the General Council noted that, whereas the matter continued to be an important concern to many Members, fundamental differences existed on views and understandings and, consequently, no consensus was possible on how best to deal with this issue. In these circumstances, he noted that the CTG had carried out its mandate but had not been able to formulate any recommendations. Finally, he concluded that the General Council could take note of the statements without any prejudice to their positions and that Members should "continue to reflect on the various views that had been expressed".

**Trade-related aspects of intellectual property rights (TRIPS)** Article 66.2 of the TRIPS Agreement requires developed country Members to provide incentives to enterprises and institutions in their territories for the purpose of promoting and encouraging technology transfer to least-developed country Members in order to enable them to create a sound and viable technological base. Pursuant to paragraph 11.2 of the Doha Decision on Implementation-Related Issues and Concerns, developed country Members made information on their implementation of Article 66.2 available for the Council's meeting in November 2002. Furthermore, the Council discussed the implementation of Ministers' instruction in that same paragraph to put in place a mechanism for ensuring the monitoring and full implementation of Article 66.2. In the light of the suggestions and discussions in the Council and informal consultations, the Chair circulated for the Council's November meeting an informal note containing a draft decision for the consideration of the Council, but, at that point, some Members still needed more time to consider the draft decision. At its first meeting in 2003, the Council adopted a decision on "Implementation of Article 66.2 of the TRIPS Agreement" (IP/C/28).

Paragraph 11.1 of the Doha Decision on Implementation-Related Issues and Concerns directed the TRIPS Council to continue its examination of the scope and modalities for complaints of the types provided for under subparagraphs 1(b) and 1(c) of Article XXIII of GATT 1994 and make recommendations to the Fifth Session of the Ministerial Conference. Ministers agreed that, in the meantime, Members will not initiate such complaints under the TRIPS Agreement. To facilitate the Council's work on this matter, the Secretariat prepared for the June meeting a note summarizing the points that had been raised in the substantive discussion on this item so far. Since then, the Council has continued its discussions on the basis of the Chair's annotated agenda aimed at suggesting a number of basic questions with a view to providing focus to the Council's discussion on this subject. The Council set its first meeting in 2003 as a target date for the submission of specific proposals.

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### Outstanding implementation issues

Many of the outstanding implementation issues raised by Members relating to the TRIPS Agreement referred to in paragraph 10 of document JOB(01)/152/Rev.1 overlap with issues that were discussed in the TRIPS Council under other mandates. For the sake of brevity, the Council's work on all of these issues is described in Part I section VI below.

## Agriculture (Paragraphs 13 and 14)

*"13. We recognize the work already undertaken in the negotiations initiated in early 2000 under Article 20 of the Agreement on Agriculture, including the large number of negotiating proposals submitted on behalf of a total of 121 Members. We recall the long-term objective referred to in the Agreement to establish a fair and market-oriented trading system through a programme of fundamental reform encompassing strengthened rules and specific commitments on support and protection in order to correct and prevent restrictions and distortions in world agricultural markets. We reconfirm our commitment to this programme. Building on the work carried out to date and without prejudging the outcome of the negotiations we commit ourselves to comprehensive negotiations aimed at: substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support. We agree that special and differential treatment for developing countries shall be an integral part of all elements of the negotiations and shall be embodied in the Schedules of concessions and commitments and as appropriate in the rules and disciplines to be negotiated, so as to be operationally effective and to enable developing countries to effectively take account of their development needs, including food security and rural development. We take note of the non-trade concerns reflected in the negotiating proposals submitted by Members and confirm that non-trade concerns will be taken into account in the negotiations as provided for in the Agreement on Agriculture.*

*14. Modalities for the further commitments, including provisions for special and differential treatment, shall be established no later than 31 March 2003. Participants shall submit their comprehensive draft Schedules based on these modalities no later than the date*



*of the Fifth Session of the Ministerial Conference. The negotiations, including with respect to rules and disciplines and related legal texts, shall be concluded as part and at the date of conclusion of the negotiating agenda as a whole."*

The negotiations on agriculture started in January 2000 as separate negotiations under the built-in agenda of the Agreement on Agriculture (Article 20). They are now part of the Doha Development Agenda with an enhanced mandate and clear deadlines. In the first year of the negotiations 121 Members submitted, individually or as part of alliances of countries sharing common interests, 45 negotiating proposals. In the following year the talks were based on additional informal papers by participants setting out their negotiating proposals in greater detail. From the outset, the establishment of provisions to enhance the flexibility of developing countries (special and differential treatment) has been part of the negotiations. In March 2002, the negotiations moved into a new phase.<sup>5</sup> Participants shifted their focus to the development of modalities for further commitments, including the rules and disciplines of the Agreement on Agriculture. In the area of market access, various tariff cutting formulas were proposed, including the Swiss formula and the Uruguay Round formula. Concrete proposals were made to increase the volumes available for imports under tariff quotas and reduce in-quota tariffs to zero, although not everyone agreed. There was widespread support for improved disciplines concerning tariff quota administration. Participants also held consultations on possible elements of a special developing country food security safeguard. Other market access issues that were pursued in the negotiations concern importing state-trading enterprises, tariff preferences, geographical indications, food safety and labelling. On export competition, there was substantial support for phasing out export subsidies but others favoured the Uruguay Round formula for reducing export subsidies. New or strengthened disciplines for export credits, food aid and exporting state-trading enterprises were also discussed. In the area of domestic support, the negotiations covered the Green Box, the Blue Box, Article 6.2 of the Agreement in favour of developing countries and the Amber Box. Participants discussed proposals to further reduce or eliminate trade-distorting domestic support under the Amber Box, as well as proposals concerning the status of the Blue Box. Some countries proposed to change the architecture of the Agreement on Agriculture by, for example, reducing the number of boxes to two, one for trade-distorting and one for non-trade distorting domestic support. Other proposals included spending limits for the Green Box and reductions of direct payments under the Green Box. In December 2002, the Chairman of the Special Session submitted an Overview Paper on the state of the negotiations.<sup>6</sup> The paper identifies crucial issues which need to be resolved in order to establish modalities for further commitments by the mandated deadline of 31 March 2003. As the year ended, the positions of participants in the negotiations were still far apart in their level of ambition for further reform in agriculture.

## Services (Paragraph 15)

*"15. The negotiations on trade in services shall be conducted with a view to promoting the economic growth of all trading partners and the development of developing and least-developed countries. We recognize the work already undertaken in the negotiations, initiated in January 2000 under Article XIX of the General Agreement on Trade in Services, and the large number of proposals submitted by Members on a wide range of sectors and several horizontal issues, as well as on movement of natural persons. We reaffirm the Guidelines and Procedures for the Negotiations adopted by the Council for Trade in Services on 28 March 2001 as the basis for continuing the negotiations, with a view to achieving the objectives of the General Agreement on Trade in Services, as stipulated in the Preamble, Article IV and Article XIX of that Agreement. Participants shall submit initial requests for specific commitments by 30 June 2002 and initial offers by 31 March 2003."*

The Council for Trade in Services held five meetings in Special Session in 2002. Reports of the meetings are contained in documents TN/S/M/1 to 5. The Special Session addressed the following matters:

### **Proposals Relating to the Negotiations under Article XIX of the GATS**

Under this agenda item, Members continued to discuss various negotiating proposals submitted to the Special Session on a number of services sectors, modes of supply and other horizontal issues.

At its meeting held on 19-22 March, the Council addressed all the proposals and structured the discussion according to sectors, modes of supply and horizontal issues. Sectors were taken up in the order in which they appear in the MTN.GNS/W/120 sectoral classification list. As it had done in its previous meeting, the Council sharpened the focus of the discussion by organizing the debate around the following items: classification issues; market access and national treatment commitments; regulatory issues; issues relating to the implementation of Article IV; and any other issues, including MFN exemptions.

<sup>5</sup> See work programme in TN/AG/1 dated 9 April 2002 and meeting reports in TN/AG/R/1 to 5 dated 19 April, 10 July, 1 October, 18 October and 19 December 2002.

<sup>6</sup> See document TN/AG/6 dated 18 December 2002.

Starting with its meeting held in June, the Council's discussion of this item was structured according to new proposals received. Substantive discussions were subsequently held on negotiating proposals relating to specific sectors, as well as on issues such as classification of certain services, small and medium-sized enterprises, and small economies as small suppliers of services.

The Secretariat produced a number of documents related to discussions under this item. As had been originally agreed under the "stock-taking" discussion held in March 2001, the Secretariat continued to update a paper which, while not substituting for the proposals, identifies the main elements they contain. These updates are contained in documents JOB(01)/63/Add. 2 to 4 and JOB(01)/63/Corr.2. As well, responding to a request from Members made at the Council meeting held on 5-6 June, the Secretariat presented an informal note compiling existing offers in Maritime Transport Services.

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### **Assessment of Trade in Services**

Article XIX:3 of the GATS mandates the Council to carry out an assessment of trade in services in overall terms and on a sectoral basis, with reference to the objectives of the Agreement, including those set out in Article IV:1. The assessment of trade in services figures as a standing item on the agenda of the Special Session.

The Council's deliberations under this item benefited from various submissions by Members, as well as an expert invited by a Member, describing national experiences with services liberalization (China, Norway, Southern Africa, Thailand). In addition, two joint submissions from groups of Members focused on problems encountered by developing economies.

In addition, the Council conducted two informal symposia. Experts from national and international institutions, representatives of trade unions and business associations, Uruguay Round trade negotiators, and government officials were invited to give presentations. The Symposium on Assessment of Trade was held in March, followed by the Symposium on the Movement of Natural Persons in April. The latter event was organized jointly by the WTO Secretariat and the World Bank.

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### **Treatment of Autonomous Liberalization**

Article XIX:3 of the GATS mandates that the negotiating guidelines establish modalities for the treatment of liberalization undertaken autonomously by Members since previous negotiations. The treatment of autonomous liberalization figured as a standing item on the agenda of the Special Session in 2002.

Initial proposals on this item were presented in December 2001 and were followed by other proposals submitted at the meeting held in March 2002 by the European Communities (S/CSS/W/133), Hong Kong, China (S/CSS/W/134), and Paraguay (S/CSS/W/140) in addition to a communication from China (JOB(02)/41) and a Secretariat note suggesting possible elements for modalities for the treatment of autonomous liberalization (JOB(02)/23). The Council agreed that, on the basis of the Attachment to the Secretariat note and the extensive substantive written and oral communications made, the Chairman would produce a initial draft of the modalities, contained in JOB(02)/35. At its meetings in June, July, October and December the Council pursued its discussion on this item based on two revised drafts produced by the Chairman and a report by the Chairman focusing on the main substantive and outstanding issues (JOB(02)/75).

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### **Modalities for the Special Treatment for Least-Developed Countries**

Article XIX:3 of the GATS mandates that the negotiating guidelines establish modalities for the special treatment for least-developed country Members under the provisions of paragraph 3 of Article IV (Increasing Participation of Developing Countries).

Initial discussion on this item began at the meeting of the Council held in June and continued in a more substantive fashion at the meeting held in July on the basis of a communication from Uganda on behalf of least-developed countries (JOB(02)/30). In order to help structure further debate on this item, the Secretariat was tasked with producing a checklist of the issues raised (JOB(02)/135). Discussion on this item entered a new phase at the meeting of the Council in December with the presentation by Zambia, on behalf of least-developed country Members, of a draft text of the modalities for the special treatment for least-developed countries, contained in JOB(02)/205. Although a few concerns were expressed regarding some of the provisions of the draft, a large number of Members noted that the draft was an important document and a good basis upon which to move the negotiations forward.

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### **Review of Progress in the Negotiations**

At its meeting held on 23-25 July, the Council agreed to include this standing item on its agenda as a means to promote transparency, allow the Special Session to fulfil its function



as the body overseeing the negotiations, and provide Members with an opportunity to raise issues of concern that might emerge in the course of their consultations, as well as to communicate their impressions on how the negotiations were proceeding. At its meeting in October substantive discussion was held regarding a communication from Bolivia, Colombia, Cuba, Ecuador, Nicaragua, Peru, and Trinidad and Tobago on the Implementation of Paragraph 15 of the Guidelines and Procedures for the Negotiations on Trade in Services (S/L/93), contained in document TN/S/W/7. The Dominican Republic, Guatemala and Honduras subsequently indicated their wish to co-sponsor this proposal. At the meeting of the Council in December, discussion continued on this proposal as well as on the progress in the negotiations overall.

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### **Working Party on Domestic Regulation**

The Working Party on Domestic Regulation (WPDR), established by the Services Council in April 1999, is mandated to develop disciplines to ensure that measures relating to licencing requirements, technical standards and qualification requirements do not constitute unnecessary barriers to trade in services. It also assumed the tasks assigned to the former Working Party on Professional Services, including the development of general disciplines for professional services.

The Working Party held five formal meetings and two informal meetings in 2002. Minutes of the formal meetings are found in WTO documents S/WPDR/M/15 to M/19. A formal paper was submitted by China (S/WPDR/W/20). Informal papers were submitted by the Chairperson, Members and the Secretariat.

Members in March 2002 discussed the organization of future work. They were generally of the view that it was time to focus more on the regulatory barriers and issues that service suppliers actually faced as opposed to general concepts and principles. This involved engaging in a review of the measures contained in the informal Secretariat paper *Examples of Measures to be Addressed by Disciplines under GATS Article VI:4*.

Regarding professional services, the Working Party held discussions on the informal Secretariat paper *Synthesis of Results to Date of the Domestic Consultations in Professional Services*. In October 2002, the WPDR agreed on Secretariat consultations with international professional services organizations, as selected by Members, concerning the potential suitability of the *Disciplines on Domestic Regulation in the Accountancy Sector (S/L/64)* for other professions.

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### **Committee on Trade in Financial Services**

The Committee on Trade in Financial Services is mandated to discuss matters relating to trade in financial services and, as such, serves as a forum for technical discussions and examination of regulatory developments. It is responsible, *inter alia*, for the continuous review and surveillance of the application of the GATS with respect to this sector, and for formulating proposals or recommendations for consideration by the Council for Trade in Services in connection with any matters relating to trade in the sector. The Committee held five formal meetings during the period under consideration. The reports of these meetings are contained in documents S/FIN/M/34-38. The annual report of the Committee to the Council for Trade in Services is contained in document S/FIN/8, dated 4 December 2002. During the year 2002, the Committee continued monitoring the acceptance of the Fifth Protocol to the GATS, which entered into force on 1 March 1999 and that has yet to be accepted by Brazil, Dominican Republic, Jamaica, Philippines, Poland and Uruguay. As part of its work on technical issues, the Committee focused on the classification aspects contained in some negotiating proposals submitted to the Special Session of the Council for Trade in Services, and began to address matters related to the relationship between financial services liberalization and capital flows. As part of its review of recent developments in financial services trade, the Committee discussed the application of transparency to the regulatory process and reviewed developments on e-finance, on the basis of papers and presentations by Members. Also, the Committee invited the International Monetary Fund and the World Bank to make presentations on the Fund's Financial Sector Assessment Programme (FSAP) and the Bank's policy report "Finance for Growth: Policy Choices in a Volatile World", respectively. At its meeting on 21 October 2002, the Committee carried out the first transitional review of the implementation by China of its WTO commitments, pursuant to section 18 of the Protocol on the Accession of the People's Republic of China. The report submitted by the Committee to the Council for Trade in Services on this matter is contained in document S/FIN/7, dated 25 October 2002.

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### **Committee on Specific Commitments**

The Committee on Specific Commitments (CSC) is mandated to oversee the implementation of services commitments and the application of the procedures for the modification of schedules and seeks to improve the technical accuracy and coherence of

schedules of commitments and lists of MFN exemptions. It has concentrated its work on services classification and the scheduling of commitments, with a view to facilitating the current round of negotiations on trade in services.

During the period under consideration, the Committee held five formal meetings. The reports of those meetings are contained in documents *S/CSC/M/22* to *26*. Members addressed technical issues arising from commitments that result from current services negotiations and their relationship with existing commitments. Without prejudice to the ultimate legal relationship between pre-existing and new commitments, Members supported the concept of a single consolidated schedule at the end of the negotiations. It was agreed that offers should be submitted on the basis of draft consolidated schedules, to be prepared by the Secretariat for all Members except those who preferred to undertake the consolidation themselves.

During the reporting period, the Committee discussed new classification proposals regarding Legal Services, Postal and Courier Services, and Computer and related Services. The Annual Report of the Committee on Specific Commitments to the Council for Trade in Services is contained in document *S/CSC/7* of 6 December 2002.

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### Working Party on GATS Rules

The Working Party on GATS Rules is mandated to carry out negotiations on emergency safeguard measures (GATS Article X), government procurement (GATS Article XIII) and subsidies (GATS Article XV). In 2002, it held five formal meetings during which these three topics were discussed (*S/WPGR/M/36* to *40*). Different views continued to be expressed regarding the desirability and feasibility of an emergency safeguard mechanism in services, and various approaches were discussed. In March 2002, Members decided to extend the negotiating deadline for emergency safeguard measures until 15 March 2004. On government procurement, discussions focused on possible multilateral disciplines, as well as the scope of the negotiating mandate. The Working Party also considered the need for, and possible scope of disciplines on, subsidies which may have trade-distortive effects. On 22 July 2002, the Working Party adopted work programmes to organize its work under each of the three agenda items (*S/WPGR/7*). The annual report of the Working Party on GATS Rules to the Council for Trade in Services is contained in document *S/C/16* (9 December 2002).

### Market access for non-agricultural products (Paragraph 16)

*"16. We agree to negotiations which shall aim, by modalities to be agreed, to reduce or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs, and tariff escalation, as well as non-tariff barriers, in particular on products of export interest to developing countries. Product coverage shall be comprehensive and without a priori exclusions. The negotiations shall take fully into account the special needs and interests of developing and least-developed country participants, including through less than full reciprocity in reduction commitments, in accordance with the relevant provisions of Article XXVIII bis of GATT 1994 and the provisions cited in paragraph 50 below. To this end, the modalities to be agreed will include appropriate studies and capacity-building measures to assist least-developed countries to participate effectively in the negotiations."*

During the first part of the year, the Negotiating Group on Market Access struggled with questions of procedure, which were finally resolved on 19 July 2002 with the adoption of its "Programme of Meetings for the Negotiations on Market Access on Non-Agricultural Products" (*TN/MA/3*). Two target dates are provided for in this Programme. The first is 31 December 2002 for the submission of proposals on modalities for the market access negotiations and the second one is 31 May 2003 for agreement on those modalities. The Group held its first substantive meeting on 2 August 2002, and has since then held three meetings in October, November and December 2002, respectively. A number of participants have sent in communications regarding their views on the negotiations as well as in some cases proposals on modalities in order to meet the first target date of 31 December 2002. In addition, participants at the request of the Chairman agreed to notify non-tariff barriers (NTBs) that their exporters are facing when exporting to various markets. The deadline for the submission of such notifications is 31 January 2003. The Group has also been looking at the question of trade and tariff data required for the negotiations, and has been examining ways in which gaps currently existing in the WTO trade and tariff database (Integrated Data Base) may be filled. In this connection, a letter was sent by the Chairman urging participants to make the necessary submission of trade and tariff data to the database and/or give authorization to the Secretariat to source data from other databases. The deadline for the submission of such authorization is 31 January 2003. The Group also noted the broad support in the Committee on Trade and Environment in Special Session for the idea that negotiations on environmental goods, as foreseen in paragraph 31(iii) of the Doha Declaration, be conducted in the Group. The Group will continue its work in early 2003 on

the basis of the various submissions, the notifications on NTBs and a paper which provides an overview of the various proposed modalities with a view to reaching agreement on such modalities by 31 May 2003.

## Trade-related aspects of intellectual property rights (Paragraphs 17-19)

*“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.”*

The negotiations relating to the establishment of a multilateral system of notification and registration of geographical indications for wines and spirits (“multilateral system”) are mandated by Article 23.4 of the TRIPS Agreement and the first sentence of paragraph 18 of the Doha Ministerial Declaration, which calls for the completion of this work by the Fifth Session of the Ministerial Conference. As decided by the TNC at its meeting of 1 February 2002, these negotiations have taken place in Special Sessions of the Council for TRIPS.

At the first meeting of the Special Session, the Chair noted that there seemed to be a general understanding to organize the work along his suggestions that provided for the work to proceed in two phases: after a first phase of discussions of oral or written proposals, there would be a final negotiating phase, which would be based on a common negotiating basis to be presented by participants and, if that were not the case, by the Chair on his own responsibility and without prejudice to participants’ positions and to the outcome of the negotiations. Pursuant to this “roadmap”, work in 2002 was organized on the basis of the following list of points and issues for discussion: definition of the term “geographical indications” and eligibility of geographical indications for inclusion in the system; the purpose of the notification and registration system; what is meant by a “system of notification and registration”; and participation. As requested by the Special Session, the Secretariat has prepared a factual compilation of the points made in the course of this discussion (TN/IP/W/7).

## Relationship between trade and investment (Paragraphs 20-22)

*“20. Recognizing the case for a multilateral framework to secure transparent, stable and predictable conditions for long-term cross-border investment, particularly foreign direct investment, that will contribute to the expansion of trade, and the need for enhanced technical assistance and capacity-building in this area as referred to in paragraph 21, we agree that negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations.*

*21. We recognize the needs of developing and least-developed countries for enhanced support for technical assistance and capacity building in this area, including policy analysis and development so that they may better evaluate the implications of closer multilateral cooperation for their development policies and objectives, and human and institutional development. To this end, we shall work in cooperation with other relevant intergovernmental organizations, including UNCTAD, and through appropriate regional and bilateral channels, to provide strengthened and adequately resourced assistance to respond to these needs.*

*22. In the period until the Fifth Session, further work in the Working Group on the Relationship Between Trade and Investment will focus on the clarification of: scope and definition; transparency; non-discrimination; modalities for pre-establishment commitments*

*based on a GATS-type, positive list approach; development provisions; exceptions and balance-of-payments safeguards; consultation and the settlement of disputes between Members. Any framework should reflect in a balanced manner the interests of home and host countries, and take due account of the development policies and objectives of host governments as well as their right to regulate in the public interest. The special development, trade and financial needs of developing and least-developed countries should be taken into account as an integral part of any framework, which should enable Members to undertake obligations and commitments commensurate with their individual needs and circumstances. Due regard should be paid to other relevant WTO provisions. Account should be taken, as appropriate, of existing bilateral and regional arrangements on investment.”*

In 2002, the Working Group on the Relationship between Trade and Investment focused on the clarification of core issues related to a possible multilateral framework on investment, pursuant to Paragraph 22 of the Doha Ministerial Declaration. The issues are: 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; and consultation and dispute settlement among Members. The Working Group also took up the issues of foreign direct investment (FDI) and the transfer of technology, and investors and home governments' obligations, on the basis of submissions by some Members. The Working Group also monitored the extensive programme of technical assistance activities carried out in this area by the WTO Secretariat, in close cooperation with the UNCTAD Secretariat, pursuant to Paragraph 21 of the Doha Ministerial Declaration.

During 2002, the Committee on Trade-Related Investment Measures conducted work on a number of outstanding implementation-issues pertaining to the TRIMs Agreement, which were referred to it by the Council for Trade in Goods. The Committee's final report to the Council for Trade in Goods in respect of these issues is contained in document G/L/588.

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

*“23. Recognizing the case for a multilateral framework to enhance the contribution of competition policy to international trade and development, and the need for enhanced technical assistance and capacity-building in this area as referred to in paragraph 24, we agree that negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations.*

*24. We recognize the needs of developing and least-developed countries for enhanced support for technical assistance and capacity building in this area, including policy analysis and development so that they may better evaluate the implications of closer multilateral cooperation for their development policies and objectives, and human and institutional development. To this end, we shall work in cooperation with other relevant intergovernmental organizations, including UNCTAD, and through appropriate regional and bilateral channels, to provide strengthened and adequately resourced assistance to respond to these needs.*

*25. In the period until the Fifth Session, further work in the Working Group on the Interaction between Trade and Competition Policy will focus on the clarification of: core principles, including transparency, non-discrimination and procedural fairness, and provisions on hardcore cartels; modalities for voluntary cooperation; and support for progressive reinforcement of competition institutions in developing countries through capacity building. Full account shall be taken of the needs of developing and least-developed country participants and appropriate flexibility provided to address them.”*

In 2002, the Working Group on the Interaction between Trade and Competition Policy, which was established at the Singapore Ministerial Conference and is chaired by Professor Frédéric Jenny of France, continued its work in response to the direction provided by paragraph 25 of the Doha Ministerial Declaration. Paragraph 25 provides that “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 hard core 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.”

Four meetings were held during the year. Specific elements of paragraph 25 received focused attention at three substantive meetings in 2002, as set out below:

First meeting (23-24 April): support for progressive reinforcement of competition institutions in developing countries through capacity-building.

Second meeting (1-2 July): provisions on hard core cartels and modalities for voluntary cooperation.

Third meeting (26-27 September): core principles, including transparency, non-discrimination and procedural fairness.

A fourth meeting was held on 20 November 2002, principally for the purpose of reviewing and adopting the Working Group's Report (2002) to the General Council. This document, entitled Report (2002) of the Working Group on the Interaction between Trade and Competition Policy to the General Council (document WT/WGTCP/6), is available on the WTO website (www.wto.org), under the symbol "wgtcp".

In addition to the elements set out in paragraph 25, the Working Group had a focus, at each of its substantive meetings in 2002, on technical assistance as called for by paragraph 24 of the Doha Ministerial Declaration. Under this item, the Working Group had an opportunity to monitor progress on activities such as workshops and seminars held in this area, whether organized by the WTO Secretariat, other intergovernmental organizations and/or by Members acting through bilateral and regional channels, and to take note of any specific needs expressed by Members.

Throughout its work, the Working Group on the Interaction between Trade and Competition Policy has benefited from a high level of participation from Members. As of 31 December 2002, there had been a total of 221 formal contributions to the Group. Almost all of these are available on the WTO website. As called for by relevant provisions of the Singapore and Doha Declarations, the Working Group has benefited from extensive cooperation with other appropriate intergovernmental organizations. In 2002, representatives of UNCTAD and the OECD contributed actively to the work of the Group. As a further aspect of cooperation, representatives of the Secretariats of UNCTAD, the OECD and the World Bank participated on various occasions in regional and national workshops on trade and competition policy organized by the Secretariat during the year in various parts of the developing world.

## Transparency in government procurement (Paragraph 26)

*"26. Recognizing the case for a multilateral agreement on transparency in government procurement and the need for enhanced technical assistance and capacity building in this area, we agree that negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations. These negotiations will build on the progress made in the Working Group on Transparency in Government Procurement by that time and take into account participants' development priorities, especially those of least-developed country participants. Negotiations shall be limited to the transparency aspects and therefore will not restrict the scope for countries to give preferences to domestic supplies and suppliers. We commit ourselves to ensuring adequate technical assistance and support for capacity building both during the negotiations and after their conclusion."*

The Working Group on Transparency in Government Procurement which was established pursuant to the Ministerial Declaration of December 1996 is mandated "to conduct a study on transparency in government procurement practices, taking into account national policies, and, based on this study, to develop elements for inclusion in an appropriate agreement".

In 2002, the Group held three meetings (on 29 May, 10-11 October and 29 November 2002). At the May and October meetings, the Working Group reverted to the discussion of the issues under the agenda item "transparency-related provisions of the existing international instruments on government procurement and national procedures and practices". The principal focus of discussion at the May meeting were sub-items I to V, namely definition and scope of government procurement; publication of information on national legislation and procedures; information on procurement opportunities, tendering and qualification procedures; time-periods. When the Group resumed its discussion of the issues under the same agenda item at the October meeting, the principal focus of discussion were sub-items VI to XII, namely transparency of decisions on qualification; transparency of decisions on contract awards; domestic review procedures; other matters related to transparency; information to be provided to other governments (notification); WTO dispute settlement procedures; and technical cooperation and special and differential treatment for developing countries. In addition to the notes by the Secretariat summarizing the work of the Working Group on the items under discussion (WT/WGTGP/W/32 and 33), submissions were made by Australia on procurement methods and on the transparency of decisions on qualifications and by Canada on transparency of contract awards. At the October meeting, the Group also addressed two communications submitted by the United States which contained, respectively, a proposal for a work plan to build on the progress of work in the Working Group and a note on capacity-building considerations relating to transparency in government procurement; and a communication by Japan on its views on transparency in government procurement. At the November meeting, the Group adopted its Annual report to the General Council (WT/WGTGP/6).



The other substantive agenda item at the May and October meetings related to technical assistance and capacity-building pursuant to paragraph 26 of the Doha Declaration under which the Group heard oral reports by the Secretariat on the status of work in this respect.

## Trade facilitation (Paragraph 27)

*"27. Recognizing the case for further expediting the movement, release and clearance of goods, including goods in transit, and the need for enhanced technical assistance and capacity building in this area, we agree that negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations. In the period until the Fifth Session, the Council for Trade in Goods shall review and as appropriate, clarify and improve relevant aspects of Articles V, VIII and X of the GATT 1994 and identify the trade facilitation needs and priorities of Members, in particular developing and least-developed countries. We commit ourselves to ensuring adequate technical assistance and support for capacity building in this area."*

Members agreed on a work programme for 2002 at a formal Council for Trade in Goods meeting on 22 March. In accordance with this work programme, the Goods Council met four times in formal session in May (23-24), July (22-23), October (1-2) and December (6) to address the following three core agenda items: (i) GATT Articles V, VIII and X, with each meeting focusing on one particular article; (ii) as a standing item, trade facilitation needs and priorities of Members, particularly of developing and least-developed countries; (iii) technical assistance and capacity-building, which was a standing item as well. The December session provided a forum for an overall discussion of items (i) - (iii) and also served to discuss the organization of future work.

In the course of these meetings, Members discussed proposals<sup>7</sup> by several delegations on how to possibly improve and clarify GATT Articles V, VIII and X, outlined some of their trade facilitation needs and priorities and were briefed on various trade facilitation-related technical assistance and capacity building activities undertaken by donor Members, the WTO and other international organizations. The wrap-up meeting in December reviewed the previous discussions and saw Members agreement on how to organize work in the first half of 2003, with delegations deciding to hold sessions in March and June, with the option of holding a third meeting at the end of July if necessary.

## WTO rules (Paragraphs 28 and 29)

*"28. In the light of experience and of the increasing application of these instruments by Members, we agree to negotiations aimed at clarifying and improving disciplines under the Agreements on Implementation of Article VI of the GATT 1994 and on Subsidies and Countervailing Measures, while preserving the basic concepts, principles and effectiveness of these Agreements and their instruments and objectives, and taking into account the needs of developing and least-developed participants. In the initial phase of the negotiations, participants will indicate the provisions, including disciplines on trade distorting practices, that they seek to clarify and improve in the subsequent phase. In the context of these negotiations, participants shall also aim to clarify and improve WTO disciplines on fisheries subsidies, taking into account the importance of this sector to developing countries. We note that fisheries subsidies are also referred to in paragraph 31.*

*29. We also agree to negotiations aimed at clarifying and improving disciplines and procedures under the existing WTO provisions applying to regional trade agreements. The negotiations shall take into account the developmental aspects of regional trade agreements."*

The Negotiating Group on Rules held a formal meeting relating to organizational issues in March 2002. At that meeting, the Chairman indicated his assumption that the Group would proceed on the basis of written proposals. With respect to the organization of discussions, he stated his intention to group proposals and submissions on the basis of topics, under the broad headings of Anti-Dumping, Subsidies/Countervailing Measures and Regional Trade Agreements, taking into account overlapping issues under more than one of these headings. While proposals relating to fisheries subsidies would be grouped together under the Subsidies/Countervailing Measures heading, this approach was purely practical, was without prejudice to the priority of any issue, and was strictly neutral with respect to any policy outcomes or the future organization of the Group's work.

The Group held four further formal meetings during the course of the year 2002, on 6-8 May, 8-10 July, 16-18 October and 25-27 November. Because of the distinct nature of the subject-matter and of the delegations responsible, a separate day of each meeting was set aside for the issue of Regional Trade Agreements. The Group received 42 written proposals and other submissions from participants during the course of 2002. Unless otherwise requested by the participant(s) submitting a paper – an eventuality that did not

<sup>7</sup> For an overview of all proposals by delegations in the discussion on trade facilitation, see document *"Review, clarification and improvement of GATT Articles V, VIII and X – Proposals made by Delegations"* (G/C/W/434).



arise during 2002 – papers submitted to the Group are circulated as unrestricted documents in the TN/RL/W... series.

With respect to Anti-Dumping and Subsidies/Countervailing Measures, including Fisheries Subsidies, paragraph 28 provides that “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”, and the work of the Group during 2002 focused on this process of issue identification. In his report to the TNC in December 2002, the Chairman indicated that, while the Group had made significant progress in identifying the range of issues to be discussed, it had much work to do before the Ministerial Conference in Cancún. Among the paragraph 28 issues, he indicated that the Group was furthest along in identifying issues for negotiation on Anti-Dumping. With respect to Subsidies and Countervailing Measures, the number of submissions was still relatively small, those submissions that had been received were not always precise, and various delegations that could be expected to make submissions had not yet done so. Participants were urged to identify any issues as soon and as precisely as possible.

The Group has substantively progressed in its work on regional trade agreements (RTAs). The fact that controversial issues related to RTAs had already been extensively debated in the Committee on Regional Trade Agreements (CRTA) facilitated the issue-identification phase of the negotiations, which is now virtually completed.<sup>8</sup> Supported by a number of submissions, participants were quickly able to distinguish, as a working hypothesis, those issues that were more “procedural” in nature from those that had a higher “systemic” or “legal” content. Procedural issues, in particular “RTAs transparency”, were identified as priorities for the negotiations, as well as a few “systemic” issues.<sup>9</sup> As from October 2002, the Group has addressed a number of elements involved in “RTAs transparency” issues in open-ended informal meetings. Informal discussions have been organized along four main headings: the obligation to notify RTAs; the timing of such notification; the nature and content of information to be supplied on each individual RTA; and the WTO body that should consider Members’ RTA notifications. The question of the retroactive application of any new WTO rules relating to RTAs, which emerged at the beginning of the negotiations, has been provisionally put aside.

## Dispute Settlement Understanding (Paragraph 30)

*“30. We agree to negotiations on improvements and clarifications of the Dispute Settlement Understanding. The negotiations should be based on the work done thus far as well as any additional proposals by Members, and aim to agree on improvements and clarifications not later than May 2003, at which time we will take steps to ensure that the results enter into force as soon as possible thereafter.”*

Under paragraph 47 of the Doha Declaration, these negotiations are not to be treated as part of a single undertaking, the negotiations are conducted in a Special Session of the Dispute Settlement Body.

The first phase of the work of the Special Session in the year 2002 was conducted under a “two-track” approach. Track 1 consisted of a general discussion allowing participants to express their priorities and discuss the objectives of the negotiations. In parallel, specific negotiating proposals were invited, and were discussed under Track 2. The work of the Special Session gradually shifted towards greater emphasis on the discussion of proposals under Track 2.

The summer break (end of July) was identified as the target date for the submission of negotiating proposals, and from September until the end of the year, the specific proposals were explored in more detail, on an issue-by-issue basis. By the end of 2002, 19 proposals had been submitted<sup>10</sup>. These proposals cover a very broad range of issues relating to virtually all phases of the dispute settlement process, including special and differential treatment for developing countries.

At the end of the year, after an initial discussion of all negotiating issues put forward had been completed, the Chairman invited participants to submit specific drafting proposals. These would allow the work of the Special Session to proceed in a focused manner in the first months of 2003, on the basis of specific text, with the objective of reaching agreement on improvements and clarifications to the Dispute Settlement Understanding by May 2003, as mandated by Ministers.<sup>11</sup>

## Trade and environment (Paragraphs 31-33)

*31. With a view to enhancing the mutual supportiveness of trade and environment, we agree to negotiations, without prejudging their outcome, on:*

- (i) the relationship between existing WTO rules and specific trade obligations set out in multilateral environmental agreements (MEAs). The negotiations shall be limited in*

<sup>8</sup> The Secretariat was requested to submit a background note summarizing the discussions held in the CRTA. The note was circulated as document TN/RL/W/8/Rev.1 (*Compendium of Issues Related to Regional Trade Agreements*), on 1 August 2002.

<sup>9</sup> Among the latter are the meaning of “substantially all trade” and “other (restrictive) regulations of commerce”; preferential rules of origin; and developmental aspects of RTAs.

<sup>10</sup> These proposals are circulated in the document series TN/DS/W/... These proposals were submitted by the following Members or groups of Members: Australia, Chile, Chinese Taipei, Costa Rica, Cuba, Ecuador, the European Communities, Honduras, India, Jamaica, Japan, Korea Rep. of, Malaysia, Mexico, Pakistan, Paraguay, the Philippines, Sri Lanka, Tanzania, Thailand, the United States and Zimbabwe; the African Group and the LDC Group.

<sup>11</sup> The Chairman’s periodic reports to the TNC for 2002 can be found in documents TN/DS/1 to TN/DS/4.

*scope to the applicability of such existing WTO rules as among parties to the MEA in question. The negotiations shall not prejudice the WTO rights of any Member that is not a party to the MEA in question;*

- (ii) procedures for regular information exchange between MEA Secretariats and the relevant WTO committees, and the criteria for the granting of observer status;*
- (iii) the reduction or, as appropriate, elimination of tariff and non-tariff barriers to environmental goods and services.*

*We note that fisheries subsidies form part of the negotiations provided for in paragraph 28.*

*32. We instruct the Committee on Trade and Environment, in pursuing work on all items on its agenda within its current terms of reference, to give particular attention to:*

- (i) the effect of environmental measures on market access, especially in relation to developing countries, in particular the least-developed among them, and those situations in which the elimination or reduction of trade restrictions and distortions would benefit trade, the environment and development;*
- (ii) the relevant provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights; and*
- (iii) labelling requirements for environmental purposes.*

*Work on these issues should include the identification of any need to clarify relevant WTO rules. The Committee shall report to the Fifth Session of the Ministerial Conference, and make recommendations, where appropriate, with respect to future action, including the desirability of negotiations. The outcome of this work as well as the negotiations carried out under paragraph 31(i) and (ii) shall be compatible with the open and non-discriminatory nature of the multilateral trading system, shall not add to or diminish the rights and obligations of Members under existing WTO agreements, in particular the Agreement on the Application of Sanitary and Phytosanitary Measures, nor alter the balance of these rights and obligations, and will take into account the needs of developing and least-developed countries.*

*33. We recognize the importance of technical assistance and capacity building in the field of trade and environment to developing countries, in particular the least-developed among them. We also encourage that expertise and experience be shared with Members wishing to perform environmental reviews at the national level. A report shall be prepared on these activities for the Fifth Session.*

The Committee on Trade and Environment's work programme spans over a broad range of issues, including goods, services, and intellectual property rights.<sup>12</sup> Its origins and the terms of reference can be found in Marrakesh Ministerial Decision on Trade and Environment of April 1994.

The mandate of the CTE is twofold:

"to identify the relationship between trade measures and environmental measures in order to promote sustainable development"; and

"to make appropriate recommendations on whether any modifications of the provisions of the multilateral trading system are required, compatible with the open, equitable and non-discriminatory nature of the system".

Since the Doha Ministerial Session, in November 2001, work has split into two separate tracks: (i) the negotiating track (Paragraph 31<sup>13</sup>) conducted in the CTE Special Session (CTESS), and, (ii) the regular work of the CTE (Paragraphs 32 and 33), conducted under the CTE Regular.

The full list of documents that have been circulated in both the CTE Regular and the CTES since January 1995 (including 2002) is contained in document WT/CTE/INF/5/Rev.1, available on the WTO website.

### **Negotiations (CTESS)**

The discussions of the CTES, spanning over four meetings, were guided by paragraph 31 of the Doha Ministerial Declaration. The last of these meetings was an information session held with the participation of multilateral environmental agreements (MEAs). In paragraph 31 Members agreed, with a view to enhancing the mutual supportiveness of trade and environment, to negotiations, without prejudging their outcome, on three specific areas. The first area is about the relationship between existing WTO rules and specific trade obligations set out in MEAs. These negotiations are limited in scope to the applicability of such existing WTO rules as among parties to the MEA in question. Also, the negotiations are not to prejudice the WTO rights of any Member that is not a party to the MEA in question, nor should they add or diminish the rights and obligations of Members under existing WTO agreements.

The second area is about procedures for regular information exchange between MEA Secretariats and the relevant WTO committees, as well as criteria for the granting of observer status. The third area of negotiations is about the reduction, or, as appropriate, elimination of

<sup>12</sup> The 10 items of the CTE work programme are listed on the WTO website.

<sup>13</sup> Paragraph numbers refer to the Doha Ministerial Declaration unless otherwise stated.

tariff and non-tariff barriers to environmental goods and services. During 2002, proposals were submitted in all three areas (see below).

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**Paragraph 31(i) – WTO rules and “specific trade obligations” in MEAs**

European Communities	21 March 2002	TN/TE/W/1
Argentina	23 May 2002	TN/TE/W/2
Switzerland	6 June 2002	TN/TE/W/4
Australia	7 June 2002	TN/TE/W/7
Saudi Arabia	23 September 2002	TN/TE/W/9
Japan	3 October 2002	TN/TE/W/10
Chinese Taipei	3 October 2002	TN/TE/W/11
New Zealand	3 October 2002	TN/TE/W/12
Korea, Rep. of	8 October 2002	TN/TE/W/13
Switzerland	6 November 2002	TN/TE/W/16

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**Paragraph 31(ii) – Information exchange and criteria for observer status**

United States	6 June 2002	TN/TE/W/5
European Communities	17 October 2002	TN/TE/W/15

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**Paragraph 31(iii) – Environmental goods and services**

New Zealand	6 June 2002	TN/TE/W/6
United States	9 July 2002	TN/TE/W/8
Qatar	9 October 2002	TN/TE/W/14
Japan	20 November 2002	TN/TE/W/17 + Corr.1

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A long-standing issue in the CTE prior to the Doha Ministerial Conference, has been fish subsidies. In the Doha Declaration, the issue is referred to the Negotiating Group on Rules in the context of negotiations on the Agreement on Subsidies and Countervailing Measures (paragraph 28). Hence the substantive discussion on fish subsidies has largely moved away from the CTE.

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**Regular Work (CTE Regular)**

Following the Doha Ministerial Declaration, the CTE restructured its work so as to better reflect the mandate therein. The Declaration instructs the CTE, in pursuing work on all items on its agenda within its current terms of reference, to give particular attention to the following issues:

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

During the three meetings held in 2002, each of these items was discussed in turn.

The Doha mandate further instructs the Committee to identify any need to clarify relevant WTO rules and report to the Fifth Session of the Ministerial Conference, and make recommendations, where appropriate, with respect to future action, including the desirability of negotiations.

Members also discussed technical assistance and capacity building pursuant to Paragraph 33. The Doha Declaration recognizes the importance of technical assistance and capacity building in the field of trade and environment to developing countries, in particular the LDCs. In 2002, as part of continued technical assistance in the trade and environment area, the Secretariat organized, in cooperation with the UNEP, UNCTAD, as well as a number of MEAs, seven regional seminars on trade and environment for government officials from developing and least-developed countries. These were held in St. Lucia, Bogotá, Singapore, Windhoek, Riga, Tunis and Suva. The objective of these regional seminars is to raise awareness on the linkages between trade, environment and sustainable development and to enhance the dialogue between policy-makers from Ministries of both trade and environment in developing, transition and least-developed WTO Member (and acceding) governments. Paragraph 33 also encourages the sharing of expertise and experience on national environmental reviews. The CTE will report on this work to the 5<sup>th</sup> Ministerial Conference, in Cancún.

Regarding sustainable development (paragraph 51), Ministers agreed in Doha that the CTE and the CTD 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. In 2002, Members began to discuss how to approach part of this mandate.

## Electronic commerce (Paragraph 34)

*"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."*

At the Doha Ministerial Conference, Ministers agreed to continue the Work Programme on Electronic Commerce, and instructed 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. In pursuance of this mandate, the General Council, in December 2001, agreed that a further dedicated discussion on cross-cutting issues would be held under the auspices of the General Council early in 2002, that its Chairman would conduct informal consultations on the most appropriate institutional arrangements for handling the Work Programme, and that the General Council would continue to oversee progress made in the four subsidiary bodies involved in e-commerce, i.e. the sectoral Councils and the CTD, and would keep future work under periodic review, as appropriate.

Regarding institutional arrangements for handling the Work Programme, in October 2002 the General Council agreed to maintain, for the duration of the work until the Fifth Ministerial Conference, the current institutional arrangements, namely, that the Councils for Trade in Services, Trade in Goods and TRIPS, and the CTD would examine and report on aspects of electronic commerce relevant to their respective areas of competence, and that the General Council would play a central role in the entire process, would keep the Work Programme under continuous review and would consider any trade-related issue of a cross-cutting nature.

The second dedicated discussion on cross-cutting issues, held in May 2002, was mainly devoted to the classification issue which many Members felt was key to addressing other e-commerce issues. There were very different views on how this issue might be resolved, indicating the need for further discussion. Prior to the second dedicated discussion, a seminar on the revenue implications of e-commerce was held in April 2002 under the auspices of the CTD. This provided for an exchange of information between country and private-sector representatives, and was a valuable input to the work under the Work Programme.

The third dedicated discussion, held in October 2002, had a narrowed agenda in line with Members' decision at the July 2002 General Council to focus the debate, and included only two items: "classification" issues and fiscal and other revenue-related issues. While the classification issue – i.e. whether a product that can be traded electronically should be considered a good and subject to the disciplines of the GATT, or a service and subject to the disciplines of the GATS – continued to elicit a wide range of views, there was broad agreement that what was at issue was a very narrow range of products that could be traded either physically or electronically. Thus, a large part of the discussion centered on the treatment of software, and indicated very different views on how this issue might be resolved. On fiscal implications of e-commerce, it was suggested that the focus – which was typically on the imposition of customs duties on electronic transmissions – should instead be on how liberalizing key services sectors could help improve overall economic efficiencies.

The fourth dedicated discussion, held in February 2003, continued to examine the classification and, particularly, fiscal implications issues, and also heard a proposal regarding general objectives in the area of e-commerce.

## Small economies (Paragraph 35)

*"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."*

Following the Doha Ministerial Declaration, the General Council instructed the CTD to carry out a programme of work on small economies which should be conducted in dedicated sessions of the CTD (WT/L/447). Three such Dedicated Session of the CTD to Small

Economies were held in 2002. The reports of those meetings are contained in documents WT/COMTD/SE/M/1, WT/COMTD/SE/M/2, and WT/COMTD/SE/M/3. The 1<sup>st</sup> and 3<sup>rd</sup> Dedicated Sessions were scheduled to coincide with the “Geneva Week” for WTO Members and Observers without permanent missions in Geneva to enable the participation of non-resident Members in the meetings.

At its 1<sup>st</sup> Dedicated Session the delegations of Barbados, Belize, Bolivia, Cuba, Dominican Republic, El Salvador, Fiji, Guatemala, Haiti, Honduras, Jamaica, Mauritius, Nicaragua, Papua New Guinea, Paraguay, Solomon Islands, Sri Lanka, Trinidad and Tobago submitted a document which identified the trade-related issues of particular concern to small economies (WT/COMTD/SE/W/1). The authors were requested to take the comments made on their document into account and develop a “road-map” to be presented at the second dedicated session.

Two submissions were made to the 2<sup>nd</sup> Dedicated Session. The first submission was made by the delegation of Macao, China (WT/COMTD/SE/W/2) and addressed the structural impediments of small economies and the nature of their economic vulnerabilities. The second submission was made by the delegations of Barbados, Belize, Bolivia, Dominican Republic, Guatemala, Honduras, Mauritius, and Sri Lanka (WT/COMTD/SE/W/3). At the meeting, the delegations of Cuba, El Salvador, Fiji, Nicaragua and Paraguay added their delegations to the list of Members co-sponsoring the paper. The paper contained proposals for changes to some existing agreements.

At informal consultations held on 10 September 2002, Members referred to a paper prepared by the Secretariat entitled “Small Economies: A Literature Review” (WT/COMTD/SE/W/4). It contained an overview of how the issue of smallness has been dealt with in the economic literature. Members suggested that further analysis be made with respect to points they had raised during the discussion on the Secretariat document. Members welcomed a suggestion by the Chairman that the Secretariat identify WTO provisions that related particularly to small economies.

At the 3<sup>rd</sup> Dedicated Session a group of small economies presented a document (WT/COMTD/SE/W/7) containing responses to a number of questions posed by the delegation of the United States regarding previous proposals made by a group of small economies. These Secretariat documents were before that meeting. The first contained the literature review previously discussed in informal consultations. The second was a more analytical document entitled “Trade and Economic Performance – The role of economic size?” (WT/COMTD/SE/W/5), which aimed to provide Members with an in-depth analysis of the variables of relevance to small economies in the multilateral trading system. The third document (WT/COMTD/SE/W/6) contained a list of provisions which could be of particular relevance to small economies (WT/COMTD/SE/W/4, WT/COMTD/SE/W/5, WT/COMTD/SE/W/6).

The document containing the framework and procedures for the conduct of the work programme on small economies also instructed the CTD to report regularly to the General Council on the progress of that work. Reports on the progress made in the Dedicated Sessions of the CTD were given to the meetings of the General Council held on 13-14 May 2002, 31 July 2002, and 15 October 2002 (WT/GC/M/74, WT/GC/M/75, and WT/GC/M/76 respectively).

## Trade, debt and finance (Paragraph 36)

*“36. We agree to an examination, in a Working Group under the auspices of the General Council, of the relationship between trade, debt and finance, and of any possible recommendations on steps that might be taken within the mandate and competence of the WTO to enhance the capacity of the multilateral trading system to contribute to a durable solution to the problem of external indebtedness of developing and least-developed countries, and to strengthen the coherence of international trade and financial policies, with a view to safeguarding the multilateral trading system from the effects of financial and monetary instability. The General Council shall report to the Fifth Session of the Ministerial Conference on progress in the examination.”*

The mandate reflects concern of Members about the effects on trade and the trading system of a variety of international financial problems, most importantly unstable capital flows, the threat of recurring financial crises, and unsustainable foreign indebtedness.

The work programme for 2002 was largely analytical and aimed primarily at examining the links between trade, indebtedness, and financial instability. Four meetings were held during the year, focusing on trade-finance and trade-debt linkages, and on the topic of “Coherence” in global economic policy-making.

In the Working Group on Trade Debt and Finance in 2002, the IMF, UNCTAD, the OECD, the World Bank, the Asian Development Bank, UNECLAC and UNECA provided a number of written and oral submissions. Cooperation with other intergovernmental organizations is



essential, since to the extent agreement can be reached on solutions to problems in this area, they are likely to involve action beyond the mandate and competence of the WTO.

## Trade and transfer of technology (Paragraph 37)

*"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."*

The Working Group on Trade and Transfer of Technology (WGTTT) held four formal sessions in 2002. The reports of these meetings are contained in documents WT/WGTTT/M/1 - WT/WGTTT/M/4.

Observer status in the WGTTT was granted to the two organizations that requested such status: the United Nations Conference on Trade and Development (UNCTAD) and the United Nations Industrial Development Organization (UNIDO). Observer status was also granted to the IMF and the World Bank pursuant to the cooperation agreements with the World Bank and the IMF concluded in November 1996 (WT/L/195).

The work undertaken by the WGTTT in 2002 included presentations on trade and transfer of technology by intergovernmental organizations and academia; presentations on country experiences relating to trade and transfer of technology; consideration of submissions by Members and background papers prepared by the Secretariat; information on work being done in other WTO Bodies on trade and transfer of technology; and discussions on the way forward.

At three of the formal meetings presentations were made by other intergovernmental organizations. Introductions to the subject of trade and transfer of technology was given by representatives from UNCTAD and the Institute for New Technologies of the United Nations University (UNU/INTECH). They explained the work carried out by their respective organizations in the area of trade and transfer of technology. At a subsequent meeting a presentation was made by a representative of the Industrial Promotion and Technology Branch of UNIDO. He outlined work that UNIDO had been doing to facilitate transfer of technology and explained the services offered by UNIDO's International Technology Centres and Investment and Technology Promotion Offices. A representative of the World Bank made a presentation of their work in the field of trade and transfer of technology.

Members also presented their country experiences. A representative of Brazil highlighted some of the key issues that his Government had addressed in trying to promote the acquisition and diffusion of technology in Brazil. A representative of China mentioned issues such as foreign direct investment flows and intellectual property rights regimes. A representative of Canada made a presentation explaining the function and operation of the Industrial Research Development Program and other Canadian technology development models and programmes.

At the request of Members, the WTO Secretariat produced background papers on trade and transfer of technology. The first background paper was entitled "Trade and Transfer of Technology" (WT/WGTTT/W/1), attached to it was a bibliography of reference materials on the subject of trade and technology transfer (WT/WGTTT/W/1/Add.1). The second background paper prepared by the Secretariat, "A Taxonomy of Country Experiences on International Technology Transfers" contained case studies relating to the relationship of trade and transfer of technology and illustrated some governmental policies which had facilitated the transfer of technology.

Several submissions were made to the Working Group throughout the year. Those included a joint submission made by the delegations of Bangladesh, Cuba, Dominican Republic, Egypt, Honduras, India, Indonesia, Jamaica, Kenya, Mauritius, Pakistan, Sri Lanka, Tanzania, Uganda, and Zimbabwe (WT/WGTTT/M/2) regarding the objectives and possible terms of reference for the WGTTT. The submission stressed that the terms of reference of the WGTTT should reflect the emphasis in the Doha Ministerial Declaration on the relationship between trade and transfer of technology and possible steps that might be taken, within the mandate of the WTO, to increase flows of technology to developing countries, with a view to ensuring that the latter participate in, and implement more adequately, international trade disciplines established in the context of the WTO.

A subsequent submission was made by the delegation of the European Communities (WT/WGTTT/1). That submission stated that, in its examination of the relationship between trade and transfer of technology, the WGTTT needed to focus on (1) developing a common understanding of the definition of technology transfer; (2) an identification of the various channels of transfer of technology; and (3) the conditions under which those channels could be most effective.

A joint communication was introduced by the delegations of Cuba, Egypt, Honduras, India, Indonesia, Jamaica, Kenya, Mauritius, Pakistan and Zimbabwe on "Provisions Relating



to Transfer of Technology in WTO Agreements” (WT/WGTTT/3/Rev.1) The delegation of Zambia later associated itself as a sponsor of the submission. The introduction to the paper stated that, as a first step in fulfilling the WGTTT’s mandate, it would be important to examine the extent to which the existing WTO provisions relating to technology transfer had been effectively implemented, the difficulties experienced in utilizing those provisions, and then to come up with concrete proposals in the context of the Doha Ministerial mandate. The delegation of Canada also introduced a submission on “Technology Transfer – the Canadian Experience” (WT/WGTTT/2). That submission provided an overview of factors that Canada had identified as crucial to the development and growth of Canada’s technology transfer system and looked at technology transfer within the context of Canada’s new innovation strategy.

A request was made by the Chairman of the WGTTT to other WTO bodies for information regarding any work that they might have undertaken or that they planned to undertake in relation to trade and transfer of technology. When considering the responses it was clear that, of the 22 responses received, only 6 bodies indicated that some work had been undertaken with respect to trade and transfer of technology, or that the issue had been touched upon during the discussions held in those bodies. At the final formal meeting of 2002, held on 28 November, Members adopted the Work Programme for 2003.

## Technical cooperation and capacity building (Paragraphs 38-41)

*“38. We confirm that technical cooperation and capacity building are core elements of the development dimension of the multilateral trading system, and we welcome and endorse the New Strategy for WTO Technical Cooperation for Capacity Building, Growth 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.”*

At the 4th WTO Ministerial Conference in Doha, Qatar, WTO Members undertook a number of commitments in technical cooperation and capacity building. Ministers agreed that technical cooperation and capacity building were core elements of the development dimension of the multilateral trading system and, consequently, integral to the Doha Development Agenda. These commitments involved an explicit distribution of responsibilities encompassing not only the WTO Secretariat, but also bilateral donors and relevant multilateral and regional institutions. In early 2002, a strategic response was defined, comprising, *inter alia*, the following elements:

(i) **The Joint Integrated Technical Assistance Programme (JITAP).** Concrete and practical benefits on human and institutional capacity building have been delivered by this Programme. At the end of 2002, it was decided to extend it to a further eight countries. As a

result, a total of 16 African countries are now beneficiaries under JITAP, namely Benin, Botswana, Burkina Faso, Cameroon, Côte d'Ivoire, Ghana, Kenya, Malawi, Mali, Mauritania, Mozambique, Seychelles, Tanzania, Tunisia, Uganda, and Zambia.

(ii) **The Integrated Framework (IF).** The IF has emerged as the principal mechanism for integrating trade priorities into national development plans/poverty reduction strategy papers, to help make trade an engine for economic growth. It is also important as a mechanism to assist in the coordinated delivery of trade-related technical assistance. Ministers have endorsed the IF as a viable model for LDCs' trade development. The Pilot Phase began in three LDCs and has since been extended to another 11 LDCs. While still in its early stages in most of those countries, satisfactory progress in the implementation of the IF process was made in most of the 14 countries.

(iii) **Regional Development Banks (RDBs).** Two meetings with six major RDBs were organized in 2002. In the first meeting in May, the foundations of a closer collaboration between the WTO and the RDBs were established. The second meeting, in October, defined concrete modalities, including the provision of matching financial resources and intellectual expertise in the implementation of agreed joint activities. At the second meeting, the establishment of "trade facilities" along the lines of the one existing at the Inter-American Development Bank was also positively considered.

(iv) **UN Regional Economic Commissions (RECs).** A first meeting was held with the RECs on the same date as the RDB meeting. As a result, RECs are now more engaged with the WTO Secretariat in the delivery of joint activities, principally based on training for systematic, cumulative and sustainable capacity building for trade negotiators and trade policy specialists.

(v) **The Development Assistance Committee of the OECD.** The WTO and the OECD/DAC have developed in 2002 a web-based Trade Capacity Building Data Base, which is available for consultation by any interested party at the following internet address: <http://tcbdb.wto.org>. Based on detailed information reported by technical assistance providers, the WTO and the OECD have, in November 2002, produced the First Joint Report on trade capacity building activities pursuant to the DDA. This report shows, in volume and value terms, projects and activities being delivered in response to the Doha mandates by technical assistance providers (countries as well as multilateral and regional institutions). Moreover, to ensure coordination in the delivery of trade capacity building and improve complementarity between the trade and development communities, the OECD/DAC and the Integrated Framework Working Group Agencies (IFWG) started to meet jointly in 2002 on a regular basis. They have met twice in 2002, and will continue to meet periodically. The purpose of these meetings is for the trade and development communities, *inter alia*, to purposefully work together to support the mainstreaming of trade into development plans and strategies for poverty reduction, and to ensure that trade capacity building (agreed by the international community) are funded mandates, through an appropriate allocation of resources.

(vi) **Collaboration with other IGOs.** In 2002 the WTO Secretariat has established a few Memoranda of Understanding and is re-formulating pre-existing ones to render them DDA-relevant. New ones are under negotiation and completion such as with UNCTAD, the ACP, etc.

(vii) **WTO Annual TA Plans.** In addition to leading the implementation of TC/CB commitments in the DDA, as above, the Secretariat has focused on the implementation of the First Annual TA Plan, authorized by the membership on 6 March 2002. In this context, it should be noted that 2002 has been the year when the WTO has undertaken the largest number of TA activities ever, i.e. 481 activities. Effective implementation of the 2002 TA Plan stands at over 95% for planned regional activities and 90% for planned national activities. The WTO TA Plan for 2003 was proposed to the membership for authorization on 8 October 2002. The Plan, following consultations amongst the membership, was adopted on 22 November 2002. The agreed Plan for 2003 will build on the progress made in the implementation of the 2002 TA Plan and includes 441 discrete activities. It is worth noting that a number of key new products have been developed in 2002 and will continue to be programmed in 2003, including, *inter alia*, two 12-week Regional Trade Policy Courses for Africa and several two-week Regional Advanced Doha Development Agenda Negotiations Training Courses for Senior Government Officials.

(viii) **Technical Assistance for Non-Residents.** Twenty-three Members of the WTO and 12 countries in accession do not have a mission in Geneva. In addition to activities in the field, TA for these countries is mainly focused on providing hands-on experience and fuller participation through two instruments: a periodic newsletter and Geneva weeks. For the first time in a calendar year, two Geneva weeks were organized in 2002.

(ix) **Funding.** Members have agreed to a target of CHF 24 million for the Doha Development Agenda Global Trust Fund in order to provide secure and predictable resources needed to implement the Doha mandates on technical cooperation and capacity building in 2003.

## Least-developed countries (Paragraphs 42 and 43)

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

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

### Accessions

The Doha Ministerial Declaration welcomes new Members of the WTO and states that importance is attached to “concluding accession proceedings as quickly as possible. In particular, we are committed to accelerating the accession of least-developed countries.” (paragraph 9).

A separate section on the accession of LDCs notes that “... 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...” (paragraph 42).

The commitment to accelerate the accession of LDCs is being addressed in the Sub-committee on LDCs. The Sub-committee is mandated to report on the issue to the General Council by early 2003 with recommendations. The Director-General will submit a status report to the Fifth Ministerial Conference on “Implementation of the Commitment by Ministers to Facilitate and Accelerate the Accession of LDCs”. The Sub-committee has prepared a background document on the State of Play of LDCs’ Accession Working Parties (WT/COMTD/LDC/27 and WT/ACC/12) It also agreed to Guidelines on LDC Accessions (WT/COMTD/12) which were subsequently adopted by the General Council (WT/L/508) in December 2002.

## Special and differential treatment (Paragraph 44)

*“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.”*

Paragraph 44 of the Doha Ministerial Declaration reaffirmed that “provisions for special and differential treatment are an integral part of the WTO Agreements” and directed 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, Ministers endorsed the Work Programme on special and differential treatment set out in the Decision on Implementation-Related Issues and Concerns. Pursuant to paragraph 12.1 of this Decision, the CTD was instructed to carry out this review, in particular by identifying the S&D provisions which were mandatory and those which were not, considering the implications of making non binding ones mandatory, examining additional ways in which S&D provisions could be made more effective, and reporting to the General Council with clear recommendations on these issues by 31 July 2002. The CTD was also instructed to consider how S&D treatment could be incorporated into the architecture of WTO rules.

Further to these instructions TNC in its meeting held on 28 January-1 February 2002, agreed that "... the review of all special and differential treatment provisions... provided for in paragraph 44 of the Ministerial Declaration" would be carried out by the CTD in Special Sessions, and accordingly the Special Session of the CTD was established.

The first meeting of the Special Session was held on 5 March 2002, after which 14 formal meetings and a very large number of informal meetings were held during the year. The Special Session received 30 submissions during the course of 2002, which put forward, in particular, Agreement-specific proposals made by Members with a view to strengthening the relevant S&D provisions and make them more precise, effective and operational, as well as questions and answers in that connection; cross-cutting issues, including views on whether S&D treatment should be provided in a non-discriminatory way or whether some differentiation was needed; ideas on how to structure the work in the Special Session of the CTD at various stages, as well as on how the review of S&D provisions should be approached; and the Monitoring Mechanism.

The proposals on specific provisions of the WTO Agreements, Understandings and Decisions, for examination in the context of the Doha Ministerial mandate, were introduced and considered in meetings held during this period in view of the July 2002 deadline. During the initial discussions clarifications were sought and a number of Members cited the large number of Agreement-specific proposals (approximately 80), what they viewed as the complexity and potential implications of some of the proposals and a shortage of time, as factors that prevented them from being able to engage in more than a preliminary consideration of many of the proposals.

The cross-cutting issues raised both in submissions from Members and in the ensuing discussions, included the principles and objectives of special and differential treatment and the utility of a clearer definition and understanding of these principles for the work of the Special Session; a single or multi-tiered structure of rights and obligations; coherence; benchmarking; technical assistance and capacity building; transition periods; trade preferences; utilization; and universal or differentiated treatment, including graduation. In particular, a series of submissions made on the Enabling Clause led to a debate on whether preferential treatment, except to least-developed countries (LDCs), should be provided on a universal and non-discriminatory basis. Some Members felt that granting preferential treatment to some developing country Members, while excluding other developing country Members, gave rise to discrimination inconsistent with the Enabling Clause, other Members expressed the view that flexibility was needed so as to be able to address effectively the constraints and circumstances of different developing countries. A number of other cross-cutting institutional issues were also discussed including (i) the establishment of a Monitoring Mechanism; (ii) an Annual Special Session of the General Council on LDCs participation; (iii) a Facility under the Doha Development Agenda Trust Fund; and (iv) proposals on technical assistance and training.

In view of the fact that a large number of issues, including some that were complex, had been raised, both in the written submissions and the ensuing discussions, and since a significant amount of work remained to be carried out, the Special Session in its report to the General Council (TN/CTD/3) recommended that the General Council extend the deadline for it to complete its work. The General Council considered and adopted the report contained in document TN/CTD/3 on 31 July 2002, and gave the Special Session additional time until December 2002 to fulfil its mandate. The Council also gave specific instructions to the Special Session regarding the consideration of the Agreement-specific proposals, the analysis and examination of cross-cutting issues, the establishment of the Monitoring Mechanism, consideration of proposals on institutional arrangements and on technical and financial assistance and training, and consideration of how special and differential treatment may be incorporated into the architecture of WTO rules.

After a series of informal consultations held in September 2002, the Special Session adopted an intensive indicative work programme, so as to fulfil the mandate given by the General Council. As a result, the Special Session held eight formal meetings between October and December 2002. Five of the meetings were scheduled as close as possible to the meetings of other WTO bodies, in order to utilize the expertise in those bodies, and were

dedicated to discussions on the Agreement-specific proposals that had been made in those areas. At two meetings there were discussions on (i) the remaining Agreement-specific proposals in thematic clusters based primarily on the categories identified in document WT/COMTD/W77/Rev.1; and (ii) systemic and cross-cutting issues. Discussions on the incorporation of special and differential treatment into the architecture of WTO rules, and consultations on the Monitoring Mechanism for special and differential treatment were also held during the period.

In the discussions on Agreement-specific proposals, while the level of engagement increased significantly, and the discussions benefited from the back-to-back format and the involvement of capital-based participants, wide differences continued to be apparent between the responses provided to many proposals and the views expressed by proponents as to the possible outcome they expected from the consideration of their proposals. Many responses included requests for more information, and for clarification, especially in regard to the specific difficulties faced in utilizing existing S&D provisions to which changes were being sought. In regard to a number of proposals, the view was expressed that these were of a nature that would affect the existing balance of rights and obligations and/or went beyond the Doha mandate. There also continued to be notable differences of views as to what a "clear recommendation for decision" entailed in regard to the proposals, as well as on the *fora* in which some of the proposals should be considered. Some Members noted that a number of proposals were already under consideration within other WTO bodies and could be best addressed in those bodies, including in the context of the negotiations. Other Members maintained that the Special Session was the appropriate *forum* to consider all proposals, and that the mandate given by Ministers, in their view, envisaged the possibility of making changes to provisions, especially since the non-mandatory and imprecise character of many S&D provisions was cited frequently as being a source of difficulty in utilizing these provisions.

The cross-cutting issues discussed during this period included the principles and objectives of special and differential treatment, coherence, bench-marks, technical assistance and capacity building, transition periods, utilization, trade preferences and related issues, differentiated treatment and graduation. While the discussions showed convergent views in some areas, especially on the proposals relating to coherence and bench-marking, they also revealed major differences of opinion on most cross-cutting issues. There were also further discussions on the Enabling Clause. Many Members emphasized the importance of the non-discriminatory application of the Enabling Clause to all developing countries. The need to provide special and differential treatment, including though waivers, in a manner that would not prejudice the interests of other developing countries was again raised. Some Members were of the view that there should be flexibility in the application of special and differential treatment, including through preferential treatment. They considered that some differentiation amongst developing country Members would be necessary if special and differential treatment was to be made effective and targeted.

A number of possible elements relating to the establishment of the Monitoring Mechanism were discussed. There was convergence of views on some matters, such as aspects of the role of the Mechanism and the sources of information for it to conduct its work. Many Members emphasised that the structure to be agreed for the mechanism should be simple, streamlined, and not administratively burdensome. There was also a general receptivity to the view that the Mechanism should monitor the implementation and utilisation of special and differential provisions; that WTO Committees should keep special and differential treatment as a standing or regular item on their agenda; and that the General Council could consider, probably on an annual basis, and possibly in special session, the Mechanism's report on the implementation and utilisation of special and differential treatment provisions. However, there were still some important areas of difference, including on the institutional structure of the Mechanism and the timing for its coming into force. The general view was that it should be an open-ended body. Some Members felt that the monitoring of special and differential treatment should be carried out by the Regular CTD, or by the CTD in dedicated sessions, while other Members were of the view that a Sub-Committee of the CTD should be established for this purpose. There were also significant differences of opinion on the timing for coming into force of the Mechanism.

Notwithstanding the intense schedule of work adopted by the Special Session, numerous issues and proposals remained unresolved, with the continued differences on Agreement-specific proposals constituting the main stumbling block for progress. On 20 December 2002, the General Council therefore agreed to further extend the deadline given to the Special Session for it to carry out its work, and directed the Special Session to report to the General Council with clear recommendations for decision by its meeting scheduled for 10 February 2003.



## TRIPS and Public Health

The Doha Declaration on the TRIPS Agreement and Public Health set two specific tasks for the WTO. First, its paragraph 6 instructed the Council for TRIPS to find an expeditious solution to the problems countries may face in making use of compulsory licensing if they have too little or no pharmaceutical manufacturing capacity and to report to the General Council on this by the end of 2002. This matter was discussed at the Council's formal and a number of informal meetings. Proposals for possible solutions were submitted by a number of Members. However, despite his intensive consultations, the Chair of the Council reported to the General Council at its meeting on 21 December that he was not yet in a position to present a draft legal instrument that the TRIPS Council might forward to the General Council for adoption. The General Council agreed that the TRIPS Council should resume work promptly at the beginning of 2003 to resolve the outstanding issues in the text the TRIPS Council Chair had circulated on 16 December 2002 and to report to the General Council so that a decision implementing a solution to the problem identified in paragraph 6 could be taken at the first General Council meeting in 2003.

Second, paragraph 7 of the Declaration made provision for the extension of the deadline for least-developed countries for the application of the TRIPS Agreement as it relates to pharmaceutical products. Pursuant to this, the Council adopted, at its meeting in June, a decision on the "Extension of the Transition Period under Article 66.1 of the TRIPS Agreement for Least-Developed Country Members for Certain Obligations with Respect to Pharmaceutical Products" (IP/C/25). This Decision gives effect to the extension of the transition period for LDCs until 1 January 2016 in the respects referred to in paragraph 7 of the Doha Declaration on the TRIPS Agreement and Public Health. The Council also approved a draft waiver in respect of the obligations of LDC Members under Article 70.9 of the TRIPS Agreement until 1 January 2016, and agreed to forward it to the General Council for adoption. The draft waiver was designed to supplement the decision on the extension of transition periods by waiving the obligations of LDC Members relating to the grant of exclusive marketing rights under Article 70.9 for the same period. The draft waiver was adopted by the General Council in July 2002 (WT/L/478).

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## II. WTO Accession Negotiations

An important task facing the WTO is that of making the new multilateral trading system truly global in scope and application. The 145 Members of the WTO (as of 5 February 2003) account for more than 90% of world trade. Many of the nations that remain outside the world trade system have requested accession to the WTO and are at various stages of a process that has become more complex because of the WTO's increased coverage relative to GATT. With many of the candidates currently undergoing a process of transition from centrally-planned to market economies, accession to the WTO offers these countries – in addition to the usual trade benefits – a way of underpinning their domestic reform process.

During 2002, the WTO received one new Member: Chinese Taipei. The General Council also agreed to the accession of the Former Yugoslav Republic of Macedonia and Armenia.

WTO membership is open to any State or customs territory having full autonomy in the conduct of its trade policies. Accession negotiations concern all aspects of the applicant's trade policies and practices, such as market access concessions and commitments on goods and services legislation to enforce intellectual property rights, and all other measures which form a government's commercial policies. Applications for WTO membership are the subject of individual working parties. Terms and conditions related to market access (such as tariff levels and commercial presence for foreign service suppliers) are the subject of bilateral negotiations. The following is a list of the 26 governments for which a WTO working party was current as of 31 December 2002:

Algeria, Andorra, Azerbaijan, Bahamas, Belarus, Bhutan, Bosnia-Herzegovina, Cambodia, Cape Verde, Kazakhstan, Lao PDR, Lebanon, Nepal, Russian Federation, Samoa, Saudi Arabia, Seychelles, Sudan, Tajikistan, Tonga, Ukraine, Uzbekistan, Vanuatu, Viet Nam, Yemen and the Federal Republic of Yugoslavia.

After the Doha Ministerial, as mandated negotiations in goods, services and TRIPS and consultations in other important sectors within the WTO continue, there is a strong interest by a significant number of acceding governments to join the WTO as soon as possible. This desire has received wide support from WTO Members who are committed to accelerating the accession process to the maximum extent possible on the basis of meaningful market-access commitments and the acceptance of the rules and disciplines of the WTO system. (See section I on the Doha Development Agenda above).



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### III. Work of the General Council

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

#### Matters arising from the Fourth Session of the Ministerial Conference

Ministers at Doha in November 2001, in agreeing to a broad and balanced work programme for the WTO for the coming years, tasked the General Council with taking specific actions to implement elements of the work programme and to oversee their operation and progress. At the same time, Ministers agreed that the overall conduct and progress of the elements of the work programme involving negotiations should be supervised by a TNC under the authority of the General Council. In addressing the question of follow-up to the results of the Doha Conference, Ministers also instructed that in addition to the negotiating elements, high priority should also be accorded to the elements of the work programme which did not involve negotiation. These are to be pursued under the overall supervision of the General Council with a progress report submitted to the Fifth Session of the Ministerial Conference. The Fifth Session will take stock of progress in the negotiations, provide any necessary political guidance, and take decisions as necessary. Early in 2002, the General Council reached agreement on the date and venue of the Fifth Session (to be held 10-14 September 2003 in Cancún, Mexico), thus enabling Governments to plan adequately for the substantive work to be accomplished until that meeting under the Doha Development Agenda, and also allowing the host Government to make the necessary logistics arrangements.

As part of specific actions to implement elements of the work programme and Ministers' directives, the General Council in December 2001 established a Doha Development Agenda Global Trust Fund to provide secure and predictable long-term funding for WTO technical cooperation activities. At a pledging conference held in March 2002 in pursuance of the General Council's decision, announced pledges for 2002 amounted to CHF 25 million, surpassing the target of CHF 15 million set for that year by the Council. Early in 2002, the General Council adopted a work programme for least-developed countries agreed by the Sub-Committee on LDCs, which included, as one of its seven broad elements, measures to facilitate and accelerate the accession of LDCs to the WTO. As a follow-up, and in recognition of the fact that the accession of LDCs remains a priority for the membership, the General Council in December adopted Guidelines aimed at facilitating and accelerating negotiations with acceding LDCs. In March, following intensive consultations, the General Council agreed on a framework and procedures for the conduct of the work programme on small economies, following which substantive work has been undertaken in dedicated sessions of the CTD. This matter is a standing item on the Council's agenda. In December 2001, the General Council also agreed on modalities for future work on electronic commerce and, with regard to institutional arrangements for handling the work programme, agreed in October 2002 to maintain the arrangements currently in place, namely, that the Councils for Trade in Services, Trade in Goods and TRIPS, and the CTD would examine and report to the General Council on aspects of electronic commerce relevant to their respective areas of competence, and that the General Council would play a central role in the entire process, keep the work programme under continuous review and consider any trade-related issue of a cross-cutting nature. Two dedicated discussions on e-commerce cross-cutting issues were held under the auspices of the General Council in 2002.

The General Council also devoted considerable attention in 2002 to ways to try to resolve the blockages that have kept Members from concluding the harmonization work programme in the rules of origin area. In view of the technically complex and politically important issues involved, the General Council extended to July 2003 the deadline for completion of negotiations on core policy issues. Following resolution of the core policy issues, the WTO Committee on Rules of Origin will complete the remaining technical work by 31 December 2003.

As part of its overall review and oversight function, the General Council kept under regular review the work of the TNC under a standing item on its agenda. It also received interim reports from the Director-General in December on all issues affecting LDCs, as well as on the implementation and adequacy of the technical cooperation and capacity-building

commitments in the Doha Ministerial Declaration. The Director-General will submit full reports to the Cancún Ministerial Conference.

With regard to the issues and concerns raised by many Members relating to the implementation of existing WTO agreements, Ministers at Doha, *inter alia*, mandated specific action to a number of WTO bodies by way of concrete follow-up, directing many of them to report to the General Council at various times in 2002. In fulfilment of its follow-up function in this area, the General Council considered and took appropriate action over the year on reports from the Goods Council, and from the Committees on Agriculture, Anti-dumping, Customs Valuation, Market Access and Subsidies, as well as the CTD in Special Session, on the specific implementation-related issues and concerns referred to them. Members have been engaged in intensive efforts to find a satisfactory solution with regard to the review of special and differential treatment provisions in the WTO agreements with the aim of strengthening them and making them more precise, effective and operational. The General Council will revert to this matter in 2003.

Pursuant to the Ministerial Declaration on the TRIPS Agreement and Public Health, and on the recommendation of the TRIPS Council, the General Council in July adopted a waiver for least-developed countries from the exclusive marketing rights provisions of Article 70.9 of the TRIPS Agreement until 2016. The Declaration also noted that "Members with insufficient or no manufacturing capacities in the pharmaceuticals sector could face difficulties in making effective use of compulsory licensing under the TRIPS Agreement" and instructed the TRIPS Council to find an expeditious solution to this problem and report to the General Council before the end of 2002. This issue is also currently before the General Council, which will revert to it in 2003.

## Systemic issues

In the course of the past year, the General Council adopted a decision on simplified procedures for the circulation and derestriction of WTO documents. With this Decision, Members have made the WTO's operations more transparent, including through more effective and prompt dissemination of information, as reflected in paragraph 10 of the Doha Ministerial Declaration. Following extensive work in the course of the year, Members in December also agreed to a more predictable, transparent process for the selection of future Directors-General. Also in December, the General Council agreed to procedures that will provide greater clarity and transparency in the process for appointing Chairpersons to WTO Councils and Committees each year. The General Council further engaged in substantive discussions in 2002 to explore ways in which the functioning of WTO processes might be improved, particularly with regard to the preparation and organization of Ministerial Conferences, on the basis of submissions by two groups of countries.

## Accessions

The General Council adopted decisions authorizing the accession of two new Members, namely Armenia and the Former Yugoslav Republic of Macedonia (see section II on WTO accession negotiations above). Armenia became the 145<sup>th</sup> Member of the WTO on 5 February 2003. A Decision on the Accession of LDCs (WT/L/508) to facilitate and accelerate the accession negotiations of LDCs was also adopted (see section I on Doha Development Agenda above).

Following China's accession to the WTO in December 2001, and in accordance with the transitional review provisions in China's Protocol of Accession, the General Council in December 2002 conducted its first review of China's implementation of its WTO commitments. The following issues were addressed by the General Council in the course of the review: reports of subsidiary bodies on China's implementation of the WTO Agreement and of the related provisions of the Protocol; development of China's trade with WTO Members and other trading partners; and recent developments and cross-sectoral issues regarding China's trade regime. All Members acknowledged the efforts made by China in implementing its WTO obligations, including in the area of transparency of its trade regime; the enactment of appropriate trade legislation; and measures to increase market access. Under the provisions of the Protocol, this review will take place subsequently in each of the eight years following the first review, with a final review in the tenth year, or at an earlier date decided by the General Council.

## Waivers under Article IX of the WTO Agreement

The General Council granted a number of waivers from obligations under the WTO Agreement (see Table III.1 below).

Table III.1

**Waivers under Article IX of the WTO Agreement**

During the period under review, the General Council granted the following waivers from obligations under the WTO Agreements (still in effect as at 1 January 2003):

Waivers	Granted	Expires	Decision
Colombia – Extension of Application of Article 5.2 of the Agreement on Trade-Related Investment Measures	20 December 2001	31 December 2003	WT/L/441
Cuba – Article XV:6 of the GATT 1994	20 December 2001	31 December 2006	WT/L/440
Dominican Republic – Minimum Values under the Customs Valuation Agreement	20 December 2001	1 July 2003	WT/L/442
Haiti – Agreement on the Implementation of Article VII of the GATT 1994	20 December 2001	30 January 2003	WT/L/439
Argentina, Australia, Bulgaria, Canada, China, Colombia, Croatia, Czech Republic, Estonia, European Communities, Hungary, Iceland, India, Korea Rep. of, Latvia, Lithuania, Malaysia, Mexico, New Zealand, Norway, Romania, Singapore, Slovak Republic, Slovenia, Switzerland, Thailand, Turkey, United States, Uruguay and Hong Kong, China – Introduction of the Harmonized System 2002 changes into WTO Schedules of Tariff Concessions	13 May 2002	1 Year <sup>a</sup>	WT/L/469
Malaysia – Introduction of the Harmonized System 1996 changes into WTO Schedules of Tariff Concessions	13 May 2002	30 April 2003	WT/L/465
Pakistan – Introduction of the Harmonized System 1996 changes into WTO Schedules of Tariff Concessions	13 May 2002	30 April 2003	WT/L/466
Panama – Introduction of the Harmonized System 1996 changes into WTO Schedules of Tariff Concessions	13 May 2002	30 April 2003	WT/L/458
Paraguay – Introduction of the Harmonized System 1996 changes into WTO Schedules of Tariff Concessions	13 May 2002	30 April 2003	WT/L/461
El Salvador – Agreement on the Implementation of Article VII of the GATT 1994	8 July 2002	7 March 2003 <sup>b</sup> 7 March 2005 <sup>c</sup>	WT/L/476
LDCs – Article 70.9 of the TRIPS Agreement with respect to pharmaceutical products	8 July 2002	1 January 2016	WT/L/478
Argentina – Introduction of the Harmonized System 1996 changes into WTO Schedules of Tariff Concessions	15 October 2002	30 April 2003	WT/L/485
El Salvador – Introduction of the Harmonized System 1996 changes into WTO Schedules of Tariff Concessions	15 October 2002	30 April 2003	WT/L/486
Israel – Introduction of the Harmonized System 1996 changes into WTO Schedules of Tariff Concessions	15 October 2002	30 April 2003	WT/L/487
Morocco – Introduction of the Harmonized System 1996 changes into WTO Schedules of Tariff Concessions	15 October 2002	30 April 2003	WT/L/488
Norway – Introduction of the Harmonized System 1996 changes into WTO Schedules of Tariff Concessions	15 October 2002	30 April 2003	WT/L/489
Thailand – Introduction of the Harmonized System 1996 changes into WTO Schedules of Tariff Concessions	15 October 2002	30 April 2003	WT/L/490
Venezuela – Introduction of the Harmonized System 1996 changes into WTO Schedules of Tariff Concessions	15 October 2002	30 April 2003	WT/L/491
Sri Lanka – Establishment of a new Schedule VI	15 October 2002	30 April 2003	WT/L/492
Zambia – Renegotiation of Schedule LXXVIII	15 October 2002	30 April 2003	WT/L/493
Argentina, Australia, Bulgaria, Canada, China, Croatia, Czech Republic, Estonia, European Communities, Hungary, Iceland, India, Korea Rep. of, Latvia, Lithuania, Mexico, Nicaragua, Norway, Romania, Singapore, Slovak Republic, Slovenia, Switzerland, Thailand, United States, Uruguay, Hong Kong, China and Macao, China – Introduction of the Harmonized System 2002 changes into WTO Schedules of Tariff Concessions	12 December 2002	31 December 2003	WT/L/511

<sup>a</sup> Expires after one year of each Member's (covered under this waiver) date of implementation of HS2002 changes.<sup>b</sup> For goods listed in Annex 1.<sup>c</sup> For goods listed in Annex 2.

In December 2001 and October and December 2002, the General Council conducted annual reviews of waivers as required under Article IX:4 of the WTO Agreement. The following waivers were reviewed:

Canada – CARIBCAN, granted on 14 October 1996 until 31 December 2006 (WT/L/185);  
Colombia – Extension of the application of Article 5.2 of the Agreement on Trade-Related Investment Measures, granted on 20 December 2001 until 31 December 2003 (WT/L/441);  
Cuba – Article XV:6 of GATT 1994, granted on 20 December 2001 until 31 December 2006 (WT/L/440);

Dominican Republic – Minimum values under the Customs Valuation Agreement, granted on 20 December 2001 until 1 July 2003 (WT/L/442);

EC – Autonomous preferential treatment to the countries of the Western Balkans, granted on 8 December 2000 until 31 December 2006 (WT/L/380 and Corr.1);

EC – The ACP-EC Partnership Agreement, granted on 14 November 2001 until 31 December 2007 (WT/L/436);

EC – Transitional regime for the EC autonomous tariff rate quotas on imports of bananas, granted on 14 November 2001 until 31 December 2005 (WT/L/437);

Madagascar – Customs Valuation Agreement, granted on 18 July 2001 until 17 November 2003 (WT/L/408);

Switzerland – Preferences for Albania and Bosnia-Herzegovina, granted on 18 July 2001 until 31 March 2004 (WT/L/406);

Turkey – Preferential treatment for Bosnia-Herzegovina, granted on 8 December 2000 until 31 December 2006 (WT/L/381);

United States – Caribbean Basin Economic Recovery Act, granted on 15 November 1995 until 31 December 2005 (WT/L/104);

United States – Former trust territory of the Pacific Islands, granted on 14 October 1996 until 31 December 2006 (WT/L/183);

Preferential Tariff Treatment for Least-Developed Countries, granted on 15 June 1999 until 30 June 2009 (WT/L/304).

## Other issues

Several other issues were brought to the General Council for discussion and further consideration. These included: review of the exemption provided under paragraph 3 of GATT 1994; a proposal to remove and avoid inconsistencies in the texts of the WTO Agreements; a report from the Joint Advisory Group of the UNCTAD/WTO; issues relating to the scheduling of WTO meetings.

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## IV. Trade in Goods

### Council for Trade in Goods

During the year 2002 the Council for Trade in Goods (CTG) met eight times in formal session. The Council carried out China's Transitional review in connection with paragraph 18 of the Protocol of the Accession of China with respect to the information requirements stipulated in Annex I(A) of the Protocol; the Council report, together with the reports of its subsidiary bodies were sent to the General Council. On textiles, the following three areas were covered: first, the CTG conducted the major review of the implementation of the Agreement on Textiles and Clothing during the second stage of the integration process pursuant to Article 8.11 of the ATC; at its July meeting the Council adopted the report on the major review. Second, the Council examined proposals contained in paragraph 4.4 and 4.5 of the Doha Ministerial Decision on implementation-related issues and concerns; due to fundamental differences of views, the Chairman was not in a position to put a draft report with recommendations before the CTG. Third, the Council discussed a request by some Members on the CTG's oversight function regarding certain restrictions previously commented upon by the TMB. On TRIMs, the Council discussed the review of the operation of the TRIMs Agreement under Article 9 and also discussed implementation issues related to TRIMs. Finally, the Council took note of the periodic reports of the Committee on Market Access and discussed and/or approved a number of waiver requests under Article IX of the WTO Agreement, details of which can be found in document G/L/595.

The Council for Trade in Goods also addressed the issue of trade facilitation. Mandated by paragraph 27 of the Doha Development Agenda (WT/MIN(01)/DEC/1) to carry out a specific work program for the time until the Fifth Ministerial. The Council met four times (May, July, October and December) in formal session to discuss the following three core agenda items: (i) GATT Articles V, VIII and X; (ii) trade facilitation needs and priorities of Members, particularly developing and least-developed countries and (iii) technical assistance and capacity building. A total of 35 written contributions were submitted to the Council, of which 21 originated from Members (Australia {1}, Canada {4}, Chinese Taipei {1}, Colombia {1}, European Communities {4}, Hong Kong, China {1}, Japan, {3} Korea {3}, New Zealand {1}, and United States {2}), 9 came from observers (OECD {4<sup>14</sup>}, UNCTAD {1} and WCO {4}) and 5 were prepared by the WTO Secretariat. For a summary of CTG work on trade facilitation, see its 2002 Report (G/L/595).

### Rules of origin

The main objective of the Agreement on Rules of Origin is to harmonize non-preferential rules of origin and to ensure that such rules do not themselves create unnecessary obstacles to trade. The Agreement sets out a Harmonization Work Programme (HWP) for the harmonization of non-preferential rules of origin to be accomplished by the Committee on Rules of Origin (CRO) in conjunction with the World Customs Organization's Technical

<sup>14</sup> The OECD papers were not circulated as CTG documents.

Committee on Rules of Origin (TCRO). Much work was done in the CRO and the TCRO and substantial progress has been achieved in the three years foreseen in the Agreement for the completion of the work. However, due to the complexity of the issues, the HWP could not be finalized within the foreseen deadline (July 1998).

The CRO continued its work under the mandate from the General Council. The pace of the HWP began to accelerate, and the CRO resolved more than 300 outstanding issues in 2001 and 19 in 2002, as a result of which the number of unresolved issues is now reduced to 137. At the GC meeting in July 2002, the CRO had forwarded 94 core policy issues to the GC for discussion and decision (G/RO/52). In December 2002, the GC set July 2003 as the new deadline for completion of the 94 core policy issues. The GC also mandated the CRO, following resolution of the core policy issues, to complete its remaining technical work by 31 December 2003. The negotiating texts are contained in documents G/RO/45 and its addenda.

## Market access

In 2002, the Committee held three formal meetings and 11 informal meetings. The Committee continued its work related to the transposition of schedules of concessions into the Harmonized System (HS), and the introduction of HS96 and HS2002 changes to schedules of concessions. In addition several waiver decisions elaborated in connection with these exercises were approved and forwarded to the Council for Trade in Goods for approval. After much discussion, the Committee in June 2002 adopted the dissemination policy of the Integrated Data Base (IDB) and the Consolidated Tariff Schedules (CTS) database (G/MA/115). In addition, the Committee considered two implementation issues transmitted to it by the General Council and the Council for Trade in Goods, respectively. The first one related to the "Meaning to be given to the phrase 'substantial interest' in paragraph 2 (d) of Article XIII of GATT 1994" (paragraph 1.2 of WT/MIN(01)17). The second one related to "Measures designed to secure a redistribution of negotiating rights in favour of small and medium-sized exporting members in trade negotiations" (Tiret 99 of Job(01)/152/Rev.1 – paragraph 12(b) of the Doha Declaration). A report of the Committee's deliberations on the first issue was provided to the General Council in document G/MA/119, and a report on the second issue was provided to the TNC in document G/MA/118. In addition, the Committee reviewed the status of notifications under the "Decision on Notification Procedures for Quantitative Restrictions" and under the "Decision on Reverse Notification of Non-Tariff Measures", on the basis of Secretariat documents G/MA/NTM/QR/1/Add.8 and G/MA/NTM/W/3/Rev.1, respectively. The Committee also conducted the review foreseen under paragraph 18 of the Protocol of Accession of the People's Republic of China at its meeting of 23 September 2002. The Committee took note of document G/MA/TAR/3/Rev.7 which reflected the latest tariff information available in the Secretariat. Various delegations also raised issues of concern in the Committee with respect to the trading practices of their trading partners.

## Import licensing

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

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

The Committee on Import Licensing held two meetings during this period, noted that the lack of compliance of Members with the transparency obligations of the Agreement has been the main preoccupation of the Committee for some time now and was informed of the steps taken by the Chairperson and the Secretariat to improve the situation, reviewed 88 notifications submitted by 42 Members under various provisions of the Agreement, carried out its first transitional review pursuant to Section 18 of the Protocol of Accession of China,

and conducted the fourth biennial review of the implementation and operation of the Agreement under Article 7.1.

## Trade in information technology products (ITA)

The Ministerial Declaration on Trade in Information Technology Products (ITA) was agreed to in Singapore in 1996 and has been accepted by 57 WTO Members and states or separate customs territories. Ultimately, the tariffs on computers, telecommunications equipment, semiconductors, semiconductor manufacturing equipment, software, and scientific instruments will be reduced to zero; most of this occurred on 1 January 2000 for many countries, while the remaining items will gradually reach zero by 1 January 2005. The details are contained in each participant's schedule of commitments. During 2002, the Committee continued its work on the non-tariff measures' (NTMs) work programme to identify NTMs that impact IT trade and to examine the economic and developmental impacts. In this respect a survey was conducted and preparations for a pilot project workshop on one particular NTM had been initiated. Additionally, the Committee examined classification divergences and reviewed the implementation during 2002. The formal participation of the People's Republic of China in the Committee remained pending during the year and will be reverted to in 2003.

## Customs valuation

During 2002 the Committee on Customs Valuation has held eight formal meetings, on 26 February (G/VAL/M/25), 27 March (G/VAL/M/26), 6-7 May (G/VAL/M/27 and Corr.1, G/VAL/M/28); 26 June (G/VAL/M/29); 3 and 26 July (G/VAL/M/30 and Corr.1 and Add.1); 30 September-1 October (G/VAL/M/31); 4-5 November (G/VAL/M/32), and 29 November and 10 December (G/VAL/M/33).

Much of the work this year focused on implementation matters. During the period under review, no developing country Members maintained delayed application of the provisions of the Agreement in accordance with the provisions of Article 20.1 of the Agreement. One Member (Sri Lanka) was granted an extension of the delay period in accordance with the provisions of paragraph 1, Annex III. Two requests for extensions are still pending agreement by Members. In addition, at circulation of the report, six Members maintain reservations which have been granted under paragraph 2, Annex III for minimum values (Colombia, Gabon, Guatemala, Honduras, Nicaragua, and Jamaica). One Member has a request to maintain minimum values pending.

Further implementation-related work was carried out during the year following the mandate from Ministers at Doha for the Committee to address outstanding implementation-related issues and the issues in paragraph 8.3 of document WT/MIN(01)/17 (see the relevant paragraphs on the Doha Development Agenda). In the area of notifications, Members are to ensure that their laws, regulations and administrative procedures conform with the provisions of the Agreement, and are required to inform the Committee on Customs Valuation of any changes in this regard. Such notifications are subject to examination in the Committee. To date, 73 Members have notified their national legislation on customs valuation (this figure includes the 14 Members which have submitted communications indicating that their legislation notified under the Tokyo Round Customs Valuation Agreement remained valid under the WTO Customs Valuation Agreement and does not include individual EEC Members). 56 Members, (including Members which have been granted extensions of the application period) have not yet made any notification. In addition, Article 20.3 of the Agreement provides that developed country Members furnish technical assistance to developing country Members that so request. For this reason, the Committee has continued to focus the question of technical assistance. Various Members have informed the Committee of the technical assistance activities they had conducted or were conducting, and the Secretariat has briefed the Committee on its activities. In addition, the WTO organized a seminar on technical assistance and capacity-building on 6-7 November, following the mandate in the work programme on technical assistance, adopted in July 2001.

At its meeting of 4-5 November, the Committee adopted its 2002 report to the Council for Trade in Goods. Adoption of the fourth, fifth, sixth, seventh and eighth annual reviews remains blocked by an unresolved issue concerning one Member's interpretation of paragraph 2, Annex III of the Agreement. At this meeting, the Committee also completed China's Transitional review mechanism in accordance with Section 18 of the Protocol of Accession of China. It submitted its report on this Review to the Council for Trade in Goods in G/VAL/48. Article 18 of the Agreement established a WTO Technical Committee under the auspices of the World Customs Organization (WCO) to promote, at the technical level, uniformity of interpretation and application of the Agreement. The Technical Committee presented reports on its Fourteenth and Fifteenth Sessions.



## Textiles and clothing

The Agreement on Textiles and Clothing (ATC), which entered into force on 1 January 1995, is a ten-year transitional agreement with a programme to gradually integrate textile and clothing products fully into GATT 1994 rules and disciplines by the end of 2004. Under the ATC, when products are integrated, they are removed from the Agreement and normal GATT rules apply to their trade. Furthermore, if the integrated products are subject to bilateral quotas carried over from the former Multifibre Arrangement, these quotas must be removed. The agreed rate for the integration of textile and clothing products in the first stage (1995-1997) was 16% of the total volume of each country's imports in 1990; a further 17% was integrated at the beginning of the second stage (1998-2002). At the beginning of the third stage, on 1 January 2002, a further 18% of products were integrated, which brings total product integration to at least 51% of the Member's total imports in 1990. It has been estimated that about 20% of imports under specific quota restrictions have been liberalized by the main importing Members in 2002. The process will be completed on 31 December 2004 with the integration of all remaining products and the full removal of the quota regime.

The exporting, developing Members have expressed concerns on the implementation of the Agreement by the Members maintaining restraints (EU, US and Canada). In their view, such implementation did not result in the increased market access they had anticipated. In 2002, the Council for Trade in Goods took up these concerns in two situations. The first was in the Council's major review of the implementation of the ATC, while the second was in the Council's examination of the two proposals relating to the ATC in the Doha Ministerial Decision on Implementation-Related Issues and Concerns.

The report on the major review of the second stage of implementation of the ATC was adopted by the Council for Trade in Goods on 23 July 2002 (document G/L/556). In it, the Council set out a number of conclusions which were broad in the treatment of their respective issues, generally pointing to areas to be borne in mind during the remaining period. Key among these was a reaffirmation of the commitment of Members to achieve the full and faithful implementation of the ATC by 2005. A further area which was highlighted in the conclusions was the importance of overseeing and regularly evaluating the functioning of the ATC by the CTG. On several other important issues, the developing and the restraining Members could not reach agreed conclusions and, consequently, their separate views were set out in the report.

The Doha Ministerial Decision on Implementation-Related Issues and Concerns contains several proposals relating to textiles and clothing, of which two relate to possible market access improvements in the context of the ATC, through changes in the methodology for the application of quota growth rates. It called upon the CTG to examine these two proposals and to make recommendations for appropriate action to the General Council by the end of July 2002. The results of this work are reported under Section I, the Doha Development Agenda above.

Given the differences in views and understandings among Members, the Chairman of the CTG presented an oral report on the situation to the General Council on 31 July 2002. In his summing-up remarks, the Acting Chairman of the General Council noted that, whereas the matter continued to be an important concern to many Members, fundamental differences existed on views and understandings and, consequently, no consensus was possible on how best to deal with this issue. In these circumstances, he noted that the CTG had carried out its mandate but had not been able to formulate any recommendations. Finally, he concluded that the General Council could take note of the statements without any prejudice to their positions and that Members should "continue to reflect on the various views that had been expressed".

## The Textiles Monitoring Body (TMB)

The TMB has the task of supervising the implementation of the ATC and examining all measures taken under this Agreement and their conformity with it. It consists of a Chairman and 10 members who act in their personal capacity. It is a standing body and meets as necessary to carry out its functions, relying mainly on notifications and information supplied by Members under the relevant provisions of the ATC.

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

At the beginning of 2002 the following WTO Members appointed individuals to serve as member (or alternate) in the TMB: Canada (Norway); China (Pakistan; Macao, China); Egypt

(India); the European Communities; Guatemala (Peru, Brazil); Japan; Korea Rep. of (Hong Kong, China; Bangladesh); the Philippines (Thailand); Romania (Turkey, Switzerland); and the United States.

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

In the period 1 February 2002 to 31 January 2003, the TMB held ten formal sessions. The detailed reports of these meetings are contained in documents G/TMB/R/86 to 95. The TMB adopted an annual report to the CTG covering the period 15 September 2001 to 15 October 2002 and providing an overview of the issues handled by the TMB during that time (G/L/574).

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

More specifically, during the period covered by this report the TMB, *inter alia*, took note of a notification made pursuant to Article 6.1 of the ATC by Chinese Taipei stating that it wished to retain the right to use the transitional safeguard provided for in Article 6.1. The TMB took note of the programmes for the first and second stages of the integration process of China, and it started its examination of those for Chinese Taipei.

The TMB completed its detailed review of the integration programmes for the third stage (2002-2004) submitted by 5 Members (China, Egypt, Guatemala, Paraguay and Venezuela), while with respect to four others it was still waiting for the responses to the additional information or clarification it had decided to seek from them. With respect to the notifications addressed to the TMB after the relevant deadlines specified by the ATC, the TMB reiterated that its taking note of late notifications was without prejudice to the legal status of such notifications.

Following the accession of the People's Republic of China, as well as that of the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei) to the WTO, the TMB considered and took note of the notifications made by Canada and the European Communities, respectively, of the quantitative restrictions maintained with reference to Article 2 of the ATC on imports from those Members; the TMB considered and took note, similarly, of the notifications of the quantitative restrictions maintained by Turkey and the United States on imports from Chinese Taipei. In so doing, the TMB requested additional information and clarification as necessary and also considered, when applicable, the observations made with respect to those notifications, as deemed appropriate by the Member concerned. Furthermore, the TMB started to consider the notifications made by Turkey and the United States of quantitative restrictions maintained on imports of the products covered by the ATC from China, together with observations made by China with respect to these two notifications. On a number of occasions, it requested additional information and clarification from the Members concerned with respect to different specific elements related to these notifications.

In this context, the TMB considered it necessary to address, in a focused discussion, the cross-cutting issue of the manner in which the growth-on-growth provisions provided for in Articles 2.13 and 2.14 of the ATC had to be implemented with respect to recently acceded Members, such as China and Chinese Taipei. As regards implementation with respect to China, the TMB concluded that the minimum requirements could be summarized in the following: as from 1 January 2002, the base levels in force on 10 December 2001 had to be increased by the respective growth rates applied for the year 2001 (prior to China's accession), increased by the full 25% applicable to Stage 2 and further increased by the 27% applicable to Stage 3. It was noted that the manner in which Canada, the European Communities and Turkey had implemented the growth-on-growth provisions met these requirements. Since the United States had reported an implementation which did not meet the minimum requirements, as defined above, the TMB decided to invite it to reconsider its respective position in light of the TMB's comments, observations and conclusion and to implement the necessary adjustments in its respective methodology applied. The United States stated in response that after having carefully examined the relevant TMB report, it had concluded that the methodology used by the United States was in line with its obligations as provided for in the Working Party Report of the Accession of China to the WTO. The United States' reasoning on this matter remained unchanged and it was of the view that it would not be appropriate to make any adjustment to the methodology applied. The TMB started to consider this communication, noting with concern that it had taken almost three months for the United States to respond to the TMB's invitation. As regards the implementation of the growth-on-growth provision with respect to Chinese Taipei, the TMB concluded that the minimum requirements which had to be implemented by the Members concerned implied that on 1 January 2002, the base levels in force on 31 December 2001 had to be increased by the respective growth rates applied in 2001, as further increased by

27% which was applicable for Stage 3. The TMB noted that the manner in which Canada, the European Communities, Turkey and the United States had implemented the respective provisions met these minimum requirements.

The TMB also examined the notifications made by the European Communities, Japan and Turkey of the restrictions maintained on imports of certain textile and clothing products from China other than those covered by the provisions of Article 2, as well as those maintained by Brazil on imports of certain textile and clothing products from Chinese Taipei. In so doing, the TMB took note of the corresponding programmes for the phasing-out of such restrictions presented by the restraining Member. The TMB also examined the notification made by China pursuant to Article 3 of the ATC of restrictions applied on exports of certain silk products. It also considered different aspects involved in or related to this notification, such as the scope of the application of Article 3; how the recourse to the provisions of Article 3 fits with provisions of the Report of the Working Party on the Accession of China dealing with export restrictions; the management and administration of the restrictions in question and their system of allocation, including the availability of information, or the lack thereof, on the possible breakdown of export quotas according to destinations. The TMB took note of what constituted a phase-out programme, in the sense of Article 3.2(b), of these export restrictions. The TMB, furthermore, took note of a notification made by Poland of a safeguard measure on imports of synthetic fabrics originating in Chinese Taipei. The measure had been introduced at a date prior to Chinese Taipei's accession to the WTO. At the same time, Poland informed the TMB that the measure would be withdrawn on 15 September 2002. The TMB observed, *inter alia*, that the withdrawal of the measure on 15 September 2002 fulfilled the requirements of Article 3.2.

The TMB reviewed in details the notifications made under Article 2.17 of the ATC of the administrative arrangements concluded between China and Canada, the European Communities and the United States, respectively, as well as between Chinese Taipei and Canada, the European Communities and the United States, respectively. The TMB sought additional information or clarification from these Members with respect to a number of issues related to the respective notifications. In taking note of the administrative arrangements, the TMB made a number of observations, in particular with respect to their implementation by the respective Members in conformity with the relevant provisions of the ATC.

## Agriculture

The Committee on Agriculture continued its systematic review of the implementation of WTO commitments resulting from the Uruguay Round or accession to the WTO. This review is undertaken on the basis of notifications submitted by Members. Since 1995, the Committee has reviewed well over 1,000 notifications submitted by Members in the areas of tariff quota administration and utilization, special safeguards, domestic support and export subsidies, as well as export restrictions.<sup>15</sup> In the course of Committee's four meetings in 2002, a number of general issues relating to the implementation of commitments were also raised. In particular, several Members were concerned about the impact of the new farm legislation of the United States, the Farm Security and Rural Investment Act of 2002. Venezuela's administration of its tariff quotas was another matter of concern. The implementation of tariff quota commitments was also the main issue addressed during the Committee's first review of China's accession commitments under the Transitional review mechanism.<sup>16</sup> The Committee made considerable efforts to advance the implementation of the Marrakesh Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on LDCs and Net Food-Importing Developing Countries. An Inter-agency panel of commodity and financial experts was established to explore possibilities for improving access to short-term credit from the international financial institutions to finance food imports of these countries, and examine a proposal by the Net Food-Importing Developing Countries for the establishment of a revolving fund for food importers.<sup>17</sup> The Committee pursued, in particular, the panel recommendation to study the feasibility of an ex-ante financing facility.<sup>18</sup> However, a number of donors remained unconvinced that there is a need for establishing a new financing scheme and expressed doubts that such financing facility would be viable. The Committee is to take a decision on this matter by March 2003.

## Sanitary and phytosanitary measures

The Agreement on the Application of Sanitary and Phytosanitary Measures (the "SPS Agreement") sets out the rights and obligations of Members when taking measures to ensure food safety, to protect human health from plant – or animal-spread diseases, or to protect plant and animal health from pests and diseases. Governments must ensure that their food safety and animal or plant health measures are necessary for health protection,

<sup>15</sup> See meeting reports G/AG/R/30 to 33 dated 17 June, 27 August, 6 November 2002 and 7 January 2003, respectively.

<sup>16</sup> See document G/AG/R/32.

<sup>17</sup> See report of the Inter-agency panel WT/GC/62 – G/AG/13 dated 28 June 2002.

<sup>18</sup> See document G/AG/W/58 and Corr.1 dated 28 October 2002 and 19 November 2002.

are based on scientific principles, are transparent, and are not applied in a manner which would constitute a disguised restriction on international trade. The measures must be justifiable through an assessment of the health risks involved. The use of internationally-developed standards is encouraged. Advance notice must be given of proposed new regulations or modifications to requirements whenever these differ from the relevant international standards. Since 1 January 2000, the provisions of the SPS Agreement also apply for the least-developed countries.

By 31 December 2002, the Committee had received 3,290 SPS notifications since the entry into force of the WTO in 1995. One-hundred-and-twenty-six Members had established and identified Enquiry Points to respond to requests for information regarding sanitary and phytosanitary measures, and 118 had identified their national authority responsible for notifications.<sup>19</sup>

In 2002, the SPS Committee held three regular meetings. At each of these, the Committee discussed specific trade concerns identified by Members.<sup>20</sup> The Committee also focused specifically on difficulties faced by developing countries, in particular regarding recognition of equivalence and the need for technical assistance. The Committee revised the recommended procedures for implementing the transparency provisions of the agreement (G/SPS/7/Rev.2 and Add.1), and proceeded with further clarifications providing guidance on the recognition of the equivalence of sanitary measures which provide a similar level of health protection (G/SPS/19/Add.1 and G/SPS/20). A number of intergovernmental organizations have been granted observer status by the Committee, either on a regular or an *ad hoc* basis.<sup>21</sup>

The WTO Secretariat regularly provides technical assistance to developing and WTO-acceding countries to facilitate their implementation of the SPS Agreement. This assistance is usually provided either through WTO-organized programs or through WTO presentations in programs organized by other institutions. Most of this technical assistance is undertaken in cooperation with the relevant standard-setting organizations (Codex, OIE and IPPC), as well as with the World Bank. During 2002, the WTO Secretariat participated in SPS technical assistance to China, Mauritius, and Zambia, as well as in regional seminars in the Gulf States, Central America, the Caribbean, and the Baltic states.

As for dispute settlement, to date Panel and Appellate Body reports have been adopted for three distinct cases in the SPS area: *EC-Hormones*, *Australia-Salmon* and *Japan-Varietals*. A panel was established in June 2002 to examine a US complaint regarding Japan's phytosanitary restrictions on apples. Another panel was established in July 2002 to examine Ecuador's complaint regarding Turkey's measures affecting imports of bananas, but a mutually agreed solution was announced in November 2002. Formal requests for consultations relating to alleged violations of the SPS Agreement were requested on Turkey's restrictions on imports of pet food, Australia's restrictions on imports of pineapple and other fresh fruit, and India's Export and Import policy.

## Safeguards

WTO Members may take "safeguard" actions with respect to a product if increased imports of that product are causing, or threaten to cause, serious injury to the domestic industry that produces like or directly competitive products. Prior to the Uruguay Round, safeguard measures could be applied on the basis of Article XIX of GATT 1947, but were infrequently used, in part because some governments preferred to secure protection for their domestic industries by using "grey-area" measures, such as voluntary export restraint agreements between exporting and importing countries.

The WTO Agreement on Safeguards, which entered into force on 1 January 1995, broke new ground in establishing a prohibition against "grey-area" measures. In particular, the Agreement stipulates that Members shall not seek, take or maintain any voluntary export restraints, orderly marketing arrangements or any other similar measures which afford protection. All such pre-existing measures were required to have been phased out by the end of 1998 (in the case of one specified measure by the end of 1999). The Agreement also establishes the substantive and procedural requirements for applying new safeguard measures.

During the period under review, the Committee on Safeguards held two regular meetings, on 29-30 April 2002 and 28 October 2002. The Committee also held an additional formal meeting on 5 December 2002. In addition, the Committee held an informal meeting on 4 October 2002, concerning an outstanding implementation issue.

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### Notification and examination of safeguards laws and/or regulations of Members

The Committee continued its review of notifications under Article 12.6 of the Agreement concerning national legislation and/or regulations in the area of safeguards. For Members with such legislation and/or regulations, these notifications consist of the full and integrated

<sup>19</sup> For the most recent listing see G/SPS/GEN/27/Rev. 10.

<sup>20</sup> See G/SPS/GEN/204/Rev. 3.

<sup>21</sup> G/SPS/W/98/Rev. 2.

text thereof. For Members without such legislation and/or regulations, these notifications inform the Committee of this fact.

As of 31 December 2002, 99 Members<sup>22</sup> had notified the Committee of their domestic safeguards legislation and/or regulations or made communications in this regard to the Committee (G/SG/N/1 and addenda). 30 Members had not as of that date made such a notification. The extent of the non-compliance with this notification obligation, and the implications of this situation, were discussed at the regular meetings of the Committee held during the review period (G/SG/M/19 and G/SG/M/20).

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### **Notifications of actions related to safeguard measures**

During 2002, the Committee received and reviewed a variety of notifications of actions related to safeguard measures. The Committee reviewed 40 notifications under Article 12.1(a) regarding the initiation of an investigation. The Committee reviewed 15 notifications of application of a provisional measure under Article 12.4. The Committee also reviewed 18 notifications concerning findings of serious injury or threat thereof caused by increased imports.

During 2002 the Committee reviewed ten notifications of termination of a safeguard investigation with no safeguard measure imposed. Furthermore, the Committee reviewed 25 notifications concerning decisions to apply safeguard measures and 22 notifications concerning the non-application of a safeguard measure to developing country Members. The Committee reviewed one notification concerning the results of the mid-term review of safeguard measures. The Committee also discussed seven notifications regarding the proposed suspension of concessions and other obligations during the period under review.

## **Subsidies and countervailing measures**

The Agreement on Subsidies and Countervailing Measures (the "Agreement"), which entered into force on 1 January 1995, regulates the provision of subsidies and the imposition of countervailing measures by Members. The Agreement applies to subsidies that are specific to an enterprise or industry or group of enterprises or industries within the territory of a Member. Specific subsidies are divided into two categories: prohibited subsidies under Part II of the Agreement and actionable subsidies under Part III of the Agreement.<sup>23</sup> Part V of the Agreement contains detailed rules regarding the conduct of countervailing duty investigations and the application of countervailing measures by Members. Parts VIII and IX of the Agreement provide special and differential treatment, respectively, for developing-country Members and for Members in transformation to a market economy.

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### **Transitional review of China**

During the regular autumn 2002 meeting, the Committee undertook the review of the implementation by China of the WTO Agreement and of the related provisions of its Protocol of Accession, as provided for in Paragraph 18 of the Protocol of Accession of the Peoples' Republic of China to the WTO. The Committee submitted a report on the review to the CTG, document G/SCM/49.

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### **Notification and review of subsidies**

Transparency is essential for the effective operation of the Agreement. To this end, Article 25 of the Agreement requires that Members make a notification of specific subsidies by 30 June of each year. At its special meeting of 31 May 2001, the Committee reached an understanding that, in an effort to improve compliance with the subsidy notification obligations and thus transparency, Members would give priority to submitting new and full notifications every two years and would de-emphasize the review of updating notifications. The Committee will review the situation in 2003. As of 31 December 2002, 54 Members (counting the EC as a single Member) had submitted a 2001 new and full notification, including 15 which notified that they provided no notifiable specific subsidies. Seventy-five Members had not submitted a 2001 new and full notification. The 2001 notifications may be found in document series G/SCM/N/71/... The Committee continued its review of these new and full subsidy notifications, as well as updating notifications from previous years, at its regular and special meetings in April and October 2002.

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### **Working party on subsidy notifications and subsidy notification seminar for capital-based officials**

The Working Party on Subsidy Notifications met on 30 April 2002 to continue its discussion of difficulties encountered by Members in notifying subsidies. In light of these discussions, it also addressed the structure and content of the subsidy notification seminar for capital-based officials, a technical assistance activity within the purview of the Committee, which then took place on 29 and 30 October 2002 in Geneva. The Chairman reported on the seminar, which involved a valuable and constructive exchange of views

<sup>22</sup> Counting the EC as a single Member for purposes of the legislative notification.

<sup>23</sup> The provisions of Part IV of the Agreement, on non-actionable subsidies, lapsed on 1 January 2000, as there was no consensus in the Committee on Subsidies and Countervailing Measures, pursuant to SCM Article 31, to extend these provisions.



among capital-based officials working specifically in the area of subsidies notifications, at the Committee's fall 2002 regular meeting (G/SCM/M/44).

### Permanent Group of Experts

The Agreement provides for the establishment of a Permanent Group of Experts ("PGE"), composed of five independent persons highly qualified in the fields of subsidies and trade relations. The role of the PGE involves the provision of assistance to panels with respect to whether a subsidy is prohibited, as well as the provision of advisory opinions at the request of the Committee or a Member.<sup>24</sup> Although the PGE has drafted Rules of Procedure and submitted them to the Committee for its approval, the draft Rules have not yet been approved by the Committee.

### Notification and review of countervailing duty legislation

Pursuant to Article 32.6 of the Agreement and a decision of the Committee, Members were required to notify their countervailing duty legislation and/or regulations (or the lack thereof) to the Committee by 15 March 1995. As of 31 December 2002, 95 Members (counting the EC as a single Member) had submitted such a notification. Of these, 70 Members notified countervailing duty legislation, and 25 Members notified that they had no such legislation. Thirty-four Members had not submitted a notification. At its spring 2002 meeting, the Committee continued its review of legislative notifications. The autumn 2002 meeting was suspended with respect to the agenda item pertaining to legislative notifications.

### Countervailing actions

Countervailing actions taken during the period 1 July 2001–30 June 2002 are summarized in Tables III.3 and III.4. While notifications are incomplete, the data available indicate that 18 new countervailing duty investigations were initiated in the review period. As of 30 June 2002, Members reported 98 countervailing measures (including undertakings) in force.

Table III.2

#### Exporters subject to initiations of countervailing investigations, 1 July 2001–30 June 2002<sup>a</sup>

Affected Country	Initiations	Affected Country	Initiations
Argentina	1	India	5
Brazil	2	Indonesia	1
Canada	1	Korea, Rep. of	1
European Communities <sup>b</sup>	4	Trinidad and Tobago	1
Hungary	1	Turkey	1
		<b>Total</b>	<b>18</b>

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

<sup>b</sup> Includes initiations in respect of individual EC Member States: Austria, Germany, France.

Table III.3

#### Summary of countervailing duty actions, 1 July 2001–30 June 2002

Reporting party	Initiations	Provisional measures	Definitive duties	Undertakings	Measures in force on 30.06.2002
Argentina	0	0	2	0	3
Australia	0	0	0	0	4
Brazil	1	0	0	0	0
Canada	0	0	1	0	10
European Communities	5	1	1	0	20
Mexico	0	0	0	0	1
New Zealand	0	0	0	0	1
Peru	0	0	1	0	0
South Africa	0	4	2	0	3
United States	11	9	13	0	53
Venezuela	1	0	0	0	3
<b>Total</b>	<b>18</b>	<b>14</b>	<b>20</b>	<b>0</b>	<b>98</b>

<sup>24</sup> The current membership of the PGE is as follows: Mr. Okan Aktan, Mr. Marco Bronckers; Mr. Jorge Castro Bernieri; Mr. Renato Galvao Flores Junior, and Mr. Hyung-Jin Kim. At its May 2002 regular meeting, the Committee re-elected Professor Aktan to serve another term.

Table III.4

## Rules notifications submitted by WTO Members – Status as of 31 December 2002

Member	Anti-Dumping			Countervailing Duties			Subsidies	State Trading	Safeguards
	Legislation	Semi-Annual Reports*		Legislation	Semi-Annual Reports*		(Articles 25 & XVI)	Article XVII:4(a) & XVII	Legislation
		July-Dec. 2001	Jan.-June 2002		July-Dec. 2001	Jan.-June 2002	New & Full 2001	New & Full 2001	
Albania									
Angola									
Antigua and Barbuda	X	X		X	X		X		
Argentina	X	X	X	X	X	X		X	X
Australia	X	X	X	X	X	X	X		X
Bahrain	X	X			X				X
Bangladesh		X			X				X
Barbados	X			X	X	X	X		
Belize							X		
Benin	X			X					X
Bolivia	X	X	X	X	X	X	X	X	X
Botswana	X						X		X
Brazil	X	X	X	X	X	X			X
Brunei Darussalam	X	X		X	X				X
Bulgaria	X	X	X	X	X	X		X	X
Burkina Faso	X								
Burundi	X			X			X	X	X
Cameroon									
Canada	X	X	X	X	X	X			X
Central African Republic									
Chad	X			X				X	X
Chile	X	X	X	X	X	X	X	X	X
China	X		X	X		X		X	X
Colombia	X	X	X	X	X		X		X
Congo									
Congo, Dem. Rep.									
Costa Rica	X	X	X	X	X	X	X	X	X
Côte d'Ivoire	X								X
Croatia	X	X	X	X	X	X	X		X
Cuba	X	X	X	X	X	X	X		X
Cyprus	X	X	X	X	X	X			X
Czech Republic	X	X	X	X	X	X		X	X
Djibouti									
Dominica	X	X		X			X		X
Dominican Republic	X			X			X		X
European Communities**	X	X	X	X	X	X	X	X	X
Ecuador	X			X					X
Egypt	X	X	X	X	X	X			X
El Salvador	X			X			X		X
Estonia	X	X	X	X	X	X	X	X	X
Fiji	X	X		X			X		X
Gabon							X		
Gambia									
Georgia	X	X		X	X			X	X
Ghana	X			X			X	X	X
Grenada	X	X	X	X		X	X		
Guatemala	X		X	X		X	X	X	X
Guinea Bissau									
Guinea, Rep. of	X			X					X
Guyana									
Haiti	X			X					X
Honduras	X	X	X	X		X		X	X
Hong Kong, China	X	X	X	X	X	X	X	X	X
Hungary	X	X	X	X	X	X		X	X

Table III.4 (continued)

## Rules notifications submitted by WTO Members – Status as of 31 December 2002

Member	Anti-Dumping			Countervailing Duties			Subsidies	State Trading	Safeguards
	Legislation	Semi-Annual Reports*		Legislation	Semi-Annual Reports*		(Articles 25 & XVI)	Article XVII:4(a) & XVII	Legislation
		July-Dec. 2001	Jan.-June 2002		July-Dec. 2001	Jan.-June 2002	New & Full 2001	New & Full 2001	
Iceland	X	X	X	X	X	X			X
India	X	X	X	X	X	X	X	X	X
Indonesia	X	X	X	X	X	X		X	X
Israel	X	X	X	X	X	X			X
Jamaica	X	X	X	X	X	X	X	X	X
Japan	X	X	X	X	X	X	X	X	X
Jordan	X	X	X	X	X	X	X	X	X
Kenya	X			X					X
Korea, Rep. of	X	X	X	X	X	X	X		X
Kuwait									
Kyrgyz Republic	X	X	X	X	X	X			X
Latvia	X	X	X	X	X	X	X	X	X
Lesotho									X
Liechtenstein	X	X	X	X	X	X	X	X	X
Lithuania	X	X	X	X	X	X		X	X
Macao, China	X	X	X	X	X	X	X	X	X
Madagascar	X				X				X
Malawi	X			X	X		X		X
Malaysia	X	X	X	X	X	X			X
Maldives	X			X					X
Mali	X						X		
Malta	X			X				X	X
Mauritania									
Mauritius	X	X		X	X		X		X
Mexico	X	X	X	X	X	X			X
Moldova	X			X				X	X
Mongolia	X			X				X	X
Morocco	X	X		X	X				X
Mozambique									
Myanmar	X			X					X
Namibia	X			X			X		X
New Zealand	X	X	X	X	X	X	X	X	X
Nicaragua	X			X					X
Niger									
Nigeria								X	X
Norway	X	X	X	X	X	X	X	X	X
Oman	X			X			X	X	X
Pakistan	X	X		X	X			X	X
Panama	X	X		X	X	X	X	X	X
Pap. New Guinea	X		X				X		
Paraguay	X	X		X			X		X
Peru	X	X	X	X	X	X			X
Philippines	X	X	X	X	X	X		X	X
Poland	X	X	X	X				X	X
Qatar	X			X					X
Romania	X	X	X	X	X	X		X	X
Rwanda									
Saint Kitts & Nevis							X		
Saint Lucia	X			X	X		X		X
Saint Vincent & Grenadines							X		
Senegal	X			X					X
Sierra Leone									
Singapore	X	X	X	X	X	X	X		X
Slovak Republic	X	X	X	X	X	X		X	X

Table III.4 (continued)

## Rules notifications submitted by WTO Members – Status as of 31 December 2002

Member	Anti-Dumping			Countervailing Duties			Subsidies	State Trading	Safeguards
	Legislation	Semi-Annual Reports*		Legislation	Semi-Annual Reports*		(Articles 25 & XVI)	Article XVII:4(a) & XVII	Legislation
		July-Dec. 2001	Jan.-June 2002		July-Dec. 2001	Jan.-June 2002	New & Full 2001	New & Full 2001	
Slovenia	X	X		X	X		X	X	X
Solomon Islands									
South Africa	X	X	X	X	X	X		X	X
Sri Lanka	X			X					X
Suriname	X			X			X		X
Swaziland	X								
Switzerland	X	X	X	X	X	X	X	X	X
Chinese Taipei	X	X	X	X		X	X		X
Tanzania									
Thailand	X	X	X	X	X	X	X	X	X
Togo									
Trinidad & Tobago	X	X	X	X	X	X			X
Tunisia	X	X	X	X	X	X	X		X
Turkey	X	X	X	X	X	X			X
Uganda	X			X					X
United Arab Emirates	X			X					X
United States	X	X	X	X	X	X	X		X
Uruguay	X	X	X	X	X	X	X		X
Venezuela	X	X	X	X	X	X		X	X
Zambia	X	X	X	X	X			X	X
Zimbabwe	X			X			X		X

X = notification submitted.

N = document submitted on its face does not satisfy the requirement to notify.

\* Tally reflects semi-annual reports for the period 1 July-31 December 2000, due 29 February 2001, and 1 January-30 June 2001, due 31 August 2001.

\*\* The EC submits a single notification that covers the EC and all 15 Member States.

## Anti-Dumping Practices

The Agreement on Implementation of Article VI of GATT 1994 ("the Agreement") entered into force on 1 January 1995. Article VI of GATT 1994 allows Members to apply anti-dumping measures on imports of a product with an export price below its "normal value" (usually, the comparable price of the product in the domestic market of the exporting country) if such imports cause or threaten to cause material injury to a domestic industry. The Agreement sets forth detailed rules concerning the determinations of dumping, injury, and causal link, as well as procedures to be followed in initiating and conducting anti-dumping investigations. It also clarifies the role of dispute settlement panels in disputes concerning anti-dumping actions taken by WTO Members.

**Notification and review of anti-dumping legislation** WTO Members are under a continuing obligation to notify their anti-dumping legislation and/or regulations (or the lack thereof). Thus, Members who enact new legislation or amend existing legislation are required to notify the new text or amendment. As of 31 December 2002, 104 Members (counting the EC as a single Member) had submitted notifications regarding anti-dumping legislation or regulations. 25 Members have not yet submitted a notification in this regard. The status of notifications pursuant to Article 18.5 may be found in Table III.4. Review of Members' notifications of legislation continues at the regular meetings of the Committee on Anti-Dumping Practices, on the basis of written questions and answers.

**Subsidiary bodies** The Committee on Anti-Dumping Practices has two subsidiary bodies, the Working Group on Implementation (formerly known as the Ad Hoc Group on Implementation), and the Informal Group on Anti-Circumvention. These bodies meet twice a year in regular session, in conjunction with the regular meetings of the Committee. The Working Group on Implementation considers, principally, technical issues concerning the Agreement, and seeks to develop agreement concerning implementation issues for

consideration by the Committee. At its regular meetings in April and October 2002, the Working Group continued discussions on a series of topics referred to it by the Committee in April 1999. Discussion proceeded on the basis of papers submitted by Members, draft recommendations prepared by the Secretariat, and information submitted by Members concerning their own practices. The Working Group agreed, at its October 2002 meeting, to consider proposals for new and additional topics of discussion.

In the Informal Group on Anti-Circumvention, Members discuss the matters referred to the Committee by Ministers in the 1994 Ministerial Decision on Anti-Circumvention. The Informal Group met in April and October 2002, and continued discussions on the first three topics under the agreed framework for discussions, "what constitutes circumvention", "what is being done by Members confronted with what they consider to be circumvention", and "to what extent can circumvention be dealt with under the relevant WTO rules? to what extent can it not? and what other options may be deemed necessary?"

**Anti-dumping actions** Anti-dumping actions taken during the period 1 July 2001 - 30 June 2002 are summarized in Tables III.5 and III.6. The tables are incomplete because certain Members have not submitted the required semi-annual reports of anti-dumping actions for this period or have not provided all the information required by the format adopted by the Committee for those reports. The data available indicate that

Table III.5

**Summary of Anti-Dumping Actions, 1 July 2001-30 June 2002<sup>a</sup>**

	Initiations	Provisional measures	Definitive Duties	Price Undertakings	Measures in force on 30 June 2002 <sup>b</sup>
Argentina	26	30	26	4	58
Australia	16	13	9	0	56
Brazil	16	0	0	1	53
Bulgaria	1	0	0	0	n.a. <sup>c</sup>
Canada	6	3	10	0	90
Chile	0	0	0	0	0
China	0	6	5	0	17
Colombia	6	1	0	0	n.a. <sup>c</sup>
Czech Republic	0	0	0	0	1
Egypt	8	0	1	0	11
European Communities	23	22	22	8	219
India	76	73	41	1	150
Indonesia	5	0	0	0	n.a. <sup>c</sup>
Israel	3	2	0	0	n.a. <sup>c</sup>
Jamaica	2	2	1	0	2
Japan	0	0	0	0	n.a. <sup>c</sup>
Korea, Rep. of	2	1	1	0	19
Lithuania	0	0	0	0	7
Malaysia	6	1	1	0	n.a. <sup>c</sup>
Mexico	11	5	1	0	61
New Zealand	0	0	0	0	7
Peru	11	8	3	0	18
Philippines	0	0	0	0	n.a. <sup>c</sup>
Poland	3	0	0	0	6
Singapore	0	0	0	0	2
South Africa	2	18	8	0	98
Chinese Taipei	3	0	0	0	7
Thailand	7	0	0	0	n.a. <sup>c</sup>
Trinidad and Tobago	1	0	0	0	n.a. <sup>c</sup>
Turkey	15	0	9	0	24
United States	58	62	36	0	264
Uruguay	2	1	0	0	0
Venezuela	0	0	0	0	19
<b>Total</b>	<b>309</b>	<b>248</b>	<b>174</b>	<b>14</b>	<b>1189</b>

<sup>a</sup> The reporting period covers 1 July 2001-30 June 2002. The table is based on information from Members having submitted semi-annual reports for that period and is incomplete due to missing reports and/or missing information in reports.

<sup>b</sup> Includes definitive price undertakings.

<sup>c</sup> Did not submit a report of measures in force.



Table III.6

**Exporters subject to two<sup>a</sup> or more initiations of anti-dumping investigations, 1 July 2001-30 June 2002<sup>b</sup>**

Affected country	Total	Affected country	Total
China	46	Canada	4
European Communities and/or member States	39	Hong Kong, China	4
Indonesia	15	Malaysia	4
Korea, Rep. of	14	Venezuela	4
Brazil	13	Chile	3
Chinese Taipei	13	Egypt	3
India	12	Hungary	3
Japan	11	Israel	3
Singapore	11	Kazakhstan	3
South Africa	11	Australia	2
Thailand	11	Colombia	2
United States	11	Iran	2
Russia	10	Lithuania	2
Romania	7	Mexico	2
Ukraine	7	New Zealand	2
Turkey	6	Poland	2
Argentina	4	Viet Nam	2
		<b>Total</b>	<b>288<sup>c</sup></b>

<sup>a</sup> Exporters the subject of only one initiation of an anti-dumping investigation were: Belarus, Bulgaria, Czech Republic, Dominican Republic, Ecuador, Estonia, Georgia, Guatemala, Jordan, Korea, PDR, Libya, Macau, Macedonia, Moldova, Nepal, Norway, Philippines, Qatar, Slovak Republic, Trinidad and Tobago, and United Arab Emirates.

<sup>b</sup> The reporting period covers 1 July 2001-30 June 2002. The table is based on information from Members having submitted semi-annual reports for that period and is incomplete due to missing reports and/or missing information in reports.

<sup>c</sup> Does not include exporters subject to only one initiation (see note c in Table III.5 above). The total number of initiations was 309.

309 investigations were initiated during the period. The most active Members during this period, in terms of initiations of anti-dumping investigations, were India (76), the United States (58), Argentina (26), the European Communities (23), Australia and Brazil (16 each), Turkey (15), and Mexico and Peru (11 each). Products exported from China were the subject of the most anti-dumping investigations initiated during the period, (46), followed by products exported from the European Communities or member States (39), Indonesia (15), Korea Rep. of (14), Chinese Taipei (13), Brazil (13) India (12), Japan, Singapore, South Africa, Thailand and United States (11 each) and Russia (10).

As of 30 June 2002, 22 Members reported that they maintained anti-dumping measures (including undertakings) in force. The data are incomplete, since, as indicated in Table III.5, a number of Members failed to report the number, if any, of measures in force. Of the 1189 measures reported to be in force as of 30 June 2002, 22% were maintained by the United States, 18% by the European Communities, 13% by India, and 8% each by South Africa and Canada.<sup>25</sup> Other Members reporting measures in force each accounted for 5% or less of the total number of measures in force.

## Technical barriers to trade

During 2002, the Committee on Technical Barriers to Trade held three meetings where a number of Members informed it of measures taken to ensure the implementation and administration of the Agreement. Several measures were brought to the attention of the Committee by Members who raised concerns about the potential adverse trade effects or inconsistency of those measures with the Agreement. A number of observers updated the Committee on their technical assistance activities and on the ways in which they sought to ensure effective participation of Members, in particular developing-country Members, in their activities (G/TBT/M/26-28).

## State Trading Enterprises

The Working Party on State Trading Enterprises was established in accordance with paragraph 5 of the Understanding on the Interpretation of Article XVII of the GATT 1994, and held its first meeting in April 1995. Since the 2002 Annual Report, the Working Party has held one formal meeting, in November 2002. The Working Party's main task is to review the notifications and counter-notifications submitted by Members on their state trading activities.

<sup>25</sup> These figures have been rounded.

The Working Party was also charged with two other tasks by the Ministers at Marrakesh:

- to examine, with a view to revising, the questionnaire on state trading adopted in November 1960; and
- to develop an illustrative list of the kinds of relationships between governments and state trading enterprises and the kinds of activities engaged in by these enterprises.

As reported previously, the illustrative list of state trading relationships and activities – contained in document G/STR/4 and approved by the Working Party at its July 1999 meeting – was adopted by the CTG at its October 1999 meeting. As also reported previously, a revised questionnaire – contained in document G/STR/3 and approved by the Working Party at its April 1998 meeting – was adopted by the CTG at its April 1998 meeting. This questionnaire has been in use since then as the format for state trading notifications by Members.

Reviews of the notifications submitted are conducted in formal meetings of the Working Party. The first series of new and full notifications on state trading enterprises was required of all Members by 30 June 1995, and subsequent new and full notifications are required every third year, also by 30 June. Updating notifications must be submitted in each of the intervening two years, also by the deadline of 30 June. All notifications must be made by all Members, regardless of whether the Member maintains any state trading enterprises, and regardless of whether an existing state trading enterprise has conducted any trade during the period under review.

With regard to the main task of the Working Party – the review of notifications – at its meeting of 19 November 2002, the Working Party reviewed 50 notifications:

- 2002 updating notifications of Bulgaria; Chinese Taipei; Czech Republic; Estonia; Georgia; Guatemala; Hong Kong, China; Hungary; Indonesia; Jordan; Liechtenstein; Macao, China; Malta; Mauritius; Nigeria; Pakistan; Panama; Romania; South Africa; Switzerland and Zambia;
- 2001 new and full notifications of Argentina; Bulgaria; Chile; Costa Rica; the European Communities; Georgia; Honduras; Hungary; India; Indonesia; Jordan; Lithuania; Moldova; Nigeria; Norway; Pakistan; Philippines; Poland; Venezuela; and Zambia;
- 2000 updating notifications of Argentina; Costa Rica; the European Communities; Nigeria; Philippines; and Tunisia;
- 1999 updating notifications of Costa Rica; the European Communities; Nigeria; Philippines; and Tunisia;
- 1998 new and full notifications of Canada; Nigeria; Philippines; and Tunisia;
- 1997 updating notifications of the European Communities and Tunisia.

## Trade-related investment measures (TRIMs)

Under the Uruguay Round Agreement on Trade-Related Investment Measures, WTO Members are required to eliminate the use of trade-related investment measures (TRIMs) that are inconsistent with Article III or Article XI of GATT 1994, subject to the exceptions permitted under GATT 1994.

Members were given a transition period to eliminate TRIMs notified within 90 days of the entry into force of the WTO Agreement – two years in the case of developed-country Members, five years in the case of developing-country Members, and seven years in the case of least-developed country Members. Twenty-six such notifications were made.

The TRIMs Agreement provides that the CTG may extend the transition period at the request of an individual developing or least-developed country Member which demonstrates particular difficulties in implementing the provisions of the Agreement. In July 2001, Argentina, Colombia, Malaysia, Mexico, Pakistan, the Philippines, Romania and Thailand received extensions of the transition period through to the end of 2001, and in November 2001 further extensions were granted to these Members for periods up to end-2003. Consideration of one further request for an extension of the transition period is pending.

At its October 1999 meeting, the CTG began the Article 9 review of the operation of the TRIMs Agreement.

### Council for Trade In Services (Regular Session)

The Council for Trade in Services held six formal meetings during 2002. Reports of the meetings are contained in documents *S/C/M/58*, *S/C/M/59*, *S/C/M/60*, *S/C/M/61*, *S/C/M/63* and *S/C/M/64*. The Council also held one special meeting dedicated to the review of air transport under the Annex on Air Transport Services, the report of which is contained in document *S/C/M/62*. The reports of the meetings, as well as the annual report by the Council, contained in document *S/C/16*, should be read in conjunction with this report. During the reporting period, the Council addressed the following matters:

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#### **Procedures for the Termination, Reduction and Rectification of Article II (MFN) Exemptions**

At its meeting of 5 June 2002, the Council adopted the Procedures for the Termination, Reduction and Rectification of Article II (MFN) Exemptions (document *S/L/106*).

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#### **Proposals for a Technical Review of GATS Provisions – Article XX:2**

In light of its discussions held at the meeting on 19 March 2002, the Council agreed to focus its consideration of this item on Article XX:2, which was one of the provisions of the GATS which some Members had earlier proposed be the object of a technical review. The Secretariat produced two notes, the first on the drafting history of this provision, *JOB(02)/89* presented in July, and the second a consideration of some practical examples of cases where scheduled commitments might lack clarity, *JOB(02)/153*, discussed in October.

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#### **Transitional Review Under Section 18 of the Protocol of Accession of the People's Republic of China**

At its meeting held on 25 October 2002 the Council for Trade in Services conducted and concluded the first transitional review under Section 18 of the Protocol of Accession of the People's Republic of China. The Council took note of the report from the Committee on Trade in Financial Services on its review, contained in document *S/FIN/7*, which formed part of the Services Council's report on this matter to the General Council, contained in document *S/C/15*.

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#### **Negotiations Under Article X of the GATS (Emergency Safeguards) – Extension of the Deadline for Negotiations**

At a special meeting held on 15 March 2002, the Council received a communication from the Chair of the Working Party on GATS Rules proposing to extend the deadline on the negotiations under Article X (Emergency Safeguard Measures). The Council adopted the Fourth Decision on Negotiations on Emergency Safeguard Measures (*S/L/102*), which extended the deadline for negotiations to 15 March 2004.

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#### **Other issues addressed by the Council for Trade in Services**

At its meeting held on 19 March 2002, the Council continued its discussions on the review of the Understanding on Accounting Rates, as provided for in paragraph 7 of the Report of the Group on Basic Telecommunications contained in document *S/GBT/4*. In subsequent meetings the Council decided to re-open the Fourth Protocol to the GATS relating to basic telecommunications for acceptance by Papua New Guinea as well as the Fifth Protocol to the GATS relating to financial services for acceptance by the Republic of Bolivia. At three meetings discussions were held under the item "Implementation of Commitments by the People's Republic of China – Statement by the United States".

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

An important part of the work of the Council for TRIPS in 2002 was a continuation of the reviews of the national implementing legislation of developing and transition economy Members, following the expiry of their transition period at the beginning of 2000, as well as of the reviews of the legislation of newly acceded Members. In 2002, the Council initiated reviews of legislation of China, Chinese Taipei, Moldova, Nigeria, Qatar, and Saint Vincent and the Grenadines. It completed the reviews of the legislation of Albania, Antigua and Barbuda, Barbados, Botswana, Brunei Darussalam, Chinese Taipei, Côte d'Ivoire, Gabon, Ghana, Guyana, India, Lithuania, Malaysia, Namibia, Oman, Sri Lanka, Thailand, Tunisia, the United Arab Emirates and Uruguay. At the end of the year, the completion of 20 reviews initiated in 2001 and 2002 was pending.

At its meeting in September, the Council undertook the review under the transitional review of the implementation by China of its WTO commitments, pursuant to Section 18 of the Protocol on the Accession of the People's Republic of China (WT/L/432), in combination with its normal review of China's TRIPS implementing legislation.

Throughout the year, the Council carried out intensive work relating to the tasks set out in paragraphs 6 and 7 of the Doha Declaration on the TRIPS Agreement and Public Health. This work is described in section I on the Doha Development Agenda above.

Paragraph 18 of the Doha Ministerial Declaration provides that "issues related to the extension of the protection of geographical indications provided for in Article 23 to products other than wines and spirits will be addressed in the Council for TRIPS pursuant to paragraph 12 of this Declaration". The Council had an extensive exchange of views on this matter at its meetings in March and June. From the September meeting, the discussions were based on the Chair's checklist of issues that covered both legal and broader policy issues, as well as possible impacts of extension. The Council received a number of written submissions on the matter. The Secretariat was requested to prepare a compilation of the elements contained in the oral statements and written submissions. The Council received two proposals on further action to be decided by the TNC: one proposing the adoption of guidelines for the negotiations on the matter (JOB(02)/194, subsequently circulated also as TN/C/W/7), and the other suggesting that no further action be taken (IP/C/W/395).

Pursuant to paragraph 19 of the Doha Ministerial Declaration, the Council discussed the review of the provisions of Article 27.3(b), the relationship between the TRIPS Agreement and the Convention on Biological Diversity, and the protection of traditional knowledge and folklore at its meetings in 2002. The Council's work on these items also covered the related outstanding implementation issues. The Council received a number of papers from Members, and the Secretariat prepared three notes, upon a request by the Council, summarizing previous discussions and inputs in the Council relevant to these items. One of them contained a proposal that the Council recommend that the TNC decide that the TRIPS Agreement should be amended to the effect that patent applications must disclose the source of biological resources and traditional knowledge used in inventions, as well as contain evidence of prior informed consent and of fair and equitable benefit sharing (IP/C/W/356). Furthermore, the Council received information from a number of Members on how they had implemented Article 27.3(b), as well updated information from a number of intergovernmental organizations on their activities in relation to these three agenda items.

The Council's work on implementation of Article 66.2 to of the TRIPS Agreement and on non-violation and situation complaints is described in section I on the Doha Development Agenda above.

At each meeting of the TRIPS Council, the item "Other outstanding implementation issues (tires 93 and 94 and proposal by LDCs on their transition period)" was on the Council's agenda. At its meeting in November, the Council received a communication from one Member on these three issues (IP/C/W/394).

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

Other issues discussed in the TRIPS Council included the review of implementation of the TRIPS Agreement under Article 71.1, electronic commerce, and the review of the application of the provisions of the Section on geographical indications under Article 24.2.

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

### Overview

The General Council convenes as the Dispute Settlement Body (DSB) to deal with disputes arising from any agreement contained in the Final Act of the Uruguay Round that is covered by the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU). The DSB, which met 23 times during 2002, has the sole authority to establish dispute settlement panels, adopt panel and Appellate Body reports, maintain surveillance of implementation of recommendations and rulings, and authorize suspension of concessions in the event of non-implementation of recommendations.

### Dispute settlement activity in 2002

In the year 2002, the DSB received 37 notifications from Members of formal requests for consultations under the DSU. During this period, the DSB also established panels to deal with 11 new cases and adopted panel and/or Appellate Body reports in 12 cases, concerning 11 distinct matters. In addition, mutually agreed solutions were notified in four cases. One panel suspended its work at the request of the parties, this panel was then subsequently reactivated and in one case the request for a panel was withdrawn by the complaining party following abrogation of the contested measure. The following sections briefly describe the procedural history and, where available, the substantive outcome of these cases. They also describe the implementation status of adopted reports where new developments occurred in the covered period. In order to provide the most up-to-date information available at the time of writing concerning cases which were active in 2001, developments from 1 January 2002 until 1 January 2003 are reflected. New cases initiated in 2002 are not reflected here. Additional information on each of these cases can be found on the WTO's website at [www.wto.org](http://www.wto.org).<sup>26</sup>

### Appellate Body and/or Panel reports adopted

#### **India – Measures affecting the automotive sector, complaints by the European Communities and the United States (WT/DS146/R and WT/DS175/R)**

This dispute concerns certain measures affecting the automotive sector being applied by India. The European Communities contended that under these measures, imports of complete automobiles and of certain parts and components were subject to a system of non-automatic import licences; also, in accordance with Public Notice No. 60, issued by the Indian Government import licences might be granted only to local joint venture manufacturers that had signed an MoU with the Indian Government, whereby they undertook, *inter alia*, to comply with certain local content and export balancing requirements; and moreover that the measures violated Articles III and XI of GATT 1994, and Article 2 of the TRIMs Agreement.

On 15 May 2000, the United States requested the establishment of a panel. The DSB established a panel at its meeting on 27 July 2000 (WT/DS175). The European Communities, Japan and Korea reserved their third-party rights. On 12 October 2000, the European Communities also requested the establishment of a panel. The DSB established a panel at its meeting of 17 November 2000 (WT/DS146). Pursuant to Article 9.1 of the DSU, the DSB decided that this complaint would be examined by the same panel as that established at the request of the United States. Japan and Korea reserved their third-party rights.

The Panel concluded that India had acted inconsistently with its obligations under Articles III:4 and XI of the GATT 1994 (*for further details on the Panel's findings, see also WTO Annual Report 2002, "Panel reports pending before the Appellate Body", p. 102*). On 21 December 2001, the Panel circulated its report to the Members.

On 31 January 2002, India appealed the Panel Report. In particular, India sought review of the following Panel conclusions on the grounds that they were in error and based upon the erroneous findings on issues of law and related legal instruments: (i) Articles 11 and 19.1 of the DSU required the Panel to address the question of whether the measures found to be inconsistent with Articles III:4 and XI:1 of the GATT had been brought into conformity with the GATT as a result of measures taken by India during the course of the proceedings, and (ii) the enforcement of the export obligations that automobile manufacturers incurred until 1 April 2001 under India's former import licensing scheme was inconsistent with Articles III:4 and XI:1 of the GATT.

<sup>26</sup> Documents relating to a particular dispute can easily be found through the "Documents online" facility of the WTO website by using the document series reference indicated in brackets after the title of each dispute (WT/DSxxx, where xxx is the number of the dispute). All documents concerning a specific dispute are issued under that symbol. Panel reports normally are issued under the symbol "WT/DSxxx/R", and Appellate Body reports are normally issued under the symbol "WT/DSxxx/AB/R". The full text of the DSU is also available on the WTO website.



On 14 March 2002, India withdrew its appeal. Further to India's withdrawal of its appeal, the Appellate Body issued a short report outlining the procedural history of the case. At the DSB meeting on 5 April 2002, the DSB adopted Appellate Body and Panel reports.

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### **United States – Section 211 Omnibus Appropriations Act, complaint by the European Communities (WT/DS176)**

This dispute concerns Section 211 of the United States Omnibus Appropriations Act, which was signed into law on 21 October 1998 (Section 211). Section 211 regulates trademarks, trade names, and commercial names that are the same as, or substantially similar to, trademarks, trade names, or commercial names that were used in connection with businesses or assets that were confiscated by the Cuban Government on or after 1 January 1959. Section 211(a)(1) prevents the registration and renewal of such trademarks, trade names or commercial names; Section 211(a)(2) prevents United States courts from recognizing, enforcing or validating any rights asserted by Cuba or a Cuban national or its successor-in-interest in respect of such trademarks, trade names or commercial names; and Section 211(b) prevents the United States courts from recognizing, enforcing or validating any treaty rights asserted by Cuba or a Cuban national or its successor-in-interest in respect of such trademarks, trade names or commercial names.

Before the Panel, the European Communities argued that Section 211 was inconsistent with Articles 2.1, 3.1, 4, 15.1, 16.1, and 42 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), as read with the relevant provisions of the Paris Convention (1967), which is incorporated into the TRIPS Agreement.

On 30 June 2000, the European Communities and its member States requested the establishment of a panel. At its meeting on 26 September 2000, the DSB established a panel. Canada, Japan and Nicaragua reserved their third-party rights.

The Panel circulated its report on 6 August 2001. The Panel rejected most of the claims by the European Communities and their member States except that relating to the inconsistency of Section 211(a)(2) of the Omnibus Appropriations Act with Article 42 of the TRIPS Agreement. In this regard, the Panel concluded that this Section is inconsistent with the relevant TRIPS Article on the grounds that it limits, under certain circumstances, right holders' effective access to, and availability of, civil judicial procedures.

On 4 October 2001, the European Communities and its member States notified their decision to appeal certain issues of law and legal interpretations developed by the Panel report. The Appellate Body report was circulated to Members on 12 January 2002. The Appellate Body: (i) found, in respect of the protection of trademarks, that Sections 211(a)(2) and (b) of the Omnibus Appropriations Act violated the national treatment and most-favoured-nation obligations under the TRIPS Agreement and the Paris Convention for the Protection of Industrial Property, thereby reversing the Panel's findings to the contrary; (ii) reversed the Panel's finding that Section 211(a)(2) was inconsistent with Article 42 of the TRIPS Agreement and concluded that Article 42 contains procedural obligations, while Section 211 affects substantive trademark rights; (iii) upheld the Panel's findings that Section 211 does not violate the United States' obligations under Article 2.1 of the TRIPS Agreement in conjunction with Article 6 *quinquies* A(1) of the Paris Convention, and Articles 15 and 16 of the TRIPS Agreement. It also upheld the Panel's finding under Article 42 of the TRIPS Agreement in respect of Section 211(b); and (iv) reversed the Panel's conclusion that trade names were not a category of intellectual property protected under the TRIPS Agreement and then completed the analysis reaching the same conclusions for trade names as with respect to trademarks. It also found that Sections 211(a)(2) and (b) were not inconsistent with Article 2.1 of the TRIPS Agreement in conjunction with Article 8 of the Paris Convention (1967).

The DSB adopted the Appellate Body report and the Panel report, as modified by the Appellate Body report, on 1 February 2002.

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### **United States – Definitive safeguard measures on imports of circular welded carbon quality line pipe from Korea, complaint by Korea (WT/DS202)**

This dispute concerns the United States imposition of a definitive safeguard measure on imports of circular welded carbon quality line pipe. On 13 June 2000, the Republic of Korea (Korea) requested consultations with the United States in respect of concerns regarding the definitive safeguard measure imposed by the United States on imports of circular welded carbon quality line pipe (line pipe). Korea noted that on 18 February 2000 the United States proclaimed a definitive safeguard measure on imports of line pipe (subheadings 7306.10.10 and 7306.10.50 of the Harmonized Tariff Schedule of the United States). In that proclamation, the United States announced that the proposed date of introduction of the measure was 1 March 2000 and that the measure was expected to remain in effect for three years and one day. Korea considered that the United States procedures and determinations that led to the imposition of the safeguard measure as well as the measure itself contravened various provisions contained in the Safeguards Agreement and the GATT 1994.

In particular, Korea considered that the measure was inconsistent with United States obligations under Articles 2, 3, 4, 5, 11 and 12 of the Safeguards Agreement; and Articles I, XIII and XIX of the GATT 1994. Further to Korea's request, the DSB established a panel at its meeting of 23 October 2000. Australia, Canada, European Communities, Japan and Mexico reserved their third-party rights.

The Panel found that the United States had imposed its safeguard measure inconsistently with the GATT 1994 and the Agreement on Safeguards (*for further details on the Panel's findings see also WTO Annual Report 2002, "Panel reports pending before the Appellate Body", p. 101*).

On 29 October 2001, the Panel circulated its report to the Members. On 6 November 2001, the United States notified its decision to appeal certain findings of law and legal interpretations contained in the Panel Report. However, on 13 November 2001, it withdrew its notice of appeal. Later, on 19 November 2001, the United States notified its decision to re-file its appeal to the Appellate Body. The Appellate Body report was circulated to Members on 15 February 2002.

The Appellate Body upheld, albeit for different reasons, the Panel's finding, in paragraph 8.1(7) of the Panel Report, that the United States acted inconsistently with its obligation under Article 12.3 of the *Agreement on Safeguards* by failing to provide an adequate opportunity for prior consultations with Korea, a Member having a substantial interest in exports of line pipe, and with its obligation under Article 8.1 of the *Agreement on Safeguards* to endeavour to maintain a substantially equivalent level of concessions and other obligations. In addition, the Appellate Body upheld the Panel's finding, in paragraph 8.1(5) of the Panel Report, that the United States did not comply with its obligation under Article 9.1 of the *Agreement on Safeguards* that safeguard measures shall not be applied against a product originating in a developing country Member as long as its imports do not exceed the individual and collective thresholds in that provision. However, the Appellate Body reversed the Panel's finding that the United States acted inconsistently with its obligations under Articles 3.1 and 4.2(c) of the *Agreement on Safeguards*, by failing to include in its published report a discrete finding that increased imports had caused serious injury, or that increased imports were threatening to cause serious injury. It also reversed the Panel's findings that the United States was entitled to exclude Canada and Mexico from the scope of the safeguard measure and that Korea had failed to make a prima facie case that the United States had applied the safeguard measure beyond the maximum extent permitted under Article 5.1 of the *Agreement on Safeguards*.

On 8 March 2002, the DSB adopted the Appellate Body Report and the Panel Report, as modified by the Appellate Body Report.

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### **United States – Anti-dumping and countervailing measures on steel plate from India, complaint by India (WT/DS206)**

This dispute concerns the imposition by the United States of anti-dumping measures on certain cut-to-length carbon steel plate (steel plate) from India. India argued that these determinations were erroneous and based on deficient procedures contained in various provisions of United States anti-dumping and countervailing duty law. According to India, these determinations and provisions raised questions concerning the obligations of the United States under the GATT 1994, the Anti-Dumping Agreement, the SCM Agreement, and the Agreement establishing the WTO (WTO Agreement). The DSB established a Panel at its meeting of 24 July 2001. Chile, the European Communities and Japan reserved their third-rights.

On 28 June 2002, the Panel circulated its report to Members. The Panel concluded that the United States statutory provisions governing the use of facts available, sections 776(a) and 782(d) and (e) of the Tariff Act of 1930, as amended, were not inconsistent with Articles 6.8 and paragraphs 3, 5, and 7 of Annex II of the Anti-Dumping Agreement. The Panel also concluded that the United States did not act inconsistently with Article 15 of the Anti-Dumping Agreement with respect to India in the anti-dumping investigation underlying this dispute. The Panel also concluded that the "practice" of the United States Department of Commerce concerning the application of "total facts available" was not a measure which could give rise to an independent claim of violation of the Anti-Dumping Agreement, and therefore did not rule on India's claim in this regard. However, the panel found that the United States Department of Commerce's reliance on "facts available" in the investigation underlying the measure in question was inconsistent with Article 6.8 and paragraph 3 of Annex II of the Anti-Dumping Agreement.

At its meeting on 29 July 2002, the DSB adopted the panel report.

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

This dispute concerns two distinct matters: Argentina had claimed that: (a) Chile's Price Band System ("PBS") applicable to imports of wheat, wheat flour, and edible vegetable oils,

was inconsistent with Article II:1(b) of the GATT 1994 and Article 4.2 of the Agreement on Agriculture; and (b) Chile's provisional and definitive safeguards measures on imports of wheat, wheat flour and edible vegetable oils, as well as the extension of those measures, were inconsistent with Article XIX of the GATT 1994 and Articles 2, 3, 4, 5, 6 and 12 of the Agreement on Safeguards. At its meeting of 12 March 2001 the DSB established a panel. Australia, Brazil, Colombia, Costa Rica, the European Communities, Ecuador, El Salvador, Guatemala, Honduras, Japan, Nicaragua, Paraguay, the United States and Venezuela reserved their third-party rights.

The Panel found that Chile's PBS is a measure "of the kind which ha[d] been required to be converted into ordinary customs duties", within the meaning of Article 4.2 of the Agreement on Agriculture. Specifically, the Panel found that Chile's PBS is a measure similar to a variable import levy and a minimum import price. The Panel found that, by maintaining a measure which should have been converted, Chile had acted inconsistently with Article 4.2 of the Agreement on Agriculture.

Since it had found that Chile's PBS was a border measure other than an "ordinary customs duty", the Panel concluded that the consistency of the PBS with Article II:1(b) of GATT 1994 could not be assessed under the first sentence of that provision, because that sentence applies only to "ordinary customs duties". The Panel considered that the duties resulting from Chile's PBS ("PBS duties") were "other duties and charges of any kind", thus falling under the second sentence of Article II:1(b). According to that provision, such "other duties or charges" must not exceed the bindings recorded in the respective column of a Member's schedule. Because the PBS duties are not recorded in Chile's schedule, but are nevertheless levied, the Panel found that, in the light of the Understanding on the Interpretation of Article II:1(b) of GATT 1994, Chile had acted inconsistently with the second sentence of Article II:1(b). The report was circulated on 3 May 2002, on 24 June 2002, Chile notified its decision to appeal to the Appellate Body certain issues of law covered in the Panel Report and certain legal interpretations developed by the Panel.

On 23 September 2002 the report of the Appellate Body was circulated to WTO Members. As a procedural matter, the Appellate Body found that the Panel acted inconsistently with Article 11 of the DSU in finding that the PBS duties are inconsistent with the second sentence of Article II:1(b) of the GATT 1994, an issue that was not before the Panel, and, therefore, reversed that finding. With respect to Article 4.2 of the Agreement on Agriculture, the Appellate Body: (i) upheld the Panel's finding that Chile's PBS was a border measure that was similar to a variable import levy and a minimum import price; and (ii) upheld the Panel's finding that Chile's PBS was inconsistent with Article 4.2. The Appellate Body, however, reversed the Panel's finding that the term "ordinary customs duties", as used in Article 4.2 of the Agreement on Agriculture, was to be understood as "referring to a customs duty which is not applied on the basis of factors of an exogenous nature", i.e. not based exclusively on the value of a product in the case of *ad valorem* duties or the volume of a product in the case of specific duties. Having found that Chile's PBS is inconsistent with Article 4.2 of the Agreement on Agriculture, the Appellate Body did not find it necessary to rule on whether that system is consistent with the first sentence of Article II:1(b) of GATT 1994.

At its meeting on 23 October 2002, the DSB adopted the Appellate Body Report and the Panel Report, as modified by the Appellate Body Report.

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### **Egypt – Definitive anti-dumping measures on steel rebar from Turkey, complaint by Turkey (WT/DS211)**

This dispute concerns the imposition by Egypt of anti-dumping measures on steel rebar from Turkey. Turkey considered that Egypt made determinations of injury and dumping in that investigation without a proper establishment of the facts and based on an evaluation of the facts that was neither unbiased nor objective; that during the investigation of material injury or threat thereof and the causal link, Egypt acted inconsistently with Articles 3.1, 3.2, 3.4, 3.5, 6.1 and 6.2 of the Anti-Dumping Agreement; and also during the investigation of sales at less than normal value, Egypt violated Article X:3 of the GATT 1994, as well as Articles 2.2, 2.4, 6.1, 6.2, 6.6, 6.7 and 6.8, and Annex II, Paragraphs 1, 3, 5, 6 and 7 and Annex I, Paragraph 7 of the Anti-Dumping Agreement. At its meeting of 20 June 2001, the DSB established a panel. Chile, the European Communities, Japan and the United States reserved their third party rights.

On 8 August 2002, the Panel Report was circulated to WTO Members. The Panel concluded that Egypt acted inconsistently with its obligations under: (a) Article 3.4 of the Anti-Dumping Agreement, in that while it gathered data on all of the factors listed in Article 3.4, the Egyptian investigating authority failed to evaluate all of the factors listed in Article 3.4 as it did not evaluate productivity, actual and potential negative effects on cash flow, employment, wages, and ability to raise capital or investments; and (b) Article 6.8 of the Anti-Dumping Agreement, and paragraph 6 of Annex II thereto, with regard to two of the

Turkish exporters, as the Egyptian investigating authority, having received the information that it had identified to these two respondents as being necessary, nevertheless found that they had failed to provide the necessary information, and further, did not inform these two exporters of this finding and did not give them the required opportunity to provide further explanations before resorting to facts available.

On 1 October 2002, the DSB adopted the Panel Report.

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### **United States – Countervailing duties on certain corrosion-resistant carbon steel flat products from Germany, complaint by the European Communities (WT/DS213)**

This dispute concerns the obligations that Article 21.3 of the Agreement on Subsidies and Countervailing Measures (the “SCM Agreement”) imposes on Members in their conduct of five-year, or “sunset”, reviews of countervailing duties. The European Communities claimed that certain United States laws and practices regarding sunset reviews, as well as their application in a sunset review of countervailing duties on certain carbon steel products from Germany, are inconsistent with United States’ obligations under the SCM Agreement and the WTO Agreement. In particular, the European Communities challenged: the United States’ failure to apply in sunset reviews the same 1% *de minimis* standard that must be applied in original countervailing duty investigations; and the automatic self-initiation of sunset reviews by United States authorities in each and every case. Further, the European Communities claimed that United States law precludes the domestic authorities from making a determination in a sunset review consistent with the requirements of Article 21.3. A panel was established by the DSB on 10 September 2001 further to the request of the European Communities. Japan and Norway reserved their third-party rights.

In its report circulated to Members on 3 July 2002, the Panel made a number of rulings on the scope of its terms of reference. With respect to the substantive claims, the Panel found the automatic self-initiation of sunset reviews by domestic authorities to be consistent with United States’ obligations under Article 21.3 of the SCM Agreement. Regarding the determination to be made in sunset reviews, the Panel found that United States law, as such, applicable to such determinations was not inconsistent with Article 21.3 of the SCM Agreement, but that the specific determination made in the sunset review of carbon steel products from Germany had violated the requirements of that provision. With respect to the *de minimis* issue, the Panel found that a 1% *de minimis* standard is “implied” in Article 21.3 of the SCM Agreement. The Panel found, therefore, that by failing to apply such a standard, United States law, as such, and as applied in the sunset review of carbon steel products from Germany, was inconsistent with that provision. One member of the Panel issued a dissenting opinion on this issue, concluding instead that no *de minimis* standard applies in sunset reviews. On 30 August 2002, the United States notified its decision to appeal to the Appellate Body certain issues of law covered in the panel report. The United States appealed the Panel’s findings regarding the *de minimis* standard in sunset reviews. The European Communities appealed the Panel’s findings regarding the automatic self-initiation of sunset reviews, and regarding the consistency of United States law, as such, with obligations relating to the determination to be made in sunset reviews. The United States and the European Communities each appealed different aspects of the Panel’s treatment of its terms of reference. However, the Panel’s finding that the application of United States law in the sunset review of carbon steel products from Germany was inconsistent with Article 21.3 of the SCM Agreement was not appealed.

In its report, circulated 28 November 2002, the Appellate Body reversed the Panel’s findings relating to the *de minimis* standard in sunset reviews. The Appellate Body disagreed with the Panel that the *de minimis* standard that applies to original investigations pursuant to Article 11.9 of the SCM Agreement must be “implied” in Article 21.3 of that Agreement, the provision governing sunset reviews. The Appellate Body found no support for such implication in the text of the relevant provisions, read in their context and in the light of the object and purpose of the SCM Agreement. Having found that the *de minimis* standard of Article 11.9 is not applicable in sunset reviews conducted under Article 21.3, the Appellate Body reversed the Panel’s findings that United States law, as such, and, as applied in the sunset review of carbon steel products from Germany, is inconsistent with Article 21.3 by virtue of its failure to apply a 1% *de minimis* standard in sunset reviews. The Appellate Body upheld the Panel’s findings that United States law, as such, and, as applied in the sunset review of carbon steel products from Germany, is consistent with Article 21.3 of the SCM Agreement with respect to the automatic self-initiation of sunset reviews. The Appellate Body agreed with the Panel that, when interpreted in accordance with customary rules of interpretation of public international law, Article 21.3 of the SCM Agreement does not require WTO Members to satisfy any particular evidentiary standard in order to self-initiate such reviews. The Appellate Body also upheld the Panel’s finding with respect to the consistency of United States law, as such, with obligations regarding the determination to be

made in a sunset review. The European Communities' appeal on this issue was, in large part, based upon an assertion that the Panel had failed to make an objective assessment of the matter, as required by Article 11 of the DSU. The Appellate Body, however, found that the Panel acted within the bounds of its discretion in its treatment of this issue and thus saw no reason to disturb the Panel's finding. Finally, the Appellate Body upheld, with respect to each of the appeals relating to jurisdiction, the Panel's interpretation of its terms of reference.

At its meeting of 19 December 2002, the DSB adopted the Appellate Body Report and the Panel Report, as modified by the Appellate Body Report.

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### **United States – Section 129(c)(1) of the Uruguay Round Agreements Act, complaint by Canada (WT/DS221)**

This dispute concerns Section 129 of the Uruguay Round Agreements Act which established a procedure by which the United States Administration might obtain advice it requires to determine its response to an adverse WTO panel or Appellate Body report (hereafter "WTO report") concerning United States obligations under the Anti-Dumping Agreement or the SCM Agreement. Section 129 also established a mechanism that permitted the agencies concerned to issue a second determination (hereafter a "section 129 determination"), where such action was appropriate, to respond to the recommendations in a WTO panel or Appellate Body report. At issue in this dispute was the latter mechanism, specifically section 129(c)(1). Canada claimed that section 129(c)(1) had the effect of precluding the United States from implementing adverse WTO reports with respect to what it termed "prior unliquidated entries" (i.e., entries that occurred before end of the reasonable period of time for implementing adverse WTO reports, but remained unliquidated as of that date). At its meeting of 23 August 2001, the DSB established a panel. Chile, European Communities, India and Japan reserved their third-party rights.

In its report circulated on 15 July 2002, the Panel found that section 129(c)(1) only spoke to the treatment of unliquidated entries that occurred *after* the end of the reasonable period of time and was not convinced by Canada's assertion that section 129(c)(1) nevertheless had the effect of precluding the United States from implementing adverse WTO reports with respect to "prior unliquidated entries". Since Canada did not succeed in establishing that section 129(c)(1) had such an effect, the Panel did not consider it necessary to examine whether Canada was correct in arguing that the GATT 1994, the Anti-Dumping Agreement and the SCM Agreement required the United States to implement adverse WTO reports with respect to "prior unliquidated entries". For these reasons, the Panel concluded that Canada had failed to establish that section 129(c)(1) was inconsistent with the GATT 1994, the Anti-Dumping Agreement or the SCM Agreement. Because Canada had failed to establish that section 129(c)(1) is inconsistent with the GATT 1994, the Anti-Dumping Agreement or the SCM Agreement, the Panel did not uphold Canada's additional claim under the WTO Agreement, *viz.*, that the United States had failed to ensure the conformity of its laws with its WTO obligations.

At its meeting on 30 August 2002, the DSB adopted the Panel report.

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### **Canada – Export credits and loan guarantees for regional aircraft, complaint by Brazil (WT/DS222)**

This dispute concerns subsidies which were allegedly being granted to Canada's regional aircraft industry. Brazil claimed that export credits, within the meaning of Item (k) of Annex I to the SCM Agreement, were being provided to Canada's regional aircraft industry by the Export Development Corporation (EDC) and the Canada Account; that loan guarantees, within the meaning of Item (j) of Annex I to the SCM Agreement, were being provided by EDC, Industry Canada, and the Province of Quebec, to support exports of Canada's regional aircraft industry. Brazil took the view that all of the above-mentioned measures were subsidies, within the meaning of Article 1 of the SCM Agreement, since they were financial contributions that confer a benefit. According to Brazil, they were also contingent, in law or in fact, upon export, and constituted, therefore, a violation of Article 3 of the SCM Agreement.

On 28 January 2002, the Panel circulated its report to the Members. The Panel rejected Brazil's claims that the EDC Corporate Account, Canada Account and Investissement Québec (*IQ*) programmes "as such" constitute prohibited export subsidies contrary to Article 3.1(a) of the SCM Agreement. They considered that it was not appropriate to make separate findings regarding the EDC Corporate Account, Canada Account and *IQ* programmes "as applied". Where claims relating to specific transactions were concerned, the Panel rejected Brazil's claim that the EDC Corporate Account financing to Kendell, Air Nostrum and Comair in December 1996, March 1997 and March 1998 constituted a prohibited export subsidy contrary to Article 3.1(a) of the SCM Agreement. In addition, the Panel rejected Brazil's claim that *IQ* equity guarantees to ACA, Air Littoral, Midway, Mesa Air Group, Air Nostrum and Air Wisconsin constituted prohibited export subsidies contrary to Article 3.1(a) of the SCM Agreement; and finally, they also rejected Brazil's claim that *IQ* loan guarantees to Mesa Air



Group and Air Wisconsin constitute prohibited export subsidies contrary to Article 3.1(a) of the SCM Agreement.

The Panel upheld Brazil's claim that the EDC Canada Account financing to Air Wisconsin, to Air Nostrum and to Comair in July 1996, August 1997, and February 1999 constituted a prohibited export subsidy contrary to Article 3.1(a) of the SCM Agreement. (*For a more detailed description of the Panel reports, see also Annual Report 2002, "Panel reports circulated" p. 102*).

The report of the Panel was circulated to WTO Members on 28 January 2002, and was adopted by the DSB at its meeting on 19 February 2002.

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### **European Communities – Trade description of sardines, complaint by Peru (WT/DS231)**

This dispute concerns the European Communities concerning Regulation (EEC) 2136/89 (the "EC Regulation") which, according to Peru, prevented Peruvian exporters to continue to use the trade description "sardines" for their products. Peru submitted that, according to the relevant Codex Alimentarius standards (STAN 94-181 rev. 1995), the species "*sardinops sagax sagax*" are listed among those species which can be traded as "sardines". Peru, therefore, considered that the above Regulation constituted an unjustifiable barrier to trade, and, hence, in breach of Articles 2 and 12 of the Agreement on Technical Barriers to Trade (TBT Agreement) and Article XI:1 of GATT 1994. In addition, Peru argued that the Regulation was inconsistent with the principle of non-discrimination, and, hence, in breach of Articles I and III of GATT 1994. A panel was established at the DSB meeting of 24 July 2001. Canada, Chile, Colombia, Ecuador, Venezuela and the United States reserved their third-party rights.

The Panel Report was circulated to Members on 29 May 2002. The Panel found that the EC Regulation was inconsistent with Article 2.4 of the TBT Agreement. The Panel held that the European Communities, by not allowing Peruvian sardines to be marketed as "sardines" combined with the name of the country, the name of the geographical area, the name of the species or the common name of the species, did not use the relevant international standard, i.e., Codex Stan 94, as a basis for its technical regulation even though it would be an effective or appropriate means to fulfil the legitimate objectives of consumer protection, market transparency and fair competition.

On 28 June 2002, the European Communities notified its decision to appeal to the Appellate Body certain issues of law covered in the in the Panel report and certain legal interpretations developed by the Panel. On 26 September 2002, the report of the Appellate Body was circulated. The Appellate Body upheld the Panel's finding that the EC Regulation was inconsistent with Article 2.4 of the TBT Agreement because the European Communities did not use the standard developed by the Codex Alimentarius Commission Codex Stan 94 – a relevant international standard – as a basis for the EC Regulation. However, the Appellate Body reversed the Panel's finding that the European Communities had the burden of proving that the relevant international standard is ineffective and inappropriate under Article 2.4 and found, instead, that the burden rests on Peru to prove that the standard was effective and appropriate to fulfil the legitimate objectives pursued by the European Communities through the EC Regulation. In any event, the Panel's ultimate finding was upheld because the Panel also found that Peru had proved that Codex Stan 94 is effective and appropriate to fulfil those objectives. The Appellate Body also made rulings on two procedural issues. First, the Appellate Body found that it was permissible for the European Communities to withdraw its Notice of Appeal and replace it with another one. Second, the Appellate Body confirmed that it could accept and consider *amicus curiae* briefs submitted by private individuals and found, for the first time, that it could accept and consider *amicus curiae* briefs submitted by WTO Members that were not parties to the dispute. Nevertheless, the Appellate Body did not find it necessary to consider the *amicus curiae* briefs submitted, because their contents were not of assistance to them in this appeal.

On 23 October 2002, the DSB adopted the Appellate Body Report and the Panel Report, as modified by the Appellate Body Report.

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### **United States – Preliminary determinations with respect to certain softwood lumber from Canada, complaint by Canada (WT/DS236)**

This dispute concerns the preliminary countervailing duty determination and the preliminary critical circumstances determination made by the United States Department of Commerce on 9 August 2001, with respect to certain softwood lumber from Canada. This dispute also concerns United States law on expedited and administrative reviews in the context of countervailing measures. As far as the preliminary countervailing duty determination was concerned, Canada considered this determination to be inconsistent with United States obligations under Articles 1, 2, 10, 14, 17.1, 17.5, 19.4 and 32.1 of the SCM Agreement and Article VI(3) of GATT 1994. With respect to the preliminary critical circumstances determination, Canada considered this determination to be inconsistent with

Articles 17.1, 17.3, 17.4, 19.4 and 20.6 of the SCM Agreement. As regards United States measures on company-specific expedited reviews and administrative reviews, Canada considered these measures to be inconsistent with United States obligations under Article VI:3 of the GATT 1994 and Articles 10, 19.3, 19.4, 21.1, 21.2 and 32.1 of the SCM Agreement. Canada also asserted that the United States had failed to ensure that its laws and regulations were in conformity with its WTO obligations as required by Article 32.5 of the SCM Agreement and Article XVI:4 of the WTO Agreement. At its meeting on 5 December 2001, the DSB established a panel. The European Communities and India reserved their third-party rights to participate in the panel proceedings. On 17 December 2001, Japan requested to participate in the proceedings as a third party.

The Panel circulated its report on 27 September 2002. The Panel found that imposition of provisional countervailing measures by the United States was inconsistent with the United States' obligations under Articles 1.1(b), 14, 14(d) SCM Agreement as well as Articles 10 and 17.1(b) of the SCM Agreement, as these provisional measures were imposed on the basis of an inconsistent preliminary determination of the existence of a subsidy. According to the Panel, the United States Department of Commerce's preliminary countervailing duty determination failed to determine the existence and amount of benefit to the producers of the subject merchandise on the basis of the prevailing market conditions in Canada as required by Article 1.1(b) and Article 14 and 14(d) of the SCM Agreement. The Panel also found that the Canadian "stumpage" practices constituted the provision of a good or service by the government which, if conferring a benefit, could be considered as a subsidy. With regard to the preliminary critical circumstances determination, the Panel found that the application of provisional measures in the form of cash deposits or bonds under the Department of Commerce's preliminary critical circumstances determination was inconsistent with Article 20.6 of the SCM Agreement, as this provision did not allow for the retroactive application of provisional measures. In addition, the Panel found that the provisional measures at issue were applied in violation of Article 17.3 and 17.4 SCM Agreement as they were imposed less than 60 days after initiation and covered imports for a period of more than four months. Finally, the Panel found that the United States laws and regulations challenged by Canada on expedited and administrative reviews were not inconsistent with the SCM Agreement as they did not require the executive authority to act in a manner inconsistent with the United States obligations under Articles 19 and 21 of the SCM Agreement concerning expedited and administrative reviews.

The DSB adopted the Panel report at its meeting of 1 November 2002.

## Implementation of adopted reports

The DSU requires the DSB to keep under surveillance the implementation of adopted recommendations or rulings (DSU, Article 21.6). This section reflects developments concerning this surveillance, and includes information relating to: (i) the determination, where relevant, of a reasonable period of time for the Member concerned to bring its measures into conformity with its obligations under the WTO Agreements (DSU, Article 21.3); (ii) recourse to dispute settlement procedures in cases of disagreement regarding the existence or consistency of measures taken to comply with the recommendations and rulings (DSU, Article 21.5); and (iii) suspension of concessions in case of non-implementation of the DSB's recommendations (DSU, Article 22).

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### **European Communities – Regime for the importation, sale and distribution of bananas, complaints by Ecuador, Guatemala, Honduras, Mexico and the United States (WT/DS27)**

At its meeting of 25 September 1997, the DSB adopted the Appellate Body report and the Panel reports, as modified by the Appellate Body report, recommending that the European Communities bring its regime for the importation, sale and distribution of bananas into conformity with its obligations under the GATT 1994 and the GATS. *(For a detailed description of the Panel and Appellate Body reports, see also Annual Report 1998, p 106. For more detailed information relating to the implementation of the reports up until December 2001, please see Annual Report 2000, p. 69, Annual Report 2001, p. 95 and Annual Report 2002, p. 89.)*

At the DSB meeting on 18 December 2001, the European Communities welcomed the granting of the two waivers by the Ministerial Conference, which were the prerequisite for the implementation of phase II of the Understandings reached with the United States and Ecuador. The European Communities noted that the Regulation implementing phase II would be adopted on 19 December 2001, with effect on 1 January 2002. Ecuador, Honduras, Panama and Colombia noted the progress made and sought information from the European Communities concerning the granting of import licences by one European Communities member State in a manner that was inconsistent with the Understandings. On 21 January

2002, the European Communities announced that Regulation (EC) No. 2587/2001 had been adopted by the Council on 19 December 2001 and indicated that through this Regulation, the European Communities had implemented phase 2 of the Understandings with the United States and Ecuador.

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### **Canada – Measures affecting the importation of milk and the exportation of dairy products, complaints by the United States and New Zealand (WT/DS103 and WT/DS113)**

At its meeting of 27 October 1999, the DSB adopted the Appellate Body report and the Panel report, as modified by the Appellate Body report, recommending that Canada bring the measures at issue into conformity with its obligations under the Agreement on Agriculture and the GATT 1994. The Panel and the Appellate Body found that Canada had acted inconsistently with its obligations under Articles 3.3 and 8 of the Agreement on Agriculture by providing “export subsidies” in excess of the quantity commitment levels specified by Canada in its Schedule to that Agreement. The Panel and the Appellate Body also found that one of Canada’s restrictions on access to a tariff-rate quota constituted a violation of Article II:1(b) of the GATT 1994. *(For a description of the Panel and Appellate Body reports, see also Annual Report 2000, p. 60.)*

Pursuant to Article 21.3(b) of the DSU, the parties to the dispute agreed that Canada should have until 31 January 2001 to implement the recommendations and rulings of the DSB. Canada subsequently modified its regimes for both the importation and exportation of dairy products. On 1 March 2001, New Zealand and the United States requested the DSB to refer the matter to the original panel, pursuant to Article 21.5 of the DSU, to determine the consistency of the modified Canadian measures with Canada’s obligations under the Agreement on Agriculture. The Panel found that Canada continued to act inconsistently with its obligations under Articles 3.3 and 8 of the Agreement on Agriculture by providing “export subsidies” within the meaning of Article 9.1(c) in excess of the quantity commitment levels specified in its Schedule to that Agreement. On 4 September 2001, Canada appealed the compliance Panel report. The report of the Appellate Body was circulated to Members on 3 December 2001. The Appellate Body reversed the Panel’s finding that the measure at issue – the supply of commercial export milk (CEM) by Canadian milk producers to Canadian dairy processors – involved “payments” on the export of milk that were “financed by virtue of governmental action” under Article 9.1(c) of the Agreement on Agriculture. The Appellate Body ruled that it did not have a sufficient factual record to enable it to determine whether CEM involved “export subsidies” under the Agreement on Agriculture. *(For more detailed information relating to the implementation of the reports up until December 2001, please see Annual Report 2002, p. 94.)*

On 17 January 2002, a second compliance panel was composed under Article 21.5 of the DSU. On 26 July 2002, the report was circulated to the Members. The Panel concluded that Canada, through the CEM scheme and the continued operation of certain special milk classes, had acted inconsistently with its obligations under Articles 3.3 and 8 of the Agreement on Agriculture, by providing export subsidies within the meaning of Article 9.1(c) of the Agreement on Agriculture in excess of its quantity commitment levels specified in its Schedule for exports of cheese and “other dairy products”. It also concluded that, in the alternative, Canada had acted inconsistently with its obligations under Article 10.1 of the Agreement on Agriculture and that therefore Canada had acted inconsistently with its obligations under Article 8 of the Agreement on Agriculture. Accordingly, the Panel recommended that the DSB request Canada to bring its dairy products marketing regime into conformity with its obligations in respect of export subsidies under the Agreement on Agriculture.

On 23 September 2002, Canada notified its intention to appeal certain issues of law and legal interpretations developed by the second compliance panel. The report of the Appellate Body on compliance was circulated on 20 December 2002. The Appellate Body upheld the Panel’s finding that the measure at issue – the supply of CEM by Canadian milk producers to Canadian dairy processors – involved export subsidies in the form of “payments” on the export of milk that were “financed by virtue of governmental action” within the meaning of Article 9.1(c) of the Agreement on Agriculture. The Appellate Body reversed the Panel’s interpretation of the rules on burden of proof in Article 10.3 of the Agreement on Agriculture. However, the Appellate Body held that this error did not affect any of the Panel’s other findings under the Agreement on Agriculture. In view of its conclusion under Article 9.1(c) of the Agreement on Agriculture, the Appellate Body declined to rule on the Panel’s alternative finding under Article 10.1 of that Agreement.

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

At its meeting of 20 March 2000, the DSB adopted the Appellate Body report and the Panel report, as modified by the Appellate Body, finding that the tax exemption measure at

issue, the FSC measure, constituted a prohibited subsidy under Article 3.1(a) of the Agreement on Subsidies and Countervailing Measures (SCM Agreement) and Article 10.1 and 8 of the Agreement on Agriculture. The DSB specified that the FSC subsidies should be withdrawn by 1 October 2000. On 12 October 2000, the DSB agreed to the request of the United States that the time-period for withdrawal of the subsidies be modified so as to expire on 1 November 2000. (For a description of the Panel report see also *Annual Report 2000*, p. 73 and for a description of the Appellate Body report, see also *Annual Report 2001*, p. 80.)

On 15 November 2000, with a view to implementing the rulings and recommendations of the DSB, the United States enacted the FSC Repeal and Extraterritorial Income Exclusion Act of 2000 (the "ETI Act"). On 17 November 2000, the European Communities requested authorization from the DSB to suspend concessions and other obligations, as provided for in Article 22.2 of the DSU. The United States objected to the level of suspension proposed, and the matter was referred to arbitration, pursuant to Article 22.6 of the DSU and Article 4.11 of the SCM Agreement. However, the parties agreed to defer this arbitration proceeding pending the outcome of the Article 21.5 proceeding. Following a request made by the European Communities, the DSB, at its meeting on 20 December 2000, referred the matter to the original panel, pursuant to Article 21.5 of the DSU (compliance panel), to determine the consistency of the ETI Act with United States' obligations under the SCM Agreement, the Agreement on Agriculture, and the GATT 1994.

The compliance Panel Report which was circulated to WTO Members on 20 August 2001, found that the ETI Act (the amended FSC legislation) was also inconsistent with Articles 3.1(a) and 3.2 of the SCM Agreement, with Articles 8 and 10.1 of the Agreement on Agriculture and with Article III:4 of the GATT 1994. On 15 October 2001, the United States notified its decision to appeal certain issues of law and legal interpretations developed by the Panel report.

The Appellate Body upheld the Panel's findings that the United States had acted inconsistently with its obligations under the SCM Agreement, the Agreement on Agriculture, and the GATT 1994 through the ETI Act, a measure taken by the United States to implement the recommendations and rulings made by the DSB in the original proceedings in the *US - FSC* dispute. (For a further description of the compliance Panel and Appellate Body reports, see also *WTO Annual Report 2002*, p. 95.)

The report of the Appellate Body was circulated to WTO Members on 14 January 2002. The DSB adopted the Appellate Body report and the Panel report, as modified by the Appellate Body report, at its meeting on 29 January 2002. In accordance with the procedural agreement concluded by the parties to the dispute in September 2000 (WT/DS108/12), the Article 22.6 arbitration on the amount of countermeasures and suspension of concessions was automatically reactivated. On 30 August 2002, the Arbitrator's award was circulated. The Arbitrator determined that the suspension by the European Communities of concessions under the GATT 1994 in the form of the imposition of a 100% *ad valorem* charge on imports of certain goods from the United States in a maximum amount of \$4,043 million per year, as described in the European Communities request for authorization to take countermeasures and suspend concessions, would constitute appropriate countermeasures within the meaning of Article 4.10 of the SCM Agreement.

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### **Thailand – Anti-dumping duties on angles, shapes and sections of iron or non-alloy steel and H-beams from Poland, complaint by Poland (WT/DS122)**

At its meeting of 5 April 2001 the DSB adopted the Appellate Body report and the Panel report, as modified by the Appellate Body report, recommending that Thailand brings its measures into conformity with its obligations under the Anti-Dumping Agreement. (For a description of the Panel and Appellate Body reports, see also *Annual Report 2001*, p. 97.)

At the DSB meeting on 18 December 2001, Thailand announced that it had fully implemented the DSB's recommendations. Poland said that it could not accept the way in which Thailand had implemented the DSB's recommendations because it expected that the measures in question would be either rescinded or modified. In Poland's view, Thailand only changed the justification for the imposition of the measures. Poland reserved its rights under Article 21.5 of the DSU.

On 18 December 2001, Thailand and Poland concluded an understanding with regard to possible proceedings under Articles 21 and 22 of the DSU. Pursuant to the understanding, in the event that Poland initiated proceedings under Articles 21.5 and 22 of the DSU, Poland agreed to initiate complete proceedings under Article 21.5 prior to any proceedings under Article 22. On 21 January 2002, the parties informed the DSB that they had reached an agreement to the effect that the implementation of the recommendations of the DSB in this dispute should no longer remain on the agenda of the DSB. (For more detailed information relating to implementation of the reports, please see *Annual Report 2002*, p. 96.)

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**United States – Anti-dumping Act of 1916, complaints by the European Communities and Japan (WT/DS136 and WT/DS162)**

At its meeting of 26 September 2000, the DSB adopted the Appellate Body report and the Panel report, as upheld by the Appellate Body report, recommending that the United States bring the Anti-Dumping Act of 1916 into conformity with its obligations under the Anti-Dumping Agreement. *(For a description of the Panel and Appellate Body reports, see also Annual Report 2001, p. 82.)*

At the DSB meeting of 23 October 2000, the United States stated that it was its intention to implement the DSB's recommendations and rulings. The United States also stated that it would require a reasonable period of time for implementation and that it would consult with the European Communities and Japan on this matter. On 7 January 2002, on the grounds that the United States had failed to bring its measures into conformity within the reasonable period of time, the European Communities and Japan requested authorization to suspend concessions pursuant to Article 22.2 of the DSU. On 17 January 2002, the United States objected to the levels of suspension of obligations proposed by the European Communities and Japan and requested the DSB to refer the matter to arbitration, in accordance with Article 22.6 of the DSU. At the DSB meeting on 18 January 2002, the matter was referred to arbitration. *(For more detailed information relating to the implementation of the reports up until 31 January 2002, please see Annual Report 2002, p. 97.)*

On 25 February 2002, the United States submitted to the DSB a status report regarding implementation of the DSB recommendations and rulings. On 27 February 2002, the parties requested the arbitrator to suspend the arbitration proceeding noting that a proposal to repeal the 1916 Act and to terminate cases pending under the Act was being examined by the United States Congress. The parties noted, however, that the arbitration proceeding could be reactivated at the request of either party after 30 June 2002 if no substantial progress had been made in resolving the dispute by then. At the DSB meeting on 17 April 2002, the United States submitted its status report regarding implementation of the DSB recommendations and rulings. The United States stated that a bill had already been introduced to repeal the 1916 Act and terminate some pending cases. While acknowledging the progress made, the European Communities and Japan stressed the necessity for prompt compliance. Japan noted that under its bilateral agreement with the United States, either party could re-activate the arbitration proceedings after 30 June 2002. At the DSB meeting on 22 May 2002, the United States submitted its status report regarding the implementation of the DSB recommendations and rulings. The United States stated that on 23 April 2002 a bill had been introduced in the United States Senate which would repeal the 1916 Act and apply to all pending court cases. At consecutive DSB meetings the European Communities and Japan expressed concern about the lack of progress in this matter and urged the United States to repeal the 1916 Act as soon as possible; they indicated that swift action was imperative to prevent their companies from incurring huge expenses under WTO-inconsistent legislation.

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**European Communities – Anti-dumping duties on imports of cotton-type bed linen, complaint by India (WT/DS141)**

At its meeting of 12 March 2001 the DSB adopted the Appellate Body report and the Panel report, as modified by the Appellate Body report, recommending that India bring its measures found to be inconsistent with the Anti-Dumping Agreement into conformity with its obligations under that Agreement. *(For a description of the Panel report, see also Annual Report 2001, p. 97; for a description of the Appellate Body report, see Annual Report 2002, p. 81, for more detailed information relating to implementation of the reports up until 31 December 2001, see Annual Report 2002, p. 98.)*

On 8 March 2002, India sought recourse to Article 21.5 of the DSU, stating that there was disagreement as to the existence or consistency with a covered agreement of measures taken to comply with the recommendations and rulings. On 4 April 2002, India requested the establishment of a compliance panel. At the DSB meeting on 17 April 2002, India informed the DSB, that pursuant to an understanding reached between the European Communities and India, it was requesting the withdrawal of the item from the agenda in accordance with Rule 6 of the Rules of Procedure for WTO meetings. The DSB agreed to India's request.

On 7 May 2002, India again requested the establishment of a compliance panel. At the DSB meeting on 22 May 2002, it was agreed that, if possible, the matter would be referred to the original panel. The United States reserved its third-party rights to participate in the proceedings.

The Panel circulated its report to Members on 29 November 2002, the Panel concluded that the European Communities' definitive anti-dumping measure on imports of bed linen from India, based on a re-determination of injury and a recalculation of dumping margins for Indian producers, was not inconsistent with the Anti-Dumping Agreement or the DSU, and



therefore considered that the European Communities had implemented the recommendation of the original Panel, the Appellate Body, and the DSB to bring its measure into conformity with its obligations under the Anti-Dumping Agreement.

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#### **India – Measures affecting the automotive sector, complaint by the European Communities and the United States (WT/DS146 and WT/DS175)**

At the DSB meeting on 5 April 2002, the DSB adopted the Appellate Body and Panel reports. (*For further details on the Panel's findings, see also WTO Annual Report 2002, "Panel reports pending before the Appellate Body, p. 102; for further details of the Appellate Body report, see section "Appellate Body and/or Panel reports adopted" above.*)

On 2 May 2002, India informed the DSB that it would need a reasonable period of time to implement the recommendations and rulings of the DSB and that it was ready to enter into discussions with the European Communities and the United States in this regard.

On 18 July 2002, the parties informed the DSB that they had mutually agreed that the reasonable period of time to implement the recommendations and rulings of the DSB, would be five months, from 5 April 2002 to 5 September 2002.

On 6 November 2002, India informed the DSB that it had fully complied with the recommendations of the DSB in this dispute by issuing Public Notice No. 31 on 19 August 2002 terminating the trade balancing requirement. India also informed that on 4 September 2001, it had removed the indigenization requirement in respect of Public Notice No. 30.

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#### **Argentina – Measures on the export of bovine hides and the import of finished leather, complaint by the European Communities (WT/DS155)**

At the DSB meeting on 16 February 2001, the DSB adopted the Panel report recommending that Argentina bring its measures into conformity with its obligations under GATT 1994. (*For a description of the Panel report, see Annual Report 2002, p. 82; for details of implementation up until 31 December 2001, see Annual Report 2002, p. 98.*)

The reasonable period of time determined by binding arbitration pursuant to Article 21.3(c) of the DSU expired on 28 February 2002. In view of the concrete action undertaken by Argentina to comply with the DSB recommendations and rulings during the reasonable period of time in this dispute, and in light of the economic problems that Argentina is currently facing, the parties agreed on the following procedures: the parties would pursue their discussions on compliance by Argentina with the DSB recommendations and rulings; and the European Communities would retain the right to make a request for authorization to suspend concessions or other obligations under the DSU at any time after the expiry of the reasonable period of time, but only after completion of proceedings under Article 21.5 DSU. On 25 February 2002, the parties requested the DSB to circulate their agreement on procedures under Articles 21 and 22 of the DSU. On 8 March 2002, the parties notified the DSB of their agreement.

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#### **United States – Section 110(5) of the US Copyright Act, complaint by the European Communities (WT/DS160)**

At its meeting of 27 July 2000, the DSB adopted the Panel report recommending that the United States bring subparagraph (B) of Section 110(5) of the United States Copyright Act into conformity with its obligations under the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement). (*For a description of the Panel report, see also Annual Report 2001, p. 84; for details of implementation up until 31 December 2001, see Annual Report 2002, p. 99.*)

On 7 January 2002, on the grounds that the United States had failed to bring its measures into conformity within the reasonable period of time, the European Communities requested authorization to suspend concessions pursuant to Article 22.2 of the DSU. The European Communities proposed to suspend concessions under the TRIPS Agreement in order to permit the levying of a special fee from United States nationals in connection with border measures concerning copyright goods. On 17 January 2002, the United States objected to the level of suspension of obligations proposed by the European Communities and requested the DSB to refer the matter to arbitration, in accordance with Article 22.6 of the DSU. The United States claimed that the principles and procedures of Article 22.3 had not been followed. During the DSB meeting on 18 January 2002, the parties indicated, however, that they were engaged in constructive negotiations and were hopeful of finding a mutually satisfactory solution. On 25 February 2002, the United States submitted a status report regarding implementation of the DSB recommendations and rulings. On 26 February 2002, the parties requested the arbitrator to suspend the arbitration proceeding, while noting that the proceeding could be reactivated at the request of either party after 1 March 2002.

At the DSB meetings throughout 2002, the United States presented status reports where it stated that the United States and the European Communities were committed to finding a



positive and mutually acceptable solution to the dispute and that the United States Administration would continue to engage the United States Congress with a view to settling this dispute as soon as practicable. The European Communities expressed disappointment with the lack of implementation by the United States and urged the United States to take rapid and concrete action to settle this dispute.

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#### **United States – Section 211 Omnibus Appropriations Act, complaint by the European Communities (WT/DS176)**

The DSB adopted the Appellate Body report and the Panel report, as modified by the Appellate Body report, on 1 February 2002 recommending that the United States bring its measure found to be inconsistent with the TRIPS Agreement into conformity with its WTO obligations. *(For a description of the Panel and Appellate Body reports, see Annual Report 2002, p. 88.)*

At the DSB meeting on 19 February 2002, the United States stated that it needed a reasonable period of time to comply with the rulings and recommendations of the DSB. On 28 March 2002, the United States and the European Communities informed the DSB that they had reached a mutual agreement on the reasonable period of time for the United States to implement the recommendations and rulings of the DSB. The reasonable period of time was due to expire on 31 December 2002, or on the date on which the current session of the United States Congress adjourned, and in no event later than 3 January 2003. On 20 December 2002, the European Communities and the United States informed the DSB that they had mutually agreed to modify the reasonable period of time for the United States to implement the recommendations and rulings of the DSB, so as to expire on 30 June 2003.

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

At its meeting of 23 August 2001 the DSB adopted the Appellate Body Report and the Panel Report, as modified by the Appellate Body Report recommending that the United States bring its measures into conformity with its obligations under the Anti-Dumping Agreement. *(For a more detailed description of the Panel and Appellate Body reports see Annual Report 2002, p. 84; for details of implementation up until 31 December 2001, see Annual Report 2002, p. 100.)*

On 20 November 2001, Japan requested that the reasonable period of time for implementation of the DSB's recommendations be determined by binding arbitration under Article 21.3(c) of the DSU. Pending the appointment of the arbitrator, Japan and the United States agreed to extend the time-period under that provision. They agreed that the award of the arbitrator was to be made no later than 19 February 2002. On 19 February 2002, the arbitrator circulated his award. The arbitrator concluded that the reasonable period of time for implementation by the United States of the DSB's recommendations was 15 months from 23 August 2001. Accordingly, this period expired on 23 November 2002.

At the DSB meeting on 1 October 2002, the United States presented its status report regarding the implementation of the recommendations and rulings of the DSB. At the DSB meeting of 28 November 2002, the United States stated that the Department of Commerce had issued a new final determination in the hot-rolled steel anti-dumping duty investigation, which implemented the recommendations and rulings of the DSB with respect to the calculation of anti-dumping margins in that investigation. Regarding the recommendations and rulings of the DSB with respect to the United States anti-dumping statute, the United States stated that the United States Administration was continuing to consult and to work with the United States Congress with a view to resolving this dispute in a mutually satisfactory manner. To that end, the United States was consulting with Japan and had sought its agreement to extend the reasonable period of time in this case to 31 December 2003 or the end of the first session of the next Congress, whichever is earlier. Japan stated that whilst it would probably agree to an extension of the reasonable period of time, it expected the United States to bring its measures into compliance as soon as practicable. Japan also reserved its right to take appropriate action in the event of non-compliance occurring again by the United States. At its meeting on 5 December 2002, the DSB agreed to the request by the United States for an extension of the reasonable period of time for the implementation of the recommendations and rulings of the DSB in this dispute.

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#### **Argentina – Definitive anti-dumping measures on imports of ceramic floor tiles from Italy, complaint by the European Communities (WT/DS189)**

At its meeting on 5 November 2001, the DSB adopted the Panel Report recommending that Argentina bring its measures into conformity with its obligations under the Anti-Dumping Agreement. *(For a detailed description of the Panel report, see Annual Report 2002, p. 86.)*

On 20 December 2001, the European Communities and Argentina informed the DSB that they had mutually agreed a reasonable period of time of five months to implement the recommendations and rulings of the DSB, i.e. from 5 November 2001 until 5 April 2002. At the DSB meeting of 22 May 2002, Argentina announced that on 24 April 2002, the Ministry of Production had enacted Resolution 76/02 revoking the anti-dumping measures at issue in this case. With the publication of this Resolution, Argentina considered that it had now fully implemented the DSB's recommendations and rulings in this dispute. The European Communities welcomed Argentina's prompt implementation in this case.

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**United States – Definitive safeguard measures on imports of circular welded carbon quality line pipe from Korea, complaint by Korea (WT/DS202)**

On 8 March 2002, the DSB adopted the Appellate Body Report and the Panel Report, as modified by the Appellate Body Report recommending that the United States bring the line pipe measure found to be inconsistent with the obligations of the United States under the Agreement on Safeguards and the GATT 1994, into conformity with its obligations under those Agreements. *(For a detailed description of the Panel and Appellate Body reports see section "Appellate Body and/or Panel reports adopted" above.)*

On 29 April 2002, Korea requested the DSB that the "reasonable period of time" be determined by binding arbitration pursuant to Article 21.3(c) of the DSU. On 13 May 2002, Korea requested the Director-General to appoint an arbitrator. The issuance of the award was scheduled for 12 July 2002. By joint letter of 12 July 2002, the parties requested the Arbitrator to delay the issuance of the award until 22 July 2002 in order to allow time for additional bilateral negotiations between the parties. The Arbitrator acceded to the request. Further joint requests for delay were requested and agreed. By letters dated 24 July 2002, the parties informed the Arbitrator that they had reached agreement on the reasonable period of time for compliance in this matter. Accordingly, the Arbitrator did not issue his award and, instead, issued a Report setting out the procedural history of this arbitration.

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**United States – Anti-dumping and countervailing measures on steel plate from India, complaint by India (WT/DS206)**

At its meeting on 29 July 2002, the DSB adopted the Panel Report recommending that India bring its disputed measure into conformity with its obligations under the Anti-Dumping Agreement. *(For a description of the Panel report, see section "Appellate Body and/or Panel reports adopted" above.)*

On 1 October 2002, the United States and India informed the DSB that pursuant to Article 21.3(b) of the DSU they had mutually agreed that the reasonable period of time to implement the DSB recommendations and rulings in this dispute shall be five months; from 29 July 2002 to 29 December 2002.

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

At its meeting on 23 October 2002, the DSB adopted the Appellate Body Report and the Panel Report, as modified by the Appellate Body Report requesting Chile to bring its price band system into conformity with its obligations under the Agreement on Agriculture. *(For a description of the Panel and Appellate Body reports, see section "Appellate Body and/or Panel reports adopted" above.)*

At the DSB meeting of 11 November 2002, Chile stated that it intended to comply with the recommendations and rulings of the DSB. To that end, Chile was engaged in consultations with Argentina to find a mutually satisfactory solution to the dispute. Chile further stated that it would need a reasonable period of time to bring its measures into conformity with the recommendations and rulings of the DSB. On 6 December 2002, Chile informed the DSB, that to date Chile and Argentina had been unable to agree on the length of the reasonable period of time and thus Chile was requesting that the determination of the reasonable period of time be the subject of binding arbitration in accordance with Article 21.3(c) of the DSU. On 16 December 2002, Argentina and Chile informed the DSB that they had agreed to postpone the deadline for the binding arbitration which would now be completed no later than 90 days from the appointment of the arbitrator (instead of 90 days from the date of adoption of the rulings and recommendations of the DSB).

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**Egypt – Definitive anti-dumping measures on steel rebar from Turkey, complaint by Turkey (WT/DS211)**

On 1 October 2002, the DSB adopted the Panel Report, recommending that Egypt bring its definitive anti-dumping measures on imports of steel rebar from Turkey into conformity with the relevant provisions of the Anti-Dumping Agreement. *(For a description of the Panel report, see section "Appellate Body and/or Panel reports adopted" above.)*

On 14 November 2002, Egypt and Turkey informed the Chairman of the DSB that they had mutually agreed that the reasonable period of time to implement the recommendations and rulings of DSB should not be more than nine months, that is from 1 November 2002 until 31 July 2003.

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#### **Canada – Export credits and loan guarantees for regional aircraft, complaint by Brazil (WT/DS222)**

The report of the Panel, recommending that Canada withdraw the disputed subsidies was adopted by the DSB at its meeting on 19 February 2002. *(For a description of the Panel report, see section “Appellate Body and/or Panel reports adopted” above.)*

On 23 May 2002, on the grounds that Canada had failed to implement the recommendations of the DSB within the 90-day time-period granted by the DSB, Brazil requested authorization to suspend concessions pursuant to Article 22.2 of the DSU. Brazil proposed that the suspension of concessions took the form of some or all of the following countermeasures: (i) suspension of its obligations under paragraph 6(a) of Article VI of GATT 1994 to determine the effect of subsidization under EDC Canada Account and EDC Corporate Account programmes; (ii) suspension of application of obligations under the Agreement on Import Licencing Procedures relating to licensing requirement on imports from Canada; and (iii) suspension of tariff concessions and related obligations under GATT 1994 concerning those products in the list attached to Brazil’s communication of 23 May 2002.

At the DSB meeting on 3 June 2002, Brazil and Canada informed the DSB that they had reached an agreement in this matter. Under the terms of the agreement, the parties agreed that it would in no way prejudice the right of Brazil to request authorization to take appropriate countermeasures under Article 4.10 of the SCM Agreement and Article 22.2 of the DSU, nor affect the relevant time periods under the DSU. At the DSB meeting on 24 June 2002, Brazil stated that it was requesting authorization to suspend concessions for an amount of US\$3.36 billion towards Canada as the latter had failed to withdraw its prohibited export subsidies within the time-frame specified by the Panel. Canada disputed Brazil’s right to request authorization from the DSB to suspend concessions. It argued that Brazil had not fulfilled the conditions spelt out in Article 22.2 of the DSU and as such it could not avail itself of Article 22.6 of the DSU. Canada also objected to the countermeasures proposed by Brazil. The DSB referred the matter to arbitration according to Article 22.6 of the DSU and Article 4.11 of the SCM Agreement.

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#### **European Communities – Trade description of sardines, complaint by Peru (WT/DS231)**

On 23 October 2002, the DSB adopted the Appellate Body Report and the Panel Report, as modified by the Appellate Body Report recommending that the European Communities bring its measure into conformity with its obligations under the TBT Agreement. *(For a description of the Panel and Appellate Body reports, see section “Appellate Body and/or Panel reports adopted” above.)*

At the DSB meeting of 11 November 2002, the European Communities stated that it was working towards implementing the rulings and recommendations of the DSB in a manner consistent with its obligations under WTO rules, in particular, Article 2.4 of the TBT Agreement. However, the European Communities stated that in order to be able to achieve this it would need a reasonable period in which to bring its measures into conformity with its obligations under the TBT Agreement, especially given that implementation would entail the repeal of a statutory measure. To that end, the European Communities was willing to consult with Peru, pursuant to Article 21.3 of the DSU, in order to achieve agreement on the reasonable period of time needed for implementation of the DSB’s rulings and recommendations. On 19 December 2002, Peru and the European Communities informed the DSB that they had agreed that the reasonable period of time for the European Communities to implement the recommendations and rulings of the DSB, would expire on 23 April 2003.

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#### **United States – Preliminary determinations with respect to certain softwood lumber from Canada, complaint by Canada (WT/DS236)**

The DSB adopted the Panel report at its meeting of 1 November 2002 recommending that United States to bring its measure into conformity with its obligations under the SCM Agreement. *(For a description of the Panel report, see section “Appellate Body and/or Panel reports adopted” above.)*

At the DSB meeting of 28 November 2002, the United States said that the measures at issue in this dispute were no longer in effect and that the provisional cash deposits that Canada challenged had been refunded prior to the circulation of the Panel Report. As such, it was not necessary for the United States to take any further action to comply with the recommendations and rulings of the DSB. Canada dismissed the United States view that no

action was required on its part to implement the recommendations and rulings of the DSB. Canada stated that the methodologies found by the Panel to be plainly illegal in the United States preliminary countervailing duty determination remained unchanged in the final determination.

## Panel reports pending before the Appellate Body as of 1 January 2003

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

This dispute concerns the amendment to the *Tariff Act of 1930* signed into law by the President on 28 October, 2000, entitled the "Continued Dumping and Subsidy Offset Act of 2000" (the Act), usually referred to as the Byrd Amendment. According to the complainants, the Act mandates the United States customs authorities to distribute, on an annual basis, the duties assessed pursuant to a countervailing duty order, an anti-dumping order or a finding under the Antidumping Act of 1921 to the "affected domestic producers" for their "qualifying expenses". According to the complainants the Act is inconsistent with the obligations of the United States under several provisions of the GATT, the Anti-Dumping Agreement, the SCM Agreement, and the WTO Agreement. (*For further information regarding the establishment of the Panel, see Annual Report 2002, pp. 105 and 106.*)

On 16 September 2002, the Panel Report was circulated to Members. The Panel concluded that the Act was inconsistent with Articles 5.4, 18.1 and 18.4 of the Anti-Dumping Agreement, Articles 11.4, 32.1 and 32.5 of the SCM Agreement, Articles VI:2 and VI:3 of the GATT 1994, and Article XVI:4 of the WTO Agreement. The Panel rejected the complaining parties' claims that the Act was inconsistent with Articles 8.3 and 15 of the Anti-Dumping Agreement, Articles 4.10, 7.9 and 18.3 of the SCM Agreement, and Article X:3(a) of the GATT 1994. They also rejected Mexico's claim that the Act violated Article 5(b) of the SCM Agreement. The Act is a new and complex measure, applied in a complex legal environment. In concluding that the Act was in violation of the above-mentioned provisions, the Panel had been confronted by sensitive issues regarding the use of subsidies as trade remedies. If Members were of the view that subsidization is a permitted response to unfair trade practices, the Panel suggested that they clarify this matter through negotiation. Pursuant to Article 3.8 of the DSU, the Panel concluded that to the extent that the Act was inconsistent with the provisions of the Anti-Dumping Agreement, the SCM Agreement, and the GATT 1994, the Act nullified or impaired benefits accruing to the complaining parties under those agreements. The Panel recommended that the DSB request the United States to bring the Act into conformity with its obligations under the Anti-Dumping Agreement, the SCM Agreement and the GATT 1994 by repealing the Act.

On 18 October 2002, the United States notified its decision to appeal to the Appellate Body certain issues of law covered in the Panel Report and certain legal interpretations developed by the Panel, more particularly, the United States appealed the Panel's conclusion that the Act was inconsistent with Article 18.1 of the Anti-Dumping Agreement and Article 32.1 of the SCM Agreement, and with Article 5.4 of the Anti-Dumping Agreement and Article 11.4 of the SCM Agreement.

## Appellate Body reports circulated

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

This request, dated 8 August 2001, concerns the imposition and continued application by the United States of countervailing duties on a number of products. In particular, the European Communities claimed that the continued imposition and application by the United States of countervailing duties was based on an irrefutable presumption that non-recurring subsidies granted to a former producer of goods, prior to a change of ownership, "pass through" to the current producer of the goods following the change of ownership. (*For further information regarding the establishment of the Panel, see Annual Report 2002, p. 104.*)

On 31 July 2002, the Panel Report was circulated to Members. One of the determinations by the United States Department of Commerce was based on the "same person" methodology. The Panel found that such determination was inconsistent with the requirements of the SCM Agreement because, in situations where the state-owned enterprise and the newly privatized firm have the same legal personality, the United States Department of Commerce is prevented from evaluating whether a "benefit" in fact continues to exist

after privatization. The other 11 determinations were based on the “gamma” methodology (which was the subject of the *US – Lead and Bismuth II* Appellate Body Report WT/DS138). The Panel concluded that those determinations were inconsistent with the SCM Agreement because the United States Department of Commerce had not examined whether the privatizations took place at arm’s length and for fair market value and thus had not determined whether the new privatized producers had received any “benefit” from the previous subsidy to the state-owned enterprise. The Panel concluded that privatization at arm’s length and for fair market value always extinguishes any remaining part of a “benefit” previously bestowed to the state-owned enterprise by a non-recurring financial contribution. The Panel further concluded that, since two of those privatizations took place at arms-length and for fair market value, the “benefit[s]” resulting from the subsidy to the previous state trading enterprise were extinguished vis-à-vis the new privatized producer. As regards the consistency of United States internal legislation with WTO obligations, the Panel found that the United States statute was inconsistent with the United States’ WTO obligations because it mandates the United States Department of Commerce to exercise discretion, preventing it from “systematically” (that is, automatically) determining that a privatization at arm’s length and for fair market value extinguishes the “benefit”. In other words, vesting the United States Department of Commerce with discretion in determining the continuing existence of a “benefit” renders the legislation inconsistent with the United States’ WTO obligations.

On 9 September 2002 the United States notified its decision to appeal all the “Conclusions” of the Panel. On 9 December 2002, the Appellate Body Report was circulated to Members. The Appellate Body: (i) upheld the Panel’s findings that the determinations of the United States Department of Commerce in 12 countervailing duty cases were inconsistent with the SCM Agreement because the investigating authority failed to ascertain the continued existence of a “benefit” following privatization of recipients of prior non-recurring financial contributions; (ii) reversed the Panel’s finding that an investigating authority must “systematically” (i.e. automatically) conclude that a “benefit” no longer exists for a firm that has been privatized at arm’s length and for fair market value and (iii) consequently, reversed the Panel’s conclusion that the relevant United States statute was inconsistent with the SCM Agreement and Article XVI:4 of the WTO Agreement as the Panel had based its conclusion on the WTO-consistency of the United States internal legislation on its erroneous finding that an arm’s-length, fair market value privatization necessarily and always prevents the benefit from accruing to the new private firm.

## Panels established by the DSB

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

This request, dated 13 February 2002, concerns Mexico’s commitments and obligations under the GATS with respect to basic and value-added telecommunications services. According to the United States, since the entry into force of the GATS, Mexico has adopted or maintained anti-competitive and discriminatory regulatory measures, tolerated certain privately-established market access barriers, and failed to take needed regulatory action in Mexico’s basic and value-added telecommunications sectors. The United States considered that the alleged action and inaction on the part of Mexico may be inconsistent with Mexico’s GATS commitments and obligations, including Articles VI, XVI, and XVII; Mexico’s additional commitments under Article XVIII as set forth in the Reference Paper inscribed in Mexico’s Schedule of Specific Commitments, including Sections 1, 2, 3, and 5; and the GATS Annex on Telecommunications, including Sections 4 and 5. In particular, the United States claimed that Mexico’s measures had: (i) failed to ensure that Teléfonos de México (Telmex) provides interconnection to United States cross-border basic telecom suppliers on reasonable rates, terms and conditions; (ii) failed to ensure United States basic telecom suppliers reasonable and non-discriminatory access to, and use of, public telecom networks and services; (iii) did not provide national treatment to United States-owned commercial agencies; and (iv) did not prevent Telmex from engaging in anti-competitive practices.

The DSB established a panel at its meeting on 17 April 2002. Australia, Brazil, Canada, Cuba, the European Communities, Guatemala, Honduras, India, Japan and Nicaragua reserved their third-party rights to participate in the proceedings.

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

This request, dated 6 December 2001, concerns a definitive safeguard measure which Argentina applies on imports of peaches preserved in water containing added sweetening matter, including syrup, preserved in any other form or in water. According to Chile, Argentina’s definitive safeguard measure is inconsistent with Articles 2, 3, 4, 5 and 12 of the Agreement on Safeguards, and Article XIX:1 of GATT 1994. At the DSB meeting on



18 January 2002, a panel was established. Immediately after the establishment, Chile stated that it would not, for the moment, proceed with the appointment of panelists, as it was still hoping to reach a mutually satisfactory solution with Argentina. The European Communities, Paraguay and the United States reserved their third-party rights to participate in the Panel's proceedings. On 13 March 2002, Chile informed the Chairman of the DSB that it would like the composition of the panel to go ahead. On 16 April 2002, the parties agreed on the composition of the Panel. On 15 October 2002, the Chair of the Panel informed the DSB that it would not be possible to complete its work in six months due to the schedule agreed with the parties and that the Panel expected to circulate its report at the end of January 2003.

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**Argentina – Definitive anti-dumping duties on poultry from Brazil, complaint by Brazil (WT/DS241)**

This request, dated 25 February 2002, concerns definitive anti-dumping duties imposed by Argentina on imports of poultry from Brazil, classified under Mercosur tariff line 0207.11.00 and 0207.12.00. These measures were adopted by the Ministry of Economy of Argentina in Resolution 574 from 21 July 2000, published in the Argentine Official Gazette on 24 July 2000. Brazil considered that the definitive anti-dumping duties imposed, as well as the investigation conducted by the Argentine authorities might have been flawed and based on erroneous or deficient procedures, inconsistent with Argentina's obligations under Articles 1, 2, 3, 4, 5, 6, 9, 12 and Annex II of the Anti-Dumping Agreement, Article VI of the GATT 1994, and Articles 1 and 7 of the Customs Valuation Agreement.

At its meeting of 17 April 2002, the panel was established. Canada, Chile, the European Communities, Guatemala, Paraguay and the United States reserved their third-party rights. On 18 December 2002, the Chair of the Panel informed the DSB that it would not be possible to complete its work in six months due to the schedule agreed with the parties and that the Panel expected to complete its work by the beginning of April 2003.

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**United States – Rules of origin for textiles and apparel products, complaint by India (WT/DS243)**

This request, dated 7 May 2002, concerns United States rules of origin applicable to imports of textiles and apparel products as set out in Section 334 of the Uruguay Round Agreements Act, Section 405 of the Trade and Development Act of 2000 and the customs regulations implementing these provisions. India argued that, prior to the above-mentioned Section 334, the rule of origin applicable to textiles and apparel products was the "substantial transformation" rule. India considered that Section 334 changed the system by identifying specific processing operations which would confer origin to the various types of textiles and apparel products. In India's view, these changes appear to have been made to protect the United States textiles and clothing industry from import competition. India is of the view that the changes introduced by Section 334 have resulted in extraordinary complex rules under which the criteria that confer origin vary between similar products and processing operations. India argued that the structure of the changes, the circumstances under which they were adopted and their effect on the conditions of competition for textiles and apparel products suggest that they serve trade policy purposes. On those grounds, India questioned the compatibility of those changes with paragraphs (b), (c), (d) and (e) of Article 2 of the Agreement on Rules of Origin.

The DSB established a panel at its meeting on 24 June 2002. Bangladesh, China, the European Communities, Pakistan and the Philippines reserved their third party rights.

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

This request, dated 4 April 2002, concerns the final determinations of both the United States Department of Commerce and the United States International Trade Commission in the full sunset review of the anti-dumping duties imposed on imports of corrosion-resistant carbon steel flat products from Japan. These determinations were issued on 2 August 2000 and 21 November 2000, respectively. Japan claimed that the United States statute, regulation and Sunset Policy Bulletin relating to certain aspects of sunset reviews, and/or their application in the sunset review of an anti-dumping measure on corrosion-resistant carbon steel from Japan, were inconsistent with various provisions of the Anti-Dumping Agreement and the GATT 1994. Japan's claims concern, *inter alia*, evidentiary standards applicable to the sunset reviews and cumulation in sunset reviews.

The DSB established a panel at its meeting on 22 May 2002. Brazil, Canada, Chile, the European Communities, India, Korea, Norway and Venezuela reserved third-party rights to participate in the Panel proceedings. On 5 August 2002 Venezuela withdrew as a third party from the panel proceedings. On 9 January 2003, the Chair of the Panel informed the DSB that it would not be possible to complete its work within six months. The Panel expects to complete its work by April 2003.



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

This request, dated 7 May 2002, concerns restrictions allegedly imposed by Japan on imports of apples from the United States. The United States complaint arose from the maintenance by Japan of quarantine restrictions on apples imported into Japan, which restrictions were said to be necessary to protect against introduction of fire blight. Among the measures the United States complained of, were the prohibition of imported apples from orchards in which any fire blight was detected, the requirement that export orchards be inspected three times yearly for the presence of fire blight and the disqualification of any orchard from exporting to Japan should fire blight be detected within a 500 meter buffer zone surrounding such orchard. The United States claimed that these measures might be inconsistent with the obligations of Japan under Article XI of GATT 1994, various provisions of the SPS Agreement, and Article 14 of the Agreement on Agriculture.

At its meeting on 3 June 2002, the DSB established a panel. Australia, Brazil, Chinese Taipei, the European Communities and New Zealand reserved their third-party rights.

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**United States – Definitive safeguard measures on imports of certain steel products, complaints by the European Communities (WT/DS248), Japan (WT/DS249), Korea (WT/DS251), China (WT/DS252), Switzerland (WT/DS253), Norway (WT/DS254), New Zealand (WT/DS258) and Brazil (WT/DS259)**

This request concerns definitive safeguard measures imposed by the United States in the form of an increase in duties on imports of certain flat steel, hot-rolled bar, cold-finished bar, rebar, certain welded tubular products, carbon and alloy fittings, stainless steel bar, stainless steel rod, tin mill products and stainless steel wire and in the form of a tariff rate quota on imports of slabs effective as of 20 March 2002. The complainants considered that the aforementioned United States measures were in breach, *inter alia*, of United States obligations under the Agreement on Safeguards and GATT 1994, and in particular Articles 2.1, 2.2, 3.1, 3.2, 4.1, 4.2, 5.1, 5.2, 7.1 and 9.1 of the Agreement on Safeguards and Articles I:1, XIII and XIX:1 of GATT 1994.

Further to individual requests for the establishment of a panel submitted by the eight complainants, the DSB established a single Panel, pursuant to an agreement between the parties and in accordance with Article 9.1 of the DSU at its meeting of 14 June 2002. The Members which had reserved their third-party rights in the Panels established at the request of these parties were also considered as third parties in the single Panel. Canada, Chinese Taipei, Cuba, Malaysia, Mexico, Thailand, Turkey and Venezuela have reserved their rights to participate in the panel proceedings as a third party.

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

This request, dated 16 August 2002, concerns the so-called “Equalizing Excise Tax” imposed by the State of Florida on processed orange and grapefruit products produced from citrus fruit grown outside the United States (Section 601.155 Florida Statutes). Brazil indicated that since 1970, the State of Florida had imposed, pursuant to section 601.155 of the Florida Statutes, an “equalizing excise tax” on processed orange and processed grapefruit products, in amounts determined by the Florida Department of Citrus. However, the statute by its terms – Section 601.155(5), Florida Statutes – exempted from the tax products “produced in whole or in part from citrus fruit grown within the United States.” In the view of Brazil the incidence of this tax on imported processed citrus products and not on domestic products on its face constituted a violation of Articles II:1(a), III.1 and III:2 of GATT 1994. Brazil contended that the impact of the Florida equalizing excise tax had been to provide protection and support to domestic processed citrus products and to restrain the importation of processed citrus products into Florida. Since processed citrus products, principally in the form of frozen concentrated orange juice were among Brazil’s most significant exports to the United States, Brazil was of the view that the restraint on their importation by the State of Florida constituted a nullification and impairment of benefits accruing to Brazil under GATT 1994.

The DSB established a panel at its meeting on 1 October 2002. Chile, the European Communities, Mexico and Paraguay reserved their third party rights to participate in the panel proceedings.

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

This request, dated 18 July 2002, concerns the final affirmative countervailing duty determination by the United States Department of Commerce issued on 25 March 2002, with respect to certain softwood lumber from Canada. The measures at issue include the

initiation and conduct of the investigation, the final determination, provision of expedited reviews, and other matters related to these measures. Canada contended that these measures were inconsistent with, and violated United States' obligations under Articles 1, 2, 10, 11, 12, 14, 15, 19, 22 and 32.1 of the SCM Agreement and Articles VI:3 and X:3 of GATT 1994.

On 19 August 2002, Canada requested the withdrawal of its previous request for the establishment of a panel and submitted a new request. In particular, Canada claimed that in initiating the Lumber IV investigation, the United States had violated Articles 10, 11.4 and 32.1 of the SCM Agreement. In all the other claims, the new request corresponded to the previous one (18 July 2002). At its meeting on 1 October 2002, the DSB established a panel. The European Communities, India and Japan reserved their third-party rights to participate in the panel proceedings.

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**European Communities – Provisional safeguard measures on imports of certain steel products complaint by the United States (WT/DS260)**

This request, dated 19 August 2002, concerns the provisional safeguard measures imposed by the European Communities on imports of certain steel products, pursuant to Commission Regulation (EC) No. 560/2002 of 27 March 2002 (OJ L 85/1, 28 March 2002) as well as any amendments thereto or extensions thereof, and any related measures. The United States contended that these measures appear to be inconsistent with European Communities obligations under the provisions of GATT 1994 and of the Agreement on Safeguards, in particular, Articles 2.1, 2.2, 3, 4.1, 4.2, 6 and 12.1 of the Agreement on Safeguards and Article XIX:1(a) of the GATT 1994.

At its meeting on 16 September 2002, the DSB established a panel. Egypt, Japan, Korea and Turkey reserved their third party rights.

## Mutually agreed solutions

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**Argentina – Patent protection for pharmaceuticals and test data protection for agricultural chemicals, complaint by the United States (WT/DS171)**

This request concerns: (i) an the alleged absence in Argentina of either patent protection for pharmaceutical products or an effective system for providing exclusive marketing rights in such products; and (ii) Argentina's alleged failure to ensure that changes in its laws, regulations and practice during the transition period provided under Article 65.2 of the TRIPS Agreement do not result in a lesser degree of consistency with the provisions of the TRIPS Agreement.

On 31 May 2002, the United States and Argentina notified the DSB that they had reached an agreement on all of the matters raised by the United States in its requests for consultations regarding this dispute.

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**Argentina – Certain measures on the protection of patents and test data, complaint by the United States (WT/DS196)**

This request concerns Argentina's legal regimes governing patents in Law 24,481 (as amended by Law 24,572), Law 24,603, and Decree 260/96; and data protection in Law 24,766 and Regulation 440/98, and in other related measures. The United States considered that Argentina's legal regimes governing patents and data protection were therefore inconsistent with Argentina's obligations under the TRIPS Agreement, including Articles 27, 28, 31, 34, 39, 50, 62, 65 and 70 of the Agreement.

On 31 May 2002, the United States and Argentina notified the DSB that they had reached an agreement on all of the matters raised by the United States in its requests for consultations regarding this dispute.

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**Turkey – Certain import procedures for fresh fruit, complaint by Ecuador (WT/DS237)**

On 31 August 2001, Ecuador requested consultations with Turkey concerning certain import procedures for fresh fruits and, in particular, bananas. The procedure requires, according to Ecuador, the issuance by the Turkish Ministry of Agriculture of a document, known as "Kontrol Belgesi". Ecuador explained that this procedure is established under the "Communiqué for Standardization in Foreign Trade" published by the Under-Secretariat of Foreign Trade in the Official Journal 24271 of 25 December 2000 (Annex 1 thereof). Ecuador alleged that this procedure, as applied by the Turkish authorities, was a barrier to trade which was inconsistent with the obligations of Turkey under GATT 1994, the Agreement on the Application of Sanitary and Phytosanitary Measures, the Agreement on Import Licensing Procedures, the Agreement on Agriculture and the GATS.

The DSB established a panel at its meeting on 29 July 2002. During the meeting, Ecuador also requested the DSB to suspend the composition of the Panel as the parties were

engaged in consultations to find a mutually satisfactory solution to the dispute between them. On 22 November 2002, the parties to the dispute informed the DSB that they had found a mutually agreed solution to their dispute.

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### **Slovakia – Safeguard Measure on Imports of Sugar, complaint by Poland (WT/DS235)**

On 11 July 2001, Poland requested consultations with Slovakia concerning the quantitative restrictions imposed by Slovakia on imports of sugar (tariff heading 1701). The imposition of the measure in question was notified to the Committee on Safeguards. Poland considered that this safeguard measure had been imposed in a manner inconsistent with Slovakia's obligations under the Safeguards Agreement. According to Poland, it appeared that Slovak authorities acted inconsistently with various provisions of the Safeguards Agreement, namely, Article 3.1, Article 4.2(b), Article 5.2(a), Article 7.4, Article 12.1(b), Article 12.1(c) and Article 12.3.

On 11 January 2002, the parties notified the DSB that they had reached a mutually agreed solution within the meaning of Article 3.6 of the DSU. Accordingly, Slovakia agreed to a progressive increase of the level of its quota for imports of sugar from Poland between 2002 and 2004, and Poland agreed to remove its quantitative restriction on imports of butter and margarine. Both parties agreed to implement the above by 1 January 2002.

### Panel requests suspended and reactivated

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

This request, dated 7 June 2001, concerns European Communities definitive anti-dumping duties imposed by Council Regulation (EC) No. 1784/2000 concerning imports of malleable cast iron tube or pipe fittings originating, *inter alia*, in Brazil. Brazil considered that the European Communities establishment of the facts was not proper and that its evaluation of these facts was not unbiased and objective, particularly in relation to the initiation and conduct of the investigation (including the evaluation, findings and determination of dumping, injury and causal link between them). Brazil also claimed that the European Communities had failed to explore possibilities of constructive remedies, within the meaning of Article 15 of the Anti-Dumping Agreement, before applying the measure. In sum, Brazil considered that the European Communities had infringed Article VI of GATT 1994 and Articles 1, 2, 3, 4, 5, 6, 7, 9, 11, 12 and 15 of the Anti-dumping Agreement.

Further to Brazil's request, the DSB established a panel at its meeting of 24 July 2001. Chile, Japan, Mexico and the United States reserved their third-party rights. The Panel was composed on 5 September 2001. On 15 January 2002, both parties requested the Panel to suspend its work until 1 March 2002 with a view to reaching a mutually agreed solution. The Panel agreed to the request. On 28 February 2002, both parties requested the Panel to further suspend its work until 5 April 2002 with a view to reaching a mutually agreed solution. The Panel agreed to this request. On 22 April 2002, the Panel resumed its work, in accordance with Brazil's request. On 3 May 2002, the Chairman of the Panel notified the DSB that it would not be possible to complete its work in six months. The Panel expects to complete its work in December 2002.

### Panel requests withdrawn

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### **Peru – Tax treatment on certain imported products, complaint by Chile (WT/DS255)**

This dispute concerns Peru's tax treatment on imports of fresh fruits, vegetables, fish, milk, tea and other natural products. In particular, Chile explained that before the adoption of Law 27.614, published on 29 December 2001, both the sale in the Peruvian market and the importation into Peru of the products at issue had been exempt from sales tax. Further to the adoption of Law 27.614, the importation into Peru of the products at issue was no longer exempt from sales tax (18%) while the sale of those products in the Peruvian market was still exempt from sales tax. Chile considered that the different tax treatment between domestic and imported products constituted a violation by Peru of its national treatment commitments.

On 13 June 2002, Chile requested the establishment of a panel. On 26 July 2002, Chile requested that its second request for the establishment of a panel be removed from the agenda of the DSB meeting on 29 July 2002. On 25 September 2002, Chile informed the DSB that it was withdrawing this complaint as Peru had repealed Article 2 of Law 27.614 and as a result the disputed measures had disappeared.

### Decision adopted by the DSB

On 19 December 2002, the DSB adopted additional procedures for consultations between the Chairperson of the DSB and WTO Members in relation to amendments to the

Table III.7

**Requests for consultations<sup>1</sup>**

<b>Dispute</b>	<b>Complainant</b>	<b>Date of Request</b>
European Communities – Conditions for the Granting of Tariff Preferences to Developing Countries (WT/DS246)	India	12 March 2002
United States – Provisional Anti-Dumping Measure on Imports of Certain Softwood Lumber from Canada (WT/DS247)	Canada	6 March 2002
Turkey – Import Ban on Pet Food from Hungary (WT/DS256)	Hungary	3 May 2002
Uruguay – Tax Treatment on Certain Products (WT/DS261)	Chile	18 June 2002
United States – Sunset Reviews of Anti-Dumping and Countervailing Duties on Certain Steel Products from France and Germany (WT/DS262)	European Communities	25 July 2002
European Communities – Measures Affecting Imports of Wine (WT/DS263)	Argentina	4 September 2002
United States – Final Dumping Determination on Softwood Lumber from Canada (WT/DS264)	Canada	13 September 2002
European Communities – Export Subsidies on Sugar (WT/DS265)	Australia	27 September 2002
European Communities – Export Subsidies on Sugar (WT/DS266)	Brazil	27 September 2002
United States – Subsidies on Upland Cotton (WT/DS267)	Brazil	27 September 2002
United States – Sunset Reviews of Anti-Dumping Measures on Oil Country Tubular Goods from Argentina (WT/DS268)	Argentina	7 October 2002
European Communities – Customs Classification of Frozen Boneless Chicken Cuts (WT/DS269)	Brazil	11 October 2002
Australia – Certain Measures Affecting the Importation of Fresh Fruit and Vegetables (WT/DS270)	Philippines	18 October 2002
Australia – Certain Measures Affecting the Importation of Fresh Pineapple (WT/DS271)	Philippines	18 October 2002
Peru – Provisional Anti-Dumping Duties on Vegetable Oils from Argentina (WT/DS272)	Argentina	21 October 2002
Korea – Measures Affecting Trade in Commercial Vessels (WT/DS273)	European Communities	21 October 2002
United States – Definitive Safeguard Measures on Imports of Certain Steel Products (WT/DS274)	Chinese Taipei	1 November 2002
Venezuela – Import Licensing Measures on Certain Agricultural Products (WT/DS275)	United States	7 November 2002
Canada – Measures Relating to Exports of Wheat and Treatment of Imported Grain (WT/DS276)	United States	17 December 2002
United States – Investigation of the International Trade Commission in Softwood Lumber from Canada (WT/DS277)	Canada	20 December 2002
Chile – Definitive Safeguard Measure on Imports of Fructose (WT/DS278)	Argentina	20 December 2002
India – Import Restrictions Maintained under the Export and Import Policy 2002-2007 (WT/DS279)	European Communities	23 December 2002

<sup>1</sup> These cases appear in order of date requested. More information on these requests can be found on the WTO website. The list does not include those disputes where a panel was established.

Working Procedures for Appellate Review envisaged in Article 17.9 of the DSU. The text of the Decision (WT/DSB/31) is reproduced below:

**Additional procedures for consultations between the Chairperson of the DSB and WTO Members in relation to amendments to the working procedures for appellate review**

Decision adopted by the Dispute Settlement Body on 19 December 2002.

1. The Chairperson of the Dispute Settlement Body (DSB) shall inform WTO Members at the earliest opportunity when the Appellate Body requests consultations, pursuant

to Article 17.9 of the Understanding on Rules and Procedures Governing the Settlement of Disputes, regarding proposed amendments to the *Working Procedures for Appellate Review*.

2. The Chairperson of the DSB shall inform the Appellate Body that he will seek the views of Members on the proposed amendments and that he will convey any such views to the Appellate Body.

3. The Chairperson of the DSB shall provide Members with an opportunity to comment on the proposed amendments, including in writing. The Chairperson shall place an item on the agenda of an appropriate DSB meeting in which Members can discuss in that context the proposed amendments.

4. The Chairperson of the DSB shall promptly convey to the Appellate Body the views expressed by Members on the proposed amendments and request the Appellate Body to take them into account.

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## VIII. Trade Policy Review Mechanism

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

Reviews are conducted in the Trade Policy Review Body (TPRB), a full-membership body of equal ranking to the General Council and the Dispute Settlement Body. During 2002, the TPRB was chaired by Ambassador Amina Chawahir Mohamed (Kenya).

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

By the end of 2002, a total of 165 reviews had been conducted, covering 89 WTO Members (counting EU-15 as one), with Canada, the European Union, Japan and the United States having been reviewed six times; two Members (Australia and Hong Kong, China), four times; 10 Members (Brazil, India, Indonesia, the Republic of Korea, Malaysia, Mexico, Norway, Singapore, Switzerland, and Thailand), three times and 33 Members, twice. During 2002, the TPRB carried out reviews of 15 Members: in chronological order, Guatemala; Pakistan; Malawi; Mexico; Slovenia; India; Barbados; European Union; Mauritania; Australia; Dominican Republic; Zambia; Japan; Venezuela; and Hong Kong, China. The Chairperson's concluding remarks for these reviews are included in Annex II. The programme for the year 2003 includes 21 reviews, including Canada for the seventh time.

Over the past few years, greater focus has been placed on reviews of least-developed countries (LDCs), as encouraged by the November 1997 High-Level Meeting on Integrated Initiatives for Least-Developed Countries' Trade Development. By the end of 2002, TPR reviews had covered 16 of the 30 LDCs that are WTO Members.

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

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

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

Report, the WTO press release, the Concluding Remarks by the Chair and TPR Reports are available immediately on the WTO website. TPR reports are published on behalf of the WTO by Bernan Associates. This commercial arrangement aims to ensure a wide and efficient distribution of the reports. A CD-ROM of all Trade Policy Reviews is also made available by Bernan Associates.

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## IX. Committee on Balance-of-Payments Restrictions

The Committee concluded its consultations with Bangladesh in October 2002. Recognizing Bangladesh's least-developed country status, the Committee approved the maintenance of import restrictions on four remaining product categories until 2009.

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## X. Committee on Regional Trade Agreements

The rush to conclude regional trade agreements (RTAs), which began to take root over a decade ago, gained further momentum in 2002. Twenty additional RTAs were notified to the WTO, increasing the total number of notified agreements in force as of December 2002 to 177.<sup>27</sup> Almost half of the 20 notifications concerned services agreements submitted under the legal cover of GATS Article V. Most WTO Members are now party to at least one RTA and many to several. Only Hong Kong, China; Macao, China; Mongolia and Chinese Taipei are not currently party to any RTA, but it has been reported that some of these Members are already engaged in RTA negotiations. Although European countries are party to over half the RTAs notified to the WTO last year, the upward surge in RTAs was perhaps most strongly felt in the Asia Pacific region, where countries long in favour of multilateral-only liberalization have whole-heartedly embraced the regional option. Japan became the latest RTA convert among WTO Members with the entry into force of its FTA with Singapore in November 2002.

In Europe, where the process of regional integration is long-rooted, RTA activity is increasingly shaped by the eastwards enlargement of the EC to include ten new countries, which is scheduled for May 2004 and will result in a significant consolidation of RTAs within Europe.<sup>28</sup> The EC continues to look further afield for its regional partners: it signed an RTA with Chile last year and is negotiating with the Gulf Cooperation Council (GCC) and MERCOSUR. EFTA signed an RTA with Singapore which was scheduled to enter into force in January 2003. In south-eastern Europe, the objective of linking seven countries of the region<sup>29</sup> through RTAs progressed smoothly throughout 2002, under the auspices of the Stability Pact, and was nearly complete by the end of the year. In addition, RTAs between Croatia and the EC and EFTA, respectively, and Slovenia with Bosnia and Herzegovina entered into force in 2002.

In the Euro-Mediterranean region, the negotiation of second-generation reciprocal RTAs between the EC and its partners in the Mediterranean and North Africa gathered pace: RTAs with Egypt and Algeria have been signed and are undergoing ratification; an agreement with Lebanon has been concluded, while negotiations with Syria are continuing. The EFTA states concluded an RTA with Jordan which entered into force in 2002 and are negotiating with Algeria, Egypt, the GCC, Lebanon and Tunisia. Jordan, Egypt, Morocco and Tunisia set up the Mediterranean Arab Free Trade Area (MAFTA) last year and the Arab League has launched an initiative, the Greater Arab Free Trade Area (GAFTA), comprising 14 countries, which aims for full liberalization of tariffs by 2005. The longer term goal in the region is the creation of a Euro-Mediterranean Free Trade Area by 2010, which would include some 40 countries.

In the western hemisphere, Canada is negotiating free trade agreements with four Central American countries, EFTA and Singapore and has announced its interest in negotiations with the Andean Community, CARICOM and the Dominican Republic. Following the passage of the Trade Promotion Authority, the United States has completed RTA negotiations with Chile and Singapore and has commenced negotiations with five Central American countries, Morocco, Australia and the Southern African Customs Union (SACU). Chile, whose RTA with Costa Rica (covering goods and services) entered into force in 2002, completed negotiations with the EC in November 2002. Mexico, which is currently party to 13 RTAs, is engaged in negotiations with Ecuador, Japan, Panama, Peru, Singapore, Trinidad and Tobago, MERCOSUR and the Republic of Korea. The timetable for the completion of the Free Trade Area of the Americas (FTAA), which plans to unite 34 countries in the western hemisphere, is scheduled for January 2005, the same date foreseen for completion of the Doha Development Round.

<sup>27</sup> These include notifications made under GATT Article XXIV, GATS Article V, and the Enabling Clause; see [http://www.wto.org/english/tratop\\_e/region\\_e/region\\_e.htm](http://www.wto.org/english/tratop_e/region_e/region_e.htm) for a complete list of RTAs notified to the GATT/WTO.

<sup>28</sup> For example, as a result of the accession of ten new countries to the EU a total of 65 RTAs currently in force will cease to exist.

<sup>29</sup> Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Former Yugoslav Republic of Macedonia, Romania and the Federal Republic of Yugoslavia.



In Asia Pacific, Japan is negotiating RTAs with the Republic of Korea, China and ASEAN and has longer term ambitions with Mexico, Chile, Australia and New Zealand. The Republic of Korea is continuing discussions with Chile and is engaged in discussions with Singapore. Australia has concluded RTA negotiations with Singapore and has launched negotiations with Thailand and the United States. It is also exploring ways to forge closer economic relations with ASEAN and Japan. In November 2002, ASEAN announced its intention to engage in bilateral negotiations with China, Japan and India with the aim of creating free trade agreements. New Zealand is examining the possibility of expanding the New Zealand-Singapore RTA to include Chile, thus creating a Pacific Three, or P3 Agreement. It has also launched negotiations with Hong Kong, China on a closer economic partnership agreement. Singapore recently concluded RTAs with Australia, the EFTA states and the United States and is engaged in discussions with Mexico, Canada and the Republic of Korea. Thailand is negotiating with India and Bahrain, while India, which already has RTAs with Sri Lanka, Nepal and Bhutan, is negotiating an RTA with Bangladesh.

The past year's developments demonstrate that, with very few exceptions, all WTO Members are increasingly zealous in developing networks of preferential partners and that the trend towards the conclusion of cross-regional, bilateral agreements is accelerating. The profusion of RTAs, together with their widening geographic reach, increasingly reflects a departure from traditional economic integration within a geographic region, and the adoption of the RTA-policy option as a means to forge strategic trade relationships at preferential terms with important markets, wherever these are situated. While some Members view their own increasing participation in regional initiatives as providing momentum for their wider multilateral trade objectives, there is clearly evidence of a "band-wagon" effect, with RTAs increasingly being negotiated as a means to protect market access.

WTO Members are allowed to participate in regional initiatives, albeit subject to a number of criteria and procedures.<sup>30</sup> The Committee on Regional Trade Agreements (CRTA), the body entrusted with verifying the compliance of RTAs with the relevant WTO provisions, continued its examination of RTAs in 2002. However, the CRTA made no further progress on its mandate of consistency assessment, due to long-standing institutional, political and legal difficulties. Since the establishment of the WTO, Members have been unable to reach consensus on the format, let alone the substance, of the reports on any of the examinations entrusted to the CRTA.<sup>31</sup>

Negotiations launched at the Fourth Ministerial Conference in Doha aim at clarifying and improving the disciplines and procedures under the existing WTO provisions applying to RTAs by taking due account of the developmental aspects of these agreements. These negotiations are taking place under the auspices of the Negotiating Group on Rules, which reports to the TNC.<sup>32</sup>

## XI. Committee on Trade and Development

The Committee on Trade and Development (CTD) continued to deal with a large number of topics in 2002, such as technical cooperation and training; notifications regarding market access for developing and least-developed countries under the Generalized System of Preferences (GSP) and notifications regarding regional trade agreements among developing countries; the participation of developing countries in world trade; Sections A, C and D of GATT Article XVIII; Paragraph 51 of the Doha Ministerial Declaration on identifying and debating developmental aspects of the negotiations in order to help achieve the objective of having sustainable development appropriately reflected; the development dimension of electronic commerce; and the International Conference on Financing for Development. The CTD also took note of the Annual Report of the Joint Advisory Group on the International Trade Centre (ITC) (UNCTAD/WTO). The CTD held seven formal sessions and two informal meetings in 2002. The reports of the 37<sup>th</sup> to 43<sup>rd</sup> sessions of the CTD, held in 2002, are contained in documents WT/COMTD/M/37-43. The 2002 Annual Report of the CTD (document WT/COMTD/44) contains a detailed description of the activities dealt with in the Committee.

The issue of special and differential treatment (S&D) was referred to a Special Session of the CTD which was created under the WTO TNC to deal specifically with S&D (see section I on the Doha Development Agenda above) and the issue of small economies was referred to a Dedicated Session of the CTD (see section I on the Doha Development Agenda above).

The issues to which most time was devoted by the Committee in 2002 were issues relating to WTO technical cooperation and training. The Committee discussed the issue of technical assistance and training at almost every meeting. At the beginning of the year, Members discussed a draft Coordinated WTO Secretariat Annual Technical Assistance Plan

<sup>30</sup> Contained in GATT Article XXIV, for agreements covering trade in goods, and in GATS Article V, for agreements in the area of trade in services. The 1979 Decision of the GATT Council on Differential and More Favourable Treatment (Enabling Clause) governs the conclusion of preferential arrangements among developing countries (trade in goods only).

<sup>31</sup> As of October 2002, the CRTA had a total of 125 agreements under examination.

<sup>32</sup> See Negotiating Group on Rules in the Doha Development Agenda section.

for 2002. Extensive discussions led to two revisions and at the 39<sup>th</sup> Session, the Committee agreed that the Secretariat should proceed with the implementation of the 2002 Plan (as presented in WT/COMTD/W/95/Rev.2) while the Committee kept its implementation under review. Members thereafter received regular updates from the Secretariat with respect to the implementation of the Plan, including the results of a Pledging Conference held on 11 March 2002. The Secretariat subsequently invited Member and Observer Governments to submit their technical assistance requests for 2003 which would form the basis for the draft 2003 WTO Technical Assistance Plan. The 2003 Plan was also subject to lengthy discussions and was finally the subject of agreement in November 2002. For the complete action taken, please see the report of the meeting (document WT/COMTD/M/43). See also the second revision of the 2003 Technical Assistance Plan, (documents WT/COMTD/W/104/Rev.2, WT/COMTD/W/104/Add.1/Rev.2, and WT/COMTD/W/104/Add.2)

In the beginning of 2002, the Committee also considered future activities of the WTO Training Institute. Members had already in October 2001 been informed of the activities the Training Institute envisaged for the year 2002. However, the work programme of the Training Institute had been revised in order to take the decisions adopted at the Doha Ministerial Conference and the decisions taken in connection with the adoption of the 2002 budget into account. The activities of the Training Institute were complementary to those in the 2002 Technical Assistance Plan. The Committee received a report on the 2001 activities of the Training Institute and was updated about an advanced training course for government officials on WTO trade negotiations.

In 2002, the Committee received its first report from the WTO Technical Cooperation Audit. The report for the activities carried out in 2001 was contained in document WT/COMTD/W/97 which was before the Committee's 40<sup>th</sup> Session.

With respect to the issue of market access for developing and least-developed countries the Committee continued to examine a note by the Secretariat entitled "The Generalized System of Preferences: A preliminary analysis of the GSP schemes in the Quad" contained in document WT/COMTD/W/93. The delegations of Japan and Switzerland notified changes to their GSP schemes (WT/COMTD/N/2/Add.11 and WT/COMTD/N/7/Add.1). The Committee took note of the notifications and forwarded their LDC segments to the Sub-Committee on LDCs for substantive consideration and reporting back. The Committee also received a notification regarding a regional trade agreement between India and Sri Lanka (WT/COMTD/N/16). The Committee took note of that notification. The delegation of the United States suggested that an item on notification procedures for regional trade agreements among developing countries notified under the Enabling Clause be added to the agenda of the first meeting of the Committee in 2003.

The CTD has the mandate to keep under continuous review the participation of developing country Members in the multilateral trading system. In order for the Committee to fulfill that part of its Mandate, the Secretariat produced a paper entitled "Participation of the Developing Countries in the Global Trading System" (WT/COMTD/W/100). During the discussion of that document Members requested more detailed country-specific information. In response to that request the Secretariat issued another document containing disaggregated data on trade developments by country to supplement the information on regional trade flows already provided (WT/COMTD/W/100/Add.1).

The Committee began its consideration of GATT Article XVIII as an outstanding implementation issue in April 2002. As the Committee on Balance-of-Payments was considering section B of Article XVIII, the Chairman suggested that it was for the CTD to consider the remaining elements of Article XVIII of the GATT in relation to Paragraph 12 of The Doha Ministerial Declaration (WT/MIN(01)/DEC/1), the Decision on Implementation-Related Issues and Concerns adopted at the Doha Ministerial Conference (WT/MIN(01)/17), and in conjunction with tirit 3 of JOB(01)/152/Rev.1 of 27 October 2001. In the following discussion questions were raised as to the appropriate fora to consider Article XVIII. The Committee asked the Secretariat for information regarding the application of Section C of Article XVIII in the WTO and GATT. That information was circulated in document WT/COMTD/39 and Add.1. However, following informal consultations, the Chairman concluded that there was no objection to dealing with Article XVIII, apart from section B, as an outstanding implementation issue in the regular sessions of the CTD as long as it was without prejudice to work related to Article XVIII carried out elsewhere. The delegation of India drew Members' attention to its earlier proposal on Sections A and C of GATT Article XVIII (WT/GC/W/363). A few delegations stressed the importance of fulfilling the mandate given by Ministers at the Doha Ministerial Conference as reflected in tirit 3 of JOB(01)/152/Rev.1. A few other delegations said that no new information or compelling arguments had been provided to warrant a review of Article XVIII. There was no consensus on the issue and the CTD had to submit its report to the TNC with that conclusion (WT/COMTD/45).

In 2002, the Committee also began its consideration of paragraph 51 of the Doha Ministerial Declaration on identifying and debating developmental aspects of the negotiations, in order to help achieve the objective of having sustainable development appropriately reflected. The delegation of the European Communities suggested a process by which the Secretariat should be requested to prepare a paper identifying and tracking progress on the developmental aspects of the Doha Development Agenda in various WTO bodies. In addition, the delegation of the European Communities also submitted a document entitled "Sustainability Impact Assessment". (WT/COMTD/W/99)

The CTD is one of the four subsidiary bodies to the General Council mandated to work on the issue of electronic commerce (e-commerce). The CTD continued its Work Programme on Electronic Commerce (WT/COMTD/35) in 2002. The delegation of Costa Rica made a presentation of a country experience and a seminar on "Revenue Implications of E-commerce" was held under the auspices of the CTD on 22 April 2002. The Chairman of the seminar, Ambassador Whalen (Ireland) reported both orally and in writing on the seminar to the subsequent meeting of the CTD. Her reports as well as the programme are annexed to the minutes of the 40<sup>th</sup> Session of the CTD (WT/COMTD/M/40).

The CTD is the WTO focal point for the International Conference on Financing for Development which was held in Monterrey, Mexico on 18-22 March 2002. As the WTO Secretariat had been invited to participate in the preparations for the Conference, as representing one of the major institutional stakeholders of the process, the Secretariat informed Members about that preparatory process and later reported on the Conference itself.

The Joint Advisory Group on the International Trade Centre UNCTAD/WTO (JAG) held its 35<sup>th</sup> Session on 15-19 April 2002. The report on that meeting was contained in document ITC/AG/(XXXV)/191 of 6 May 2002. The Chairman of the JAG, presented the report of that meeting to the Committee. The Committee took note of the report and forwarded it to the General Council for adoption while agreeing that the Committee would report on its discussion when the JAG Report was before the General Council.

## Sub-Committee on Least-Developed Countries

The Sub-Committee on Least-Developed Countries is a subsidiary body to the Committee on Trade and Development with the mandate of giving special attention to issues of particular importance to the least-developed countries (LDCs). Five meetings of the Sub-Committee were held in 2002, with Ambassador Simon Fuller (United Kingdom) chairing the first meeting of the year and Ambassador Johan Molander (Sweden) chairing the remainder.

As mandated in paragraph 42 of the Doha Ministerial Declaration, the Sub-Committee adopted the WTO Work Programme for the LDCs,<sup>33</sup> on 12 February 2002. The Work Programme adopted was reported to the General Council, at its first meeting in 2002. Implementation of the WTO Work Programme for LDCs is the priority guiding current work in the Sub-Committee.

The WTO Work Programme for LDCs focuses on the following issues: market access for LDCs; trade-related technical assistance and capacity building initiatives for LDCs; providing, as appropriate, support to agencies assisting with the diversification of LDCs' production and export base; mainstreaming, as appropriate, into the WTO's work, the trade-related elements of the LDC-III Programme of Action; participation of LDCs in the multilateral trading system; accession of LDCs to the WTO; and follow-up to WTO Ministerial Declaration and Decisions.

In 2002, Members have been considering the various elements of the Work Programme, focusing on a few issues at each session of the Sub-Committee.

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### Market Access

As part of the WTO Work Programme for LDCs, the Secretariat prepared a report on Market Access Issues for LDCs.<sup>34</sup> The report outlined the initiatives and announcements, made on an autonomous basis, by several WTO Members to improve market access for LDCs. It also examined some of the tariff and non-tariff barriers facing LDCs' exports. Since the last Ministerial Conference in Doha, there has been some new impetus and initiatives to accord "duty-free and quota-free" access for LDCs' exports. Improvements in market access for LDCs were notified to the WTO and discussed in the Sub-Committee.

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### Trade-Related Technical Assistance and Capacity Building Initiatives for LDCs

Members were briefed on the priority attached to LDCs in the WTO Annual Technical Assistance Plan for 2002, and the proposed plan for 2003.<sup>35</sup> In 2002, 70 national activities were planned for implementation in LDCs. In the 2003 TA Plan, the number of national activities programmed for LDCs had been increased to 115. The number of regional activities for LDCs was also set to increase to 150, compared to approximately 80 in 2002. LDCs continued to benefit from the Training Institute with its increased intake of LDCs in the

<sup>33</sup> WT/COMTD/LDC/11.

<sup>34</sup> WT/COMTD/LDC/W/28 and TN/MA/S/7.

<sup>35</sup> The WTO Annual Technical Assistance Plan for 2002 is contained in WT/COMTD/W/95/Rev.3 and the plan for 2003 is in document WT/COMTD/W/104/Rev.1 and Add.1.

regular Trade Policy Courses and also the three-week courses specifically for LDCs. WTO Reference Centres had been established in most LDCs, and the upgrading of these Centres would now be undertaken.

Periodic status reports were also made on the implementation of the IF. Following its application in a pilot phase to three LDCs: Cambodia, Madagascar and Mauritania, the IF had been extended to a further 11 LDCs in 2002.

While the WTO can make some contributions, it cannot on its own meet the full complexity of the challenges facing LDCs' trade development. Cooperation with other multilateral, regional and bilateral development partners, assumes importance. In 2002, the Deputy-Executive Director of the International Trade Centre (ITC) was invited to brief the Sub-Committee on the assistance provided by the ITC in the diversification of LDCs' production and export base. As a subsidiary body of the WTO, the budgetary contribution made by the WTO to the ITC was noted.

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### LDCs' Accession to the WTO

Progress has been made in the area of LDCs' accession. The Sub-Committee considered this item twice formally and twice informally in 2002. In accordance with the mandate contained in paragraphs 9 and 42 of the Doha Ministerial Declaration, and paragraph 18 of the WTO Work Programme on LDCs, the Sub-Committee, forwarded guidelines to facilitate and accelerate LDC accession negotiations, that were adopted by the General Council on 10 December 2002.<sup>36</sup>

The provision of technical assistance to acceding LDCs has also been the focus of priority attention. Between 1998-2002, over 300 activities were carried out by the WTO Secretariat to assist acceding LDCs. In July 2002, the WTO Secretariat organized the first WTO Seminar on Accessions, in Geneva. The Seminar was held back-to-back with a meeting of the Sub-Committee to facilitate the participation of all acceding LDCs including those that are not resident in Geneva. Chairpersons of Working Parties and acceding LDCs were invited to brief Members on progress made in the accession Working Parties. A Note on the state of play of LDCs accession working parties and technical assistance provided by the WTO to acceding LDCs was considered by Members.<sup>37</sup>

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### Participation of LDCs in the Multilateral Trading System

Recent trends in LDCs' trade indicate their limited participation in global trade. These trends and the specific initiatives undertaken to enhance the participation of LDCs in the multilateral trading system were outlined in a Secretariat document considered by the Sub-Committee.<sup>38</sup> Initiatives that have been undertaken by the WTO Secretariat to enhance LDCs' participation include an increase in the number of WTO Trade Policy Courses, initiatives in favour of Non-Residents such as the Geneva Week, information technology support, the Diagnostic Trade Integration Studies of the Integrated Framework, and increasing the participation of LDCs in international standard setting bodies. Initiatives have also been taken to increase the number of Trade Policy Reviews of LDCs, and to interface WTO technical cooperation with WTO Trade Policy Reviews. The Secretariat also services informal meetings of the LDCs' Consultative Group.

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## XII. Committee on Trade and Environment

See section I on the Doha Development Agenda in Part I above for CTE activities in 2002.

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## XIII. Committee on Budget, Finance and Administration

In 2002, as part of its on-going responsibilities, the Committee on Budget, Finance and Administration (BFA), continued to monitor the financial and budgetary situation of the Organization. It formulated recommendations to the General Council on assessment to the budget and advance to the Working Capital Fund. It considered elements related to personnel management and heard progress reports on the WTO Pension Plan as well as other issues.

### Major areas of activities

As requested by the Members in 2001, the Committee undertook an examination on staffing matters including: (i) recruitment policy under Staff Regulations 3.1, (ii) internal staff mobility policy, and (iii) promotion policy.

<sup>36</sup> WT/L/508.

<sup>37</sup> WT/COMTD/LDC/W/27 and WT/ACC/12.

<sup>38</sup> WT/COMTD/LDC/W/26.

The Committee examined the report (WT/BFA/W/69) on the strategic organization review of the organization. At the request of a number of Members, the Committee discussed the implementation of result-based management in the WTO both formally and informally. The Committee will continue the discussion in 2003.

The Director-General's conditions of service had not been reviewed since the package was originally agreed in 1993. After consultation with Members, it was proposed that Members consider an adjustment to take account of inflation in Geneva since 1993. The General Council was informed on and agreed to the proposed new package (WT/GC/M/76).

The Committee also discussed and/or was informed about the following points in the various meetings: (i) preliminary budget outline of the International Trade Centre UNCTAD/WTO for 2003, (ii) situation of contributions for the Doha Development Agenda Global Trust Fund (DDAGTF), and (iii) WTO building facilities.

On 12 December 2002, the General Council approved the 2003 budget, and the recommendation on a review of methodologies for future pay adjustments as submitted by the Committee. The BFA Committee shall therefore undertake a review of the methodologies for future pay adjustments and transmit its recommendations to the General Council by 31 March 2003.

Reports of the meetings can be found in WT/BFA/57, WT/BFA/58, WT/BFA/59 and WT/BFA/60.

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## XIV. Plurilateral Agreements

### Agreement on Government Procurement

The following WTO Members are Parties to the plurilateral Agreement on Government Procurement of 1994: Canada; the European Community and its 15 member States; Hong Kong, China; Iceland; Israel; Japan; the Republic of Korea; Liechtenstein; the Kingdom of the Netherlands with respect to Aruba; Norway; Singapore; Switzerland; and the United States. Albania, Bulgaria, Estonia, Georgia, Jordan, the Kyrgyz Republic, Latvia, Moldova, Panama, Chinese Taipei and Slovenia are currently negotiating their accession to the Agreement.

Since February 1997, the Committee on Government Procurement has been carrying out work relating to negotiations provided for under Article XXIV:7 of the Agreement covering, in particular the following elements: simplification and improvement of the Agreement, including, where appropriate, adaptation to advances in the area of information technology; expansion of the coverage of the Agreement; and elimination of discriminatory measures and practices which distort open procurement. Parties pursued actively their consultations in 2002 on the basis of an informal note comparing the numerous draft texts proposed by various Parties for modifications to the Articles of the Agreement. The relevant work has been pursued in accordance with a timetable and work programme agreed by the Committee at the February 2002 meeting which aims to have provisional agreement on the revised text of the Agreement by the 5<sup>th</sup> Ministerial Conference and to conclude the negotiations on the expansion of the coverage and the elimination of discriminatory measures and practices by 1 January 2005. An objective of the negotiations is the expansion of the membership of the Agreement by making it more accessible to non-Parties. WTO Members, not Parties to the Agreement, and other observer governments to Agreement have been invited to participate in the work.

Other matters considered by the Committee during the period have been: modifications to the Appendices to the Agreement, statistical reports and notifications of threshold figures in national currencies.

### Agreement on Trade in Civil Aircraft

This Agreement entered into force on 1 January 1980.

As of 1 February 2002, there were 30 Signatories to the Agreement: Bulgaria, Canada, Chinese Taipei, the European Communities, Austria, Belgium, Denmark, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, the United Kingdom, Egypt, Estonia, Georgia, Japan, Latvia, Lithuania, Macao, China, Malta, Norway, Romania, Switzerland and the United States. Those WTO Members with observer status in the Committee are: Argentina, Australia, Bangladesh, Brazil, Cameroon, China, Colombia, the Czech Republic, Finland, Gabon, Ghana, Hungary, India, Indonesia, Israel, the Republic of Korea, Mauritius, Nigeria, Oman, Poland, Singapore, the Slovak Republic, Sri Lanka, Trinidad and Tobago, Tunisia and Turkey. The Russian Federation and Saudi Arabia are also observers, as are the IMF and UNCTAD.

The Agreement eliminates all customs duties and other charges on imports of civil aircraft products and repairs, binds them at zero level, and requires the adoption or adaptation of

end-use customs administration. The Agreement prohibits Signatories from requiring, or exerting pressure on, purchasers to procure civil aircraft from a particular source, and provides that purchasers of civil aircraft products should be free to select suppliers on the basis of commercial and technical factors only. The Agreement regulates Signatories' participation in, or support for, civil aircraft programmes, and prohibits Signatories from requiring or encouraging sub-national entities or non-governmental bodies to take actions inconsistent with its provisions. Although the Agreement is part of the WTO Agreement, it remains outside the WTO framework.

During the regular meetings of the Committee on Trade in Civil Aircraft in 2002, the Committee adopted a decision on *Procedures For The Circulation And Derestriction of Documents Under The Agreement On Trade In Civil Aircraft (TCA/8)*, aligning the procedures concerning circulation and derestriction of Committee documents with those applicable to other WTO documents. The Committee also again reverted to the status of the Agreement in the WTO framework, but Signatories remained unable to adopt the Draft Protocol (1999) Rectifying the Agreement on Trade in Civil Aircraft that was proposed by the Chairperson in April 1999. The Committee will again revert to this matter.

In 2002, the Committee also discussed, *inter alia*, "end-use" customs administration, including a revised proposal by one Signatory concerning the definition of "civil" vs. "military" aircraft based on initial certification; interim duty-free treatment of aircraft ground maintenance simulators; statistical reporting of trade data; the Convention on International Interests in Mobile Equipment and the Protocol on Matters Specific to Aircraft Equipment. The following items were raised under "other business": Matters relating to Article 4.4; Matters relating to Article 4: procurement of commercial aircraft by the US armed forces; EU support for the A400M; Matters relating to Articles 4 and 6: government support for Airbus.



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## PART II

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### I. Technical cooperation

See Section on the Doha Development Agenda in Part I above for technical cooperation activities in 2002.

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### II. Training activities

In the period under review, WTO training activities picked up considerable momentum and increased from three to 17 courses.

The WTO Secretariat organized four regular three-month Trade Policy Courses – three in English and one in Spanish –, two three-week Introduction Courses for LDCs – one in English and another in French, three one-week Dispute Settlement Courses, and three one-day Induction Courses. All these courses were held in Geneva and all but the dispute-settlement workshops and the induction courses were primarily intended for developing and/or least-developed country officials who are involved in the formulation and implementation of trade policy, as well as for officials from economies in transition which are either WTO Members or Observers. The dispute-settlement workshops were open to all WTO Members and the induction courses were open to WTO delegations, IGO Secretariat officials, NGOs and WTO staff and interns. The participants in the regular and LDCs courses are financed by WTO fellowship awards covering expenses for the duration of the course.

In addition, a special two-week course was held in April jointly with the Commonwealth Secretariat for six officials from Commonwealth developing countries who had just completed the regular three-month course that had run since January.

Over the period July to October 2002, the WTO conducted for the first time outside Geneva, two three-month Trade Policy Courses in Africa. These were organized in English jointly with the University of Nairobi at the Kenya Commercial Bank's Training Centre in Karen, Kenya, and in French with the "Institut Supérieur de Commerce et d'Administration d'Entreprise (ISCAE)" in Casablanca, Morocco. Fifty government officials from 48 countries participated in the courses.

In implementing its broad mandate the WTO also offered a new specialized pilot-course on trade negotiations skills in cooperation with the Graduate Institute of International Affairs and GIAN for targeted participants.

The WTO also conducted an Internet-based pilot-course on the WTO and its basic principles and organized a programme of training for trainers for secretariat officials involved in the delivery of technical assistance and training activities. It also continued to further develop the network of relations with the academic world, in particular in curriculum development and provision of relevant documentation.

The general objective of all these activities is to build institutional capacity by widening the participants' understanding of trade policy matters, the multilateral trading system, international trade law and the functioning of the WTO. The training activities of the WTO have been articulated around a common concept of training with a view to offering beneficiaries a set of complementary courses. The knowledge acquired in various courses is expected to allow participants to improve the effectiveness of their work in their own administrations and to promote a more active participation of their countries in the work of the WTO.

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### III. Cooperation with other international organizations and relations with civil society

#### Relations with non-governmental organizations/civil society

The WTO's relations with civil society continued to evolve in 2002 with numerous activities and exchanges focusing on specific aspects related to the Doha Development Agenda and negotiations. Relations with Non-Governmental Organizations (NGOs) are specified in Article V:2 of the Marrakesh Agreement establishing the WTO and were further

elaborated in a set of guidelines (WT/L/162) adopted by the General Council in July 1996. The guidelines "recognize the role NGOs can play to increase the awareness of the public in respect of WTO activities". A major step toward this aim was taken in May 2002 when the General Council agreed to expedite the release of WTO documents to the public (WT/L/452).

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

Since the adoption of the 1996 guidelines, the WTO Secretariat has enhanced its dialogue with civil society. In the run-up to the Doha Ministerial Conference in 2001, several new activities involving NGOs were proposed and agreed to by WTO Members (WT/INF/30). In 2002 the WTO Secretariat increased the number of NGO briefings and reports on all major WTO meetings and began listing the briefing schedules on its website. NGOs are also regularly invited to the WTO to present their recent policy research and analysis directly to Members.

A monthly list of NGO position papers received by the Secretariat is compiled and circulated for the information of WTO Members and a monthly electronic news bulletin is available to NGOs, facilitating access to publicly available WTO information. Bulletin subscription requests should be sent by e-mail to the following address: ngobulletin@wto.org.

## Ministerial Conferences

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

## Symposia

Recent public symposia at the WTO (1999, 2001 and 2002) have provided civil society with opportunities to engage with government officials, academics and other civil society representatives. They have shown that governments and civil society can have open and constructive dialogues on issues where differences exist, but where possible solutions can also be identified and discussed. In 2002 a three-day symposium with some 700 participants was held at the WTO. Entitled "The Doha Development Agenda and Beyond", the symposium featured WTO organized work sessions as well as sessions organized by NGOs on topics of their choice. Market access issues, development opportunities, trade and the environment were discussed as well as the new issues in the trading system and the role of parliamentarians in the WTO. NGO organized events focused on globalization and trade, food security, e-commerce and development, the services negotiations, relations between IGOs and civil society, geographical indications and on WTO internal transparency and decision-making processes. During the event some 16 different work sessions took place. Another symposium on trade, the environment and development is planned for June 2003.

## Cooperation with other international organizations

The WTO has an active working relationship with other international inter-governmental organizations and especially those involved with trade-related subjects. The WTO cooperates and coordinates with the UN and some of its agencies, with the Bretton Woods institutions and with other international and regional bodies.

In its efforts to further the development dimension of trade, the WTO works closely with the UN Conference on Trade and Development (UNCTAD). A major focus of joint work concerns capacity building and providing technical assistance to developing countries and particularly least-developed countries. UNCTAD is a major partner in the Integrated Framework for Technical Assistance Programme (IF) and the Joint Integrated Technical Assistance Programme (JITAP). Many inter-regional meeting and training activities are organized to assist developing country representatives learn more about WTO trade issues

and negotiations. Such activities are sponsored either by the WTO or UNCTAD, financed by WTO Members and involve staff from both organizations.

The WTO remains a key player in various activities organized by the UN agencies and other inter-governmental organizations. It was actively involved in the UN's International Conference on Financing for Development held in Monterrey in March 2002 and the World Summit on Sustainable Development in Johannesburg in September 2002. The WTO is also active in a high-level UN coordination committee established to monitor the progress of various UN agencies toward achieving the UN's Millennium Goals.

As many as 76 inter-governmental organizations had observer status in the WTO's 4<sup>th</sup> Ministerial Conference in Doha, Qatar and many have observer status in one or more bodies (see Table III.8 below).

## ITC – UNCTAD/WTO

The WTO and UNCTAD serve as the parent body of the International Trade Centre (ITC), the technical cooperation agency for operational, enterprise-oriented aspects of trade development. ITC supports developing and transition economies, and particularly their business sector, in their efforts to realize their full potential for developing exports and improving import operations. ITC's technical assistance concentrates on the three issues for which it believes the need for national capacity-building is most critical: helping businesses understand WTO rules, strengthening enterprise competitiveness and developing new trade promotion strategies.

As a follow up to the Doha Ministerial Declaration which calls for enhancing and rationalizing technical assistance activities, the JITAP's three stakeholders – the UN, UNCTAD and the ITC, discussed the progress of work regarding technical assistance in eight African countries. At the JITAP management meeting at the WTO in September 2002, the programme was evaluated and was described as "probably the most high-profile technical assistance programme in the world." The evaluation recommended the extension and expansion of JITAP and the agencies are now working on putting together a programme document for a new phase to commence in January 2003 to cover a larger number of countries in Africa.

Also in September 2002, WTO Director-General Dr Supachai Panitchpakdi participated in the opening session of the ITC's Executive Forum session in Montreux, Switzerland entitled "Managing Competitive Advantage: The Values of National Strategy." Co-organized with the Swiss State Secretariat for Economic Affairs, the forum attracted 26 national teams from developing and transition countries to debate "best practice" ideas and new approaches for fostering export success.

## Cooperation with the IMF and the World Bank

The WTO's cooperation with the IMF and the World Bank is based on the Marrakesh "Declaration on the Contribution of the WTO to Achieving Coherence in Global Economic Policy-Making" and on the WTO's formal cooperation agreements with the IMF and the World Bank. It provides an opportunity to leverage the collective resources of the three institutions in areas where their activities converge, in particular in assisting developing and least-developed countries to take greater advantage of their involvement in international trade and their participation in the multilateral trading system.

In 2002, the incoming Director-General met separately with the Managing Director of the IMF and the President of the World Bank. Discussions involved the support of the Bank and the Fund for the Working Group on Trade, Debt and Finance and intensified efforts with respect to trade-related capacity-building.

Regular staff contacts aim to ensure consistency of IMF policy advice with WTO rules and staff attend each other's meetings in an observer capacity. In the course of the year, WTO staff organized a number of Geneva-based seminars for WTO Members (including on Market Access, Services, Customs Valuation, Government Procurement) with participation by staff from both the Bank and the Fund. The IMF's Committee on Liaison with the WTO met twice in 2002; Executive Directors welcomed the increasing focus by the Fund on trade issues in Article IV consultations and the staff paper on "Market Access for Developing Country Exports".

Cooperation at the staff level extends to many areas of the WTO, including surveillance activities and especially technical assistance. The Fund and the Bank are committed to provide trade-related technical assistance in support of the Doha Development Agenda. The World Bank has set up a Trade Department to integrate trade-related research and operations in support of its work on mainstreaming trade through the PRSPs and the Integrated Framework. The Bank contributed resources to the new WTO Regional Trade Policy

Courses in Africa and provided initial financing for a new Standards and Trade Development Facility, aimed at SPS-related capacity building. In cooperation with the WTO Training Institute, the World Bank Institute continued its video-conferencing training programme on the legal aspects of international trade.

Table III.8

### International intergovernmental organizations – Observer status in the WTO, as at 30 January 2003

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

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

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

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

#### Table III.8 (A): Explanatory Note

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

Table III.8 (A)

### International intergovernmental organizations – Observer Status in the WTO

(See Explanatory Note)

		GC	TPRB	CTG	CTS	TRIPS	ADP	SCM	SG	AG	SPS	BOPS	CRTA	CTD	CTE	MA	LIC	RO	TBT	TRIMS	VAL	GATT CPS	GATT CNCL	GATT CTD
<b>UN bodies and specialized agencies:</b>																								
UN	<i>United Nations</i>	X		X	X	X								X	X						X	X	X	
CBD	<i>Convention on Biological Diversity</i>					P				P	P				X				P					X
CITES	<i>Convention on International Trade in Endangered Species</i>														X									
IPPC	<i>FAO International Plant Protection Convention</i>										X													
Codex	<i>FAO/WHO Joint Codex Alimentarius Commission</i>										X								X					
FAO	<i>Food &amp; Agriculture Organization of the United Nations</i>	X	X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
ITU <sup>1</sup>	<i>International Telecommunication Union</i>	P			X																			
UNAIDS	<i>Joint United Nations Programmes on HIV/AIDS</i>																							
	<i>Montreal Protocol on Substances that Deplete the Ozone Layer</i>														P							X	X	X
CSD	<i>United Nations Commission for Sustainable Development</i>														X									
UNCTAD	<i>United Nations Conference on Trade &amp; Development</i>	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
UNDP	<i>United Nations Development Programme</i>	P												X	X									
ECA	<i>United Nations Economic Commission for Africa</i>													X								X	X	X

Table III.8 (A) (continued)

## International intergovernmental organizations – Observer Status in the WTO

(See Explanatory Note)

		GC	TPRB	CTG	CTS	TRIPS	ADP	SCM	SG	AG	SPS	BOPS	CRTA	CTD	CTE	MA	LIC	RO	TBT	TRIMs	VAL	GATT CPS	GATT CNCL	GATT CTD
ECE	United Nations Economic Commission for Europe			P										X					X			X	X	X
ECLAC	United Nations Economic Commission for Latin America & the Caribbean													X								X	X	X
ESCAP	United Nations Economic & Social Commission for Asia & the Pacific													X								X	X	X
UNESCO	United Nations Educational, Scientific and Cultural Organization				P																			
UNEP	United Nations Environment Programme	P				P								<sup>3</sup>	X									
UNFCCC	United Nations Framework Convention of Climate Change															X								
UNIDO	United Nations Industrial Development Organization	P												X	X					<sup>4</sup>		X		
WFP	United Nations World Food Programme									X														
WHO	World Health Organization	P			<sup>5</sup>	<sup>6</sup>					X				P				X					
WIPO	World Intellectual Property Organization	X				X								<sup>3</sup>	X							X	X	
<b>Other organizations:</b>																								
ACP	African, Caribbean & Pacific Group of States	P		P	P		<sup>7</sup>	<sup>7</sup>	<sup>7</sup>	P	<sup>3</sup>	X		X	X	X	P	X	<sup>8</sup>	P	X	X	X	
OAPI	African Intellectual Property Organization					P																		
ARIPO	African Regional Industrial Property Organization					P																		
AU	African Union	P		P										P	<sup>3</sup>									
	ANDEAN Community													X								X	X	X
AAAIID	Arab Authority Agricultural Investment and Development									P														
AMU	Arab Maghreb Union	P		P	P									P	<sup>3</sup>									
AMF	Arab Monetary Fund	P		P	P																	X	X	
ATFP	Arab Trade Financing Program	P		P	P																			
APCC	Asian and Pacific Coconut Community									P	P													
BIPM	Bureau International des Poids et Mesures																			P				
CARICOM	Caribbean Community Secretariat													X								X	X	X
CAEMC	Central African Economic & Monetary Community													X								X		X
CFC	Common Fund for Commodities				P									P										X
COMESA	Common Market for Eastern and Southern Africa	P		P	P		P	P	P	P			P			P		P		P	P			
	Commonwealth Secretariat													X								X		X
CMA/WCA	Conference of Ministers of Agriculture of West and Central Africa					P																		

Table III.8 (A) (continued)

## International intergovernmental organizations – Observer Status in the WTO

(See Explanatory Note)

		GC	TPRB	CTG	CTS	TRIPS	ADP	SCM	SG	AG	SPS	BOPS	CRTA	CTD	CTE	MA	LIC	RO	TBT	TRIMs	VAL	GATT CPS	GATT CNCL	GATT CTD
GCC	Cooperation Council for the Arab States of the Gulf	P	P	P		P				P				X	P							X	X	X
ECOWAS	Economic Community of Western African States													<sup>3</sup>										
ECO	Economic Cooperation Organization	P											P	<sup>3</sup>										
EBRD	European Bank for Reconstruction & Development	P	X	P	P							X	P									X	X	
EFTA	European Free Trade Association	P	X	P	P	P					<sup>3</sup>	X	X	X	X			X	<sup>8</sup>			X	X	X
GOIC	Gulf Organization for Industrial Consulting				P	P	P	P					P	P	P	P		P	P	P				
IADB	Inter-American Development Bank		P							P			P	X	X	X	X	X		P	X	X	X	X
IICA	Inter-American Institute for Cooperation on Agriculture									P	<sup>3</sup>													
IAIGC	Inter-Arab Investment Guarantee Cooperation													<sup>3</sup>						P				
ICAO	International Civil Aviation Organization					<sup>5</sup>																		
ICCAT	International Commission for the Conservation of Atlantic Tuna														X									
IEC	International Electrotechnical Commission																		X					
IGC	International Grains Council			P					X					X										X
OIE	International Office of Epizootics										X								X					
OILM	International Organization of Legal Metrology																		<sup>8</sup>					
ISO	International Organization for Standardization										X				X				X					
IPGRI	International Plant Genetic Resources Institute					P									X									
ITCB	International Textiles and Clothing Bureau	P		X												X		X						
ITTO	International Tropical Timber Organization														P									
UPOV	International Union for the Protection of New Varieties of Plants					X																		
IVI	International Vaccine Institute					P																		
OIV	International Vine and Wine Office	P				P					P								P					
IDB	Islamic Development Bank	P		P	P	P								<sup>3</sup>	<sup>9</sup>					P				
SELA	Latin American Economic System	P		P	P	P				P	<sup>3</sup>		P	X	X	P				P		X	X	X
ALADI	Latin American Integration Association												<sup>3</sup>	X					<sup>8</sup>			X	X	X
LAS	League of Arab States	P		P	P								P	P	P							X		
OIF	Organisation Internationale de la Francophonie														P									
OAS	Organization of American States	P		P	P	P							X	X								X	X	X
OECD	Organization for Economic Cooperation & Development	X	X	X	P <sup>10</sup>	X	<sup>11</sup>	<sup>11</sup>	<sup>11</sup>	X	<sup>3</sup>	X	P	X	X			X	X	X		X	X	X



Table III.8 (A) (continued)

## International intergovernmental organizations – Observer Status in the WTO

(See Explanatory Note)

		GC	TPRB	CTG	CTS	TRIPS	ADP	SCM	SG	AG	SPS	BOPS	CRTA	CTD	CTE	MA	LIC	RO	TBT	TRIMs	VAL	GATT CPS	GATT CNCL	GATT CTD	
OIC	Organization of the Islamic Conference	P	P	P	P	P							P	<sup>3</sup>	P								X		
OPEC	Organization of the Petroleum Exporting Countries													P	P										
OIRSA	Regional International Organization for Plant Protection and Animal Health											<sup>3</sup>													
SIECA	Secretariat of the Central American Economic Integration	P		P	P	P								X								X	X	X	
	South Centre	P		P	P	P				P				<sup>3</sup>											
SPF	South Pacific Forum	P								P				<sup>3</sup>	X										
SEAFDEC	Southeast Asian Fisheries Development Centre																								
SADC	Southern African Development Community			P	P								P	X											
UPU	Universal Postal Union				P																				
WAEMU	Western African Economic & Monetary Union	P											P	<sup>3</sup>		P									
WCO	World Customs Organization	P		X		X									X	X		X			X	X			
WTO	World Tourism Organization					<sup>5</sup>																			

<sup>1</sup> The ITU Secretariat shall [also] be invited as an observer to meetings of relevant WTO bodies other than the Council for Trade in Services and the Ministerial Conference (excluding the Committee on Budget, Finance and Administration, Dispute Settlement Body, Appellate Body and Dispute Settlement Panels) where that body considers that matters of common interest to both organizations will be under discussion.

<sup>2</sup> Requested and granted observer status for the TRIPS 18-22 June 2001 and 19-20 September 2001 meetings when discussing IP and access to medicines only.

<sup>3</sup> The Committee agreed to grant *ad hoc* observer status on a meeting-by-meeting basis.

<sup>4</sup> The Committee agreed to grant *ad hoc* observer status pending final agreement on the application of the guidelines for observer status for international intergovernmental organizations in the WTO.

<sup>5</sup> The Council agreed to grant *ad hoc* observer status.

<sup>6</sup> The Council agreed to grant *ad hoc* observer status on the understanding that the WTO would be given reciprocal opportunities to observe meetings of all functional bodies under the WHO, including those at the regional level, except when meetings are limited to Member governments only.

<sup>7</sup> The Committee agreed to grant *ad hoc* observer status pending the outcome of the horizontal process.

<sup>8</sup> The Committee agreed to grant *ad hoc* observer status pending further decisions.

<sup>9</sup> The Committee agreed to grant *ad hoc* observer status.

<sup>10</sup> The Council had agreed to grant observer status to the OECD for its Special Sessions on Telecommunications Services on 25 June 1999.

<sup>11</sup> The Committee agreed to grant *ad hoc* observer status with access to restricted documents subject to objection to such access by a Member in particular cases.

**Table III.8 (B): Explanatory Note**

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

Table III.8 (B)

**International intergovernmental organizations – Observer Status in Certain other Bodies***(See Explanatory Note)*

		Financial services	GATS rules	Domestic Regulation	Specific commitments	Working Group on Transparency in Government Procurement	Working Group on the Relationship between Trade and Investment	Working Group on the Interaction between Trade and Competition Policy	Working Group on Trade, Debt and Finance	Working Group on Trade and Transfer of Technology
<b>UN bodies and specialized agencies:</b>										
UN	United Nations	X	X	X	X	<sup>1</sup>			X	
FAO	Food and Agricultural Organization								X	
UNCITRAL	United Nations Commission on International Trade Law					X				
UNCTAD	United Nations Conference on Trade and Development	X	X	X	X	X	X	X	X	X
ECLAC	United Nations Economic Commission for Latin America & the Caribbean							P		
UNIDO	United Nations Industrial Development Organization						<sup>2</sup>			P
WIPO	World Intellectual Property Organization								X	
<b>Other Organizations:</b>										
ACP	African, Caribbean & Pacific Group of States	X		X						
AU	African Union						P			
	Energy Charter Conference						P			
GOIC	Gulf Organization for Industrial Consulting						P			
IAIS	International Association of Insurance Supervisors	P		P						
SELA	Latin American Economic System					P <sup>3</sup>	P	P <sup>4</sup>		
OAS	Organization of American States						P			
OECD	Organization for Economic Cooperation and Development	X	X	X	X	P <sup>3</sup>	<sup>2</sup>	X	X	
OIC	Organization of the Islamic Conference South Centre					P	P	P		
							P	P		
UPU	Universal Postal Union				P					

<sup>1</sup> The UNCITRAL, listed below, represents the UN.

<sup>2</sup> The Working Group agreed to grant *ad hoc* observer status.

<sup>3</sup> The Working Group had agreed to grant *ad hoc* observer status for its meetings of 3-4 November 1997 and 19-20 February 1998 only.

<sup>4</sup> The Working Group had agreed to grant *ad hoc* observer status for its meetings of 27-28 November 1997 and 11-13 March 1998 only.

**Table III.8 (C): Explanatory Note**

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

Table III.8 (C)

**International intergovernmental organizations – Observer Status in Committees under the Plurilateral Trade Agreements***(See Explanatory Note)*

		GPA	TCA	ITA
<b>UN bodies and specialized agencies:</b>				
<i>UNCTAD</i>	<i>United Nations Conference on Trade and Development</i>	X	X	
<b>Other Organizations:</b>				
ACP	African, Caribbean and Pacific Group of States		P	
ICAP	Central American Institute of Public Administration	P		
COMESA	Common Market for Eastern and Southern Africa	P		
EFTA	European Free Trade Association	P		
	Inter-American Development Bank	P		
OECD	Organization for Economic Cooperation and Development	X		X
WCO	World Customs Organization			X <sup>1</sup>

<sup>1</sup> The Committee agreed to invite the WCO as an observer whenever the issues of HS classification and HS amendments were on the agenda.

Table III.9

**International intergovernmental organizations having observer status in the Fourth Ministerial Conference**

Advisory Centre on WTO Law	Inter-Parliamentary Union (IPU)
African, Caribbean and Pacific Group of States (ACP)	Islamic Development Bank (IsDB)
Andean Community	Joint United Nations Programme on HIV/AIDS (UNAIDS)
Arab Authority for Agricultural Investment and Development (AAAD)	Latin American Economic System (SELA)
Arab Monetary Fund (AMF)	Latin American Integration Association (ALADI)
Asian Development Bank (ADB)	Latin American Organization for Fisheries Development (OLDEPESCA)
Association of South East Asian Nations (ASEAN)	Office International des Epizooties (OIE)
Caribbean Community Secretariat (CARICOM)	Organisation Internationale de la Francophonie (OIF)
Central African Economic and Monetary Community (CAEMC)	Organization for Economic Cooperation and Development (OECD)
Central American Bank for Economic Integration (BCIE)	Organization of African Unity (OAU)
Common Fund for Commodities (CFC)	Organization of American States (OAS)
Common Market for Eastern and Southern Africa (COMESA)	Organization of the Islamic Conference (OIC)
Commonwealth Secretariat	Organization of the Petroleum Exporting Countries (OPEC)
Conference of Ministers of Agriculture of West and Central Africa (CMA/WCA)	Permanent Secretariat of the General Treaty on Central American Economic Integration (SIECA)
Convention on Biological Diversity (CBD)	South Centre
Cooperation Council for the Arab States of the Gulf (GCC)	South Pacific Forum
Economic Community of West African States (ECOWAS)	Southern African Development Community (SADC)
Economic Cooperation Organization (ECO)	Union du Maghreb Arabe (UMA)
Energy Charter Conference	United Nations (UN)
European Bank for Reconstruction and Development (EBRD)	United Nations Conference on Trade and Development (UNCTAD)
European Free Trade Association (EFTA)	United Nations Development Programme (UNDP)
Food and Agriculture Organization (FAO)	United Nations Economic and Social Commission for Asia and the Pacific (ESCAP)
Gulf Organization for Industrial Consulting (GOIC)	United Nations Economic and Social Commission for Western Asia (ESCWA)
Indian Ocean Commission (IOC)	United Nations Economic Commission for Africa (ECA)
Indian Ocean Rim Association for Regional Co-operation (IOR-ARC)	United Nations Economic Commission for Europe (ECE)
Inter-American Development Bank (IDB)	United Nations Economic Commission for Latin America and the Caribbean (ECLAC)
Inter-American Institute for Cooperation on Agriculture (IICA)	United Nations Environment Programme (UNEP)
Intergovernmental Authority on Development (IGAD)	United Nations Industrial Development Organization (UNIDO)
International Civil Aviation Organization (ICAO)	United Nations Institute for Training and Research (UNITAR)
International Electrotechnical Commission (IEC)	United Nations University (UNU)
International Grains Council (IGC)	West African Economic and Monetary Union (WAEMU)
International Labour Organization (ILO)	World Bank
International Monetary Fund (IMF)	World Customs Organization (WCO)
International Organization for Standardization (ISO)	World Food Programme (WFP)
International Plant Genetic Resources Institute (IPGRI)	World Health Organization (WHO)
International Telecommunications Union (ITU)	World Intellectual Property Organization (WIPO)
International Textiles and Clothing Bureau (ITCB)	World Tourism Organization
International Trade Centre UNCTAD/WTO (ITC)	
International Union for the Protection of New Varieties of Plants (UPOV)	

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## Annex I – Recent publications

The World Trade Organization's publications are available in print or electronic versions, in English, French and Spanish. They cover legal texts and agreements, country and product studies, analytical economic data, special trade-related studies and histories of various trade negotiations and agreements. An increasing number of these publications are produced under co-publishing agreements with commercial publishers. Bernan Press can be contacted at 4611-F Assembly Drive, Lanham, MD 20706-4391, USA Toll Free: 1-800-274-4888. Kluwer Law International can be contacted at 675 Massachusetts Avenue, Cambridge, MA 02139, USA, tel.: (617) 354-0140, fax: (617) 354-8595, e-mail: sales@kluwerlaw.com and Cambridge University Press can be contacted at Customer Services Dept., the Edinburgh Building, Cambridge CB2 2RU, UK, tel.: 44 1223 326083, fax: 44 1223 325150, e-mail: directcustserve@cup.cam.ac.uk, <http://uk.cambridge.org>.

Listed below is a selection of some of our newest and most popular publications. For details on pricing, availability and on all other titles, contact WTO Publications or consult the complete listing on our website:

[https://secure.vtx.ch/shop/boutiques/wto\\_index\\_boutique.html](https://secure.vtx.ch/shop/boutiques/wto_index_boutique.html). Internet customers are now able to shop for WTO publications using our secure online bookshop. All major credit cards are accepted and customers are provided with confirmation and a summary of the order within seconds.

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### Free publications

Three basic information brochures about the WTO are now available in English, French and Spanish, providing short introductions to the WTO, its agreements and how it works: "The WTO in brief" – a starting point for essential information about the WTO; "10 benefits of the WTO trading system" – the WTO and the trading system offer a range of benefits, some well-known, others not so obvious; and "10 common misunderstandings about the WTO" – criticisms of the WTO are often based on fundamental misunderstandings of the way the WTO works. In 2002 the WTO brought out a booklet containing the full texts of the Declarations and Decisions adopted by WTO Members at the Doha Ministerial. Also included are relevant documents of the WTO General Council dealing with implementation of the Doha Development Agenda. All the above are available in English, French and Spanish.

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### The WTO website

The WTO website ([www.wto.org](http://www.wto.org)) in English, French and Spanish offers access to over 11,000 pages of information that is updated on a daily basis. In addition, users can use the website to access "Documents online" which contains over 100,000 WTO working documents in English, French and Spanish. New documents are added daily. The site also hosts the WTO broadcasting service which enables users to view and hear highlights of key WTO events, some of which are broadcast live on the Internet. Over the past year the number of users accessing the site continued to increase, reaching an average of 500,000 users monthly. The volume of information that is retrieved by users varies from 15 to 25 gigabytes per month (25 gigabytes is equivalent to about 15 million pages of text).

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### WTO video – To the heart of the WTO

This video explains the WTO through Member governments' eyes. It seeks to shed light on how the WTO system works, through the experience and motivations of two very different countries: Brazil, a large developing nation, and Norway, a small but economically advanced state.

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### WTO Agreements & Public Health

This joint study by the World Health Organization and the World Trade Organization Secretariat looks at the relationship between trade rules and public health. The 171-page study explains how WTO Agreements relate to different aspects of health policies. It is meant to give a better insight into key issues for those who develop, communicate or debate policy issues related to trade and health. The study covers areas such as drugs and intellectual property rights, food safety, tobacco and many other issues which have been subject to passionate debate. In this joint effort, the first of its kind, WHO and the WTO Secretariats endeavour to set out the facts.

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### Special Study No. 6 – Market Access: Unfinished Business. Post-Uruguay Round Inventory and Issues

This study has two closely related objectives: to evaluate post-Uruguay Round market access conditions and to contribute to a clarification of the stakes in the ongoing process of

multilateral trade negotiations in the market access area. Section II discusses obstacles to trade in industrial products, focusing on tariffs. Section III addresses distortionary measures affecting trade in agricultural products and Section IV discusses the degree of market access guaranteed by commitments under the GATS, the relative importance of the different trading modes and the main obstacles to trade for specific services.

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### **Special Study No. 5 – Trade, Income Disparity and Poverty**

This study, which is based on two expert reports commissioned by the WTO Secretariat, aims to clarify the interface between trade, global income disparity, and poverty. Professor Dan Ben-David of Tel Aviv University, takes an in-depth look at the linkages between trade, economic growth, and income disparity among nations. Professor L Alan Winters of University of Sussex, discusses the various channels by which trade may affect the income opportunities of poor people. The publication also includes a non-technical overview of the two expert reports.

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### **International Trade Statistics 2002**

International Trade Statistics 2002 contains up-to-date statistics on trade in merchandise and commercial services for an assessment of world trade flows by country, region and main product groups or service categories.

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### **Guide to Dispute Settlement**

As a handy guide to “bringing a case” before the WTO, or responding to a case already in progress, this easy-to-use book is the ideal starting point for lawyers, business people, or government officials confronted with a disputable trade issue. Ideal for people everywhere concerned with international trade.

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### **Guide to the WTO and Developing Countries**

Developing countries comprise two thirds of the WTO membership. In order to ensure equitable participation of these countries in the benefits of the global trading system, the GATT Uruguay Round Agreements that created the WTO accorded special and differential treatment to developing countries. The provisions are covered in the guide and include: market access, dispute settlement, trade policy reviews, foreign direct investment, environment and labour issues and technical assistance. The guide also includes case studies on how WTO members are making progress in working with the obligations and the benefits of the WTO Agreements.

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### **Trade, Development and the Environment**

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

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### **The Internationalization of Financial Services**

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

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### **Trade Policy Reviews series**

The Trade Policy Review Mechanism was launched in 1989 to improve transparency by enabling GATT members collectively to examine the full range of trade policies and practices of individual members. This process has continued under the WTO in much the same format.

The evaluation is conducted on the basis of two reports: one presented by the government of the country concerned, and the other prepared by the GATT/WTO Secretariat. The four largest traders – Canada, Japan, the United States and the EC (as a single entity) – are reviewed every two years. Other countries are reviewed every four or six years, depending on their relative importance in world trade.

Co-published with Bernan Press

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**CD-ROM: Trade Policy Review Series**

This cd-rom contains all Trade Policy Reviews carried out in 1999 and 2000 in English (including the European Union, Japan and United States) and all Trade Policy Reviews carried out in 1998 in French and Spanish.

Co-published with Bernan Press

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**Tariff Negotiations and Renegotiations under the GATT and the WTO – Procedures and Practices by Anwarul Hoda**

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

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**WTO Dispute Settlement Procedures – 2nd Edition**

This volume contains a collection of the legal texts related to the settlement of disputes under the Agreement Establishing the World Trade Organization (WTO). To facilitate their use, the texts have been grouped by subject matter, and cross-references and a subject index have been added by the WTO Secretariat. These additions do not form part of the legal texts and therefore should not be used as sources of interpretation.

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**The Legal Texts – The Results of the Uruguay Round of Multilateral Trade Negotiations**

First published in 1994 by the GATT Secretariat and reprinted by the WTO in 1995, this title has now been reprinted by Cambridge University Press.

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

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

Services: the General Agreement on Trade in Services (GATS)

Intellectual property: the Agreement on Trade-Related Intellectual Property Rights (TRIPS)

Disputes: the new dispute settlement mechanism

The legal framework for the World Trade Organization

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**Dispute Settlement Reports**

These are the only WTO authorized and paginated reports in English. The Dispute Settlement Reports of the World Trade Organization (WTO) include Panel and Appellate Body reports, as well as arbitration awards, in disputes concerning the rights and obligations of WTO Members under the provisions of the Marrakesh Agreement up to 2001. These reports can be received on a subscription basis from Cambridge University Press.



### Guatemala

This first Trade Policy Review of Guatemala has been thorough and comprehensive, and has, I am sure, taught us all a lot. This is due very much to the full and frank involvement of Minister Montenegro and his delegation, and to the active engagement of many Members. Through our dialogue, we have obtained a better understanding of the trade-related policies and practices in place, and of recent and planned changes. At the outset, allow me to highlight also the support of Members for Guatemala's ongoing modernization and liberalization efforts, and their acknowledgement of the progress made by Guatemala since the signing of the Peace Accords in 1996.

Members remarked on the important role that trade has played in promoting growth in Guatemala, the largest economy in Central America. They recognized the efforts undertaken to improve economic and social conditions in Guatemala, and encouraged the authorities to maintain, and indeed strengthen, the policies that have played a considerable role in this improvement. In this context, some Members suggested that Guatemala continue to rationalize its fiscal regime and reduce its reliance on import taxes. Members congratulated Guatemala on the past implementation of its privatization programme, but underlined the need to move forward with this programme, promote competition in the domestic market, and carry on other initiatives in order to consolidate recent economic gains and raise living standards.

Members commended Guatemala for its active participation in the multilateral trading system. They took note of Guatemala's stated conviction that liberalization of world trade is a central pillar of economic development. The Guatemalan delegation also affirmed clearly that it would not use protectionist measures despite the difficult domestic and international circumstances its economy confronts.

Members also noted Guatemala's growing participation in preferential arrangements, and sought further information on a number of them; they took note of Guatemala's point that it sought FTAs rather than unilateral preferences. Some Members raised concerns about Guatemala's administrative capacity to participate effectively and simultaneously in all such initiatives.

It was noted that Guatemala has gained from its participation in the multilateral trading system. However, some considered that Guatemala faced special constraints due to it being a small developing country, and pointed to the need to provide Guatemala with trade-related technical assistance. Some Members indicated their readiness to provide such assistance, and requested Guatemala to specify its needs in this respect.

Members appreciated that Guatemala's applied tariffs are relatively low. However, several suggested that by narrowing the current wide gap between applied and bound tariffs the predictability of the import regime might be enhanced. A number of Members were concerned about the consistency with multilateral principles of a recently introduced tax on certain alcoholic beverages. Many Members asked about customs procedures and trade facilitation in Guatemala, with some urging Guatemala to effect improvements in these areas. Guatemala indicated concrete steps are being taken in this respect.

On sectoral policies, Members expressed particular interest in the development of the agriculture and fisheries sectors, as well as in services activities. Several Members noted that Guatemala's applied and bound tariffs on agricultural products are particularly high. Members expressed their support for Guatemala's ongoing financial sector reform and asked for more information on current developments. Noting that Guatemala's GATS commitments are relatively limited, several Members invited Guatemala to expand and deepen its commitments during the current services negotiations.

Members also sought further clarification on a number of specific areas, including:

- trade statistics and efforts to improve them;
- import and export procedures, including insurance requirements;
- import regime for sugar;
- standards, technical regulations, and SPS measures;
- special investment and trade regimes;
- competition policy and related legislation;
- government procurement and eventual participation in the WTO Agreement on Government Procurement;
- participation in the Information Technology Agreement; and
- protection of intellectual property rights.

The Guatemalan delegation gave written and oral replies to questions posed during the Review. The replies provided have made a major contribution to this meeting, and were clearly appreciated by Members.

In conclusion, through this Review we have gained a first-hand appreciation of Guatemala's achievements since the signing of the Peace Accords, and the challenges that lie ahead. It is my sense that Members very much appreciated Guatemala's efforts to improve its economic and social conditions, and encouraged it to continue down this road in order to further its prospects for sustainable economic growth and social development. Economic growth has gone hand-in-hand with trade liberalization and other modernization efforts, and Members invited Guatemala to count on the help of the international community to both secure lasting institutional stability and enhance its participation in the global economy.

## Pakistan

This, the second Trade Policy Review of Pakistan, has been an open, frank and very useful discussion of Pakistan's trade and related policies. Our work has been greatly facilitated by the active involvement of Secretary Beg and his delegation and by that of many Members. We now have a far better understanding by Members, and thus their collective evaluation, of Pakistan's trade and trade-related policies as well as of planned changes therein. The Review has also provided Members with the opportunity to acknowledge the recent progress made by Pakistan and to express their strong support for Pakistan's ongoing liberalization efforts. The outcome, I believe, has been a highly successful consideration of Pakistan's trade policies, practices, and measures.

Members expressed appreciation for the continued, successful implementation of the Economic Revival Programme that was launched to address Pakistan's economic and other impediments to sustained, strong growth. In this context, they noted the major market-driven measures adopted by Pakistan to liberalize its trade and investment regime; they referred in particular to the sharp cuts in and simplification of the customs tariff, Pakistan's main trade policy instrument, and the fact that 100% foreign ownership is now allowed in most sectors of the economy. However, they also noted the narrowness of the tax base, the impact of loss-making state-owned enterprises on the economy as well as the reduction in state involvement and monopoly rights in certain areas; they encouraged a continuation of the privatization process. In addition, Members noted the size of Pakistan's external debt and voiced some concern over the persistently narrow production/export base on the grounds that Pakistan's long-term growth depended on export diversification; at the same time, however, it was pointed out that such diversification depends in turn on Members' willingness to open their markets further to Pakistan's exports.

Members noted Pakistan's strong commitment to the multilateral trading system and its limited involvement in preferential and regional trade initiatives. Members recalled Pakistan's active role in defending developing-country interests within the WTO. Despite difficulties and capacity constraints, Pakistan had, by and large, honoured its WTO commitments and had undertaken legislative and institutional reforms in this respect. Members praised efforts to improve transparency in trade and investment areas as well as the introduction of trade facilitation measures.

While expressing their appreciation of past and forthcoming tariff reductions and simplification, Members nevertheless voiced some worry over the persistence of high tariffs on a few sensitive items, the limited coverage of tariff bindings in manufacturing, the breached bindings, for which corrective steps are envisaged, and the widening gap between applied and bound rates, although acknowledging that this widening gap was the consequence of Pakistan's unilateral tariff cuts. Certain Members noted Pakistan's heavy dependence on customs duties for tax revenues. Members congratulated Pakistan for, *inter alia*, reducing the number of items on its negative list and for phasing out restrictions on balance-of-payments grounds ahead of schedule. Members recognized Pakistan's efforts to strengthen protection of intellectual property rights.

On sectoral policies, certain Members expressed particular interest in and appreciation of Pakistan's efforts to liberalize services and its undertakings under the GATS. Pakistan was commended for extending multilateral rules to the textiles and clothing sector.

Members also sought further clarification in a number of specific areas, including:

- WTO notifications and technical assistance;
- the application of MFN treatment;
- registration, customs valuation, and minimum (import) values;
- revised disciplines on the use of regulatory duties, and elimination of zero rate duties;
- government procurement (price preferences, bidding procedures, foreign suppliers);
- technical standards and SPS requirements;
- export subsidies and export-processing zones;
- TRIMS and plans for their elimination;

- adherence to intellectual property rights treaties and conventions;
- the Pakistan Intellectual Property Rights Organization;
- applied tariffs, subsidies, state involvement (rice, cotton), and export measures in agriculture;
- measures pertaining to textiles and clothing and the automobile sectors; and
- deregulation, privatization, GATS commitments and MFN exemptions in financial services and telecommunications.

The Pakistan delegation gave written and oral replies to questions posed by Members during the Review, and undertook to provide responses at a later date on some outstanding matters. The replies provided have made a major contribution to this meeting, and were clearly appreciated by Members.

In conclusion, through this Review we have gained appreciation of Pakistan's achievements since the previous Review, and the challenges that lie ahead. It is my sense that Members greatly appreciate Pakistan's efforts to improve the fundamentals of its economy; they encouraged it to continue down this road in order to further improve its prospects for sustainable economic growth and social development. Economic growth goes hand-in-hand with trade liberalization and other modernization efforts, and Members invited Pakistan to count on the help of the international community both to secure lasting institutional stability and to enhance its participation in the global economy.

Purely as an aside, and as much a comment on the review process as on this Review, I was struck by Secretary Beg's remarks that questions had given his delegation food for considerable thought and that sources of information had been found of which he was unaware. This goes to the heart of our work: not only do we learn a lot about the Member, but often the Member learns a lot about itself. Moreover, this is put into a multilateral setting, thus serving to strengthen our system. Increasingly our work highlights the value of the Trade Policy Review Body.

## Malawi

This first trade policy review of Malawi has provided the opportunity for an open and very useful discussion of its trade-related policies at a critical time for the economy. This discussion, and the fact that we all learned a lot about Malawi, was greatly helped by the active and frank involvement of Minister Kaleso and his delegation.

Members welcomed Malawi's commitment to the multilateral trading system and appreciated the substantial effort this requires from Malawi, a small landlocked least developed country with no representation in Geneva. They were encouraged by the Government's economic reforms, including trade and investment liberalization efforts to foster increased efficiency and private sector development. Members welcomed the resumption of Malawi's privatization programme. Greater private sector involvement in key infrastructural services combined with regulatory arrangements to safeguard competition was seen as highly desirable. Further efforts were needed to improve Malawi's institutional framework and business environment, and to restore macroeconomic stability, including fiscal balance.

Members encouraged Malawi to further mainstream trade policy reforms into its national development policy through the Poverty Reduction Strategy which involved principal stakeholders. Referring to the increased opportunities for providing technical assistance under the Doha initiatives, such as the Development Agenda Global Trust Fund, and within the Integrated Framework, Members supported the need to extend trade-related technical assistance to Malawi, including in areas of intellectual property protection and trade-remedy measures. Some Members commented on the need for greater policy coherence among the WTO and other multilateral institutions in providing this technical assistance and trade-related policy advice. Members pointed out Malawi's active participation in regional agreements, such as COMESA and SADC, and in various bilateral arrangements. Noting that cross-membership of these agreements was complicating Malawi's trade regime, Members urged it to adopt a more harmonized approach when negotiating such agreements in order to ensure consistency in related obligations.

Members appreciated Malawi's on-going efforts to refrain from using non-tariff measures and its reliance on relatively low average tariffs as the main trade instrument. They urged Malawi to continue with these efforts, but also to further simplify its tariff structure, reduce maximum rates, raise the coverage of its bindings on non-agricultural items and to lower bound levels closer to applied rates. Removal of widespread tariff concessions was also encouraged to reduce the scope for providing "tailor made" protection to inefficient industries. Members also sought clarification on Malawi's use of "guide prices" in the light of its adoption of the customs valuation method based on the transaction value, and on its plans to phase out pre-shipment inspection by early 2003.

Noting that export diversification was of considerable importance to the health of Malawi's economy, particularly in agriculture and textiles, Members expressed some concern

about Malawi's dependence on tobacco, which was subject to international price fluctuations and to the adverse effects of the anti-smoking campaigns in major developed markets. Members pointed out that Malawi's agricultural policies aimed at food security and rural development. They questioned the impact of communal land ownership on agricultural development and planned reforms in the sector, mainly in land tenure. Members encouraged Malawi to further liberalize key services, including telecommunications, transport and tourism, and to improve its GATS commitments. Such steps would improve Malawi's performance in other sectors, mainly agriculture and manufacturing, and attract investment.

Additional details were sought on a number of other issues, including:

- external debt and its constraint on economic development;
- operations of the one-stop shop Investment Promotion Agency;
- experience with preferential access to developed markets;
- plans to establish a Geneva mission to facilitate WTO participation;
- trade facilitation measures;
- incentive schemes and export processing zones;
- technical barriers to trade; and
- government procurement regime.

Members appreciated the replies provided by the Malawi delegation and looked forward to receiving additional material.

I believe that Malawi's Trade Policy Review has successfully contributed to a very much improved understanding by Members of its trade and other economic policies. I welcome assurances expressed by Members to provide greater technical assistance through bilateral and multilateral initiatives, and I urge that we follow through on this, particularly in the context of the Integrated Framework. Malawi needs such support to mainstream its trade-related policy into its development strategy, address its supply-side constraints and diversify its economy. Greater market access by major trading partners will also be necessary if Malawi is to meet its development potential and fully integrate into the multilateral trading system.

## Mexico

This third Trade Policy Review of Mexico has been very good, a superb introduction to my year in the Chair. The Review has been thorough and comprehensive, and offered plenty of food for thought about trade issues. Our dialogue has provided a better understanding of Mexico's trade-related policies and practices due very much to the full involvement of Vice-Minister Villalobos and his delegation, and to the engagement of many Members. This is indeed a felicitous indication of what this Body can accomplish and will do over the coming months.

Members commended Mexico for its economic performance in recent years. Mexico's trade and investment liberalization efforts have been key elements in its economic advancement and prospects, having resulted in substantial increases both in trade and investment flows. In consequence, Mexico's integration in the world economy has deepened, making it an increasingly important economic partner.

Members also praised Mexico for its active participation in the multilateral trading system, commended its strong support for the launching of the Doha Development Agenda, and welcomed its offer to host WTO's fifth Ministerial Conference.

At the same time, Members noted that much of Mexico's recent liberalization has taken place under preferential arrangements. Several Members maintaining preferential agreements with Mexico commented on the positive effects of such agreements on trade and investment with Mexico. But it was also noted that, in general, falling trade barriers under preferential agreements have not been matched by similar improvements for MFN partners. This was a source of concern to a number of Members, who encouraged Mexico to narrow the gap.

Falling applied preferential tariffs contrast sharply with the three-percentage-points increase in Mexico's average MFN tariff since its previous Review. Noting that the measure had been announced as temporary, and that preferential partners have not been affected, Members requested particulars on the phasing out of the increase. Other recent tariff increases were also questioned, notably those affecting steel products.

Members commended Mexico's various initiatives to streamline and increase transparency in many administrative areas, but they were also concerned about Mexico's customs procedures and practices. In particular, clarifications were requested on the price reference mechanism introduced to combat under-invoicing, on import licensing procedures as well as on non-preferential rules of origin. Although transparency in the use of technical and SPS regulations has improved, some concerns were raised with respect to measures on certain products.

Some Members noted Mexico's use of anti-dumping measures, which although falling in number were still many, and encouraged Mexico to seek greater transparency in this area by aligning its contingency legislation with multilateral rules. Several Members also encouraged

Mexico to accede to WTO's Government Procurement Agreement, and noted that domestic procurement rules discriminated in favour of national suppliers, and of several suppliers from preferential partners.

On sectoral policies, several questions were asked about assistance to the sugar industry, and plans for its further privatization. Members expressed interest in developments in the energy sector, air and maritime transport services and telecommunication services, notably with respect to foreign participation, competition and liberalization. Several Members thought it desirable to further open these activities to private investment, observing Mexico's positive experience with liberalization in other areas.

Members also sought further clarification on a number of specific areas, including:

- bound rates and the gap between these and applied tariffs;
- tariff quotas maintained for agricultural products;
- WTO-consistency of special import regimes (including maquila and PITEX);
- local-content requirements in the automotive industry; and
- protection of intellectual property rights.

The Mexican delegation gave written and oral replies to questions posed during the Review and undertook to respond in writing to some outstanding technical issues as soon as possible. The replies provided have made a major contribution to this meeting, and were clearly appreciated by Members.

In conclusion, I believe that through this Review we have gained a first-hand appreciation of Mexico's achievements since its previous Review in 1996, and of the challenges that lie ahead. Mexico is now seen by many Members as a prime example of the benefits of trade and investment liberalization, notwithstanding a number of cyclical and structural problems. However, Mexico's liberalization paradigm raises important questions for all WTO Members concerning the relationship between preferential and MFN efforts, questions that no doubt we will have to come to grips with as part of the Doha Development Agenda.

For Mexico itself, an additional challenge is to juggle the growing number of preferential agreements in force and under negotiation, together with the many components of the evolving multilateral agenda. Moreover, it is possible that dealing with issues such as ownership and competition in some critical areas, such as transportation, electricity, hydrocarbons, and sugar, would contribute to an improved growth profile. Mexico's first-rate participation in this Review bodes well for its capacity to meet those challenges, to the benefit of its people and its trading partners.

## Slovenia

This first Trade Policy Review of Slovenia has been excellent. Our discussion has been thorough and comprehensive, and has raised important trade issues. Our dialogue has provided a good understanding of Slovenia's trade-related policies and practices, not least due to the open and full involvement of State Secretary Renata Vitez and her delegation, and to the active engagement of many delegations.

Members commended Slovenia for its good economic performance. Slovenia's trade and investment liberalization efforts have been key elements in its reform programme, aimed at restoring macroeconomic stability and establishing a modern, stable, and fully functioning market economy. In consequence, Slovenia is now well integrated in the world economy through closer trade and investment links.

Members also praised Slovenia for its strong commitment to the multilateral trading system, and commended its strong support for the launching of the Doha Development Agenda. At the same time, Members noted that much of the orientation of Slovenia's economic and trade policies is driven by its goal of accession to the European Union (EU). Several Members maintaining preferential trade agreements with Slovenia commented on the positive effects of such agreements on trade and investment for Slovenia. Other Members also noted that, in general, falling trade barriers under preferential agreements have not been matched by similar improvements for MFN partners. This was a source of concern to a number of Members, who encouraged Slovenia to narrow the gap.

Several Members noted that an important gap exists between Slovenia's bound and applied tariff rates, which could undermine the predictability of the tariff regime, although Slovenia has never exploited this gap. Some Members requested Slovenia to reduce the gap between applied and bound rates in the context of the current WTO market-access negotiations. There was also some concern about tariff escalation.

Members commended Slovenia's various initiatives to streamline and increase transparency in many administrative areas, including customs administration. Clarifications were requested on the simplified customs procedures. Some concerns were also expressed about Slovenia's non-automatic licensing requirements related to public security, safety, health, and the environment; and to the administration of tariff quotas in agriculture.

Some Members noted that Slovenia has enacted legislation on trade remedy measures, while having made very little use of it. Several Members encouraged Slovenia to quickly complete its accession to the WTO's Government Procurement Agreement.

On sectoral policies, Members noted the increase in the level of government assistance to agriculture, and Slovenia's plans to harmonize support systems with the EU's Common Agricultural Policy. Concerns were expressed about agriculture being shielded from international competition by border measures (high tariffs and restrictive tariff quotas).

Members indicated interest in developments in telecommunications, transport, and tourism, notably with respect to foreign participation, the role of the domestic regulators, and commitments under GATS. On financial services, questions were asked about the 1992 crisis, the privatization plans, and the degree of competition, particularly in the insurance sector. Several Members thought it desirable to further open services activities to private investment, observing Slovenia's positive experience with liberalization in other areas.

Members also sought further clarification on a number of specific areas, including:

- structural weaknesses such as labour market rigidities, administrative obstacles, use of public resources, and plans to overcome them;
- foreign direct investment (FDI) regime, incentives, and policies for becoming a springboard for doing business in south-east Europe;
- privatization process, methods, and future plans, particularly for divesting some key financial and telecommunication enterprises;
- safeguards legislation and its application to FTAs;
- scientific approach to SPS matters;
- export subsidies, and subsidy programmes that support manufacturing sectors; and
- protection of intellectual property rights.

The Slovenian delegation gave written and oral replies to questions posed during the Review. The replies provided have made a major contribution to this meeting, and were clearly appreciated by all Members.

In conclusion, I believe that through this Review we have gained a first-hand appreciation of Slovenia's achievements since its independence in 1991, and of the challenges that lie ahead. Slovenia is now seen by many Members as a prime example of the benefits of trade and investment liberalization, notwithstanding a number of cyclical and structural problems. However, Slovenia's liberalization paradigm raises important questions for all WTO Members concerning the relationship between regional and multilateral efforts, questions that no doubt we will have to come to grips with as part of the Doha Development Agenda.

For Slovenia itself, an additional challenge is to manage its process of accession to the EU, its large number of preferential agreements, together with the many components of the evolving multilateral agenda. Moreover, it is possible that dealing with issues such as ownership and competition in some critical areas, such as agriculture, telecommunications, financial services, transport, and tourism, would contribute to an improved growth profile. Slovenia's exemplary participation in this Review bodes well for its capacity to meet those challenges, to the benefit of its people and its trading partners.

## India

This meeting has led to a much better understanding of India's trade policies. The outcome has been a very successful third Review of India's trade policies, practices and measures, due mainly to the active involvement of the Indian delegation.

Members commended India for its strong economic performance over the past decade, with growth at an average 6% a year and a reduction in poverty. They noted that this resulted, in great part, from continued economic reforms, including trade liberalization, lower government involvement in the economy and liberalization of key services sectors. Trade reforms had concentrated on tariff reform and the removal of quantitative restrictions on imports.

Members noted that India was targeting even higher economic growth, particularly to reduce poverty further. This was to be achieved by stepping up reforms, including trade measures, especially to reduce the anti-export bias in the import regime. Several Members also remarked on the importance of investment, particularly for infrastructure, which needed urgent attention. The FDI regime had been significantly liberalized, but FDI inflows had not increased in parallel. Moreover, the high fiscal deficit constrained public investment in infrastructure. The deficit also had implications for further reform of the tariff, which remained a major source of tax revenue; tariff reform needed to be accompanied by significant reform of the internal tax system, which India was striving to do.

India was commended for its initiative to simplify the tariff, but Members voiced concern over the persistence of high rates, escalation, complexity (including exemptions), and the gap



between applied and bound rates. Details were requested on plans to reduce the tariff to two rates (10% and 20%). The imposition of additional and special additional duties to countervail indirect taxes remained a concern among Members.

Members were worried about India's increased use of contingency measures, notably anti-dumping. Some Members also worried that the removal of QRs had been followed by an increase in other measures such as strict labelling, certification, and SPS requirements. India was commended for its efforts to enforce protection of intellectual property rights, both through the adoption of new legislation and through education campaigns. Members stressed, however, that further efforts were required in this regard, especially in view of India's need to attract more FDI.

Members noted the importance of the agriculture sector in India and stressed the need to further liberalize it in order to develop its full potential. Concerns were expressed over subsidies for agricultural products and inputs, which have contributed to large grain stocks and to export restrictions on agricultural goods. Some Members also urged liberalization of the Indian textile sector, noting that protection through high tariffs and small-sector reservations had hindered its competitiveness.

India has made significant progress in reforming services sectors, notably telecommunications, banking, and insurance. Some Members raised queries in relation to banking reform, including national treatment. Questions were also raised about market access in other services such as telecommunications, audiovisual and software services. Members pointed to the success of India's software sector as being indicative of its ability to compete globally.

Members also sought clarification on several specific issues including:

- procedures to review and reduce over-regulation in the economy;
- customs procedures and valuation;
- import restrictions and licensing;
- the role of state trading companies;
- export-processing zones;
- performance requirements in the automobile sector;
- government ownership of, and involvement in, financial services;
- policy in transportation services, and land ownership, reforms in the electricity sector and public postal services.

Members expressed their appreciation for the oral and written responses and explanations provided by the Indian delegation; they looked forward to receiving answers on still outstanding questions.

This brings us to the conclusion of our Review of India. The large number of advance questions, numerous interventions (some 30) and the high level of attendance indicate the important role that India plays at the WTO. India was commended for its reform process, including trade liberalization, and simplification of the trade and investment regime. However, I think we all agree that India needs to do more if growth targets are to be met and a serious dent is to be made in the still high rate of poverty. In this regard, Members gave India their full support for its efforts to reform the economy. Many Members added that these efforts would be greatly enhanced by steps on the part of India's trading partners to reduce, if not remove, their impediments to India's exports, especially in the context of new negotiations in line with the Doha Development Agenda (DDA). India has clearly stated its support for the WTO and the DDA but considers that if further progress is to be made, the onus remains on the developed countries to keep the promises made in Doha. This view was endorsed by many other Members, who look to India for leadership in these negotiations.

## Barbados

In this, our first Review of Barbados, we have gained what I believe to be a very constructive insight into Barbados's trade policies and practices. Our very much improved understanding of Barbados is due in no small measure to the whole hearted cooperation and frankness of the Barbados delegation, led superbly by the Deputy Prime Minister, and by the active involvement of Members. Barbados has brought to our attention the special characteristics of countries with small economies and populations, and hence limited diversification capacity, and high infrastructure and social costs. These factors can result in considerable vulnerability to external shocks, as witnessed by the depth of past recessions experienced by Barbados. Members noted that, despite such challenges, Barbados has achieved high standards of living. They attributed this in good part to the country's remarkable social and institutional stability and its intensive participation in international trade despite its peculiar economic circumstances.

Despite the small size of the Barbadian bureaucracy and the consequent strain on trade policy and negotiating resources, Members appreciated Barbados's active and productive engagement in the WTO, as well as in regional trade liberalization initiatives. Some were

clear that Barbados was an example that the WTO can be a true instrument of development if the Member involved knows how to approach and use it. Members expressed support for additional technical assistance, especially for capacity building, in implementing WTO commitments. It is my view that Barbados has been successful in balancing difficult and often competing interests and objectives.

The Government of Barbados has made clear that its future economic prosperity rests upon a successful integration into the world economy, but that this success was conditional on specific measures designed to avoid marginalization of small countries. Several Members were understanding of the request by Barbados for special consideration, anchored in the principle of special and differential treatment granted in the WTO to developing countries.

We have all recognized the concrete steps made by Barbados to reform its economy and further liberalize its trade regime during the 1990s, particularly through tariff reductions in the framework of CARICOM. Concerns were expressed, however, with respect to the recent increase in tariffs on certain food and other manufactured products, and the resurgence of non-automatic import licensing on sensitive agri-food imports. Members also noted that, although reduced, tariffs remained relatively high at over 16%, with several peaks at or above 60%. Such high tariffs and taxes may not complement efforts to stimulate growth in services, the most important sector of the economy. The adoption of a value-added tax was welcomed as an alternative revenue source to tariffs. Barbados was urged to lower tariff bindings to rates closer to the currently applied rates, and thus improve the predictability of its import regime.

The announced liberalization of the telecommunications services market was welcomed, and Members noted the generally liberal market access and national treatment conditions in most of Barbados's services industries. Several Members encouraged Barbados to make further commitments under the GATS, as this would better reflect their current, relatively liberal practices.

Specific questions were also asked on:

- WTO-consistency of anti-dumping legislation;
- use of quantitative restrictions on sensitive agricultural products;
- prospects for customs modernization and trade facilitation;
- assistance and promotion activities and their budgetary cost;
- government procurement procedures;
- new legislation on the protection of IPRs; and
- market access conditions and incentives in specific service sectors.

We appreciate the oral and written responses and explanations provided by the Barbados delegation, and look forward to receiving answers on outstanding questions.

In conclusion, it is my sense that this Review has amply fulfilled its main objective of understanding Barbados's trade regime in the framework of its development needs and objectives as well as of the external environment. Barbados has once again reaffirmed its full commitment to the multilateral trading system, and the presence of Her Excellency the Deputy Prime Minister is a strong testimony to this. But we have also been made aware of the problems and difficulties hindering the fuller participation of Barbados in the system. In this respect, I am convinced that small and open economies like Barbados can only benefit from predictable, transparent and fair multilateral trade rules, and I congratulate Barbados for their performance and for a successful Trade Policy Review.

## European Union

The Chairperson observed that the sixth Review of the European Union had been the occasion for a very open and fruitful dialogue between the EU and its trading partners. Members were very conscious of the importance of the EU to their domestic economies, as a market for their exports, as a source of imports and as a provider of foreign direct investment. There were consequently many interventions and hundreds of questions were asked. In this regard, Deputy Director-General Abbott and his team were to be commended for the willingness to engage in the true spirit of the review process and for the heroic efforts they had made to provide in such short order the written answers to most of the questions posed.

Members acknowledged the leadership role of the EU in the WTO, notably in securing agreement on the DDA, thus demonstrating the support of the EU for an open, rules-based multilateral trading system. The continued commitment of the EU was critical to the success of the DDA. Members also welcomed the EU's strong commitment to enhancing the participation of developing countries in the WTO, given concrete form in the "Everything-but-Arms" initiative for LDCs, the preferences offered to ACP countries, and donations for trade-related technical assistance.

The EU was praised for its efforts to improve the growth profile of the European economy. Members noted the benefits to their traders of the adoption of the euro. The EU

was complimented on the progress made to complete the Internal Market, notably with respect to financial and telecom services, and encouraged to further open postal services and energy markets to competition.

Concerns were raised by many Members on the impact on their exports to the EU of new product and product-related regulations for health, consumer protection, safety or environmental purposes. Members emphasized their strong attachment to the basic principles underlying the WTO Agreements, in particular that SPS measures should be based on science, and that unnecessary obstacles to trade should not be created. In this regard, the EU's use of the precautionary principle was queried, as was the wider scope of labelling requirements for meat and biotech products. Many developing countries feared a disproportionate impact on their own small and medium-sized producers of producer responsibility for management of waste. More generally, given the substantial impact of many Community acts on the interests of third countries, Members emphasized the importance they attach to transparency and participation in consultations on proposed regulations. Mr. Abbott indicated that the problem was well recognized by the Commission and that serious consideration was being given to improving the situation.

The EU's extensive network of preferential trade agreements and arrangements was also discussed. The Commission emphasized the complementary nature of multilateral and bilateral liberalization, noting the "WTO plus" nature of recent agreements, and the strengthening of rules on RTAs under the DDA. A related issue was the potential for trade diversion from the enlargement of the EU and the adoption of Community policies by candidates.

The Common Agricultural Policy (CAP), and prospects for its reform under the DDA, received a great deal of attention. Many Members underlined the adverse impact of the CAP on their exports of agricultural products. It was also argued that the CAP had hampered the development of the agriculture sector in developing countries, which could otherwise be an important source for economic growth and poverty reduction. Members welcomed the thrust of the Commission's recently announced Mid-Term Review of the CAP, although it was considered that far-reaching reforms would better meet their concerns, notably in the sugar and dairy sectors, and fulfil the ambitions of the DDA.

The continued protection of the EU's textiles and clothing sector was another issue that received considerable attention from Members, who noted the EU had back-loaded the liberalization of 80% of quotas to the end of the integration process. Members were also concerned about the impact on their steel exports to the EU of the safeguard action on steel and urged the EU not to take definitive action. Concern was also expressed on the use of anti-dumping by the EU and the rising use of countervail.

With respect to services, the EU was queried on the barriers to entry of natural persons, as well as on the preferential terms granted under bilateral agreements. The EU was encouraged to ensure that financial service providers from third countries would also benefit fully from the more open conditions of competition on the EU market resulting from the Financial Services Action Plan.

With respect to intellectual property protection, a number of Members queried the Commission on the protection of geographical indications in the EU, in particular those from third countries. Questions were asked on the implications of the new directive on copyright and neighbouring rights, and the proposals on a Community Patent, computer-implemented inventions, and possible new legislation on enforcement of intellectual property rights.

Members also sought further clarification on a number of specific areas, including:

- the reform of the fisheries regime to meet sustainable development objectives;
- the methods used to conduct Sustainability Impact Assessments (SIAs);
- special incentives for adoption of environmental or social standards by third countries;
- reduction of tariff peaks and tariff escalation;
- subsidies to aircraft manufacture and to shipbuilding, and the elimination of harmful tax competition;
- the new legislative framework for government procurement and the operation of the Government Procurement Agreement in the EU;
- the draft block exemption for motor vehicle distribution and servicing agreements; and
- VAT treatment of transactions effected by e-commerce.

In conclusion, the Chairperson considered that there had been a very effective dialogue between the Commission and the EU's trading partners on their concerns regarding the course of its trade and trade-related policy-making. There was no doubt that the EU was entering an historically significant phase of its development, with improved governance and reshaped institutions on its current agenda, and enlargement just ahead. The situation of the European economy, although improved, remained challenging. And, while the EU's attempts to achieve a better balance between economic efficiency and environmental and social considerations were laudable, the Review meeting had underlined the extent to which interdependence through trade led countries outside the EU to have vital interests in the outcome.

## Mauritania

The first Trade Policy Review of Mauritania has been very successful, having greatly enhanced our understanding of Mauritania's policies and practices, as well as of the country's development challenges. Our dialogue has been fruitful, in great part due to the open and active participation of the Mauritanian delegation, headed by Minister Ould Abdel Kader, whose presence attests to the importance attached by Mauritania to the multilateral trading system.

Members commended Mauritania on the ambitious structural reforms undertaken since the early 1990s, which have transformed the country significantly, both in economic and political terms. The reforms are aimed at reducing poverty and raising the population's standards of living, which clearly represent pressing and vital objectives for a least-developed country. Mauritania considers international trade to be an essential tool in achieving those aims, and has made trade liberalization, much of it autonomous, a key element of its reform programme. This has entailed the revision of numerous trade-related laws and regulations in order to modernize them and bring them into line with multilateral rules. Mauritania was encouraged to pursue its liberalization efforts and to enhance still further the transparency and predictability of its trade regime.

The institutional constraints faced by Mauritania were noted, as well as the problems they raised for fuller participation in the multilateral system, including timely submission of notifications to the WTO. Mauritania is among the first three pilot countries selected for the implementation of the Integrated Framework for Trade-Related Technical Assistance to least-developed countries. Mauritania had indicated in that connection that one of its priorities is to attain a better understanding of the WTO Agreements, including notifications and other multilateral commitments and issues. Another priority is capacity-building for negotiations in the light of the Doha Development Agenda. Members concurred with Mauritania that the time had come to translate the studies undertaken in the context of the IF into practical action.

Regarding trade measures, several Members drew attention to various issues concerning Mauritania's tariff regime, including the relatively high tariffs applied to certain products, mainly textiles and clothing, footwear, headgear and some motor vehicles. They also pointed out the important gap between applied and bound rates, which undermines predictability, and suggested that the gap be reduced in the context of the current market access negotiations. Members encouraged Mauritania to extend its tariff bindings to the non-agricultural sector and to transpose all bindings into the HS nomenclature.

Members appreciated the amendments to the customs valuation legislation, the harmonization of VAT rates, the abolition of fiscal exemptions for State enterprises, the new Investment Code, and the reduction in MFN duties and taxes. They also noted with satisfaction the limited number of non-tariff barriers. Concerns were expressed, however, at the application of labelling requirements and delegations stressed that such requirements should not discriminate between domestic and foreign producers. It was noted that Mauritania receives non-reciprocal preferential access to the markets of its key trading partners.

Regarding sectoral policies, Members noted that agriculture and services made the largest contribution to the GDP, but that the manufacturing sector was still in its early stages. Mauritania was commended on the measures taken to liberalize the agricultural sector. As the fisheries and mining sectors accounted for almost all merchandise exports, Members urged Mauritania to pursue its efforts to address its supply-side constraints and to diversify its production and export base.

Members praised Mauritania on its efforts to privatize and remove market access barriers in services sectors, such as telecommunications, banking and air transport. Several Members mentioned the positive results of the liberalization measures taken to date and urged Mauritania to open up services more widely to foreign investment. Members strongly encouraged Mauritania to put forward a comprehensive services offer during the ongoing GATS negotiations.

Members sought further clarification on a number of points, including the following:

- Mauritania's poverty reduction programme;
- privatization and State trading;
- the foreign direct investment regime;
- preferential trade arrangements;
- contingency measures; and
- the protection of intellectual property rights.

The Mauritanian delegation had provided written and oral replies to questions raised during the review. The replies had made a major contribution to the meeting and were clearly appreciated by all Members.

This brings us to the conclusion of our Review of Mauritania. As we had hoped, through this Review, we have gained a first-hand appreciation of Mauritania's achievements and of

the significant obstacles it still has to overcome as a least-developed country. Mauritania has reaffirmed the importance it attaches to liberalizing trade as a tool for development and to more active participation in the WTO. Members had clearly understood that Mauritania's efforts had to be given external support and had assured Mauritania that they would assist it in the context of their bilateral and multilateral technical cooperation. I sincerely believe that their words will be translated into concrete action. I congratulate you all on the positive results of this Review and thank you for your participation.

## Australia

This meeting has contributed to a much better understanding of recent developments in Australia's trade and trade-related policies, whose transparency is truly exemplary. With such transparency, and the active interaction between the Australian delegation, the discussant, and Members, the outcome has been a very successful fourth Review of Australia's trade policies, practices, and measures.

Members commended Australia for its impressive economic performance and sound macroeconomic policies that helped to weather the Asian financial crisis. They noted its impressive GDP growth, low inflation rate and falling unemployment level. Members took note of the significant changes brought by the New Tax System, including the General Services Tax, the Luxury Car Tax and the New Business Tax. There was general agreement that trade liberalization, including significant unilateral measures, together with ongoing structural reforms and prudent macroeconomic policies had undoubtedly contributed to Australia's strong economic performance over the past decade.

Members congratulated Australia for its global orientation and its active role at the WTO, including its support for launching the Doha Round. Members noted Australia's strong commitment to the multilateral trading system and wondered about its position with respect to regional and bilateral trade agreements as well as the implementation of its 2001 undertaking on duty- and quota-free access for least developed countries.

Members noted Australia's low level of applied tariff protection and its plans to reduce unilaterally remaining tariff peaks in sensitive sectors such as passenger motor vehicles, and textiles, clothing and footwear by 2005. Australia was encouraged to reduce tariff escalation as well as to bridge the gap between applied and bound rates. Despite a recent drop in recourse to contingency measures, Australia remains a major user of anti-dumping actions. Government procurement is still a major tool of industrial policy and Australia is the only major industrialized country that is not a signatory to the WTO Agreement on Government Procurement. Certain Members sought clarification on the liberalization of parallel imports and encouraged the strengthening of intellectual property rights protection.

Despite low applied tariffs rates, assistance in form tax incentives, grants and concessional loans to domestic production of goods and services remained widespread. Members enquired about plans for reducing support, particularly to the automotive sector. Members noted changes in Australia's SPS requirements and voiced concern over their trade restrictiveness and the lengthiness of related procedures. They noted that single desk arrangements were in use for promoting exports of certain agricultural items, which were seemingly competitive in international markets. They also noted that several industry-specific schemes remained in place. Market access conditions in the financial and telecommunications sectors as well as local content requirements and other forms of intervention in broadcasting, advertising and motion pictures were also discussed.

Members also sought clarification on several specific issues including:

- the impact of the economic slowdown on commodity prices and the current account balance;
- screening procedures for foreign direct investment;
- duty and tax concessions;
- customs valuation and clearance;
- import licensing requirements;
- competition policy;
- maritime transport restrictions;
- tuition fees for educational services based on nationality;
- professional services; and
- electronic commerce.

Members expressed their appreciation of the oral and written responses and explanations provided by the Australian delegation; they looked forward to receiving written answers on outstanding questions.

This brings us to the conclusion of our Review of Australia. The large number of advance questions, numerous interventions, and high level of attendance indicate the important role that Australia plays at the WTO. In this context, I would encourage Australia to continue in its strong support for the multilateral trading system. I also hope that Australia will take to

heart the concerns expressed by many Members, including on SPS and tariff peaks, while noting the appreciation of Members for the largely open and transparent trade regime that Australia maintains.

## Dominican Republic

This second Trade Policy Review of the Dominican Republic has been both thorough and very informative. We owe this in some considerable measure to the presence of a large Dominican delegation, led by Minister Dr. Hugo Tolentino Dipp and Vice-Minister Santiago Tejada, and, as well, to the active involvement of many Members. Through our dialogue with the Dominican delegation, we have obtained a better understanding of the trade-related policies and practices in place, of changes affecting them over the last six years, and of their possible evolution. At the outset allow me to highlight also the support of Members for the Dominican Republic's modernization and liberalization efforts, and their acknowledgement of the considerable progress made in this respect since the Dominican Republic's last Review in 1996.

Members complimented the Dominican Republic, the largest economy in the Central American-Caribbean region, on the remarkable economic growth it has achieved in recent years. This, and its deeper integration in the world economy, has made the Dominican Republic an increasingly important economic partner. However, growth has slowed considerably since 2001, the export base continues to be narrow, both in terms of markets and products, and poverty alleviation remains a challenge. It was thus important to learn of ongoing efforts to address these issues.

The various autonomous, regional and multilateral initiatives the Dominican Republic has taken to liberalize its trade and investment regimes have been key elements in its good economic performance. Members welcomed the Dominican Republic's active participation in the multilateral trading system, and obtained further information on the status and scope of ongoing initiatives to conclude new bilateral trade agreements. They expressed their hope that the Dominican Republic would continue to strive for these initiatives to complement multilateral liberalization efforts. Also noted was the great importance for Dominican exports of unilateral preferences offered by certain trading partners.

Members agreed that the free-trade zone, or FTZ, regime has played an important role in promoting exports, but also pointed to the structural distortions the regime had created, and which may undermine future growth prospects. Moreover, the subsidies implicit in the FTZ regime have called into question its compatibility with multilateral principles, and a transition period is in place for its eventual removal. Given this and the regime's major economic importance, Members posed numerous questions on this subject, including on the strategies being considered to permit the economy to move to a more neutral system. The Dominican Republic undertook to use the transition period to bring the FTZ regime in line with the relevant WTO rules.

Members took note of the steps taken by the Dominican Republic to both lower and simplify the structure of applied tariffs. However, they also observed that applied and bound tariffs on agricultural products were particularly high, and asked questions about the use of tariff quotas. Several Members considered it necessary to enhance predictability by closing the current wide gap between applied and bound tariffs.

Numerous questions were posed on customs procedures and valuation, licensing and trade facilitation, with Members welcoming the progress made in these areas, but urging the Dominican Republic to effect further improvements. A number of Members were concerned about the consistency with multilateral principles of a specific tax on alcoholic beverages. Several Members requested information on the development of standards and technical regulations. It was also observed that the Dominican Republic has yet to fulfil various notification obligations under certain WTO Agreements, notably the TBT Agreement, and it was invited to seek assistance from the WTO Secretariat if necessary to address this issue and, thus, enhance transparency. I was happy to hear that the Dominican Republic was ready to do so.

A number of Members welcomed the consideration the Dominican Republic is giving to acceding to the plurilateral Agreement on Government Procurement, and wished to learn how the Dominican Republic would reconcile its participation with the requirement in its domestic legislation that preference be given to Dominican suppliers. Several Members also requested information on public bidding procedures, including registration requirements.

On sectoral policies, developments in the services sector attracted particular attention. Members took note of the liberalization measure taken over the last six years but noted that Dominican commitments under the GATS were relatively limited and fell short of the actual openness in the sector. Thus, to enhance predictability, several of them invited the Dominican Republic to expand and deepen its multilateral commitments during the current services



negotiations. They also requested information on the status of ratification by the Dominican Republic of the Fifth Protocol to the GATS, which the delegation noted was currently being considered by the National Congress. Some Members also expressed concern about the costs of financial services and inefficiencies in the electricity sector.

Members also sought further clarification on a number of specific areas, including:

- the foreign investment regime and exceptions to national treatment;
- SPS measures;
- competition policy and related legislation;
- the draft Monetary and Financial Law; and
- the protection of intellectual property rights.

The Dominican delegation gave written and oral replies to questions posed during the Review. The replies provided have made a major contribution to this meeting, and were clearly appreciated by Members.

This brings us to the conclusion of our Review of the Dominican Republic. Through it, we have gained a first-hand appreciation of the Dominican Republic's achievements since its last Review in 1996, and of the challenges that lie ahead. The Dominican Republic has indeed achieved much in recent years, in good part building on the opportunities created by an increasingly liberal trade and investment regime. But as the Dominican economy matures, new avenues may have to be found to sustain economic growth and social development. I believe that, for a developing country highly integrated in the world economy, this will require efforts in both the domestic and international arenas. In this respect, we all welcomed the Dominican Republic's stated conviction that liberalization is a central pillar of economic growth and development. This conviction bodes well for the Dominican Republic's continued and constructive involvement in efforts to strengthen the multilateral trading system, from which I am convinced it has much to gain.

## Zambia

This meeting to review Zambia's trade-related policies has been a lively one, reflecting the high degree of interest among the Members. A warm welcome was given to the Zambian delegation which contained several officials from Lusaka. Members commended Zambia on its continuing commitment to economic liberalization. They observed how difficult this had been, given the health problems, the recurrence of drought, the declining terms of trade, and high production costs. Members pointed out the seriousness of the difficulties in the copper industry, the backbone of the economy of Zambia, a landlocked country. Noting that the reforms had not yet borne much fruit, Members saw hope in Zambia's qualification for debt relief under the Enhanced HIPC initiative and the continued implementation of its Poverty Reduction Strategy. Good governance, improved competitiveness, economic diversification, and continued structural reforms might help.

Members stressed that Zambia, like many other developing countries, was struggling with how best to integrate into the global economy. They recognized the importance of the Doha Development Agenda to Zambia, particularly in agriculture. Attention was given to Zambia's continuing need for trade-related technical assistance, with special mention of areas such as standards, sanitary and phytosanitary measures, and supply-side constraints. Although Members recognized the importance of regional integration in expanding trade, they expressed concern about Zambia's membership in several overlapping trade agreements, including the Common Market for Eastern and Southern Africa (COMESA), and the Southern African Development Community (SADC). They encouraged Zambia to take greater advantage of non-reciprocal preferential access granted by some Members.

Zambia was commended for having made a serious effort to remove WTO-inconsistent measures identified during its first Trade Policy Review. Members encouraged Zambia to improve its binding commitments by increasing their coverage on non-agricultural products, and reducing the gap between bound and applied rates. Further rationalization of import taxation would reduce the widespread use of duty and tax concessions. Members sought further information about Zambia's public procurement regime, including its National Tender Board, and encouraged it to speed up its decision for membership in the Plurilateral Agreement on Government Procurement.

Noting that protection of intellectual property rights could help to attract foreign direct investment, Members encouraged Zambia to fully implement its intellectual property obligations within the timeframe prescribed by the TRIPS Agreement. Zambia's struggle with health problems was pointed out as an example of the problems faced by WTO Members with insufficient or no manufacturing capacities in the pharmaceutical industry. Therefore, some Members urged a quick decision on the compulsory licensing access to medicines.

Members noted that Zambia's renewed emphasis on developing its agriculture would contribute to poverty reduction and economic diversification. They sought clarification about

Zambia's intentions to create a Crop Marketing Authority. Connected to agriculture were efforts to create manufacturing opportunities to add value to commodities locally. Members noted that residency restrictions were constraining investment, especially in the services sector and raised questions about Zambia's plans for telecommunications, broadcasting, financial services, and information technology, in particular.

Members also sought clarification on several specific matters, including:

- mainstreaming trade into development policy, even without "pilot scheme" status in the Integrated Framework;
- further liberalization of industrial tariffs;
- export bans and controls;
- contingency trade remedies;
- investment regime in the mining and quarrying sector; and
- agricultural policy and environmental concerns.

Members appreciated the responses provided by the delegation of Zambia during the meeting, and looked forward to later replies to some questions.

In conclusion, it is my feeling that this Trade Policy Review has highlighted the commitment of the Zambian authorities to liberalize their economy despite various difficulties. I am pleased that so many Members identified ways in which they were providing trade-related technical assistance to Zambia and their commitment to continue assisting it. Nevertheless, I feel it important to call attention to the supply-side constraints that still need to be addressed. I hope that the Doha Development Agenda will evolve in such a way as to make possible greater access for Zambia's products, and contribute to the diversification of its economy. In sum, further assistance by the international community will help Zambia to fully integrate into the multilateral trading system.

The Chairperson expressed his personal reflection for the WTO to work closely with other multilateral agencies to ensure greater coherence in policy advice and programme implementation. He said it would be useful to WTO Members in their interaction with Zambia and other developing countries, if there was a better appreciation of the development challenges faced by these countries. Much of this information was available from UN institutions such as ITC, UNDP and UNCTAD and working more closely with them would add greater value to WTO, especially in fulfilling its development objective.

## Japan

This Meeting has involved a very informative exchange of views, stimulated by the full and open engagement of the Japanese delegation, highly analytical and insightful comments by the discussant, and Members' active involvement in the discussion. This exchange has contributed to a much better understanding by Members, and thus their collective evaluation, of Japan's trade and trade-related policies. The outcome, I believe, has been a highly successful 6<sup>th</sup> Review of Japan's trade policies, practices and measures.

Members were encouraged by signs of moderate economic recovery in Japan, whose economic health is important for the prosperity of the world economy and the expansion of trade. Members recognized that the multilateral trading system by keeping foreign markets open to Japan's exports, had contributed to the improved economic outlook for Japan. While commending Japan's recent efforts to implement and accelerate structural reforms, including the removal of barriers to foreign businesses in various sectors, Members encouraged Japan to press ahead with reforms, through *inter alia* further financial and corporate restructuring, improved market access (particularly in agriculture), and stronger competition policy, particularly implementation.

Members congratulated Japan on its active role at the WTO, including its strong support for the Doha Development Agenda and commended the authorities for their active engagement in properly reflecting the interests of developing countries in the ongoing negotiations and work. However, some Members expressed concerns about the nature of Japan's proposal in agriculture. Members also noted Japan's increased involvement with regional and bilateral trade agreements; in this regard, they encouraged the WTO compatibility of these agreements, notably on product and sectoral coverage. While expressing their appreciation of preferential market provided by Japan to developing and least-developed countries, some Members encouraged Japan to liberalize further its market in respect of LDCs' products.

On trade and trade-related policies, Members remarked in particular on Japan's complex tariff structure, including tariff quotas, significant tariff peaks and tariff escalation for some products, and the fact that non-*ad valorem* tariffs tended to involve relatively high applied rates. Some Members voiced concern over the complexity and seeming lack of transparency of government procurement practices. Furthermore, while recognizing Japan's right to pursue legitimate policy objectives with regard to the protection of human, animal and plant life or health, many Members expressed concern over the complexity of Japan's standards, technical

regulations, and sanitary and phytosanitary measures, including quarantine procedures (and long delays therein), and encouraged Japan to employ these measures in the least trade-restrictive manner. In addition, pointing to the low level of inflows of foreign direct investment (FDI) into Japan, Members welcomed Japan's efforts to open further its FDI regime.

On sectoral issues, Members noted that the level of domestic support for agriculture seemingly exceeds the sector's contribution to GDP. Although generally acknowledging the importance of non-trade concerns in agriculture, some Members urged Japan to address these concerns in a manner that would not unduly distort production or trade. Members recognized that substantial reforms had been undertaken in the financial services and telecommunications, but expressed their belief that reform should continue with a view to enhancing competition in these and other services, such as transportation, education, legal and medical services.

Members also sought clarification on several specific issues including:

- transparency of regulatory procedures;
- contingency measures, including emergency safeguards;
- state trading;
- export-related measures;
- special economic zones;
- business practices;
- regulations and business costs in telecommunications market; and
- maritime transport restrictions.

Members expressed their appreciation of the oral and written responses and explanations provided by the Japanese delegation; they looked forward to receiving written answers on outstanding questions.

This brings us to the conclusion of our 6<sup>th</sup> Trade Policy Review of Japan. The large number of advance questions, numerous interventions and the high level of attendance indicate the importance Members attach to Japan's leadership at the WTO. In this context, I would encourage Japan to continue its strong support for the multilateral trading system. I also hope that Japan will take to heart the concerns expressed by Members, particularly with regard to its policies on agriculture, sanitary and phytosanitary measures, government procurement and competition.

## Venezuela

This second Trade Policy Review of Venezuela has contributed considerably to a better understanding of Venezuela's trade and investment policies, and the context within which they have been formulated and implemented. The full and admirable engagement of the strong Venezuelan delegation, headed by Minister Rosales, and the active involvement of many Members, the comprehensive replies and comments have allowed us to achieve this understanding, shedding light on the many revisions made to Venezuela's institutional and legal framework since its first Review in 1996.

Members recognized that Venezuela was going through a period of momentous economic, political and social changes. These were reflected in a number of legislative and institutional reforms, some of which had encountered strong opposition.

Members welcomed Venezuela's commitment to further strengthening the multilateral trading system, but several observed that Venezuela has yet to fulfil various notification obligations concerning technical regulations, SPS and, perhaps, incentive programmes. Venezuela was invited to fill those notifications in the near future, with the aid of the WTO Secretariat if necessary and, thus, enhance the transparency of its trade regime.

Venezuela's economic performance has fluctuated considerably since 1996. After a period of moderate economic growth in 2000 and 2001, Venezuela entered into a recession in 2002. Members attributed this in part to a high and growing reliance on the petroleum sector, which had left the economy vulnerable to developments in the world oil market. This reliance has also resulted in a narrow export base, eroded the competitiveness of the non-oil sector, and discouraged a deeper integration in the world economy. Members considered that Venezuela's adoption of a floating exchange rate regime would help address its structural problems, and encouraged Venezuela's ongoing efforts to diversify its export markets and products.

Venezuela is strengthening and modernizing its competition policy legislation. Members praised Venezuela for the liberalization of its investment regime and the adoption of a new foreign investment law since its last Review. These represent important steps to increase private investment, particularly in view of Venezuela's historically low investment to GDP ratio. In this context, some Members requested Venezuela to consider taking further steps to make its institutional and legal framework more predictable, including by locking-in recent liberalization initiatives under multilateral rules.

Venezuela was commended for having simplified its customs procedures and taking measures to implement the Customs Valuation Agreement. All tariffs are bound but there is a relatively wide gap between applied and bound tariffs. In this respect, Venezuela was invited to participate actively in the non-agricultural market access negotiations under the Doha Development Agenda with a view to lowering bound tariffs, and thus increase predictability. Members noted that the Andean Price Band System applied by Venezuela was an element of uncertainty facing exporters, and asked questions about its WTO consistency. Also questioned was the apparent different application of the value-added tax to domestic and foreign products.

Members expressed concern with respect to Venezuela's increased use of non-tariff measures. The import licensing regime came under particularly close scrutiny, especially with respect to its transparency and the scope for discretion in its use. Related concerns were raised about SPS permits. Several queries related to new labelling requirement for footwear and textiles. Members also noted the increase in the number of anti-dumping and countervailing measures, and asked about certain provisions in Venezuela's new Safeguards Law.

A number of Members requested further information with respect to Venezuela's incentives regime. In the area of intellectual property, questions were raised with respect to the ratification of some WIPO Treaties and Venezuela was encouraged to step up its enforcement efforts. The legal framework governing government procurement, including the preferences granted to domestic suppliers attracted much interest, and some Members encouraged Venezuela to accede to the plurilateral Agreement on Government Procurement.

Members also sought further clarification on a number of specific areas, including:

- monetary and fiscal policy, the exchange rate regime and inflation;
- the foreign investment regime, remaining related restrictions, and legal stability contracts;
- tariff exemptions and tariff quotas;
- intellectual property rights, parallel imports and compulsory licensing.

With respect to sectoral policies, Members noted that there was scope for further liberalization in agriculture, as witnessed by high tariff rates, the use of variable levies and import permits. They also took note of the importance Venezuela grants to developing the agricultural sector, as part of its efforts to improve living standards and diversify its economy.

Members clearly welcomed the liberalization of several key service activities over the last six years, which had resulted in increased foreign presence in areas such as banking and telecommunications. Venezuela was encouraged to make further liberalization commitments in the ongoing WTO negotiations, corresponding to its current regime and beyond. As well, Members requested information on:

- restrictions and incentives in the energy sector, and its further opening;
- assistance to motor vehicle production, including the Family Car Programme;
- electricity and maritime transport.

The delegation of Venezuela provided written and oral answers to the questions posed during the Review and undertook to send further responses within 30 days. The replies provided have made a major contribution to this meeting, and were clearly appreciated by Members.

This brings us to the conclusion of our second Review of Venezuela. This Review is taking place at a difficult time for Venezuela, but I have the conviction that it will meet the challenge, building on its natural wealth, human capital and a clear resolve to persevere in the path of economic modernization and liberalization. In this respect, I am heartened by Venezuela's conviction that full integration in the world economy is a priority in its strategy to achieve a higher standard of living for its people. I am further encouraged by Venezuela's renewed pledge to meet its international commitments. Rigorous compliance with the rule of law, at all levels, does indeed offer Venezuela reliable markers to guide it out of the current difficulties. Thus, in order to strengthen further the multilateral trading system, I urge Venezuela to continue participating actively in the Doha Development Agenda, and to use this process to inject greater predictability to its own trade and investment regime.

## Hong Kong, China

This Review has provided an excellent opportunity for Members to better understand the trade and economic policies of Hong Kong, China. Our meeting has involved a very informative exchange of views, stimulated by the full and open engagement of the delegation of Hong Kong, China, broad-ranged and insightful comments by the discussant, and Members' active involvement in the discussion. Members' evaluation of the trade and trade-related policies of Hong Kong, China has, by and large, been positive; Members commended Hong Kong, China for maintaining one of the most open economies in the

world, one which many Members should seek to emulate. The outcome, I believe, has been a highly successful fourth Review of Hong Kong, China's trade policies, practices and measures.

Since its reversion to China, Hong Kong, China's institutional and policy framework has remained largely unchanged, in accordance with the principle of "One Country, Two Systems". Despite the difficulties it has faced as a result of the Asian financial crisis, current global economic downturn, and increasing integration with the rest of the country, Hong Kong, China has maintained its traditional openness to both trade and investment; indeed, it has taken further liberalization measures during the period under review.

Members congratulated Hong Kong, China on its active role in the WTO, including its strong support for the Doha Development Agenda. Members noted Hong Kong, China's increasing involvement with regional and bilateral trade agreements. Hong Kong, China provided information regarding the development of regional trade agreements between it and other Members, and noted that these agreements would be fully consistent with the principles underlying the WTO.

Members commended Hong Kong, China for its continued trade-liberalization efforts and for the transparency and openness of its trade and investment regime. While the authorities of Hong Kong, China did indicate that they were now following a more "proactive" approach to industrial policy in an effort to promote high value-added activities, this policy involved support for general infrastructure to facilitate development. The authorities re-affirmed that the policy does not involve picking winners or rescuing losers at taxpayers' expense; nor does it involve protecting or subsidizing particular industries.

In the interests of predictability and stability, Members encouraged Hong Kong, China to bind more of its tariffs. Some Members also encouraged it to reduce excise tax rates on wine. Some Members urged Hong Kong, China to continue to strengthen its regime to protect intellectual property rights, particularly enforcement. Members generally appreciated Hong Kong, China's efforts to maintain a competitive market.

On sectoral issues, Members noted the predominance of services in Hong Kong's economy. Members commended Hong Kong, China on a wide range of commitments under the GATS together with the lack of MFN exemptions, as well as on its liberalization measures, particularly in telecommunications and financial services, undertaken since its previous Trade Policy Review in 1998.

Members also sought clarification on several specific issues including:

- macroeconomic policy and the broad economic environment;
- WTO accession of China and its benefits to Hong Kong, China;
- rules of origin under the proposed FTA with China;
- import licensing;
- contingency measures;
- standards, sanitary and phytosanitary measures;
- government procurement;
- assistance to certain activities and small and medium-sized enterprises;
- rice stocks;
- rules of origin concerning textiles and clothing;
- division of regulatory responsibilities concerning securities;
- air and maritime transport;
- recognition of diplomas and qualifications;
- postal service liberalization, broadcasting licences, legal services, licensing requirements for inbound travel agents; and
- movement of natural persons (visas).

Members expressed their appreciation of the oral and written responses and explanations provided by the delegation of Hong Kong, China.

This brings us to the conclusion of our fourth Trade Policy Review of Hong Kong, China. The large number of advance questions, numerous interventions and the high level of attendance indicate the importance Members attach to Hong Kong's leadership at the WTO. In this context, I would encourage Hong Kong, China to continue its traditionally strong support for the multilateral trading system.

