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

II. THE WORLD TRADE ORGANIZATION

A. Introduction

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

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

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

B. The Doha Development Agenda under the Trade Negotiations Committee

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Prospects for 2007

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

1. Committee on Agriculture, Special Session

Status

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

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

Major Issues in 2006

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

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

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

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

Prospects for 2007

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

2. Council for Trade in Services, Special Session

Status

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

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

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

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

Major Issues in 2006

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

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

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

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

Prospects for 2007

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

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

3. Negotiating Group on Non-Agricultural Market Access

Status

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

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

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

Tariff Profiles

Simple Average Tariffs as reported by the World Trade Organization.

Markets	WTO Maximum Tariffs	2005 Applied Tariffs
United States	3.9	3.9
EU	4	4
Argentina	31.8	10.4
Brazil	30.8	11
China	9.1	9
Egypt	27.7	12.5
India	34.3	19.5
Philippines	23.4	5.6
South Africa	15.8	9.9

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

Major Issues in 2006

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

The key U.S. NAMA objective is to achieve an ambitious outcome that results in significant real market access in key markets, including both developed and developing country Member markets. The United States therefore supports a combination of cuts applying a Swiss formula with dual coefficients[1] and sectoral initiatives to achieve most effectively the objectives laid out in the Doha mandate to reduce or eliminate tariff peaks, high tariffs and tariff escalation, particularly on products of export interest to developing country Members. The United States also believes that all the elements of the Framework must be considered in tandem. There is an inextricable link between discussions on the formula and on the sectors, as well as flexibilities.

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

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

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

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

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

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

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

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

Prospects for 2007

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

4. Negotiating Group on Rules

Status

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

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

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

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

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

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

Major Issues in 2006

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

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

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

- Negotiations must maintain the strength and effectiveness of the trade remedy laws and complement a fully effective dispute settlement system which enjoys the confidence of all Members.

- Trade remedy laws must operate in an open and transparent manner, and transparency and due process obligations should be further enhanced as part of these negotiations.

- Disciplines must be enhanced to address more effectively underlying trade-distorting practices.

- It is essential that WTO dispute settlement panels and the Appellate Body, in interpreting obligations related to trade remedy laws, follow the appropriate standard of review and not impose on Members obligations that are not contained in the Agreements.

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

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

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

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

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

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

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

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

Friends of Fish

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

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

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

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

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

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

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

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

Prospects for 2007

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

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

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

5. Negotiating Group on Trade Facilitation

Status

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

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

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

Major Issues in 2006

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

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

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

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

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

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

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

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

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

Prospects for 2007

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

MEASURES PROPOSED[3] BY WTO MEMBERS TO IMPROVE AND CLARIFY GATT ARTICLES V, VIII AND X

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

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

B. Time Periods between Publication and Implementation
- Interval between Publication and Entry into Force

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

D. Advance Rulings
- Provision of Advance Rulings

E. Appeal Procedures
- Right of Appeal
- Release of Goods in Event of Appeal

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

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

H. Formalities Connected with Importation and Exportation
- Disciplines on Formalities/Procedures and Data/Documentation Requirements Connected with Importation and Exportation
- Non-discrimination
- Periodic Review of Formalities and Requirements
- Reduction/Limitation of Formalities and Documentation Requirements
- Use of International Standards
- Uniform Customs Code
- Acceptance of Commercially Available Information and of Copies
- Automation
- Single Window/One-time Submission
- Elimination of Pre-Shipment Inspection
- Phasing out Mandatory Use of Customs Brokers

I. Consularization
- Prohibition of Consular Transaction Requirement

J. Border Agency Cooperation
- Coordination of Activities and Requirement of all Border Agencies

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

L. Tariff Classification
- Objective Criteria for Tariff Classification

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

6. Committee on Trade and Environment, Special Session

Status

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

(i) the relationship between existing WTO rules and specific trade obligations (STOs) set out in Multilateral Environmental Agreements (MEAs) (with the negotiations limited to the applicability of existing WTO rules among parties to such MEAs and without prejudice to the WTO rights of Members that are not parties to the MEAs in question);

(ii) procedures for regular information exchange between MEA secretariats and relevant WTO committees, and the criteria for granting observer status; and

(iii) the reduction or, as appropriate, elimination of tariff and non-tariff barriers to trade in environmental goods and services.

Major Issues in 2006

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

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

Prospects for 2007

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

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

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

7. Dispute Settlement Body, Special Session

Status

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

Major Issues in 2006

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

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

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

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

Prospects for 2007

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

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

Status

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

Major Issues in 2006

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

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

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

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

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

Prospects for 2007

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

9. Committee on Trade and Development, Special Session

Status

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

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

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

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

Major Issues in 2006

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

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

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

Prospects for 2007

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

C. Work Programs Established in the Doha Development Agenda

1. Working Group on Trade, Debt and Finance

Status

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

Major Issues in 2006

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

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

Prospects for 2007

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

2. Working Group on Trade and Transfer of Technology

Status

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

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

Major Issues in 2006

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

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

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

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

Prospects for 2007

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

3. Work Programme on Electronic Commerce

Status

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

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

Major Issues in 2006

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

Prospects for 2007

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

D. General Council Activities

Status

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

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

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

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

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

Major Issues in 2006

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

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

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

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

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

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

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

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

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

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

Prospects for 2007

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

E. Council for Trade in Goods

Status

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

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

Major Issues in 2006

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

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

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

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

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

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

Prospects for 2007

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

1. Committee on Agriculture

Status

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

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

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

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

Major Issues in 2006

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

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

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

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

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

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

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

Prospects for 2007

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

2. Committee on Market Access

Status

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

Major Issues in 2006

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

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

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

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

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

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

Prospects for 2007

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

3. Committee on the Application of Sanitary and Phytosanitary Measures

Status

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

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

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

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

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

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

Major Issues in 2006

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

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

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

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

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

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

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

[5] Bovine Spongiform Encephalopathy and Transmissible Spongiform Encephalopathy.

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

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

Prospects for 2007

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

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

4. Committee on Trade-Related Investment Measures

Status

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

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

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

Major Issues in 2006

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

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

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

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

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

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

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

Prospects for 2007

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

5. Committee on Subsidies and Countervailing Measures[6]

Status

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

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

Major Issues in 2006

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

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

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

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

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

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

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

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

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

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

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

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

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

Additionally, in early 2006, some of the Members currently benefiting from the extension under the special procedures proposed a further 10-year extension until 2018.[11] Under the proposal, only those programs previously granted an extension would be eligible under the same conditions currently in place. Members have exchanged written questions and answers and have engaged in informal consultations regarding the proposal. The SCM Committee's review of the proposal will continue into 2007.

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

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

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

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

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

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

In 2001, the Chairman of the SCM Committee, in conjunction with the WTO Secretariat, developed an alternative approach to calculate the $1,000 threshold in constant 1990 dollars. At the Fourth Ministerial Conference, decisions were made which led to the adoption of this methodology. The WTO Secretariat updated these calculations in 2006.[13]

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

Prospects for 2007

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

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

[13] See G/SCM/110/Add.2.

6. Committee on Customs Valuation

Status

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

Major Issues in 2006

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

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

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

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

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

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

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

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

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

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

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

Prospects for 2007

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

7. Committee on Rules of Origin

Status

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

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

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

Major Issues in 2006

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

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

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

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

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

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

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

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

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

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

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

Prospects for 2007

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

8. Committee on Technical Barriers to Trade

U.S. Inquiry Point

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

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

Status

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

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

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

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

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

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

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

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

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

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

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

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

Major Issues in 2006

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

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

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

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

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

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

Prospects for 2007

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

9. Committee on Antidumping Practices

Status

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

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

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

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

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

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

Major Issues in 2006

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

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

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

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

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

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

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

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

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

Prospects for 2007

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

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

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

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

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

10. Committee on Import Licensing

Status

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

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

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

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

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

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

Major Issues in 2006

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

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

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

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

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

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

Prospects for 2007

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

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

11. Committee on Safeguards

Status

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

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

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

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

Major Issues in 2006

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

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

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

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

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

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

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

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

Prospects for 2007

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

12. Working Party on State Trading Enterprises

Status

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

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

Major Issues in 2006

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

Prospects for 2007

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

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

F. Council on Trade Related Aspects of Intellectual Property Rights

Status

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

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

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

Major Issues in 2006

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Prospects for 2007

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

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

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

G. Council for Trade in Services

Status

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

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

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

Major Issues in 2006

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

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

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

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

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

Prospects for 2007

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

1. Committee on Trade in Financial Services

Status

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

Major Issues in 2006

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

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

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

Prospects for 2007

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

2. Working Party on Domestic Regulation

Status

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

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

Major Issues in 2006

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

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

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

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

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

Prospects for 2007

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

3. Working Party on GATS Rules

Status

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

Major Issues in 2006

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

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

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

Prospects for 2007

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

4. Committee on Specific Commitments

Status

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

Major Issues in 2006

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

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

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

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

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

Prospects for 2007

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

H. Dispute Settlement Understanding

Status

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

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

Major Issues in 2006

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

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

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

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

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

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

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

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

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

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

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

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

Prospects for 2007

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

a. Disputes Brought by the United States

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

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

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

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

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

Brazil–Measures on minimum import prices (DS197)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- The Panel found that the EU had presented no scientific or regulatory justification for the moratorium, and thus that the moratorium resulted in "undue delays" in violation of the EU's obligations under the SPS Agreement.

- The Panel identified specific, WTO-inconsistent "undue delays" with regard to 24 of the 27 pending product applications that were listed in the U.S. panel request.

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

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

European Union–Selected customs matters (DS315)

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

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

European Union–Subsidies on large civil aircraft (DS316)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Turkey–Measures affecting the importation of rice (DS334)

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

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

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

b. Disputes Brought Against the United States

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

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

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

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

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

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

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

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

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

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

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

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

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

United States–Section 211 Omnibus Appropriations Act (DS176)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

United States–Calculation of dumping margins (DS239)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

United States–Subsidies on upland cotton (DS267)

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

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

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

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

– The panel found that the "Peace Clause" in the WTO Agreement on Agriculture did not apply to a number of U.S. measures, including (1) domestic support measures, and (2) export credit guarantees for "unscheduled commodities" and rice (a "scheduled commodity"). Therefore, Brazil could proceed with certain of its challenges.

– The panel found that export credit guarantees for "unscheduled commodities" (such as cotton and soybeans) and for rice are prohibited export subsidies. However, the panel also found that Brazil had not demonstrated that the guarantees for other "scheduled commodities" exceeded U.S. WTO reduction commitments and therefore breached the Peace Clause. Further, Brazil had not demonstrated that the programs threaten to lead to circumvention of U.S. WTO reduction commitments for other "scheduled commodities" and for "unscheduled commodities" not currently receiving guarantees.

– Some U.S. domestic support programs (i.e., marketing loan, counter-cyclical, market loss assistance, and so-called "Step 2 payments") were found to cause significant suppression of cotton prices in the world market in marketing years 1999-2002 causing serious prejudice to Brazil's interests. However, the panel found that other U.S. domestic support programs (i.e., production flexibility contract payments, direct payments, and crop insurance payments) did not cause serious prejudice to Brazil's interests because Brazil failed to show that these programs caused significant price suppression. The panel also found that Brazil failed to show that any U.S. program caused an increase in U.S. world market share for upland cotton constituting serious prejudice.

– The panel did not reach Brazil's claim that U.S. domestic support programs threatened to cause serious prejudice to Brazil's interests in marketing years 2003-2007. The panel also did not reach Brazil's claim that U.S. domestic support programs per se cause serious prejudice in those years.

– The panel also found that Brazil had failed to establish that FSC/ETI tax benefits for cotton exporters were prohibited export subsidies.

– Finally, the panel found that Step 2 payments to exporters of cotton are prohibited export subsidies, not protected by the Peace Clause, and Step 2 payments to domestic users are prohibited import substitution subsidies because they were only made for U.S. cotton.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

United States–Subsidies on large civil aircraft (DS317)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I. Trade Policy Review Body

Status

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

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

Major Issues in 2006

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

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

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

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

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

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

Prospects for 2007

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

J. Other General Council Bodies/Activities

1. Committee on Trade and Environment

Status

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

Major Issues in 2006

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

- *Market Access under Doha Sub-Paragraph 32(i):* Members considered how the CTE could move the discussion forward in a more structured way, and, more specifically, in the format of Members' experience sharing, particularly with respect to market access issues for developing country Members. Attention was also given to specific sectors, including illegal logging. The CTE received information regarding a successful Sub-regional Workshop on Environmental Requirements and Market Access for Electrical and Electronic Goods held in Thailand, as well as other work underway by the UN Conference on Trade and Development.

- *TRIPS and Environment under Doha Sub-Paragraph 32(ii):* Discussions under this item continued to focus, as they had prior to the Doha Ministerial Conference, on whether there may be any inherent conflicts between the TRIPS Agreement and the Convention on Biological Diversity (CBD) with respect to genetic resources and traditional knowledge. Several suggestions for structuring of further discussions under this agenda item include studying the impacts, if any, of trade and intellectual property rights regimes on biodiversity and exploring funding for biodiversity protection and technology transfer.

- *Labeling for Environmental Purposes under Doha Sub-Paragraph 32(iii):* Discussions under this agenda item continued to demonstrate a considerably lower level of interest. Most Members continued to question the rationale for singling out environmental labeling for special consideration separate from ongoing work in the Committee on Technical Barriers to Trade on labeling more generally.

- *Capacity Building and Environmental Reviews under Doha Paragraph 33:* Many developing country Members stressed the importance of benefiting from technical assistance related to negotiations in the WTO on trade and environment, particularly given the complexity of some of these issues. Members held discussions with respect to national environmental reviews, and the Secretariat informed the CTE of its trade and environment technical assistance activities undertaken in 2006 and planned for 2007.

- *Discussion of Environmental Effects of Negotiations under Doha Paragraph 51:* Discussions under this agenda item continued to focus on developments in other areas of negotiations, based on the updates from relevant WTO Divisions regarding the environment-related issues in the negotiations on Agriculture,

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

Prospects for 2007

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

2. Committee on Trade and Development

Status

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

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

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

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

Major Issues in 2006

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

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

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

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

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

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

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

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

Prospects for 2007

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

3. Committee on Balance-of-Payments Restrictions

Status

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

Major Issues in 2006

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

Prospects for 2007

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

4. Committee on Budget, Finance and Administration

Status

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

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

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

Major Issues in 2006

- *WTO Facilities*: In July 2005, the General Council agreed to increase to Swiss Francs 60 million the authorized funding for construction of a new WTO Annex, to be financed through a 50-year interest-free loan from the Swiss authorities. The WTO Secretariat has outgrown the main WTO building and the new annex will replace temporary facilities that have been needed to house those staff and functions that do not fit in the main building. In 2006, the Director-General brought to Members' attention new alternative possibilities that have opened up that are closer to the main WTO building and could be more cost effective. He also proposed that Members consider building a new WTO headquarters that would be large enough to fulfill all of the WTO's needs under one roof. The Budget Committee will continue to examine these propositions in 2007.

- *Measures to Address Contributions in Arrears*: In May 2006, the General Council agreed to strengthened measures to address the problem of Members with contributions in arrears. These enhancements include limiting access to technical assistance and requiring the Chair of the General Council at each meeting of the General Council to read out a list of those Members that are more than one year in arrears, asking each of them to indicate when payment will be made. This decision is to be reviewed by 2008, if sufficient progress in the clearing of arrears is not seen.

- *Security Enhancement Program*: In December 2004, the General Council agreed to fund the Secretariat's proposed Security Enhancement Program. This multi-year plan is designed to meet the new realities of the post-9/11 world by, among other things, improving controls on the entrance of goods, vehicles and people to the WTO facilities as well as by improving the technology available to monitor the WTO's facilities and grounds. Implementation of the program will continue in 2007 and 2008-2009 bienniums.

- *Critical Review of the Structure of the WTO Secretariat*: The Director-General has been conducting a critical review of the structure of the WTO Secretariat with a view to streamlining it. Implementation of the reform plan is expected to result in future savings. However, in the short term, financial resources will be needed to bridge a liquidity gap. Therefore, in December 2005, the General Council agreed to a specific allotment of Swiss Francs 500,000 for 2005 and a further Swiss Francs 500,000 for 2006 to meet this need. Developments in 2006, made it impossible for the Director-General to complete the critical review. Therefore, it was agreed that the money allocated for restructuring in 2006 would be transferred to a Restructuring Operating Fund, to be used in 2007. Any funds left at the end of 2007, will be returned to the regular 2007 budget.

Prospects for 2007

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

5. Committee on Regional Trade Agreements

Status

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

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

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

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

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

Major Issues in 2006

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

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

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

Benefits of the new Provisional Transparency Mechanism:

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

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

Prospects for 2007

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

6. Accessions to the World Trade Organization

Status

The year 2006 was a decisive turning point for a number of large countries seeking WTO Membership. After completing intensive bilateral and multilateral work with the United States and other WTO Members, Vietnam became the 150th WTO Member on January 11, 2007. In addition, Ukraine and Russia concluded bilateral market access agreements with the United States, substantially completing work to establish their market access commitments for trade in goods and services and facilitating renewed attention to multilateral negotiations in their respective Working Parties. Similarly, Ukraine and Kazakhstan moved decisively in their respective multilateral negotiations to address outstanding issues. Tonga, which had been expected to become a WTO Member in 2006, delayed its acceptance of the accession package approved at the 2005 Hong Kong Ministerial Conference. At the end of the year, there were twenty-nine applicants negotiating accession to the WTO, and about one-third of them were LDCs.[19] Accession applicants are welcome in all formal WTO meetings as observers. There were no new requests for accession or observer status during 2006.[20]

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

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

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

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

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

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

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

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

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

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

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

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

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

Major Issues in 2006

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

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

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

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

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

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

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

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

Prospects for 2007

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

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

7. Aid for Trade

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

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

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

Ministers at Hong Kong also agreed to pursue the enhancement of the Integrated Framework (IF) for trade-related technical assistance for least-developed countries (both WTO Members and non-Members), as a subset of Aid for Trade designed exclusively for that set of countries. The IF is a multi-organization (including the WTO, World Bank, IMF, UNCTAD, UNDP, and the International Trade Centre), multi-donor program that operates as a coordination mechanism for trade-related assistance to LDCs with the overall objective of integrating trade into national development plans. A separate Task Force was created to address the enhancement of the IF.

Both the Aid for Trade Task Force and IF Task Force met during the first three quarters of 2006 and submitted recommendations to the General Council in July 2006.

The General Council took note of the Aid for Trade IF recommendations at its October meeting and asked the Director-General to manage the follow-up to the report. Recommendations that require follow-up include working with the OECD to better capture technical assistance activities in its development assistance database, and agreeing on the modalities for an annual review of trade-related technical assistance activities -- both from the perspective of donor contributions and developing country prioritization of needs and results of activities undertaken.

The IF Task Force recommended the creation of an independent secretariat to manage the Integrated Framework, to intensify in-country support and coordination within LDC participants and for a scaling up of resources to support IF programs. Active discussions among donor countries, IF participating agencies and least development countries began in September 2006 on the implementation of the enhanced IF. The issues at hand have proved to be complex and will continue into 2007.

Prospects for 2007

Aid for Trade activities in 2007 will focus on follow-up of the Task Force recommendations, as outlined above, culminating in the first annual overview of Aid for Trade in the fall of 2007. Planning for the implementation of the enhanced Integrated Framework will continue during the first months of 2007.

K. Plurilateral Agreements

1. Committee on Trade in Civil Aircraft

Status

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

The Aircraft Agreement requires signatories to eliminate tariffs on civil aircraft, their engines, subassemblies and parts, and ground flight simulators and their components, and to provide these benefits on a nondiscriminatory basis to other signatories. In addition, the signatories have agreed provisionally to

provide duty-free treatment for ground maintenance simulators, although this item is not covered under the current agreement. The Aircraft Agreement also establishes various obligations aimed at fostering free market forces. For example, signatory governments pledge that they will base their purchasing decisions strictly on technical and commercial factors.

The Committee on Trade in Civil Aircraft (the Aircraft Committee), permanently established under the Aircraft Agreement, provides the signatories an opportunity to consult on the operation of the Aircraft Agreement, to propose amendments to the Agreement, and to resolve any disputes.

As of December 30, 2006, there were 30 signatories to the Aircraft Agreement: Bulgaria; Canada; the EU and the following EU Member states: Austria, Belgium, Denmark, Estonia, France, Germany, Greece, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Portugal, Spain, Sweden, and the United Kingdom; Egypt; Georgia; Japan; Macao China; Norway; Romania; Switzerland; Chinese Taipei; and the United States.

Major Issues in 2006

During 2006, the Aircraft Committee met on two occasions. The Aircraft Committee considered the status of the 1979 Agreement on Trade in Civil Aircraft under the WTO and enlargement of the European Union and Article 9 of the Aircraft Agreement. The Technical Sub-Committee of the Committee on Trade in Civil Aircraft and the Sub-Committee of the Committee on Trade in Civil Aircraft did not meet in 2006.

Prospects for 2007

The Aircraft Committee agreed to meet once, in the fall of 2007. The United States will continue to encourage observers,[22] including Oman, Albania and Croatia, which committed to become signatories pursuant to their respective protocols of accession, and other WTO Members to become signatories to the Aircraft Agreement.

2. Committee on Government Procurement

Status

The WTO Government Procurement Agreement (GPA) is a "plurilateral" agreement included in Annex 4 to the WTO Agreement. As such, it is not part of the WTO's single undertaking and its membership is limited to WTO Members that specifically signed the GPA in Marrakesh or that have subsequently acceded to the Agreement. Members are not required to join the GPA, but the United States strongly encourages all WTO Members to participate in this important agreement.

On December 8, 2006, the WTO Committee on Government Procurement (the GPA Committee) approved the addition of Romania and the Republic of Bulgaria to the GPA, effective on January 1, 2007, when they became Member States of the European Union. With the addition of these two Members, 40 Members are subject to the GPA: Canada; the EU and its 27 Member States (Austria, Belgium, Bulgaria, Czech Republic, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovak Republic,

[22] As of December 31, 2006, those WTO Members with observer status in the Committee are: Argentina, Australia, Bangladesh, Brazil, Cameroon, China, Colombia, the Czech Republic, Finland, Gabon, Ghana, Hungary, India, Indonesia, Israel, the Republic of Korea, Mauritius, Nigeria, Oman, Poland, Saudi Arabia, Singapore, the Slovak Republic, Sri Lanka, Trinidad and Tobago, Tunisia, and Turkey. In addition, the Russian Federation, IMF and UNCTAD are also observers.

Slovenia, Spain, Sweden, and the United Kingdom); Hong Kong China; Iceland; Israel; Japan; the Republic of Korea; Liechtenstein; the Netherlands with respect to Aruba; Norway; Singapore; Switzerland; and the United States (collectively the GPA Parties).

Eight Members are in the process of acceding to the GPA: Albania, Chinese Taipei, Georgia, Jordan, Kyrgyz Republic, Moldova, Oman, and Panama. Seven additional Members have provisions in their respective Protocols of Accession to the WTO or Working Party reports regarding accession to the GPA: Armenia, China, Croatia, the Former Yugoslav Republic of Macedonia, Mongolia, Oman, and Saudi Arabia.

Nineteen Members, including those in the process of acceding to the GPA, have observer status in the GPA Committee: Albania, Argentina, Armenia, Australia, Cameroon, Chile, China, Chinese Taipei, Colombia, Croatia, Georgia, Jordan, Kyrgyz Republic, Moldova, Mongolia, Oman, Panama, Sri Lanka, and Turkey. Three intergovernmental organizations (IMF, OECD, and UNCTAD) also have observer status.

Major Issues in 2006

Article XXIV:7(b) of the GPA calls for further negotiations to improve the Agreement and to expand the procurement covered by the Parties under the GPA. During 2006, the GPA Committee held six meetings (in February, March, May, July, October, and December) during which Parties focused primarily on the revision of the GPA text. In December 2006, the GPA Committee reached provisional agreement on a substantial revision of the text. The revised text significantly improves the current GPA by:

- Making it more transparent and user friendly by clarifying obligations, removing ambiguities, and re-grouping related provisions into a single article, which will facilitate compliance by Parties;
- Re-ordering the provisions to correspond more closely to the order in which procurements are conducted;
- Incorporating new provisions to take into account developments in government procurement practices, for example, by reducing the tendering period for purchases of commercial goods and services, providing for the use of electronic auctions, and encouraging the use of electronic procurement;
- Expanding and clarifying transitional measures for developing countries (offsets, price preferences, phasing-in entities or sectors, higher thresholds) to facilitate their GPA accession; such measures will not be applied automatically, but tailored to the specific needs of a developing country applicant; and
- Providing for the development of arbitration procedures to resolve differences over the modification of the entities covered by the GPA.

Final agreement on the revision of the GPA requires a mutually satisfactory outcome in the market access negotiations among the GPA Parties to open up additional government procurement to international competition under the GPA. The GPA Parties aim to conclude these negotiations in the first half of 2007. When these negotiations are concluded, the Parties will give final approval to the revision of the GPA.

The new GPA text will be used as the basis for negotiations with countries in the process of acceding to the GPA. The revised GPA will be particularly useful for China as it prepares its initial GPA offer, which it agreed to table by the end of 2007.

With respect to the negotiations under GPA Article XXIV:7(c), which are aimed at expanding coverage among all Parties and eliminating discriminatory measures and practices, the United States, along with Canada, the European Union, Israel, Japan, Korea, Norway, Singapore, and Switzerland have submitted

initial offers. In addition, the United States and Japan have submitted revised offers. Other GPA Parties are expected to submit revised offers early in 2007.

Prospects for 2007

The GPA Committee has scheduled three meetings in the first half of 2007 with the aim of completing the revision of the GPA.

The Committee plans to hold informal plurilateral consultations with Jordan and Georgia as part of efforts to advance their respective accessions to the GPA. In 2007, the GPA Committee will also continue its review of the legislation of the Netherlands with respect to Aruba.

3. Committee of Participants on the Expansion of Trade in Information Technology Products

Status

The Information Technology Agreement (ITA) was concluded at the WTO's First Ministerial Conference at Singapore in December 1996. For original participants, the Agreement eliminated tariffs as of January 1, 2000 on a wide range of information technology products. As of October 2006, the ITA covers 69 Members and States or separate customs territories in the process of acceding to the WTO, representing approximately 97 percent of world trade in information technology products.[23] The Agreement covers a wide range of information technology products including computers and computer peripheral equipment, electronic components including semiconductors, computer software, telecommunications equipment, semiconductor manufacturing equipment and computer-based analytical instruments.

Major Issues in 2006

The WTO Committee on the Expansion of Trade in Information Technology Products held three meetings in 2006, two meetings in July and one in October, during which the Committee reviewed the implementation status of the Agreement. Work continued on the admission of new participants as well as classification divergences of ITA products. The Dominican Republic and Vietnam circulated schedules of commitments and the Committee approved their Membership in 2006. The Committee also continued its work on the Non-Tariff Measures (NTMs) Work Program as well as on drafting a list of conformity assessment procedures for the EMC/EMI pilot project. The Committee membership appointed a new Chairperson, Martin Pospisil of the Czech Republic, in 2006.

The Committee also started discussions on U.S. proposals to maintain duty-free treatment for technologically sophisticated versions of ITA products. The United States and Japan have expressed concerns about proposals by at least one ITA participant that would no longer provide or guarantee duty-free treatment for certain ITA products, such as set-top boxes with a communication function. The

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

United States, supported by other ITA participants, such as Japan, Singapore, Hong Kong China, Chinese Taipei, Malaysia, Canada, and the Philippines, proposed that the Committee conduct informal consultations with participants on such products, with the aim of reaching a consensus on how to ensure that duty-free treatment for such products will be maintained. Such consultations were scheduled for January 2007.

Prospects for 2007

2007 looks to be a busy year for the Committee. Global ICT (Information Communication and Technology) industry associations led a Workshop on Information Technology Products for the Committee in January 2007 to share their views on the benefits of the ITA, and to stress the importance of ensuring that the integrity of existing ITA commitments is maintained. Informal consultations with Members also took place in January on maintaining duty-free treatment for specific ITA products and will likely continue in March. A symposium to commemorate the tenth anniversary of the ITA is also planned for late March. Participants will discuss updating the ITA product list from HS1996 to HS2007 nomenclature and will also continue to work on reconciling divergent tariff classifications for ITA products. Participants also remain active in discussions on a potential sectoral initiative for electronics and electrical products in the Doha round