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2003 TRADE POLICY AGENDA AND 2002 ANNUAL REPORT ON THE TRADE AGREEMENTS PROGRAM

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

THE 2003 TRADE POLICY AGENDA AND 2002 ANNUAL REPORT ON THE TRADE AGREEMENTS PROGRAM, PURSUANT TO 19 U.S.C. 2213(a)

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To the Congress of the United States:

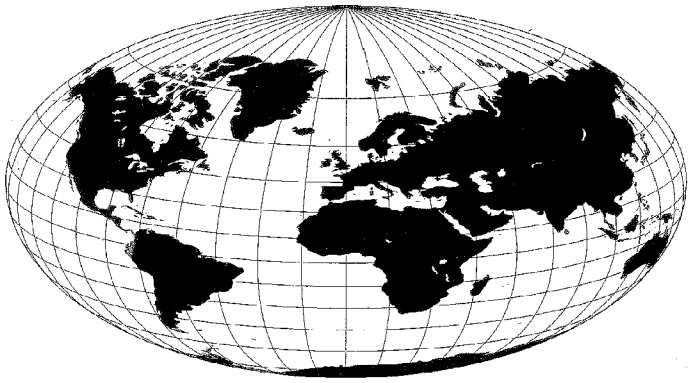
In accordance with section 163 of the Trade Act of 1974, as amended (19 U.S.C. 2213), I transmit herewith the 2003 Trade Policy Agenda and 2002 Annual Report on the Trade Agreements Program as prepared by my Administration.

GEORGE W. BUSH.

THE WHITE HOUSE, *February 28, 2003.*

2003 TRADE POLICY AGENDA AND 2002 ANNUAL REPORT

OF THE PRESIDENT OF THE UNITED STATES ON THE TRADE AGREEMENTS PROGRAM



UNITED STATES TRADE REPRESENTATIVE

2003 Trade Policy Agenda
and
2002 Annual Report

of the President of the United States
on the Trade Agreements Program

Foreword

The 2003 Trade Policy Agenda and 2002 Annual Report of the President of the United States on the Trade Agreements Program are submitted to the Congress pursuant to Section 163 of the Trade Act of 1974, as amended (19 U.S.C. 2213). The document includes, in Chapter II, the Annual Report on the World Trade Organization in accordance with Sections 122 and 124 of the Uruguay Round Agreements Act. In addition, the report also includes an annex listing trade agreements entered into by the United States since 1984.

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

March 2003

Assistant U.S. Trade Representative for Policy Coordination:
Carmen Suro-Bredie

Project Director:
Don Eiss

Project Advisor:
Ania Burczynska

Production Assistant:
Gloria D. Blue

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LIST OF FREQUENTLY USED ACRONYMS

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

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

THE PRESIDENT'S TRADE POLICY AGENDA

I. Overview and the 2003 Agenda

Over the past year President Bush and his Administration have restored America's leadership on trade and are now pressing aggressively to secure the benefits of open markets for American families, farmers, manufacturers, workers, consumers, and businesses. The President is advancing, in close partnership with the Congress, an activist strategy "to ignite a new era of global economic growth through a world trading system that is dramatically more open and more free."

A key achievement this past year was the renewal of the Executive-Congressional partnership embodied in Trade Promotion Authority (TPA). With that authority restored after a lapse of eight years, the Administration has begun to fulfill the vision of open markets and development articulated at the launch of new global trade negotiations in Doha, Qatar, in 2001. The United States has submitted far-reaching proposals to the World Trade Organization (WTO), including plans to remove all tariffs on manufactured goods, open agriculture and services markets, and address the special needs of poorer developing countries.

Working closely with the Congress, the Administration capped the year by completing Free Trade Agreement (FTA) negotiations with Chile and Singapore, which, when implemented, will open new markets for American exporters while expanding choice and value for American consumers. By lowering prices through imports and increasing incomes through trade, America's newest trade agreements will build on the success of the North American Free Trade Agreement (NAFTA) and the Uruguay Round, which together already provide the average American family of four with benefits of between $1,300 and $2,000—each and every year.

As President Bush has noted, "America is back in the business of promoting open trade to build our prosperity and to spur economic growth."

The Bush Administration looks forward to continuing to work with the Congress in 2003 as together we lay a firm foundation for a more prosperous America by passing the free trade agreements with Chile and Singapore; building upon our proposals to open markets in global trade talks; advancing negotiations on the Free Trade Area of the Americas (FTAA); negotiating new FTAs with the five countries of the Central American Common Market, Australia, Morocco, and the five countries of the Southern African Customs Union; enforcing U.S. trade laws; and monitoring and pressing China's and Taiwan's compliance with their WTO obligations.

Realizing the Free Trade Vision

Following World War II, America successfully employed trade to help shape a positive bipartisan agenda of growth, openness, and security. With the end of the Cold War, however, the Executive-Congressional partnership that fueled that historic progress lapsed, weakening U.S. trade leadership.

To lead globally, President Bush recognized that he had to reverse the retreat at home. He worked successfully with Congress to enact the Trade Act of 2002. This Act included Trade Promotion Authority (TPA), which re-established the authority necessary to credibly negotiate comprehensive trade agreements by ensuring that they will be approved or rejected, but not amended.

The Trade Act of 2002, however, included more than just TPA. As the legislation moved through Congress, pro-trade Republicans and Democrats worked closely with the Administration to incorporate trade-related environmental and labor issues, while simultaneously addressing concerns about sovereignty and protectionism. The Act tripled funding for the Trade Adjustment Assistance program—from $416 million in 2002 to $1.3 billion in 2004—to provide training, other reemployment services, and income support to Americans who need to acquire new skills due to job transitions in the international economy. In addition, the Act created a refundable health insurance tax credit for eligible trade-impacted workers. The Trade Act also included a large, immediate down payment on open trade for the world's poorest nations, cutting tariffs to zero for an estimated $20 billion in American imports from the developing world by renewing and expanding the Andean Trade Preference Act, the African Growth and Opportunity Act, the Generalized System of Preferences, and the Caribbean Basin Trade Preferences Act.

The Bush Administration is committed to active consultations with Congress to ensure that America's negotiating objectives draw upon the views of its elected representatives, and that they have regular opportunities to provide advice throughout the negotiating process. The Trade Act of 2002 established a new Congressional Oversight Group with bipartisan representation from all the committees with jurisdiction over legislation affecting trade. The Administration will continue to consult regularly with Congress on U.S. trade policy, both through the Oversight Group and through the committees of jurisdiction.

Even as it has rebuilt support for trade at home, this Administration has been working abroad to open markets on all levels: globally, regionally, and bilaterally. By moving forward on multiple fronts, the United States is exerting its leverage for openness, creating a new competition in liberalization, targeting the needs of poorer developing countries, and creating a fresh political dynamic by putting free trade on a global offensive.

Coming to office in the wake of the WTO's 1999 Seattle debacle, the Bush Administration recognized the importance of launching new global trade negotiations to open markets and spur growth and development. Our leadership—in conjunction with the European Union, many developing countries, and others—was instrumental in launching the Doha Development Agenda (DDA), against long odds. The Administration also played a key role in enlarging and strengthening the WTO by adding China and Taiwan to its ranks. By adding these important economies to the WTO, we are helping to ensure that China and Taiwan commit to a rules-based, open system of trade that will expand opportunities for Americans in these markets. Since 1995, the United States has helped add 17 new Members to the WTO—and efforts are in train to add Russia and other nations in the future.

The United States is committed to the goal of completing the DDA by the agreed deadline of 2005. To maximize the likelihood of success, the United States is also invigorating a drive for regional and bilateral FTAs. These agreements promote and reinforce the powerful links among commerce, economic reform, development, and investment, thereby strengthening security and the momentum for free and open societies. Under NAFTA, U.S. trade with Mexico almost tripled and trade with Canada nearly doubled; as important, all three members have become more competitive internationally. NAFTA proved definitively that both developed and developing countries gain from free-trade partnerships. It enabled Mexico to bounce back quickly from its 1994 financial crisis, launched the country on the path of becoming a global economic competitor, and supported its transformation to a more open democratic society.

In the months following the Congressional grant of TPA, the Bush Administration completed FTA negotiations with Chile and Singapore, began new FTA negotiations with the five nations of the Central

American Common Market, and announced FTA negotiations with the five countries of the Southern African Customs Union, Morocco, and Australia. We pushed forward the negotiations among 34 democracies for a Free Trade Area of the Americas and will co-chair this effort with Brazil until it is successfully concluded. The United States is once again seizing the global initiative on trade.

Pressing Forward with Global Trade Negotiations

Since the launching of new global trade negotiations at Doha in 2001, the United States has offered a series of bold proposals to liberalize trade in the three key sectors of the international economy: industrial and consumer goods, agriculture, and services. The U.S. leadership demonstrated by these proposals has been instrumental in maintaining forward momentum in the negotiations and in keeping WTO Members focused on the core issues of market access.

Consumer and industrial goods. The U.S. proposal for manufactured goods calls for the elimination of all tariffs on these products by 2015. This was the trade sector first targeted by the founders of the General Agreement on Tariffs and Trade in 1947. After more than 50 years' work, about half the world's trade in goods is now free from tariffs. It is time to finish the job.

The U.S. proposal would level the playing field first by harmonizing disparate tariffs at lower levels and then eliminating them altogether. We envision this happening in a two-stage process.
The first phase would take place between 2005 and 2010. During that time, WTO Members would eliminate all non-agricultural tariffs currently at or under 5 percent. This step would completely eliminate tariffs on more than three-quarters of imports into the United States, the European Union, and Japan in just five years. It would significantly boost trade among the major industrialized nations and spur exports from developing countries to developed nations.

During the 2005-2010 period, countries could also eliminate non-agricultural tariffs in highly traded goods sectors—such as environmental technologies, aircraft, and construction equipment—through a series of zero-for-zero initiatives with trade partners that are ready to commit to greater levels of openness. In addition, for all other duties the United States is proposing a "Tariff Equalizer" formula, which would bring all remaining non-agricultural tariffs down to less than 8 percent. In order to achieve greater equity, the highest tariffs would fall farther than the lower tariffs.

The second phase of the U.S. proposal would be carried out between 2010 and 2015. During those five years, all WTO Members would make equal annual cuts, until their tariffs on goods are eliminated. With zero tariffs, the manufacturing sectors of developing countries could compete fairly. The proposal would eliminate the barriers among developing countries, which pay 70 percent of their tariffs on manufactured goods to one another. By eliminating barriers to the farm and manufactured-goods trade, the income of the developing world could be boosted by over $500 billion.

The zero-tariff world that the United States is proposing would mean substantial new opportunities for U.S. exporters. It would also represent a major tax cut for America's working families, directly saving them more than $18 billion per year on the import taxes they currently pay in the form of higher prices. The dynamic, pro-business, pro-consumer, and pro-competitive effects of slashing tariffs would mean that America's national income would increase by $95 billion under the U.S. goods proposal. Together with the tax cut from lower tariffs, that would mean an economic gain of about $1,600 per year for the average family of four.

Agriculture. America's farmers are a key to our economic vitality. Dollar for dollar we export more

wheat than coal, more fruits and vegetables than household appliances, more meat than steel, and more corn than cosmetics.

The U.S. goal in the farm negotiations is to harmonize tariffs and trade-distorting subsidies while slashing them to much lower levels, on a path towards elimination. The last global trade negotiation—the Uruguay Round—accepted high and asymmetrical levels of subsidies and tariffs in order to begin to move toward some initial discipline in the sector. For example, the Round set a cap on the European Union's production-distorting subsidies that was three times the size of America's, even though agriculture represents about the same proportion of our economies.

The 2002 U.S. Farm Bill—which authorized up to $123 billion in all types of food-stamp, conservation, and farm spending over six years—made clear that while the United States will respect WTO limits, it will not cut agricultural support unilaterally. America's farmers and many agricultural leaders in Congress back our WTO proposal that all nations should cut tariffs and harmful subsidies together. The United States wants to eliminate the most egregious and distorting agricultural payments—export subsidies. The United States would cut global subsidies that distort domestic farm production by some $100 billion, slashing our own limit almost in half. We would cut the global average farm tariff from 60 percent to 15 percent, and the American average from 12 percent to 5 percent. The United States also advocates agreeing on a date for the total elimination of agricultural tariffs and distorting subsidies.

Services. The United States is by far the world's leading exporter of services. We have submitted requests to our WTO partners that would broaden opportunities for growth and development in this critical sector, which is just taking off in the international economy. Services represent about two-thirds of the U.S. economy and 80 percent of our employment, yet they account for only about 20 percent of world trade. Services liberalization would open up new avenues for trade, benefiting both the United States and our trading partners. The World Bank has pointed out that eliminating services barriers in developing countries alone could yield them a $900 billion gain.

As WTO negotiations have progressed, we are making significant progress in a number of other areas covered by the Doha declaration, including:

Capacity Building. The United States is committed to expanding the circle of nations that benefit from global trade. We listen to the concerns of developing countries and assist in their efforts to expand free trade. This past year, we devoted $638 million—more than any other single country—to help developing economies build the capacity to take part in trade negotiations, implement the rules, and seize opportunities. We have also acted in partnership with the Inter-American Development Bank and other multilateral institutions to provide new capacity-enhancing resources and expertise.

In addition, the Bush Administration is emphasizing the important contributions that small businesses make to the U.S. and global economies. Small businesses are a powerful source of jobs and innovation at home and an engine of economic development abroad. By helping to build bridges between American small businesses and potential new trading partners, these enterprises can become an integral part of our larger trade capacity building strategy. Working with the U.S. Small Business Administration, we have established an Office of Small Business Affairs at the Office of the United States Trade Representative (USTR) that is charged with insuring that American small business concerns are incorporated into our trade policy pursuits.

Intellectual Property. The United States agreed at Doha that the available flexibility in the global intellectual-property rules could be used to allow countries to license medicines compulsorily to deal with

HIV/AIDS, tuberculosis, malaria and other epidemics. We are also committed to helping those poor regions and states obtain medicines that they cannot manufacture locally. To keep faith with our Doha obligations, the Administration has issued a pledge: while we pursue a global understanding on how these life-saving medicines can best be provided to countries that cannot produce the medicines themselves, the United States will not challenge in dispute settlement any WTO Member that uses the compulsory licensing provisions of the TRIPS Agreement to export such drugs to a poor country in need. The Administration believes we must strike the necessary balance between protecting life-saving research and patents and helping those truly needy that face infectious epidemics.

Trade Rules. The international rules that govern unfair trade practices should be improved, not weakened. Indeed, the DDA explicitly states that any negotiation of trade remedy laws will preserve the basic concepts, principles, and effectiveness of existing agreements, as well as their instruments and objectives. This clear mandate will enable the United States to press for trade remedies to be applied in a manner consistent with international obligations. Inappropriate and non-transparent application of these laws can damage the legitimate commercial interests of U.S. exporters.

The Environment. Work has progressed well over the past year on the DDA's trade and environment agenda. The United States has urged new disciplines on harmful fisheries subsidies, prompting discussions in the Rules Negotiating Group on the inadequacy of existing rules in preventing trade distortion and resource misallocation in this important sector. The Bush Administration has stood firm against efforts to use so-called non-trade concerns, including using unjustified trade-distorting measures under the guise of environmental policy, to undermine the agenda for agricultural liberalization. At the same time, we helped move discussions forward on increasing market access for environmental goods and services in several WTO fora. WTO Members also began to identify avenues for increasing mutual supportiveness of multilateral environmental agreements (MEAs) and the WTO, particularly with respect to cooperation and communication between these institutions.

Electronic Commerce. The United States is actively engaged in the work program on electronic commerce, now being conducted under the auspices of the WTO's General Council. In 2002, two meetings were dedicated to e-commerce and focused on classification and fiscal implications of electronically transmitted products. As the work progresses, the United States will push for a set of objectives to form the basis for a positive statement from the WTO about the importance of free-trade principles and rules to the development of global e-commerce.

Transparency in Government Procurement and Efficient Customs Procedures. The Administration also continues to push for the reciprocal removal of discriminatory government procurement practices in a wide range of multilateral, regional and bilateral fora, including the WTO. The Administration is urging the conclusion of an Agreement on Transparency in Government Procurement that would apply to all Members of the WTO. The United States is also taking part in negotiations on new WTO rules to facilitate trade by making procedures at international borders more transparent and efficient.

Labor Issues. The United States has continued to press for increased cooperation between the WTO and the International Labor Organization (ILO). We charted important progress in 2002: In the Governing Body of the ILO, the United States supported the creation of the ILO's World Commission on the Social Dimensions of Globalization, which is undertaking a thorough analysis of the implications of trade and investment liberalization on employment, wages, and workers' rights. We look forward to the Commission's 2003 report.

The Administration's commitment to mutually supportive trade and labor policies has also benefited

greatly from a partnership between USTR and the Department of Labor's International Labor Affairs Bureau (ILAB). ILAB has directly supported the work of the ILO, focusing particularly promoting the 1998 *ILO Declaration on Fundamental Principles and Rights at Work* and the International Program for the Elimination of Child Labor (ILO/IPEC). ILAB is working with the ILO and other international organizations to assist countries in implementing core labor standards and is also providing technical cooperation to strengthen the capacities of developing countries' Labor Ministries to implement social safety net programs and combat the spread of HIV/AIDS. Realizing that child labor can never be fully eliminated until poverty is vanquished, the Administration and ILO/IPEC have focused on the eradication of the worst forms of child labor, including bonded or forced labor, child prostitution, and work under hazardous conditions. We have also bolstered the U.S. trade and labor agenda through ILAB analyses of labor laws and the worker rights situation of our trading partners.

Commitment to Progress within the WTO. To help maintain the momentum after the Doha agreement, WTO Members agreed that Mexico would chair the mid-term review of progress at the September 2003 Ministerial in Cancun. This meeting will provide WTO Members with the opportunity to chart a course for the final phase of negotiations. We welcome the leadership role that Mexico is playing by hosting this important meeting.

As negotiations progress, the United States will be placing special emphasis on a continued effort to ensure the involvement of the poorest and least developed nations, in order to assist them in securing the benefits of trade and to help keep all WTO Members effectively invested in the process. In 2002, we reaffirmed the U.S. commitment to the principle of special differential treatment for least developed countries in order to better integrate them into the global trading system, and devoted unprecedented resources to help such countries build the capacity to take part in trade negotiations, implement the rules, and seize opportunities. We have acted in partnership with the Inter-American Development Bank to integrate trade and finance, and we are urging the World Bank and the IMF to back their rhetoric on trade with resources.

Monitoring China's and Taiwan's Compliance with WTO Obligations

In 2001, the United States played a key role in breaking through logjams to complete the historic accessions to the WTO of China (after a 15-year effort) and Taiwan (after a 9-year effort). This achievement built on the work of four U.S. Administrations. To achieve a successful result, we solved many multilateral issues, including those relating to agriculture, trading rights, distribution, and insurance, while navigating the political sensitivities to enable China and Taiwan to join the WTO within 24 hours of one another.

Throughout 2002, the Bush Administration worked closely with other countries, as well as the private sector, to monitor China's and Taiwan's compliance with the terms of their WTO membership. On December 11, 2002—the first anniversary of China's accession to the WTO—USTR published a report prepared pursuant to section 421 of the U.S.-China Relations Act of 2000. The report updates Congress on China's compliance.

Overall, during the first year of its WTO membership, China made significant progress in implementing its WTO commitments, although much is left to do. It made numerous required systemic changes and implemented specific commitments, such as tariff reductions, the removal of numerous non-tariff barriers, and the issuance of regulations to increase market access for foreign firms in a variety of services sectors. Nevertheless, we have serious concerns about areas where implementation has not yet occurred or is inadequate—particularly in agriculture, intellectual property rights enforcement, and certain services sectors.

An extensive interagency team of experts closely monitors China's WTO compliance efforts. This effort is overseen by the Trade Policy Staff Committee (TPSC) Subcommittee on China WTO Compliance, which is composed of experts from USTR, the Departments of Commerce, State, Agriculture, Treasury, and the U.S. Patent and Trademark Office. It works closely with State Department economic officers, Foreign Commercial Service officers and Market Access and Compliance officers from the Commerce Department, Foreign Agricultural Service officers and Customs attaches at the U.S. Embassy and Consulates General in China, who are active in gathering and analyzing information, maintaining regular contacts with U.S. industries operating in China, and maintaining regular contacts with Chinese government officials at key ministries and agencies.

When compliance problems arose in 2002, the Administration used all available means to obtain China's full cooperation, including intervention at the highest levels of government. Throughout the year, USTR worked closely with affected U.S. industries on compliance concerns, and utilized bilateral channels through multiple agencies to press them. The Administration also broadened enforcement efforts by working on China issues with like-minded WTO Members through the Transitional Review Mechanism and on an ad hoc basis. Through these efforts, the Administration made progress on a number of fronts. For example, we addressed and continue to monitor a series of problems arising from China's new biotechnology regulations that threatened U.S. soybean exports ($1 billion worth in 2001) and other commodities. In the services area, the Administration successfully pressed China to modify new measures that threatened to restrict access by American express delivery firms, and we made progress in dealing with the concerns of U.S. insurance companies regarding China's use of excessively-high capitalization requirements and other prudential standards. USTR also established a regular dialogue on compliance with China's lead trade agency, MOFTEC, in September 2002. This dialogue is designed to bring all relevant Chinese ministries and agencies together in one forum to facilitate the resolution of outstanding contentious issues.

Taiwan's accession to the WTO has increased access for a wide range of U.S. goods and services, including agricultural exports, during 2002. However, we continue to track potential compliance problems with Taiwan's WTO commitments, while we work to address existing problems regarding market access for agriculture goods, intellectual property rights protection, and Taiwan's telecommunications services market. Throughout the year, the Administration worked closely with U.S. industries and other agencies on these compliance and other market access concerns. We used all available bilateral channels to press the Taiwan authorities to address shortcomings in these areas.

The Administration will continue this crucial work in 2003, both to address unresolved concerns and to tackle any new problems that arise. The backing we have received from the Congress—in terms of resources and attention—has been and will remain fundamental to the achievement of our mission. We will work closely with U.S. businesses, farmers, and labor groups—and with China and Taiwan—to address problems and take action when necessary.

Advancing Russia's Accession to the WTO

The United States has begun a new era in its relations with Russia. Whether in the realms of security, foreign policy, or economics, President Bush has emphasized the need to move beyond Cold War strictures and stereotypes.

To take another step towards closing out the history books of the Cold War, the President has urged the Congress to finally end the application of the Jackson-Vanik amendment to Russia. It has been over a

decade since the unification of Germany in 1990 and the dissolution of the Soviet Union in 1991. Furthermore, Russia has been in full compliance with Jackson-Vanik's emigration provisions since 1994. As we move ahead, the Administration will continue consulting closely with various groups on the protection of freedom of religion and other human rights in conjunction with this action.

In 2003, we will continue our intensified effort to negotiate the terms of Russia's accession to the WTO on commercially meaningful terms. President Putin has made WTO membership and integration into the global trading system a priority. We will support Russia as it promotes reforms, further establishes the rule of law in the economy, and adheres to WTO commitments that support a more open economy. This effort needs to include action by the Duma to establish a fully effective legal infrastructure for a market economy.

To achieve a successful WTO accession, Russia must abide by multilateral trade rules, and the United States and 144 other member nations will insist on that course as talks proceed. Working closely with the Congress, the Administration will stress the need for Russia to offer fair market access in important U.S. export sectors—in agriculture and financial services, for example—and to adhere to international standards in areas such as food safety. Unfortunately, Russia's actions on poultry and other meats has sent a negative signal about the seriousness of its commitment to join the WTO. If Russia continues down this path, it risks losing the benefits of WTO membership—and even current levels of market access for its exports.

Advancing Hemispheric Trade Liberalization: The Free Trade Area of the Americas

On the regional front, this Administration has been pressing ahead to create the largest free trade zone in history, covering 800 million people and stretching from Alaska to Tierra del Fuego: the Free Trade Area of the Americas. This endeavor will be trying and difficult, but when completed it will be an historic fulfillment of a U.S. vision dating to the 19th Century.

In November 2002 in Quito, Ecuador, the United States energized the FTAA negotiations by agreeing on a firm schedule and deadlines for specific offers to cut tariffs and reduce barriers. Ministers recommitted themselves to the 2005 deadline for completion of negotiations, delivered new instructions to negotiating groups, released an updated draft negotiating text, and agreed to tariff reductions from applied rates rather than WTO bound rates. Upon the close of the Quito Ministerial, the United States and Brazil assumed co-chairmanship of the FTAA process, providing an opportunity for cooperation with a key partner and economic power as the pace of negotiations accelerates. Looking ahead, the United States will advance bold market access proposals for manufactured and consumer goods, agriculture, services, government procurement, and investment. We will also host the next Ministerial meeting in Miami in November 2003.

President Bush, like his counterparts throughout the Americas, knows that the FTAA is crucial in our quest to build a prosperous and secure hemisphere. Free trade offers the first and best hope of creating the economic growth necessary to alleviate endemic poverty and raise living standards throughout the Americas. The scope of our endeavor is grand: The FTAA will be the largest free market in the world, with a combined gross domestic product of over $13 trillion.

Hemispheric openness is important in its own right, but it will also have a multiplier effect on growth by encouraging fuller participation by those countries in the Americas that have been bystanders in the global trading system. FTAA negotiators are developing provisions that will provide trade capacity building and technical assistance to smaller economies in the Americas, especially in the Caribbean. Our FTAA offers also take into account the special circumstances of these small island nations by building on existing patterns of preferential openness.

Fundamental freedoms and human rights are core principles of the Summit of the Americas process, as reiterated in Quito this year. The FTAA will strengthen democracy throughout the Hemisphere—a proposition that is not just theory, but fact. Time and time again, the world has witnessed the evolution from open markets to open political systems, from South Korea to Taiwan to Mexico. Free trade will likewise bolster young democracies in the Americas and the Caribbean.

During the Quito Ministerial, the governments of the Americas also affirmed their commitment to the observance of internationally recognized labor standards. This echoed the agreement by the hemisphere's heads of state at the Third Summit of the Americas to "promote compliance with internationally recognized core labor standards." The Inter-American Conference of Ministers of Labor (IACML) is responsible for implementing the labor-related mandates of the Third Summit of the Americas and represents a parallel process for addressing the labor implications of economic integration. The Department of Labor represents the United States in the IACML and co-chairs the working group charged with examining the labor dimensions of the Summit of the Americas process. In the Quito Declaration, Trade Ministers also noted the work of the IACML with respect to globalization and labor and requested that the results of that work be shared with them.

As we continue building support for the FTAA, it will be important to point to the successful record of America's first regional trade agreement, the decade-old NAFTA. Throughout the months ahead, we will continue to publicize NAFTA's substantial benefits and consider additional ways to deepen integration throughout the Americas. NAFTA has been a case study in globalization along a 2,000-mile border; it demonstrates how free trade between developed and developing countries can boost prosperity, economic stability, productive integration, and the development of civil society.

Pressing Other Regional and Bilateral Agreements

Whether the cause is democracy, expanding commercial opportunity, security, economic integration or free trade, advocates of reform often need to move towards a broad goal step by step—working with willing partners, building coalitions, and gradually expanding the circle of cooperation. Just as modern business markets rely on the integration of networks, we need a web of mutually reinforcing regional and bilateral trade agreements to meet diverse commercial, economic, developmental and political challenges.

The Bush Administration recently completed free trade negotiations with Chile and Singapore. Both of these agreements offer increased opportunities for U.S. businesses, farmers, and workers and send a message to the world that the United States will embrace closer ties with nations that are committed to open markets—whether in the Western Hemisphere, across the Pacific, or beyond the Atlantic. As we moved these FTA negotiations toward completion, we worked closely with the Congress—and the Senate Finance and House Ways and Means Committees in particular—to determine how best to address the concerns and interests of the Congress and the American people. For example, the Chile and Singapore agreements successfully incorporate new approaches to governing e-commerce, labor, investment, and the environment that were articulated in the Trade Act of 2002.

In 2002 we also notified the Congress and then launched FTA negotiations with a number of new countries:

- With Morocco, a leading moderate and reformist Arab nation that offers commercial opportunity, can serve as a model and hub for a region that can gain enormously from economic reforms, and has been a staunch partner in the global effort to defeat terrorism.

- With the five nations of the Central American Common Market—Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua—to encourage economic development and democracy in a region that has shown its potential by already representing $20 billion in trade with the United States and which has made great progress over the decade.

- With the five members of the Southern African Customs Union (Botswana, Lesotho, Namibia, South Africa, and Swaziland), which will be America's first free trade agreement with Sub-Saharan African nations. The 48 countries of sub-Saharan Africa represent a largely untapped market for American business. As these countries progress economically, they will require substantial new infrastructure in sectors as diverse as energy, agriculture, and telecommunications—areas in which U.S. firms lead the world. Thanks to the President's leadership on Africa, there is today a unique convergence of opportunities for us to promote African development and expand commercial opportunities for American businesses.

- And with Australia, our 14th largest trading partner and a growing economy, a key U.S. ally, and an important center in the network of American companies doing business in the Asia-Pacific region.

These regional and bilateral FTAs will bring substantial economic gains to American families, workers, consumers, farmers, and businesses. They also promote the broader U.S. trade agenda by serving as models, breaking new negotiating ground, and setting high standards. Our agreements with Chile and Singapore, for example, have helped advance U.S. interests in areas such as e-commerce, intellectual property, labor and environmental standards, regulatory transparency, and the burgeoning services trade.

As we work intensively on these FTA negotiations, the United States is learning about the perspectives of our trading partners. Our FTA partners are the vanguard of a new global coalition for open markets. These partners are also helping us to expand support for free trade at home. Each set of talks enables legislators and the public to see the practical benefits of more open trade, often with societies of special interest for reasons of history, geography, security, or other ties. The Bush Administration's FTA initiatives have helped shift the debate in America to the agenda of opening markets, and away from the protectionists' defensive agenda of closing them.

Our regional and bilateral free-trade agenda conveys the message that America is open to trade liberalization with all regions—Latin America, sub-Saharan Africa, the Asia-Pacific, the Arab world—and with both developing and developed economies. In October 2002, President Bush laid the groundwork for future market-opening initiatives by announcing the Enterprise for ASEAN Initiative. The EAI offers the prospect of bilateral FTAs between the United States and those members of the Association of Southeast Asian Nations that are ready to meet the high standards of a U.S. FTA, and also pledges to assist countries in joining the WTO. This past year we also signed Trade and Investment Framework Agreements with Sri Lanka, Brunei, the West African Monetary Union, Tunisia, Bahrain, and Thailand. In addition, the United States signed a Comprehensive Trade Package with Hungary in 2002 that lowered barriers to $180 million worth of U.S. exports per year.

We look forward to discussing these initiatives with the appropriate committees in the Congress, and we

will seek continued input on these and other possible FTAs.

Over the coming year, we intend to press the goals articulated in the Trade Act of 2002. The President's regional and bilateral free trade agenda—combined with a clear commitment to reducing global barriers to trade through the WTO—will leverage the American economy's size and attractiveness to stimulate competition for openness, moving the world closer, step-by-step, towards the goal of comprehensive free trade.

Building New Bridges: Preferential Trade Programs and Capacity Building

A free and open trading system is critical for the developing world. As President Bush has pointed out, "Open trade fuels the engines of economic growth that creates new jobs and new income. It applies the power of markets to the needs of the poor. It spurs the process of economic and legal reform. It helps dismantle protectionist bureaucracies that stifle incentive and invite corruption. And open trade reinforces the habits of liberty that sustain democracy over the long term."

Over the past year, the United States has matched its rhetoric on helping developing countries through trade with action. First, the Trade Act of 2002 renewed the Generalized System of Preferences (GSP), which enables some 3,500 products from 140 developing economies to enter the United States free of duties. We have invited countries to submit petitions for products that should be added to the GSP list.

Second, the new Trade Act extended and augmented the Andean Trade Preference Act (ATPA)—which President George H.W. Bush first implemented in 1991—by increasing the list of duty-free products to some 6,300. ATPA is a vital program for the four Andean democracies on the front lines of the fight against narcotics production and trafficking.

Third, the Act expanded the Caribbean Trade Partnership Act by liberalizing apparel provisions, providing a vital economic stepping stone for some of the poorest countries in our hemisphere.

Finally, we continued the important implementation of the far-sighted African Growth and Opportunity Act (AGOA), which Congress enacted in May 2000 and expanded with the "AGOA II" provisions of the Trade Act of 2002. AGOA opens the door for African nations to enter the trading system effectively, increases opportunities for U.S. exports and businesses, supports government reforms and transparency, and widens the recognition of the benefits of trade in the United States. It extends duty-free and quota-free access to the U.S. market for nearly all goods produced in the 38 eligible beneficiary nations of sub-Saharan Africa. Moreover, by providing incentives for African countries to open their markets and improve the environment for trade and investment, AGOA has helped to boost American exports to the region. U.S. merchandise exports to sub-Saharan Africa are up by 25 percent since AGOA's enactment, to nearly $7 billion last year, led by aircraft, oil and gas field equipment, and motor vehicles and spare parts.

The second annual AGOA forum in January 2003 provided an opportunity to evaluate AGOA's achievements and address implementation challenges. Gathering in Mauritius, Members of Congress, Administration officials, and business representatives all learned more about AGOA success stories, such as new jobs and investments in Cape Verde, Senegal, Rwanda, and Uganda. The real, positive experiences of American businesses and their African hosts provide models to emulate and help us better address the challenges inherent in promoting growth and commercial opportunities in Africa—

particularly the challenge of maximizing and realizing tangible benefits across all the countries in the region.

Moving forward, the Bush Administration is committed to expanding America's economic links with Africa. Most important, we are asking the Congress to extend AGOA beyond its 2008 expiration date. We have opened Regional Hubs for Global Competitiveness in Botswana, Kenya, and Ghana in 2002—each staffed with technical experts who will provide support on WTO issues, AGOA implementation, private sector development, and other trade topics. We are adding a specialist to each Hub from the Department of Agriculture to help African farm exports meet U.S. health and safety standards. Finally, we have designated a new Deputy Assistant Trade Representative who focuses exclusively on trade capacity-building activities.

Through AGOA and our other preferential trade programs, the Bush Administration will lend increasing support to developing countries that desire to take part in trade negotiations, implement complex agreements, and use trade as an engine of economic growth. We will build on current partnerships among agencies of the U.S. Government—such as AID, OPIC, and the Department of Agriculture—and with multilateral and regional institutions. Congressional advice, encouragement, and support is vital to this endeavor.

Monitoring and Enforcing Trade Agreements

For the United States to maintain an effective trade policy and an open international trading system, our citizens must have confidence that trade is fair and works for the good of our people. That means ensuring that other countries live up to their obligations under the trade agreements they sign. Over the past year, we have successfully resolved disputes and aggressively monitored and enforced U.S. rights under international trade agreements and U.S. court rulings in ways that benefit American producers, exporters, and consumers. Sectors that have been affected include entertainment, textiles, high-technology, automobiles, and agriculture.

In 2003, we will seek to resolve favorably other trade disputes in a way that best serves America's interests. Among the most prominent cases are telecommunications with Mexico; softwood lumber with Canada; beef with the European Union; the Foreign Sales Corporation (FSC) WTO case brought by the EU; and apples with Japan. In the FSC case, the Administration will consult and work closely with the Congress to determine an approach that will meet our WTO obligations.

We intend to continue addressing unjustified science and health measures that impede farm exports, and undermine safe and productive innovation in agriculture. We will be vigilant in defending the right to market safe agricultural biotechnology products in Europe and elsewhere—the continuation of a long tradition in agricultural progress—which holds out great potential for mitigating the environmental impact of food production, nourishing the world's expanding population, improving health and nutrition, and bolstering farmers' productivity and prosperity around the world, most especially in the developing world.

Preserving Safeguards and Trade Laws Against Unfair Practices

One of the principal negotiating objectives of the Trade Act of 2002 is to "preserve the ability of the United States to enforce rigorously its trade laws, including the antidumping, countervailing duty, and safeguard laws, and avoid agreements that lessen the effectiveness of domestic and international disciplines on unfair trade, especially dumping and subsidies, or that lessen the effectiveness of domestic and international safeguard provisions, in order to ensure that United States workers, agricultural producers, and firms can compete fully on fair terms and enjoy the benefits of reciprocal trade concessions."

Maintaining public support for open trade means providing appropriate assistance to those industries that find it difficult to adjust promptly to the rapid changes unleashed by technology, trade, and other forces. We will continue our commitment to the effective use of statutory safeguards, consistent with WTO rules, to assist American producers. Used properly, these safeguards—for example, Section 201 of the Trade Act of 1974—can give producers vital breathing space while they restructure and regain competitiveness.

On March 5, 2002, for instance, in response to a unanimous finding by the U.S. International Trade Commission (ITC) that imports were a substantial cause of serious injury to the U.S. steel industry, the President announced temporary tariffs on imports of certain steel products. The ITC safeguard investigation was part of a three-pronged initiative announced on June 5, 2001, that also included negotiations at the Organization for Economic Cooperation and Development (OECD) to encourage the reduction of excess global capacity and to eliminate the market-distorting subsidies that led to current overcapacity.

The President's approach has given the U.S. steel industry and its workers the chance to adjust to import competition while safeguarding the needs of steel consumers. The Section 201 remedy preserved access to specialty steels by excluding over 700 products from the increased tariffs. In addition, the tariffs did not apply to imports from countries that have committed to the highest level of reciprocal market access—our NAFTA and other FTA partners. Most developing countries have also continued to enjoy open access to the U.S. steel market.

Since the temporary tariffs took effect, domestic steel companies have taken serious steps to restructure and increase productivity. As of January 2003, these steps included: International Steel Group's (ISG) purchase of the steelmaking assets of LTV Corporation and Acme Steel; ISG's offer to purchase the assets of Bethlehem Steel; two competing offers to purchase National Steel Corp.; the negotiation of a groundbreaking labor contract between the United Steelworkers of America and ISG; and numerous mergers and acquisitions in the minimill sector.

We made important progress in the OECD steel negotiations in 2002. Participants established a peer review process to examine global steel capacity closures and decided to immediately develop the elements of an agreement for cutting trade-distorting subsidies in steel.

Given America's relative openness, strong, effective laws against unfair practices are important for maintaining domestic support for trade. This Administration has used and continues to back the use of these laws. At the same time, however, we recognize that the recent proliferation overseas of antidumping laws in particular has resulted in abuses against U.S. exporters by countries that do not apply their laws in a fair and transparent manner. Our objective in the WTO negotiations is to curb abuses

while preserving the basic concepts, principles, and effectiveness of trade remedy laws. Moreover, the United States has insisted that any discussion of trade remedy laws must also address the underlying subsidy and dumping practices that give rise to the need for trade remedies in the first place.

We continue to advance an affirmative U.S. agenda, targeting the increasing misuse of these laws, particularly by developing countries, to block U.S. exports. From 1995 through the first half of 2002, there were 105 investigations by 18 countries of U.S. exporters. The most frequently targeted U.S. industries are chemical, steel, and other metal producers, although U.S. farm products are increasingly being blocked. The WTO negotiations will help us address significant shortcomings in foreign antidumping and countervailing duty procedures by more clearly defining the specific circumstances that give rise to unfair trade, improving transparency in how antidumping laws are applied, and strengthening due process.

Aligning Trade with America's Values

America's trade agenda needs to be aligned securely with the values of our society. Trade promotes freedom by supporting the development of the private sector, encouraging the rule of law, spurring economic liberty, and increasing freedom of choice. Trade also serves our security interests in the campaign against terrorism by helping to tackle the global challenges of poverty and privation. Poverty does not cause terrorism, but there is little doubt that poor, fragmented societies can become havens in which terrorists can thrive.

Developing countries have much to gain by joining the global trading system. From Seoul to Santiago, when trade grows, income follows. The World Bank conducted a study of developing countries that opened themselves to global competition in the 1990s and of those that did not. The income per person for globalizing developing countries grew by five percent a year, while incomes in non-globalizing poor countries grew just over one percent. Developing countries that embraced trade and openness sharply reduced absolute poverty rates over the last 20 years, and the income levels of the poorest households have kept up with the growth.

By knitting Americans to peoples beyond our shores, new U.S. trade agreements can also encourage reforms that will help establish the basic building blocks for long-term development in open societies, including:

- *The rule of law*: Trade agreements encourage the development of enforceable contracts and fair, transparent governance—helping to expose corruption.

- *Private property rights*: These are a necessary ingredient for economic development because they encourage saving, investment, exchange, and entrepreneurship. Trade agreements bolster property rights by safeguarding the right to establish businesses, guaranteeing that investments will not be appropriated arbitrarily, supporting privatization, and fostering knowledge industries.

- *Competition*: Free trade fosters competition, the hallmark of successful economies. Developing countries suffer at the hands of elites who cling to their positions by depriving ordinary citizens of less-expensive, better-quality goods and services that can be had through competition. Free trade agreements attack manipulated licensing systems, state monopolies and oligarchies that keep affordable products off store shelves.

- *Sectoral reform*: Trade agreements drive market reforms in sectors ranging from e-commerce to farming. For example, in our FTA discussions with Morocco, we are examining how we can work with Morocco's World Bank program to restructure its agricultural sector. The United States has also advanced an aggressive agriculture reform proposal in the WTO negotiations that would eliminate $100 billion globally in trade-distorting farm subsidies and lead to better agricultural policies in developed and developing countries alike.

- *Regional integration*: The lesson of the European Union and NAFTA is that location matters, in economics as in politics. Therefore, as FTA negotiations with democracies in Central America and Southern Africa progress, we will explore how best to support beneficial regional integration and promote growth clusters.

From its first days, the Bush Administration recognized that poor countries cannot succeed with economic reform and growth if they are eviscerated by pandemics. Lower-priced medicines and appropriate flexibility on the implementation of intellectual property protection must be part of a larger global response to health pandemics, involving education, prevention, care, training, and treatment. The United States is committed to supplying funds for HIV/AIDS, tuberculosis, and malaria assistance, and funding related research, prevention, care, and treatment programs, much of which helps to address problems in developing countries.

President Bush has made fighting HIV/AIDS a priority of U.S. foreign policy. The United States is the international leader in combating this pandemic. The seriousness of the Administration's commitment to battle AIDS was recently underscored by President Bush's dramatic call for a tripling of U.S. AIDS spending—to $15 billion over the next five years—to establish an Emergency Plan for AIDS Relief. This comprehensive program is designed to prevent 7 million new AIDS infections, treat at least 2 million people with life-extending drugs, and provide humane care for millions of people suffering from AIDS, and to meet the needs of children orphaned by AIDS. In 2002, President Bush launched the $500 million Mother-and-Child HIV Prevention Initiative designed to prevent mother-to-child transmissions. Additionally, the United States was the first contributor—and remains the largest—to the international "Global Fund to Fight AIDS, TB and Malaria."

Free trade is about freedom. This value is at the heart of our larger reform and development agenda. Just as U.S. economic policy after World War II helped establish democracy in Western Europe and Japan, today's free trade agenda will both open new markets for the United States and strengthen fragile democracies in Central and South America, Africa, and Asia.

Promoting a Cleaner Environment, Better Working Conditions, and Investment Protection

Free trade promotes free markets, economic growth, expanded employment opportunities, and higher incomes. As countries grow wealthier, their citizens demand better working conditions and a cleaner environment. Economic growth gives governments more resources and incentives to promote and enforce strong standards in these areas.

The Trade Act of 2002 gave us detailed guidance on the continued incorporation of labor and environmental issues into U.S. trade agreements, representing a delicate balance across the spectrum of concerns. The Administration has been drawing on this guidance—and would welcome additional

advice—as we pursue these topics in our current trade negotiations. Similarly, we are conducting discussions with non-governmental organizations and the business community to ascertain how we can address concerns posed about investment provisions in trade agreements.

The Chile and Singapore FTAs incorporate Congressional guidance into a robust environment and labor packages that place obligations within the text of these agreements and emphasize the importance of cooperative action. These FTAs obligate signatories to set high levels of environmental and labor protection, strive to improve those protections, and not fail to effectively enforce their domestic laws in a manner affecting trade. This "effective enforcement provision" is subject to dispute settlement.

In the case of Singapore, a small developed country with limited available land, cooperative efforts will focus both on combating illegal wildlife trade and on building environmental capacity in Singapore's Southeast Asian neighbors. With Chile, we recognized a need for broader initiatives, both to address the special needs of a natural resource-based economy and to build environmental capacity in the Southern Cone. The U.S.-Chile FTA sets out eight initial cooperative projects and calls for the negotiation of a separate environmental cooperation agreement.

On labor, the Trade Act of 2002 stresses the need "to promote respect for worker rights and the rights of children consistent with the core labor standards of the International Labor Organization." In our FTAs with Chile and Singapore, we reaffirmed our respective obligations as members of the ILO and committed to uphold the ILO Declaration on Fundamental Principles and Rights at Work. We examined carefully at the domestic labor laws in Chile and Singapore and verified that their laws did, in fact, adequately respect the ILO's core worker rights. We also achieved a principal negotiating objective of TPA by including labor provisions that obligate signatories to effectively enforce domestic labor laws when they may affect trade. In support of the goal to promote respect for worker rights, the United States and Chile agreed to move forward on two labor technical cooperation projects—labor justice reform and labor law compliance. In 2003, the United States will seek to negotiate labor and environment clauses in our trade agreements with the five Central American countries, Morocco, Southern Africa, and Australia.

The Chile and Singapore FTAs include an innovative system of monetary assessments to help settle labor and environmental disputes in a manner equivalent to how we resolve commercial disputes. In these agreements, the first course of action in a labor, environmental, or commercial dispute will be consultation. If this fails, however, all disputes will be handled through the same settlement procedures. If these procedures fail to bring an offending party into compliance, fines are a possibility—the funds from which will be earmarked for measures to address the underlying labor or environmental problems. This system creates an incentive to comply to avoid fines, and also serves to reduce the likelihood of future non-compliance by using funds to remedy enforcement deficiencies. Only as a last resort—in cases of non-compliance and a failure to pay a monetary assessment—will FTA signatories have recourse to withdraw trade benefits. And those actions must be, as the Congress stated, "appropriate" to the severity of the violation.

The Administration has also addressed Congressional concerns about the intersections among investment, labor, and environmental protections. The Singapore and Chile FTAs provide greater transparency and accountability in the disputes that investors can bring against host governments and ensure that U.S. investors abroad get protections comparable to those afforded under U.S. domestic law, while making clear that foreign investors in the United States do not have greater substantive rights than domestic companies. These agreements incorporate foreign investment negotiating objectives from the Trade Act

of 2002, including the authorization of *amicus curiae* submissions and public access to investor-state arbitration hearings and documents. In addition, the United States, Singapore, and Chile committed to explore the development and use of appellate mechanisms in investor-state dispute settlement and agreed on provisions aimed at eliminating and deterring frivolous claims. Drawing upon U.S. legal principles and practice, we clarified the obligations on expropriation and "fair and equitable" treatment.

In the Doha Development Agenda, we are taking similar practical steps to demonstrate that good environmental, labor, investment policies can be economically sound. In addition, we are working to encourage a healthy "network" among multilateral environmental agreements and the WTO, enhance institutional cooperation, and foster compatible, supportive regimes. This precedent will help to interconnect the WTO with other specialized organizations, such as the ILO.

We know the importance of these topics for many Members of Congress who want to ensure that the benefits of trade and openness in spurring growth, productivity, and higher incomes are accompanied by enhanced scrutiny and transparency of labor and environmental laws and conditions. Some stress the need to safeguard America's sovereign rights in setting our own standards, while other Members want to deploy trade agreements to compel other nations to accept the standards we prefer. Some believe that the influence and investment of U.S. companies abroad will lead to higher standards and codes of behavior, while others fear the reach of globalized companies. It is our goal to use the guidance the Congress has given to bridge the differences, build a stronger consensus, and make a real, positive difference for America and the world.

Conclusion: Pressing the Free Trade Agenda Forward

In the coming year, the United States will continue to make the case for the win-win nature of trade. Expanded trade—imports as well as exports—improves the well being of people everywhere. Trade promotes more competitive businesses, as well as the availability of more choices of goods and inputs, with lower prices.

America's economy depends on trade. Businesses, small and large, sell and ship their products around the globe. At the same time, U.S. manufacturers rely on imported inputs to production to stay competitive with foreign producers. Over the past decade, U.S. exports accounted for about a quarter of our country's economic growth. Our exports support about 12 million jobs—jobs that pay wages 13 percent to 18 percent higher than the U.S. average because they have higher productivity. One in three acres on American farms—accounting for over $56 billion in annual sales—is planted for export. And opening foreign markets is critical to the future growth of America's diverse services sector.

President Bush understands the interconnection between "a world that trades in freedom" and America's interests in promoting a strong world economy, lifting societies out of poverty, and reinforcing the habits of liberty. Having reestablished U.S. trade leadership around the globe, the President is now working with Congress on an activist agenda to expand economic freedom at home and abroad.

Robert B. Zoellick
United States Trade Representative
March 1, 2003

THE PRESIDENT'S 2002 ANNUAL REPORT ON THE TRADE AGREEMENTS PROGRAM

II. The World Trade Organization[1]

A. Introduction

Over the past year, Members of the World Trade Organization embarked on the important business of moving forward a major round of global trade negotiations – the Doha Development Agenda (DDA), scheduled to be completed by January 1, 2005. The Doha Agenda is heavily oriented towards market access issues, with agricultural reform at the heart of the agenda. These negotiations, along with the day-to-day implementation of the rules governing world trade, mark a new and welcome phase of global trade liberalization and strengthening of the trading system that is so vital to the growth of the world economy and continued peace and prosperity.

This chapter outlines the progress in the work program of the WTO, and most importantly the work ahead for 2003, beginning with the negotiations launched at Doha and the prospects for the WTO's Fifth Ministerial Meeting in Cancun, Mexico, September 10-14, 2003. In 2002, WTO Members moved swiftly to organize the negotiations and then turned their attention to the market opening agenda of the negotiations. The United States has been an active participant in the negotiations, pressing other Members to pursue bold and aggressive trade liberalization and agricultural reform. At the same time, given the emphasis on development, the United States and other WTO Members have provided unprecedented contributions to strengthen technical assistance and capacity building to ensure the participation of all Members in the negotiations. After detailing the DDA's progress to date, this chapter follows with a review of the implementation of existing Agreements, including the critical negotiations to expand the WTO's membership to include new members seeking to reform their economies and join the rules-based system of the WTO.

B. Trade Negotiations Committee and The Doha Development Agenda

The Trade Negotiations Committee (TNC), established at the WTO's Fourth Ministerial Conference in Doha, Qatar, oversees the agenda and negotiations in cooperation with the WTO General Council. The TNC met regularly throughout 2002 to supervise negotiations. Early in 2002, WTO Members established the various negotiating bodies and designated chairs to lead the various groups and manage the agenda (a complete listing of the bodies for the TNC and General Council is provided in Annex II). Importantly, Members agreed to appoint the WTO Director General to serve as the Chair of the TNC. Once the TNC was established, Members moved ahead to pursue the substantive issues in the negotiations, aided by the preparatory work of the WTO's built-in agenda on agriculture and services.

WTO Members reached the end of 2002 with far-reaching proposals submitted in all areas of the negotiations, in particular on market access. The work in 2003 will be devoted to preparations for the Ministerial Conference in Cancun, where Ministers are required to review progress at the mid-point of the

[1]The information in this section is provided pursuant to the reporting requirements contained in sections 122 and 124 of the Uruguay Round Agreements Act.

DDA negotiations and convene a Ministerial Conference in line with Article IV of the Marrakesh Agreement Establishing the WTO. Under Article IV, the WTO is required to hold a ministerial conference at least once every two years. Given the WTO's ongoing responsibility to supervise and assist in the implementation of commitments, for the further liberalization of trade, and for the resolution of disputes, the Members believed it would be important for Ministers to meet on a regular basis in order to provide necessary direction and political oversight to the organization's work. The regular cycle of ministerial meetings was an important innovation for the WTO.

WTO Members in the coming year will be working to build consensus in all areas of the negotiations. As reported in November 2001, the agreements reached at the Doha meeting open a new chapter for the WTO. Unlike previous trade negotiating rounds, it is widely recognized that developing countries, which now comprise more than two-thirds of the WTO's membership, are at the center of the new negotiations. In addition to our traditionally close working relationship with the European Union and our developed country partners, the United States worked closely with our developing country partners throughout the year in setting the agenda for negotiations. This dialogue with developing countries reached from the Cairns Group on Agriculture to our partners in sub-Saharan Africa. To prepare the approximately 35 proposals and submissions tabled in 2002, the United States solicited public comments in the Federal Register and engaged in an extensive consultation process with Congress and the private sector.

Prospects for 2003

The pace of negotiations will intensify in preparation for the Cancun meeting. WTO Members will need to move expeditiously to ensure that by the time of the Cancun meeting, sufficient progress is made in the negotiations to permit these historic negotiations to conclude on schedule, by January 1, 2005. Just as U.S. leadership was essential to the initiation of negotiations at Doha, an aggressive and active posture by the United States will be critical to guarantee success for America's interests. Key subjects will include:

- ***Agriculture***: In July 2002, the United States capped its intensive campaign for agricultural reform by tabling a far-reaching and aggressive proposal addressing each of the three pillars of the negotiations: market access, export subsidies and domestic support. By March 2003, the negotiating schedule calls for an agreement on the "modalities", or the extent to which WTO Members will cut barriers to market access and export subsidies. At the Cancun meeting, Ministers will assess progress and provide additional guidance on the next steps. The WTO negotiations in agriculture are closely linked to the subject matter of the negotiations for a Free Trade Area of the Americas (FTAA). FTAA trading partners are committed to reform in agriculture that will only be possible in the WTO context (including as it would, commitments from Europe to address its export subsidies). Rapid progress in 2003, particularly in the first half of 2003, through substantive, credible proposals, is essential for both the WTO and FTAA negotiations.

- ***Non-Agricultural Market Access***: The United States has pressed its partners to ensure that new market access opportunities for manufacturing will keep pace with the progress on agriculture. For this reason, the United States tabled a similarly ambitious and bold proposal to eliminate in two steps all duties on industrial and consumer goods by 2015, utilizing a formula-based approach. The United States also plans to submit a proposal addressing non-tariff barriers that impede trade. Negotiators are to agree on modalities for these negotiations before the end of May 2003, at the latest. Working together with Congress and industry, during 2003 we will develop

proposals so that we meet the deadline for reaching a consensus on modalities. Past U.S. efforts have been instrumental in bringing about the Information Technology Agreement, Chemical Harmonization and a host of other initiatives aimed at eliminating barriers to trade in non-agricultural products. Our efforts in the Doha negotiations show a similar determination and ambition.

- ***Services***: An aggressive agenda for market opening in services, including audio-visual services, financial services (including insurance), express delivery services, energy services and telecommunication services, is being pursued in the negotiations. At the end of June 2002, the United States and key trading partners made liberalization requests of other Members, and liberalization offers are to be tabled in March 2003. Since the United States is the world's leader in services for the 21st century economy, and services account for 80 percent of U.S. employment, our efforts in this area continue to be significant. Market opening in services is essential to the long-term growth of the U.S. economy. For developing countries, services are a great economic multiplier and essential to their respective development strategies.

- ***Dispute Settlement***: The United States has led efforts to strengthen the rules governing the settlement of disputes because the system of WTO rules is only as strong as our ability to enforce our rights under these Agreements. For this reason, the United States has led the efforts to promote transparency in the operation of dispute settlement. Negotiations will intensify as the deadline to complete the review of the Dispute Settlement Understanding (DSU) in May 2003 draws near.

- ***WTO Rules***: Utilizing the solid mandate achieved at Doha, negotiations are now focused on strengthening the system of trade rules and addressing the underlying causes of unfair trade practices. American workers need strong and effective trade rules to combat unfair trade practices, particularly as tariffs decline. While there are no major deadlines in 2003, negotiators will continue to identify, and more precisely define, issues of concern. The process envisioned in the WTO should result in strengthened trade rules in antidumping and subsidies, as well as new disciplines on harmful fisheries subsidies that contribute to overfishing.

- ***Trade Facilitation (Customs Procedures):*** Increasingly, WTO Members are convinced that the key to developing their economies and combating corruption is in strengthening the trade rules governing customs procedures to ensure the free flow of goods and services in the new just-in-time economy. Strengthening these rules is the eventual aim of work in the WTO. Progress is crucial, for example, to the success of our express delivery industry. In 2003, the agenda for trade facilitation will be refined further, building on the successes achieved in the FTA negotiations with Chile and Singapore. These agreements should provide positive momentum to the WTO negotiating agenda in this area.

- ***Environment***: The United States has continued to take a practical and pragmatic approach to these important WTO negotiations, which have started with improving the process of communication and cooperation between the Secretariats of Multilateral Environmental Agreements (MEAs) and the WTO. Building on this cooperative spirit, the negotiations will consider other, more difficult, areas such as the relationship of MEA's to WTO rules. Along with our work in market access and rules, we will continue to be vigilant to ensure that these

negotiations are not used to introduce protection under the guise of safeguarding the environment. The U.S. agenda is aimed at promoting growth, trade and the environment.

- ***Competition and Investment:*** In both of these areas, decisions will need to be taken in Cancun about how negotiations should proceed. Substantial resistance remains, particularly from developing countries. The United States has taken a constructive approach to these negotiations. 2003 will be devoted to forging a consensus on a way forward that is acceptable to all WTO Members and ensures openness and transparency in the regimes of newly-emerging markets.

- ***Transparency in Government Procurement:*** Discussions in 2002 continued on the elements of an agreement to govern government purchasing. The work in the WTO in 2003 will be aimed at complementing initiatives underway in other fora, including the G-8, to combat corruption and unfair trade practices.

- ***Trade and Development***: An essential ingredient in the DDA has been a more intensive program of technical assistance and capacity building to integrate developing countries into the trading system. The United States has pressed the WTO and other international institutions to intensify their cooperation. Early in 2002, the WTO received pledges of financial support to its trust fund of more than 30 million Swiss Francs. The United States contribution to WTO technical assistance exceeded $1.6 million. Success in the negotiations will only be achieved if the United States and its trading partners focus on the need to integrate developing countries into the multilateral trading system.

- ***Implementation***: Work continued in 2002 on the rigorous work program regarding the implementation of previously negotiated commitments, including issues that were discussed in the Doha preparatory process. Conclusions were not reached in all areas and this work will continue in 2003. The most contentious issues involve the treatment of rules issues, particularly trade-related investment measures and whether to expand the negotiations in the TRIPS agreement regarding geographical indications beyond wines and spirits. In some cases, differences may be bridged only through further negotiation, and in still others, a consensus for action may not emerge. The United States will continue to participate seriously in these discussions during 2003, and in developing the report that will be provided to the TNC at the end of the year.

1. Special Session of the Committee on Agriculture

Status

At the Fourth WTO Ministerial Conference in Doha, WTO Members agreed to an ambitious mandate for agriculture, including "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." WTO Members also established an ambitious negotiating time line, calling for reform modalities, such as tariff and subsidy reduction formulas, to be established no later than March 31, 2003 and submission of draft schedules of specific commitments by the Fifth Ministerial Conference.

The WTO provides multilateral disciplines 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 through WTO rules are U.S. producers and exporters able to impose disciplines on the broad range of large agricultural producing and consuming Members simultaneously. For example, absent a WTO Agreement on Agriculture, there would be no limits on European Union subsidization nor firm commitments for access to the Japanese market. Negotiations in the WTO provide the best hope to further open important markets for U.S. farm products and reduce subsidized competition.

Major Issues in 2002

The United States has taken the lead in calling for substantial reform of agricultural trade policies, across all Members and all products. The United States has proposed comprehensive reform by reducing high levels of allowed protection and trade-distorting support through formulas that reduce tariff and subsidy disparities across countries, as well as strengthening WTO rules on a range of trade-related measures. In addition, the United States has proposed that WTO Members agree to eliminate all trade-distorting subsidies and all tariffs by a date certain. Members with heavily-distorted agricultural sectors, such as the European Union and Japan, have opposed substantial reform and instead have called for marginal reductions in protection and trade-distorting support while also calling for new WTO provisions to legitimize measures oriented toward addressing non-trade concerns. Developing countries, particularly within the Cairns Group[2], look to the agriculture negotiations as a principal means for achieving more meaningful trade participation in the global economy. Many developing country Members, including within the Cairns Group, have called for substantial reform in developed country Members' agricultural policies while also proposing that reforms required of developing countries be mitigated by special and differential treatment provisions.

The Uruguay Round Agreement on Agriculture provided the framework for further negotiations. The three main areas for improvement in disciplines affecting agricultural trade are export subsidies, market access, and domestic support. Negotiations on agriculture began in the year 2000 and in the first two years some 45 proposals were submitted on behalf of 121 Members. Members focused attention in the year 2002 on specific proposals for establishing reform modalities, consistent with the Doha mandate. The United States submitted the first comprehensive set of proposed modalities for reform, helping set the discussions in Geneva on an ambitious reform track. A number of other Members, including the Cairns Group and other developing countries, also submitted specific modality proposals oriented toward substantial reform. The European Union, Japan, and other Members with high tariff and subsidy levels did not come forward with specific or forthcoming modality proposals, instead making general proposals for marginal reform.

[2]Current Cairns Group Members are: Argentina, Australia, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Guatemala, Indonesia, Malaysia, New Zealand, Paraguay, Philippines, South Africa, Thailand, and Uruguay.

Export Competition: The WTO Agreement on Agriculture places limits on the use of export subsidies. Products that have not benefitted from export subsidies in the past are banned from receiving them in the future. Where countries had provided export subsidies in the past, the future use of export subsidies was capped and reduced. Currently, the European Union accounts for nearly 90 percent of global annual spending on agricultural export subsidies, up to $5 billion a year. The United States spends between $20 million and $100 million per year.

The United States has proposed phasing out over a five year period any use of export subsidies. The goal of eliminating export subsidies in these negotiations is supported by many WTO Members, in particular developing countries. Specific proposals have also been submitted for reforming other export-related government programs, including export credits, food aid, and privileges enjoyed by state trading enterprises. Several Members have also proposed stronger rules to discipline the use of export restrictions.

Key Elements of U.S. Proposals for Agricultural Reform

Tariffs and TRQs. Comprehensive reductions in tariffs and tariff disparities through the Swiss 25 formula and a 20% increase in tariff-rate quota quantities, without exception.

Export Subsidies. Elimination of export subsidies.

Domestic Support: Simplifies the current structure by creating two categories of support: 1) non-trade distorting measures that are not subject to limits; and, 2) trade-distorting measures that would be subject to reductions. Establishes a limit of trade-distorting support equal to 5% of the value of Members' agriculture production.

State Trading Enterprises. Disciplines the activities of import and export state trading enterprises, including ending their monopoly privileges.

Export Restrictions. Strengthens disciplines on export restrictions to increase the reliability of global food supply.

Export Credits. Establishes a rules-based approach to guard against circumvention of export subsidy rules by disciplining elements such as repayment period, premia, and fees. Identifies the need for developing countries to have access to export credit facilities to enhance food security. Consideration to the concerns of the poorer WTO Members to ensure the agreement is appropriate for their circumstances.

Market Access: The WTO Agreement on Agriculture set agricultural trade on a more predictable basis by requiring the conversion of non-tariff barriers, such as quotas and import bans, into tariffs. Today, tariffs represent the primary WTO-consistent restriction on trade in agricultural products. Quotas, discriminatory licensing, and other unjustified non-tariff measures are now prohibited. Also, all agricultural tariffs have been reduced from earlier levels and "bound" in the WTO. A decision by a Member to impose tariff rates above a binding without authorization would violate WTO obligations. Creating a "tariff-only" system for agricultural products is an important advance, yet tariffs on agricultural products around the world remain too high. Additionally, administrative difficulties with tariff-rate quota systems (which operate as two-tier tariff regimes) continue to impede international trade in food and fiber products.

The United States has proposed substantial reductions for all tariffs through the use of a tariff reduction formula that would reduce all tariffs in a manner that results in all countries having similar tariff levels. The U.S. proposal on tariffs – called the Swiss 25 formula – would cut the global average allowed tariff on agricultural products from 62 percent to 15 percent and ensure that no tariff is higher than 25 percent when cuts are fully implemented. The U.S. average tariff on agricultural products would fall from 12 percent to 5 percent. The United States also has proposed tightening disciplines on the administration of tariff-rate quotas, expanding access under tariff-rate quotas, simplifying tariff systems, and reducing the trade-distorting potential of state trading enterprises. Members of the Cairns Group of exporting

countries and many developing countries have also focused their proposals on the need for substantial tariff reductions in developed country markets, with lesser reduction commitments required for developing country Members. A number of Members have also proposed using safeguard mechanisms to guard against market disruption from imports.

Domestic Support: Governments have the right to support farmers if they so choose. However, the Agreement on Agriculture encourages that support be provided in a manner that causes no or minimal distortions to production and trade. The Agreement caps trade-distorting domestic support that a Member can provide to its farmers, but preserves the criteria-based "green box" policies that can provide support to agriculture in a manner that minimizes distortions to trade.

The United States has proposed a reduction in the level of trade-distorting support and the establishment of a ceiling on all trade-distorting support that applies equally to all countries. Under the U.S. proposal, the ceiling would be set at 5 percent of the value of total agricultural production. This proposal, when phased in over five years, would cut the amount of allowed trade-distorting support globally by over $100 billion a year, reducing unfair competition in world markets and eliminating disparities resulting from unequal levels of support provided in the base period. Some other WTO Members have called for the elimination of all trade-distorting support while other Members have called for strengthening disciplines, or imposing a cap on the green box of non-trade distorting support.

Prospects for 2003

The Doha mandate identifies two key deadlines for the agriculture negotiations in 2003. First, modalities, such as tariff and subsidy reduction formulas, are to be established by March 31, 2003. To meet this deadline, negotiators are engaged in intensive discussions in Geneva and in capitals. Second, based on these modalities, WTO Members are to submit initial draft schedules of specific commitments, such as reduction schedules for individual tariff lines and subsidy allowances, by the Fifth Ministerial Conference in Cancun in September 2003. Chairman Harbinson, the Chair of the Special Session, intends to pursue an intensive negotiating schedule in the first quarter of 2003 with these deadlines in mind. He is likely to table a series of proposals aimed at reaching a consensus on negotiating modalities.

2. Special Session of the Council for Trade in Services

Status

Pursuant to the mandate provided in the Uruguay Round, Members embarked upon new, multi-sectoral services negotiations in 2000 under Article XIX of the General Agreement on Trade in Services (GATS). The Doha Declaration recognized the work already undertaken in services negotiations and reaffirmed the Guidelines and Procedures for the Negotiations adopted by the Council for Trade in Services (CTS) in March 2001. The Doha mandate directed Members to conduct negotiations with a view to promoting the economic growth of all trading partners. The Doha mandate also set deadlines for initial services requests and offers. In February 2002, the TNC established a Special Session of the Council for Trade in Services to serve as the negotiating body.

Major Issues in 2002

The GATS negotiations entered a new phase in 2002 as WTO Members submitted requests consistent with the time frames established in the Doha Ministerial Declaration. The United States submitted its requests on July 1 and at the same time made public a description of the requests, available at: www.ustr.gov/sectors/services/2002-07-01-proposal-execsumm.PDF.

Discussions have also taken place on three provisions contained in the GATS that relate to the negotiations. The GATS calls for an "assessment of trade in services in overall terms and on a sectoral basis with reference to the objectives of this Agreement, including those set out in paragraph 1 of Article IV, *Increasing Participation of Developing Countries*." A number of WTO Members have made written and oral presentations discussing the effects of services liberalization. In addition, the GATS calls for establishment of two sets of procedures, the first dealing with the treatment of least developed countries in the negotiations, and the second dealing with "the treatment of liberalization undertaken autonomously by Members since previous negotiations." In July 2000, the United States was the first to make specific proposals regarding the former.

Prospects for 2003

In light of the new phase of the negotiations, sessions in Geneva have been organized to allow greater time for bilateral meetings to present and discuss requests. Country-specific liberalization offers in response to the requests are due by March 31, 2003. Discussions will continue on the three topics noted above (the "assessment," the modalities for treatment of least developed countries and of so-called autonomous liberalization).

U.S. Proposals for a Tariff-Free World

The U.S. proposal would eliminate tariffs on a full-range of consumer and industrial goods ranging from women's shoes, to tractors, to children's toys. The proposal calls for a two-step approach to tariff elimination.

Step 1: Members must cut and harmonize their tariffs in the five year period from 2005 to 2010. WTO Members would eliminate all tariffs at or below 5 percent by 2010, cut all other tariffs through a "tariff equalizer" formula to less than 8 percent by 2010, and eliminate tariffs in certain highly-traded industry sectors as soon as possible, but not later than 2010.

Step 2: Members would make equal annual cuts in remaining tariffs between 2010 and 2015. These cuts would result in zero tariffs.

The proposal also calls for a separate program to identify and eliminate non-tariff barriers, which would run on a parallel track with the negotiations on industrial tariffs. The United States will put forward an initial list of such barriers in January.

3. Negotiating Group on Non-Agricultural Market Access

Status

At the Fourth WTO Ministerial Conference held in Doha, Ministers agreed to launch non-agricultural market access negotiations in order to reduce or eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs, and tariff escalation, as well as non-tariff barriers, in particular on products of export interest to developing countries. Modalities for the reduction/elimination were to be agreed. Ministers also affirmed that product coverage in these negotiations would be comprehensive and without *a priori* exclusions.

Major Issues in 2002

The WTO Negotiating Group on Non-Agricultural

Market Access set out a work plan in 2002 designed to develop the approaches that would be utilized in negotiations to reduce or eliminate tariff and non-tariff barriers for non-agricultural products. The Negotiating Group agreed that proposals on possible approaches to the negotiations should be submitted between November 1 and December 31, 2002, established March 31, 2003, as the target date for reaching a common understanding on the possible outline of modalities and set May 31, 2003, as the deadline for agreement on modalities. This timetable is designed to ensure agreement on the negotiating approach in advance of the September 2003 Fifth Ministerial Conference in Cancun, Mexico. The Negotiating Group agreed to provide information on the types of non-tariff barriers Members believe should be addressed by January 31, 2003, with a view to reaching consensus on approaches to address non-tariff measures by May 31, 2003 in conjunction with tariff understandings.

In May 2002, the negotiating group organized a technical assistance and training session for all participants to facilitate participation by WTO Members in the negotiations. Work on the substantive approaches that could be taken to liberalization began in earnest in August. Four subsequent sessions were held in 2002 to consider specific proposals on possible approaches to tariff negotiations tabled by the United States, Chile, China, the European Union, Hong Kong, Japan, Mexico, Oman, and Switzerland. Most of these proposals call for a "cocktail" of different approaches to achieve the Doha goals. Virtually all call for a tariff-cutting formula to be the core of the negotiations, with other approaches applied to ensure that all elements of the mandate are met. In addition to various formula approaches, proposals also suggested elimination of tariffs below 5 percent, sectoral "zero/zero" initiatives, harmonization or "compression" methodologies to reduce the disparity across tariff schedules and defined a number of possible approaches to special treatment for the least developed and/or other developing country Members. While an initial deadline for such proposals had been set for December 31, 2002, proposals from several other countries are anticipated early in 2003.

Prospects for 2003

In the first half of 2003, it is anticipated that intense negotiations will occur on the best approaches to use to reduce or eliminate tariffs and non-tariff barriers. The United States will be pursuing its tariff proposal aggressively and working intensively with the private sector, labor, and other interested constituencies to ensure that U.S. interests are advanced through the approaches agreed. In the second half of the year it is anticipated that the intense process of tabling offers and undertaking bilateral negotiations will begin so that tariffs and non-tariff barriers are liberalized to the maximum extent possible by the end of Doha negotiations.

4. Negotiating Group on Rules

Status

In paragraph 28 of the Doha Ministerial Declaration, the Ministers agreed to negotiations aimed at clarifying and improving disciplines under the Agreements on Implementation of Article VI of the GATT 1994 (the Antidumping Agreement) and on Subsidies and Countervailing Measures (the Subsidies 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 participants. 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. In addition, paragraph 29 of the

Doha Ministerial Declaration provides for negotiations aimed at clarifying and improving disciplines and procedures under the existing WTO provisions applying to regional trade agreements.

The Doha Declaration provides for a two-phase process for the negotiations, in which participants would identify in the initial phase of negotiations the provisions in the Agreements that they would seek to clarify and improve in the subsequent phase. The initial issue-identification phase is expected to continue at least until the Fifth Ministerial Conference.

Major Issues in 2002

The Rules Group held five formal meetings in 2002 (in March, May, July, October, and November) under the Chairmanship of Ambassador Tim Groser from New Zealand. The Group based its work primarily on the written submissions from Members, organizing its work in the following categories: (1) antidumping; (2) subsidies, including fisheries subsidies; and (3) regional trade agreements. Since the Group was in the initial issue-identification phase for all of the meetings in 2002, most of the 41 papers formally submitted by Members to the Group in 2002 have raised issues for discussion rather than making proposals on how to change the Agreements. Some of the papers presented questions or comments on prior submissions.

Antidumping

Given the Doha mandate that the basic concepts and principles underlying the Antidumping and Subsidies Agreements must be preserved, the United States presented a paper at the October meeting outlining the basic concepts and principles of the trade remedy rules. The U.S. paper identified four core principles that would guide U.S. proposals for the Rules Negotiating Group:

- First, these 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;

- Second, trade remedy laws must operate in an open and transparent manner. This principle is fundamental to the rules-based system as a whole, and the transparency and due process obligations should be further refined as part of these negotiations;

- Third, disciplines must be enhanced to address more effectively underlying trade-distorting practices. Work has already begun along these lines with respect to the steel sector in discussions among the major steel producing nations at the OECD, based on the general recognition that market-distorting practices have contributed to global excess capacity; and

- Fourth, it is essential that 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 authorities obligations that are not contained in the Agreements.

In furtherance of the second principle, the United States presented a paper at the November meeting on improving investigatory procedures in antidumping and countervailing duty investigations, highlighting a number of areas in which interested parties and the public could benefit from greater openness and transparency by investigating authorities, as well as some areas where improved procedures could reduce

costs. Since U.S. exporters are a major target of foreign antidumping proceedings, it is essential to improve transparency and due process in these proceedings so that U.S. exporters are fairly treated.

A group calling itself the "Friends of Antidumping" has presented three papers identifying a total of 31 antidumping issues for discussion by the Rules Group. The "Friends" group includes Brazil, Chile, Colombia, Costa Rica, Hong Kong, Israel, Japan, Korea, Mexico, Norway, Singapore, Switzerland, Taiwan (referred to in the WTO as "Chinese Taipei"), Thailand, and Turkey, although not all of its members have joined in each paper by the Friends. While the Friends' papers have raised issues for discussion rather than making specific proposals to change the Antidumping Agreement, the United States believes that the Friends' ultimate goal is to restrict the use of antidumping measures. In addition to the submissions by the Friends group and the United States, papers on antidumping issues have also been submitted by Australia, Brazil, the European Union, India, and Morocco. The United States has been actively engaged in addressing the submissions from the Friends and other Members, posing written questions to them, and seeking to ensure that the Doha mandate for the Rules Group is fulfilled.

Subsidies

In the subsidies area, the United States submitted a paper on special and differential treatment and the Subsidies Agreement. This paper reviewed the substantial existing special and differential provisions in the Subsidies Agreement and made the case against the indiscriminate use of subsidies as an economic development tool. Other submissions on subsidies issues have been made by Australia, Brazil, Canada, the European Union and India. Among the issues raised in these papers are: proposals for additional special and differential treatment provisions; the OECD Arrangement on export credits; the need to examine the original framework of the Subsidies Agreement (*i.e.,* the traffic light approach to the categorization of subsidies); and indirect subsidies.

As to the issue of fisheries subsidies specifically, the discussion to date has focused on the question of whether fisheries subsidies have, in fact, led to environmentally harmful overfishing, and whether fisheries subsidies pose particularly unique problems which justify a stronger and/or separate set of rules. The United States has joined with a number of developed and developing countries (including Australia, Chile, Ecuador, Iceland, New Zealand, Peru, and the Philippines) in calling for stronger disciplines, while Japan and Korea, in particular, have argued that it has not been demonstrated that fisheries subsidies, rather than poor fishery management, have led to the present poor state of the world's fisheries. China has also submitted a paper on fisheries subsidies issues.

Regional Trade Agreements

The discussion in the Rules Group on regional trade agreements (RTAs) in 2002 focused on ways in which WTO rules governing customs unions and free trade agreements, and economic integration agreements for services, might be clarified and improved. Many of the issues encompassed by the Doha mandate on RTAs previously have been identified during work on systemic issues within the WTO Committee on Regional Trade Agreements. A Secretariat-prepared synopsis of that work has informed the discussion in the Rules Group. Australia, Chile, the European Union, and Turkey submitted papers to the Rules Group on RTA issues, and the United States has been an active participant in the RTA discussions in the Group.

Among the substantive issues discussed in 2002 are the requirements of GATT Article XXIV that RTAs eliminate tariffs and "other restrictive regulations of commerce" on "substantially all the trade" between parties (and the analogous provisions for the GATS), the possible harmonization of rules of origin for RTAs, and the relationship between RTA rules and the application of trade remedies. Suggestions for procedural improvements include clarifying when, how and to what extent Members must notify the WTO of the provisions of a new RTA, and how the WTO can best review these provisions. Some developing country Members, citing the GATT "Enabling Clause" decision of 1979 (GATT Decision on Differential and More Favorable Treatment, Reciprocity and Fuller Participation of Developing Countries), have opposed applying disciplines to preferential agreements among them. Some European Members have argued for "grandfathering" preexisting RTAs so as to exempt them from some or all new disciplines that may emerge from the negotiations.

Prospects for 2003

The work of the Rules Negotiating Group in 2003 in preparation for the Fifth Ministerial Conference in Cancun will continue to focus on identifying issues to be addressed in the second phase of negotiations. On RTAs, a more focused discussion of possible procedural improvements within the WTO to enhance transparency is likely in early 2003. It is expected that the Rules Group will hold three or four meetings prior to the September Cancun meeting.

The United States will pursue an aggressive affirmative agenda in 2003, based on the four core principles identified in the October U.S. paper. The United States expects to make a number of written submissions raising additional issues to be addressed by the Rules Group, as well as posing additional questions with respect to the submissions made by other Members.

5. Special Session of the Committee on Trade and Environment

Status

Following the Fourth Ministerial Conference at Doha, the TNC established a Special Session of the Committee on Trade and Environment (CTE) to implement the new negotiating mandate contained in paragraph 31 of the Doha Declaration. The CTE in regular session took up other environment-related issues which did not entail a specific negotiating mandate.

Major Issues in 2002

The CTE in Special Session met four times in 2002, including three formal meetings and a fourth informal meeting with representatives of several secretariats for Multilateral Environmental Agreements (MEAs). At all three formal meetings, the CTE in Special Session addressed each of the negotiating mandates set forth in the three sub-paragraphs under paragraph 31 of the Doha Declaration:

(i) the relationship between existing WTO rules and specific trade obligations set out in MEAs (with specific reference to the applicability of such existing WTO rules as among parties to such MEAs and without prejudice to the WTO rights of Members that are not parties to any MEA 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 environmental goods and services.

MEA Specific Trade Obligations and WTO Rules: Negotiations under this mandate commenced with a discussion among participants on interpretations of the mandate, prompted by a submission by the European Union. A large number of other Members expressed opposing views regarding the scope of the mandate, noting in particular their views that the mandate is narrowly focused on "specific trade obligations." Additionally, there were a variety of views on whether the terms in the mandate should be defined in the abstract and how these negotiations could be phased. Australia submitted a proposal for three phases, starting with an analysis of specific trade obligations contained in relevant MEAs. Most delegations favored proceeding on the basis of the 14 agreements listed in a WTO Secretariat compilation (WT/CTE/W/160/Rev.1). Several Members, including Switzerland and Japan, submitted more conceptual papers proposing generic approaches for clarifying the relationship between specific trade obligations in MEAs and WTO rules. Many Members considered these submissions to be premature, particularly in proposing solutions when no specific problems had yet been articulated. Instead, these delegations supported the more analytical approaches contained in submissions by Korea and New Zealand, utilizing the phasing approach suggested by the Australian proposal. Members were able to agree, however, to proceed with future discussions starting in 2003 by focusing on examples of specific trade obligations, while not precluding discussion of other issues.

Procedures for Information Exchange and Criteria for Observer Status: Members generally expressed support for finding additional mechanisms to enhance communication and cooperation between MEA secretariats and WTO bodies, although many suggested that the question of observer status is an issue for the WTO overall and is currently before the General Council and TNC. The United States made the first submission under this negotiating mandate, calling for a more formal structure for conducting information sessions with MEA secretariats, greater access to WTO documents for MEAs that are not observers in relevant WTO bodies, and new procedures for responding to requests for observer status from MEAs. The U.S. submission emphasized that these improvements in procedures could contribute to greater coordination between trade and environment officials at international and national levels and enhance mutual understanding with respect to negotiation and implementation of international trade and environment obligations. The European Union followed up with a submission that complemented the U.S. paper and called for action under this mandate not later than the Fifth Ministerial Conference. In November, the CTE in Special Session held an informal meeting devoted to providing an opportunity for MEA secretariats to make suggestions on how information exchange could be improved. The MEA secretariats that participated in the meeting welcomed this opportunity, although they expressed concerns that there had been no action to respond to their requests for observer status in the CTE in Special Session.

Environmental Goods and Services: Members agreed at the outset of the Doha negotiations that new market access undertakings for environmental goods and services should take place in the Non-Agriculture Market Access Negotiating Group and the Committee in Trade in Services in Special Session. Nevertheless, they also left room for the CTE in Special Session to support these negotiating groups, particularly with respect to the definition of environmental goods. New Zealand and the United States made early submissions on this issue to both the Non-Agricultural Market Access Negotiating Group and

CTE in Special Session, suggesting that the list developed in APEC would provide a useful starting point, while Japan made a subsequent submission that elaborated on OECD work. In discussions in the CTE in Special Session, most delegations expressed concerns about extending the definition to include distinctions based on non-product process and production methods (PPMs).

Prospects for 2003

Negotiations under all three mandates in paragraph 31 of the Doha Declaration are likely to focus on concrete progress that can be accomplished by the Fifth Ministerial Conference. Under sub-paragraph 31(i), this may be limited to obtaining a clearer picture of whether there are specific problems that could be practically addressed in these negotiations. This suggests continuing with an analysis that involves identification of examples of specific trade obligations, while providing the opportunity for individual Members to raise concrete concerns related to the applicability of WTO rules. Negotiations under sub-paragraph 31(i) may also be advanced through rapid progress under sub-paragraph 31(ii) since enhanced communication and cooperation between MEAs and the WTO are key elements in ensuring that the two systems of international obligations remain compatible and mutually supportive. Finally, the CTE in Special Session is likely to explore opportunities for contributing to negotiations on market access for environmental goods and services, particularly as a forum to discuss the importance of liberalization in both areas in order to secure concrete benefits associated with access to state-of-the-art environmental technologies that promote sustainable development.

6. Special Session of the Dispute Settlement Body

Status

Following the Fourth Ministerial Conference in November, 2001, the TNC 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."

Major Issues in 2002

The Special Session of the DSB met frequently during 2002 in an effort to implement the Doha mandate and report to the General Council. In the first of several phases of the review of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU"), Members engaged in a general discussion of the issues. Following that general discussion, Members then tabled proposals to clarify or improve the DSU.

The United States submitted a proposal in August to 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 briefs and panel reports. In addition to open hearings, public briefs, and early public release of panel reports, the U.S. proposal called 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 December, 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 WTO Members. The proposal particularly is 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. The joint proposal contains specific options aimed at giving parties greater flexibility and more control over the process.

Members conducted a review of each proposal submitted and provided an opportunity to request explanations and pose questions of the Member(s) making the proposal. Members also had an opportunity to discuss each issue raised by the various proposals.

Prospects for 2003

In 2003, Members will intensify their work with a view to the May 2003 deadline to complete the review of the DSU. Many proposals were submitted in narrative form. The Chairman of the DSU review has encouraged Members to reduce their proposals to draft legal text where appropriate early in 2003. Members will then discuss the various textual proposals, without prejudice to Members' positions on the merits of the proposal under discussion. Members will be meeting monthly in multi-day sessions through the end of May in an effort to complete their work.

7. Special Session of the Council for Trade-Related Aspects of Intellectual Property Rights (TRIPS)

Status

With a view to completing the work started in the TRIPS Council on the implementation of Article 23.4, Ministers agreed at Doha to negotiate the establishment of a multilateral system of notification and registration of geographical indications for wines and spirits by the Fifth Session of the Ministerial Conference. This is the only issue before the Special Session of the Council.

Major Issues in 2002

During 2002, the TRIPS Council continued its negotiations under Article 23.4, which is intended to facilitate protection of geographic indications. The European Union together with a number of other countries submitted a proposal for a system, nearly identical to that which they had submitted previously, under which Members would notify the WTO of their geographical indications for wines and spirits. Other Members would then have eighteen months in which to object to the registration of particular notified geographical indications that they believed were not entitled to protection within their own territory. If no objection were made, each notified geographical indication would be registered and all WTO 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 geographical indication would have to be protected by all Members that had not objected. Argentina, Australia, Canada, Chile, Colombia, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Japan, Namibia, New Zealand, the Philippines, Taiwan, and the United States

introduced an alternative proposal (the joint proposal), similar to that which had been introduced previously by Canada, Chile, Japan, and the United States, under which Members would notify their geographical indications for wines and spirits for incorporation into a register on the WTO website. Members choosing to use the system would agree to consult the website when making any decisions under their domestic laws related to geographical indications 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.

Prospects for 2003

In his report to the TNC, the Chair of the Special Session of the Council for Trade-Related Aspects of Intellectual Property Rights applauded Members' "best endeavors" thus far. However, he noted that positions remained far apart. With respect to the multilateral registry for geographic indications, he said that Members were divided along two distinctively different approaches: one approach calling for the establishment of a geographical indications database and the other approach calling for a registration system with legal effect. He called on Members to work harder and show more flexibility.

The United States will aggressively pursue additional support for the joint proposal in the coming year, so that the negotiations can be completed by the Fifth Ministerial Conference.

8. Special Session of the Committee on Trade and Development

Status

The TNC established the Special Session of the Committee on Trade and Development (CTD) in February 2002 to fulfill the Ministerial mandate found in paragraph 44 of the Doha Declaration. The TNC charged the Special Session with conducting a review of existing special and differential treatment (S&D) provisions available to developing country Members and with providing recommendations to the General Council to make S&D more precise, effective, and operational as a means to more fully integrate developing country Members into the WTO system.

Major Issues in 2002

The CTD met frequently during 2002 in an effort to implement the Doha mandate and report to the General Council. The first of several phases of the review began with a request for the Secretariat to compile information relating to the range of S&D provisions available and their utilization by Members. Following this first phase of Secretariat research, Members submitted proposals on a number of issues such as the principles and objectives of S&D, coherence with other international organizations, technical assistance and capacity building, effective use of transition periods, proposals addressing specific agreements, trade preferences and related issues, and differentiated treatment of developing country Members. At the close of 2002, twenty-two submissions had been contributed by fourteen Members (or groups of Members). The United States submitted a paper in June that outlined the benefits of an open, rules-based trade regime in fostering growth and development and suggested that discussions should naturally focus on using S&D provisions as a means to reach the goal of integrating developing country Members into the trading system. Among the topics raised by the Africa Group was a call for a mechanism by which Members could monitor the utilization of S&D treatment with the aim of ensuring

more effective use of S&D provisions. Members responded positively to the idea, acknowledging that S&D treatment could benefit from improved monitoring.

Given the range and complexity of the issues raised in Member submissions, the CTD requested that the General Council to provide an extension of the deadline for recommendations from July 2002 to the end of the year. At the same session, the General Council agreed to establish a monitoring mechanism for S&D treatment and requested that the CTD elaborate the functions, structure, and terms of reference of such monitoring.

In an intensive fall meeting schedule, the Special Session examined a number of cross-cutting issues and engaged in a dialogue on the agreement-specific proposals presented by delegations in earlier submissions. In this examination, the Special Session was aided by the participation of other WTO Committee and Agreement experts. Chairman Ransford Smith of Jamaica scheduled seven fall sessions around meetings of other WTO bodies. These supplementary sessions facilitated participation of experts from the Committee on Technical Barriers to Trade, the Antidumping Committee, the Committee on Agriculture, the Committee on Sanitary and Phyto-Sanitary Measures, and the Dispute Settlement Body. The resulting CTD discussions benefitted from this exchange.

In addition to sessions dedicated to agreement-specific issues, the Committee undertook a number of discussions of cross-cutting S&D issues, including the principle and objectives guiding the use of S&D, graduation and differentiation among Members, and benchmarking progress toward implementing Agreements. Members expressed a range of views on these issues. Also as part of the Fall work program, the Chair held consultations on how to elaborate the functions, structure, and terms of reference of an S&D monitoring mechanism. The United States submitted a proposal outlining possible monitoring procedures for consideration by Members. The proposal reinforced a role for monitoring of Doha negotiations by the CTD. It suggested ways to strengthen ties between the negotiating bodies and Committees, and ways to produce more effective coordination of technical assistance. In consultations held by the Chair on monitoring, there was a convergence of views among Members on such matters as the role of the mechanism and the sources of information. Some remaining issues, however, will require further discussion.

Prospects for 2003

There has been significant work completed over this past year as part of the S&D review by the CTD Special Session. While discussions have shown some convergence of views, there remain a number of areas that require further discussion in 2003. The CTD will continue the review and examination of how S&D treatment fits within the goal of furthering the participation of developing country Members in the WTO system. A preliminary discussion has been held on how S&D treatment and graduation/differentiation among various levels of development might be incorporated into the architecture of the WTO. These and other aspects of the mandate will be discussed in 2003.

C. Work Programs established under the Doha Development Agenda

The Doha Ministerial Declaration continued or established several additional work programs. For issues initially raise at the WTO's First Ministerial Conference in Singapore, modalities for negotiations are to be developed. These discussions could lead to a decision to launch negotiations at the Fifth Ministerial Conference scheduled for Cancun. The DDA work programs are: Transparency in Government

Procurement; Trade Facilitation; Relationship between Trade and Investment; Interaction between Trade and Competition; Electronic Commerce; Trade, Debt, and Finance; and Trade and Transfer of Technology.

1. Working Group on Transparency in Government Procurement

Status

Building on the progress in the Working Group on Government Procurement, the Doha Ministerial Declaration calls for decisions to be taken at the Fifth WTO Ministerial Conference on the modalities for negotiations on a potential Agreement on Transparency in Government Procurement, and for negotiations to begin on that basis.

Continued progress toward a multilateral Agreement on Transparency in Government Procurement is an important element of the United States' longstanding effort to bring all WTO Members' procurement markets within the scope of the international rules-based trading system. This work also contributes to broader U.S. initiatives aimed at promoting the international rule of law, combating international bribery and corruption, and supporting the good governance practices that many WTO Members have adopted as part of their overall structural reform programs.

Major Issues in 2002

The Working Group has made significant progress in identifying many of the key substantive elements of a potential Agreement on Transparency in Government Procurement, including:

- Publication of information regarding the regulatory framework for procurement, including relevant laws, regulations and administrative guidelines;
- Publication of information regarding opportunities for participation in government procurement, including notices of future procurements;
- Clear specification in tender documents of evaluation criteria for award of contracts;
- Availability to suppliers of information on contracts that have been awarded; and
- Availability of mechanisms to challenge contract awards and other procurement decisions.

The Working Group's discussions have confirmed that a wide range of WTO Members consider these elements to be fundamental to an efficient and accountable procurement system and, accordingly, already incorporate these elements, as appropriate, in their existing procurement laws, regulations, and practices.

In 2002, in addition to discussions of the potential elements of a transparency agreement, the Working Group considered technical assistance and capacity-building needs in relation to the negotiation of such an agreement. Many delegations recognized the importance of incorporating predictable standards of transparency in government procurement into the rules-based international trading system. Accomplishing this would facilitate commercial development and the integration of all Member economies into the global trading system. Some developing country delegations noted that computer-based information and communications technologies could provide a cost-effective way for all governments to achieve their transparency objectives. The United States submitted two papers to the Working Group: a Work Plan that suggested the Working Group identify the elements of an agreement and questions on capacity-building related to a transparency agreement.

Prospects for 2003

The overall aim for 2003 is for the Fifth Ministerial to launch negotiations of an Agreement on Transparency in Government Procurement. To achieve this aim, the United States will, pursuant to the Doha Ministerial Declaration, work with other WTO Members to address several key issues relating to the negotiation of an Agreement, including: 1) capacity building needs related to the substance of the negotiations; and 2) the appropriate enforcement mechanisms for an agreement, including domestic review procedures and application of WTO dispute settlement procedures to an Agreement.

2. Trade Facilitation

Status

The Fourth Ministerial Conference at Doha established an ambitious and focused work program on Trade Facilitation leading to the Fifth Ministerial Conference, including a mandate for the Council on Trade in Goods to "review and as appropriate, clarify and improve relevant aspects of Article V, VIII, and X of GATT 1994 and identify the trade facilitation needs and priorities of Members, in particular developing and least developed countries." At Doha, it was agreed that negotiations on Trade Facilitation will take place after the Fifth Ministerial Conference, based upon a decision to be taken at that Ministerial on the modalities of negotiations.

Major Issues in 2002

The Council on Trade in Goods held four separate formal sessions in 2002 on Trade Facilitation, several of which were two days in length. The first session of 2002 was devoted largely to GATT Article X ("Publication and Administration of Trade Regulations") and focused on improved commitments that would enhance transparency in border regimes, such as publication of laws and regulations on the Internet. A subsequent session was held on GATT Article VIII ("Fees and Formalities connected with Importation and Exportation"), addressing a broad range of topics, including the potential for strengthened or new WTO disciplines related to ensuring rapid release of imported goods. Another Council session focused on GATT Article V ("Freedom of Transit"), a subject that is of particular interest to land-locked developing countries. A fourth session was also held in order to address more broadly the work undertaken throughout 2002, and to plan for 2003. Consistent with the Doha mandate, each session included an agenda item pertaining to the identification of the trade facilitation needs and priorities of Members, while also addressing issues to ensure adequate technical assistance and support for capacity building in this area.

Some resistance continues on the part of certain developing country Members to developing new and strengthened WTO commitments on Trade Facilitation. However, many developing countries joined the United States and other Members in recognizing that developing a rules-based environment for conducting trade transactions would be an important element for securing continued economic growth for all WTO Members. Consensus was evident among Members that systemic reforms related to increased transparency and efficiency in the conduct of border transactions would diminish corruption, while providing the additional benefit of enhancing administrative capabilities that ensure effective compliance with customs-related requirements or laws concerning health, safety, and the environment. For the United States and many of its key trading partners, small and medium size enterprises (SMEs) have become important stakeholders in advancing WTO work in the area of Trade Facilitation. SMEs are

especially poised to take advantage of opportunities provided by today's instant communications and ever-improving efficiencies in the movement of physical goods, while at the same time are particularly disadvantaged when border procedures are opaque and overly burdensome.

Prospects for 2003

The Council will hold at least two formal sessions on Trade Facilitation in 2003, prior to the Fifth Ministerial Conference. The United States will continue its leadership role, working with other key Members to ensure that the WTO work on Trade Facilitation is well-positioned by the time of the Fifth Ministerial Conference. The United States views this work as ultimately leading to one of the most important systemic negotiations to be undertaken by the WTO, a true "win-win" opportunity in view of the important linkages between a rules-based trade transaction environment and a stable economic infrastructure. Efforts will continue in 2003 to advance ongoing complementary initiatives involving existing Agreements such as implementation of the WTO Agreement on Customs Valuation. The United States will also be working with key Members to ensure that technical assistance in this area is both demand-driven and effective in bringing about concrete measurable results that will translate into increased trade and investment opportunities for all Members.

3. Working Group on Trade and Competition Policy

Status

In 2003, the WTO Working Group on the Interaction between Trade and Competition Policy (Working Group) enters its seventh year of work under the oversight of the WTO General Council. The Working Group was set up by WTO Trade Ministers at their first Ministerial Conference in Singapore in December 1996. Its mandate was to "study issues raised by Members relating to the interaction between trade and competition policy, including anti-competitive practices, in order to identify any areas that may merit further consideration in the WTO framework." In December 1998, the General Council authorized the Working Group to continue its work on the basis of a more focused framework of issues. This framework continued to serve as the basis of the Working Group's work until the Doha Ministerial Conference in 2001.

In Paragraph 23 of the November 2001 Doha Ministerial Declaration, the Ministers agreed that "negotiations on trade and competition policy" will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations. The Ministerial Declaration provides that further work in the Working Group leading up to the Fifth Session will focus on the clarification of: core principles, including transparency, non-discrimination and procedural fairness; provisions on hardcore cartels; modalities for voluntary cooperation; and support for progressive reinforcement of competition institutions in developing countries through capacity building. The Ministers recognized the needs of developing and least developed countries for technical assistance and capacity building in this area, and pledged to work in cooperation with other intergovernmental organizations, including UNCTAD, to provide assistance to respond to these needs.

Major Issues in 2002

The Working Group held four meetings in 2002. The Working Group continued to organize its work on the basis of written contributions from Members, supplemented by discussion and commentary offered by delegations at the meetings and, where requested, factual information and analysis from the WTO Secretariat and observer organizations such as the OECD and UNCTAD. The Working Group's discussions focused on the issues specified in paragraphs 24 and 25 of the Doha Ministerial Declaration. The April meeting focused on technical assistance and capacity building; the July meeting on provisions on hardcore cartels and modalities for voluntary cooperation; the September meeting on core principles, including transparency, non-discrimination and procedural fairness; and the November meeting on review and approval of the Working Group's annual report.

Thirty-four written submissions were contributed by 15 Members (counting the European Union and its 15 Member States as one contributor): Argentina, Australia, Canada, Egypt, the European Union, India, Japan, Korea, Mexico, New Zealand, Romania, South Africa, Switzerland, Thailand, and the United States. The United States played an active role in the Working Group, making five written submissions to the Working Group in 2002. These included a submission for the April meeting on U.S. experience in providing antitrust technical assistance; a submission for the July meeting on provisions on hardcore cartels; a second submission for the July meeting on modalities for voluntary cooperation; a submission for the September meeting on transparency and non-discrimination; and a second submission for the September meeting on procedural fairness.

Prospects for 2003

The work of the Working Group until the Fifth Ministerial Conference in Cancun in September 2003 will continue to focus on the clarification of the issues specified in the Doha Ministerial Declaration (*i.e.*, core principles, hardcore cartels, voluntary cooperation, technical assistance and capacity building). It is expected that the Working Group will hold two meetings in 2003 before the Cancun Ministerial Conference. Under the Doha Declaration, decisions are to be taken at the Cancun Ministerial Conference regarding future negotiations in this area.

4. Working Group on Trade and Investment

Status

The Working Group on Trade and Investment (WGTI) was established by the Singapore WTO Ministerial Declaration in 1996. The WGTI provides a multilateral forum for the consideration of investment liberalization and international investment agreements and their relationship to trade and economic development. The WTO General Council oversees the work of the WGTI, whose mandate was extended at the Doha Ministerial Conference until the Fifth Ministerial Conference to be held in Cancun. At the Fourth Ministerial Conference in Doha, Ministers agreed that investment negotiations "will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that Session on the modalities of negotiations." The United States and other Members believe the Working Group provides an opportunity to promote international understanding of the benefits of open investment policies.

Major Issues in 2002

The Doha Declaration tasked the WGTI to use the time before the next Ministerial Conference to examine a core set of issues that will shape WTO investment negotiations. These issues include: the scope and definition of investment; transparency; non-discrimination; approaches to commitments on the treatment of investment prior to establishment, based on a GATS-type, positive list; development provisions; exceptions and balance-of-payments safeguards; and consultation and the settlement of disputes between Members. WTO Members addressed these issues during four WGTI meetings held during 2002. The Working Group also devoted considerable time to discussing WTO activities and plans relating to technical assistance on trade and investment issues.

Discussions during 2002 have revealed significant differences among Members on whether and how the WTO should proceed with investment negotiations after the Fifth Ministerial Conference. The European Union and Japan are the strongest advocates for investment negotiations. Some developing countries argue that the Doha Declaration does not require that investment negotiations begin in 2003. The United States has steered a middle course between these two positions, urging WTO Members to incorporate several fundamental principles, including transparency and non-discrimination, into any future WTO investment agreement. Members have also debated how an investment agreement might address the concerns of developing countries while maintaining a commitment to strong investment protections. The United States submitted one major proposal in the WGTI during 2002, arguing that any multilaterally agreed disciplines or protections should extend to portfolio as well as to direct investment.

Prospects for 2003

The prospect of WTO investment negotiations beginning after the Fifth Ministerial Conference has intensified Member participation and interest in WGTI discussions. WTO Members will need to work intensively in 2003 to achieve consensus on the content and structure of investment negotiations. Members are likely to submit a number of concrete proposals on negotiating modalities to the WGTI during 2003, as the Working Group shifts from the more conceptual discussions of 2002 to an effort to prepare recommendations for the General Council and the Fifth Ministerial Conference.

5. Work Program on Electronic Commerce

Status

The Doha Declaration renewed the Work Program on Electronic Commerce, and extended until the Fifth Ministerial Conference the current practice of not imposing customs duties on electronic transmissions. The General Council was directed to determine the most appropriate institutional arrangement for the Work Program. The General Council endorsed the current framework, which is a series of dedicated discussions focused on cross-cutting issues identified in 2001. Cross-cutting issues are those issues that may have relevance to two or more WTO bodies, such as classification of certain electronically downloaded products. Two dedicated discussions took place in 2002, and more are planned for 2003.

Major Issues in 2002

The two dedicated discussions in 2002 examined aspects of the classification of digital products. In particular, the Working Group considered whether such products should be considered as "goods" and

therefore subject to GATT, or "services" subject to GATS. Some Members would prefer to classify all products that are digitally downloaded and electronically transmitted as services, while others consider such a classification premature. No conclusions were drawn, and the issue remains unresolved. Another issue discussed in the Working Group related to the fiscal implications of electronic commerce and the moratorium on imposing customs duties on electronic transmissions. This issue was discussed as part of a wider seminar in the Committee on Trade and Development in April 2002.

Prospects for 2003

The United States will continue to be an active participant in the dedicated discussions on electronic commerce. The electronic commerce work program has the potential to play an even more useful role in ongoing negotiations and work program discussions that impact electronic commerce if key goals or objectives can be identified to guide such discussions. These objectives might serve as a useful measure for Members seeking to embrace the opportunities and meet the challenges presented by global electronic commerce.

6. Working Group on Trade, Debt, and Finance

Status

Ministers at Fourth Ministerial Conference held in Doha established the mandate for the Working Group on Trade, Debt and Finance (TDF). Ministers instructed the Working Group to examine the relationship between trade, debt and finance, and to examine any possible recommendations on steps that might be taken within the mandate and competence of the WTO to enhance the capacity of the multilateral trading system to contribute to a durable solution to the problem of external indebtedness of developing and least developed countries, as well as 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 2002

The Working Group held four meetings in 2002. Working Group discussions focused on the following areas: the relationship between trade and finance; the relationship between trade and debt; and the need for greater coherence between the WTO and other international organizations in regards to the issues of trade, debt, and finance. During these meetings, representatives from the International Monetary Fund (IMF), the United Nations Conference on Trade and Development (UNCTAD), the Asian Development Bank, and the Organization for Economic Cooperation and Development (OECD) provided brief presentations to assist the Working Group in its analysis. Additionally, the Working Group received papers from the World Bank, the United Nations Economic Commission for Africa, and the United Nations Economic Commission for Latin American and the Caribbean to assist the group in its discussions.

Prospects for 2003

The Working Group on Trade, Debt and Finance, which is scheduled to meet two times in 2003, will continue to assess trade, debt and finance linkages with a view to preparing a report to the Fifth Ministerial Conference.

7. Working Group on Trade and Transfer of Technology

Status

Ministers at the Fourth Ministerial Conference at Doha 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." The TNC established the Working Group on Trade and Technology Transfer (WGTTT) under the auspices of the General Council, which is to report to the Fifth Session of the Ministerial Conference on the Group's progress.

Major Issues in 2002

The WGTTT met formally four times in 2002. Principal subjects addressed by the WGTTT during the year included presentations on trade and transfer of technology by intergovernmental organizations and academia; presentations on country experiences relating to trade and transfer of technology by Members; background papers on trade and transfer of technology prepared by the Secretariat; and submissions by Members.

At a number of sessions of the WGTTT, representatives from UNCTAD, the Institute for New Technologies of the United Nations University (UNU/INTECH), the Industrial Promotion and Technology Branch of UNIDO, and the World Bank made presentations on their work related to trade and transfer of technology. A number of WTO Members shared country experiences in the field, including the head of Brazil's Science and Technology Division, the Deputy Director of China's Department of Science and Technology and the Director of Strategic Alliances, Industrial Research Assistance Program, Canada, and made presentations. The Secretariat prepared a general background paper, on its own responsibility, which Members discussed and critiqued. Another paper prepared by the Secretariat entitled "A Taxonomy of Country Experiences on International Technology Transfers" will be discussed at the next session of the WGTTT in 2003.

A number of Members also prepared submissions for consideration by the Working Group. A submission made jointly by the delegations of Bangladesh, Cuba, the Dominican Republic, Egypt, Honduras, India, Indonesia, Jamaica, Kenya, Mauritius, Pakistan, Sri Lanka, Tanzania, Uganda, and Zimbabwe recommended various initiatives and measures. For example, the submission recommended a possible terms of reference for the WGTTT to examine home country measures that encourage transfer of technology and to examine WTO agreements to determine whether certain provisions may create barriers to transfer and dissemination of technology, with a view to making amendments; analytical work; and technical cooperation. Some Members expressed concern that these proposals, by their nature, suggested automatic recommendations and went beyond the Doha mandate. Another communication was received from India, Indonesia, Kenya, Zimbabwe, Egypt, Honduras, and Cuba, identifying various WTO provisions they believe relate to transfer of technology. The submission suggested using the provisions to increase technology flows and suggested that the WGTTT develop concrete proposals. A submission from the European Union proposed the WGTTT focus on developing a common understanding of the definition of technology transfer; identifying the various channels of transfer of technology; and examining ways to make those channels more effective. The European Union emphasized the importance to facilitating transfer of technology of foreign direct investment, trade in goods and services, licensing of

technology subject to intellectual property rights, government procurement, development cooperation, multilateral environment agreements, and private and public partnerships.

Prospects for 2003

The WGTTT adopted a work program for 2003 in November 2002. The work of the WGTTT will turn to developing a report to the Fifth Ministerial Conference. The Chairman will continue consultations on the number of meetings needed in 2003 to implement the agreed work plan.

D. General Council Activities

Status

The WTO General Council is the highest 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 once every two years. (The Fourth Ministerial Conference met most recently in Doha, Qatar). 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. All accessions to the WTO must be approved by the General Council or the Ministerial Conference.

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.

Three major bodies report directly to the General Council: the Council for Trade in Goods, the Council for Trade in Services, and the Council for Trade-Related Aspects of Intellectual Property Rights. 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 Trading Arrangements report directly to the General Council. The Working Groups established at the First Ministerial Conference in Singapore to examine investment, trade and competition policy, and transparency in government procurement also report directly to the General Council. A number of subsidiary bodies report through the Council for Trade in Goods or the Council for Trade in Services to the General Council. The Doha Ministerial Declaration formed 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. The mandates are part of DDA and these were treated earlier in this chapter.

The General Council uses both formal and informal processes to conduct the business of the WTO. In addition, informal groupings, which generally include the United States, can play an important role in consensus-building.

Prior to establishment of the WTO in 1995, annual meetings of GATT Contracting Parties were convened with representatives from capitals generally at the subcabinet level, and only held at the ministerial level to launch or conclude negotiations. Part of the logic behind this change from the GATT was the fact that with creation of the WTO, Members had created a permanent negotiating forum to achieve trade

liberalization. The Financial Services Agreement, the Basic Telecommunications Services Agreement, Information Technology Agreement, and the "built-in agenda" negotiations initiated in 2000 are examples of how the WTO has evolved into a permanent negotiating body.

Major Issues in 2002

Ambassador Sergio Marchi of Canada served as Chairman of the General Council in 2002. The following issues figured prominently in the General Council activities:

Transparency: In 2002, the General Council completed work on efforts to improve its 1996 document availability decision, a step which was advocated by several Members, including the United States. The General Council Decision of May 14, 2002 represents a substantial, though still imperfect, improvement over the rules that had been in place since July 1996. The most significant changes are the elimination of the automatic restriction of certain types of documents, a significant shortening of the period during which documents issued as restricted remain restricted, and automatic derestriction of documents that in the past could remain restricted for an extended period of time based on the request of a Member.

Procedures for the Selection of Director-Generals: In 2002 the General Council completed work on guidelines for the selection of the WTO Director-General. Work on the guidelines had been initiated by Members several years ago out of a desire to reduce the risk of a repeat of the divisive selection process that had taken place in 1999. The new guidelines set time frames for the selection process and a mechanism for facilitating the consensus building process. While many Members had wanted the guidelines to include procedures for voting in the case of a deadlock, there was no consensus on whether there should be voting or what type of voting might be employed. As a result the guidelines simply state that in the event of an intractable deadlock, Members should consider whether to put the matter to a vote and, if so, through what procedure.

Waivers of Obligations: As part of the annual review required by Article IX of the WTO Agreement, the General Council considered reports on the operation of a number of previously agreed waivers, including those applicable to the United States for the Caribbean Basin Economic Recovery Act, and preferences for the Former Trust Territories of the Pacific Islands. The General Council also approved several other waivers, as described in the section on the Council on Trade in Goods (CTG). Annex II contains a detailed list of Article IX waivers currently in force.

Accessions to the WTO: The General Council, acting on behalf of the Ministerial Council, approves the accessions of new Members to the WTO after the final terms have been adopted by the Working Parties established by the Council. In 2002, the General Council approved the accession of Armenia and Macedonia. They will become Members of the WTO 30 days after each of them deposit their instrument of ratification.

During 2002, the General Council agreed on guidelines aimed at facilitating the accession of least-developed countries (LDCs). Additional details concerning the formulation of these new guidelines, acceding countries, and the accession process are discussed below in the section entitled "Accessions to the World Trade Organization."

Global Electronic Commerce: The Work Program on Electronic Commerce held two dedicated discussions under the auspices of the General Council in 2002. Those sessions focused on the

classification of certain products that could be transmitted electronically, as well as certain fiscal implications of electronic commerce. Further dedicated discussions are planned for 2003, also under the guidance of the General Council.

Capacity Building through Technical Cooperation: The General Council continued its supervision of technical assistance for the purpose of capacity building in developing countries (*i.e.*, modernizing their government operations to facilitate effective implementation of the WTO Agreements). For its part, the United States donated $1 million to the WTO Global Trust Fund for Technical Assistance and an additional $370,000 to assist African countries specifically.

Prospects for 2003

The General Council will continue its important role in overseeing implementation of the WTO Agreements, expanding the current program of work for the WTO. It will also continue to oversee the negotiations launched at the Fourth Ministerial Conference at Doha in 2001, including preparations for the Fifth Ministerial Conference in Cancun, Mexico. Management of the WTO, especially with respect to outreach efforts to the public, consultations with Members, and its work with other institutions on capacity building, will figure prominently in Council discussions over the next year. The Council likely will meet at least quarterly to discharge its functions and will undertake a review of a U.S. waiver to legislation known as the "Jones Act".

The requirement for ministerial meetings was established in the Uruguay Round to assure regular, political level review by ministers of the operation of the WTO, similar to the practice of other international organizations. Ministerial Conferences were convened in Singapore (1996), Geneva (1998), Seattle (1999), and Doha (2001). The General Council has the authority to add issues to the WTO's agenda, whether for a work program or negotiation. The informal processes on transparency and oversight of the work program on electronic commerce will remain an important part of the Council's work.

1. The 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." Annex II provides more background information on the WTO dispute settlement process.

Major Issues in 2002

The DSB met 19 times in 2002 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 to be submitted by roster candidates. These modifications will 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 2002, 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.

The present WTO panel roster appears in the background information in Annex II. The list in the roster notes the areas of expertise of each roster member (goods, services and/or TRIPS).

Rules of Conduct for the DSU: The DSB completed work on a code of ethical conduct for WTO dispute settlement and on December 3, 1996, adopted the *Rules of Conduct for the Understanding on Rules and Procedures Governing the Settlement of Disputes*. A copy of the Rules of Conduct was printed in the Annual Report for 1996 and is available on the WTO and USTR websites. There were no changes in these Rules in 2002.

The Rules of Conduct were designed to elaborate on the ethical standards built into the DSU, and 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 Uruguay Round Agreements Act (URAA), which directed the 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 Subsidies 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 the following: (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. The names and biographical data for the Appellate Body members 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, and Mr. Bacchus's term as Chairperson runs from December 15, 2001 to December 10, 2003 (including his election to serve an additional term).

In 2002, the Appellate Body issued eight reports, of which six involved the United States as a party and are discussed in detail below. The two other reports concerned the European Communities' measures affecting the labeling of sardines and Chile's price band measures for agricultural imports. The United States participated in both of these proceedings as an interested third party.

Dispute Settlement Activity in 2002: During its first eight years in operation, 276 requests for consultations (22 in 1995, 42 in1996, 46 in 1997, 44 in 1998, 31 in 1999, 30 in 2000, 27 in 2001, and 34 in 2002) were filed with the WTO. During that period, the United States filed 61 complaints against other Members' measures and received 71 complaints on U.S. measures. A number of disputes commenced in

earlier years continued to be active in 2002. 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 2003

In 2003, 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. DSB Members will continue to consider reform proposals in 2003.

a. Disputes Brought by the United States

In 2002, 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 2002 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 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 ("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 arose as a result of Argentina's failure to fully implement its remaining TRIPS obligations as required 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 began July 17, 2000. On May 31, 2002, the United States and Argentina notified the DSB that a partial settlement of this dispute had been reached. Of the ten claims raised by the United States, eight were settled. The United States reserved its right to pursue future consultations and WTO dispute settlement with respect to two remaining issues: protection of test data against unfair commercial use and the application of enhanced TRIPS Agreement rights to patent applications pending as of the entry into force of the TRIPS Agreement for Argentina (January 1, 2000).

Brazil—Customs valuation (DS197)

The United States requested consultations on May 31, 2000 with Brazil regarding its customs valuation regime. U.S. exporters of textile products reported that Brazil uses officially-established minimum reference prices both as a requirement to obtain import licenses and/or as a base requirement for import. In practice, this system works to prohibit the import 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 European Union 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 continued to monitor the situation in 2002.

Canada—Export subsidies and tariff-rate quotas on dairy products (DS103)

The United States prevailed on its claim that Canada is providing subsidies to exports of dairy products in violation of its Uruguay Round commitment to reduce the quantity of subsidized exports of dairy products. The United States initiated this dispute in 1998, contending that Canada was providing export subsidies on dairy products in excess of its commitment levels and was maintaining a tariff-rate quota (TRQ) on fluid milk under which it only permitted the entry of milk in retail-sized containers by Canadian residents for their personal use. On August 12, 1998, the following panelists were selected, with the consent of the parties, to review the U.S. claims: Professor Tommy Koh, Chairman; Mr. Guillermo Aguilar Alvarez and Professor Ernst-Ulrich Petersmann, Members. On May 17, 1999, the panel issued its report upholding U.S. arguments by finding that Canada's export subsidies are inconsistent with the Agreement on Agriculture, and that Canada's practice of restricting the import of milk to retail-sized containers imported by Canadian residents is inconsistent with its obligations under the GATT 1994. On October 13, 1999, the Appellate Body issued its report upholding the panel's finding that Canada's export subsidies are inconsistent with its GATT obligations. The panel and Appellate Body reports were adopted by the Dispute Settlement Body (DSB) on October 27, 1999. On December 22, 1999, the parties reached agreement on the time period for implementation by Canada. Under this agreement, Canada was to complete full implementation of the DSB's recommendations and rulings no later than January 31, 2001.

While Canada eliminated one of the export subsidies subject to the DSB findings, it introduced its "commercial export milk" scheme under which exporters have access to milk at prices that are below domestic market levels in Canada. Therefore, on February 16, 2001, the United States, along with New Zealand, requested that the DSB reestablish the panel to review Canada's compliance measures. At the same time, the United States requested authorization to withdraw concessions benefiting goods from Canada if the panel agreed that Canada had failed to comply with the rulings against it. The panel was reestablished on March 1, 2001, with Mr. Peter Palečka replacing Professor Koh, who was no longer available to serve, and with Professor Petersmann serving as Chairman. The panel found that the steps Canada took to implement the adverse rulings regarding its dairy export practices were insufficient and that Canada continued to subsidize its dairy exports at a level that is inconsistent with its WTO commitments. Canada appealed the panel's findings. On December 3, 2001, the Appellate Body concluded that it did not have enough facts to make a ruling against Canada.

As a result, the United States, along with New Zealand, requested on December 6, 2001 that the panel be reconvened again to allow the complaining parties to present additional factual information. The panel was reestablished on December 18, 2001, with Mr. Peter Palečka and Mr. Guillermo Aguilar Alvarez serving as panelists, and with Professor Petersmann serving as Chairman. On July 26, 2002, the panel found that the steps Canada took to implement the adverse rulings regarding its dairy export practices were insufficient and that Canada continued to subsidize its dairy exports at a level that is inconsistent with its WTO commitments. Canada appealed the panel's findings. On December 20, 2002, the Appellate Body upheld the panel's findings. The DSB adopted the panel and Appellate Body reports on January 17, 2003.

Canada – Measures Relating to Exports of Wheat And Treatment of Imported Grain (DS276)

On December 17, 2002, the United States requested consultations with Canada concerning the export of wheat by the Canadian Wheat Board and the treatment accorded by Canada to grain imported into Canada. The consultations were held on January 31, 2003. The Government of Canada established the Canadian Wheat Board and granted to this enterprise exclusive and special privileges, including the exclusive rights to purchase and sell Western Canadian wheat for human consumption. The actions of the Government of Canada and the Canadian Wheat Board appear to be inconsistent with the obligations of the Government of Canada under Article XVII of the GATT 1994. Furthermore, with regard to the treatment of grain that is imported into Canada, the United States considers that Canadian measures discriminate against imported grain, including grain that is the product of the United States, in breach of the GATT 1994.

European Union—Regime for the importation, sale and distribution of bananas (DS27)

The United States, along with Ecuador, Guatemala, Honduras, and Mexico, successfully challenged the EU banana regime under WTO dispute settlement procedures. The regime was designed, among other things, to take away a major part of the banana distribution business of U.S. companies. On May 29, 1996, at the request of the complaining parties, the Director-General selected the following panelists to serve in this dispute: Mr. Stuart Harbinson, Chairman; Mr. Kym Anderson and Mr. Christian Häberli, Members. On May 22, 1997, the panel found that the EU banana regime violated WTO rules; the Appellate Body upheld the panel's decision on September 9, 1997. At the request of the complaining parties, the compliance period was set by arbitration and expired on January 1, 1999. However, on January 1, 1999, the European Union adopted a regime that perpetuated the WTO violations identified by the panel and the Appellate Body. The United States sought WTO authorization to suspend concessions with respect to certain products of the European Union, the value of which is equivalent to the nullification or impairment sustained by the United States. The European Union exercised its right to request arbitration concerning the amount of the suspension and on April 6, 1999, the arbitrators determined the level of suspension to be $191.4 million. On April 19, 1999, the DSB authorized the United States to suspend such concessions, and the United States imposed 100 percent *ad valorem* duties on a list of EU products with an annual trade value of $191.4 million.

On April 11, 2001, the United States and the European Union agreed to an Understanding that identified the means by which the dispute could be resolved. Pursuant to the Understanding, the European Union implemented a revised import licensing regime for its banana tariff-rate quota on July 1, 2001, and allocated a significantly increased number of licenses to U.S. operators. The United States thereupon suspended its increased duties. The European Union implemented an additional change to the tariff-rate quota by January 1, 2002, which resulted in further increases of licenses allocated to US operators.

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

EU Regulation 2081/92, as amended, does not provide national treatment with respect to geographical indications for agricultural products and foodstuffs; it also does not provide sufficient protection to pre-existing trademarks that are similar or identical to such geographical indications. The United States considers this measure inconsistent with the European Union's obligations under the TRIPS Agreement. The United States requested consultations regarding this matter on June 1, 1999. Consultations were first

held July 9, 1999, and continued through 2002.

European Union – Provisional Safeguard Measure on Imports of Certain Steel Products (DS260)

On May 30, 2002, the United States requested consultations with the European Union concerning the consistency of the European Union's provisional safeguard measures on certain steel products with the General Agreement on Tariffs and Trade (1994) and with the WTO Agreement on Safeguards. Consultations were held on June 27 and July 24, 2002, which, unfortunately, 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.

India—Measures affecting the motor vehicle sector (DS175)

In order to obtain import licenses for certain motor vehicle parts and components, India requires manufacturing firms in the motor vehicle sector to achieve specified levels of local content, to neutralize foreign exchange by balancing the value of certain imports with the value of exports of cars and components over a stated period, and to limit imports to a value based on the previous year's imports. Considering these requirements inconsistent with India's obligations under the GATT 1994 and the Agreement on Trade-related Investment Measures ("TRIMs Agreement"), the United States requested consultations on June 2, 1999. Consultations were held July 20, 1999. The matter remained unresolved following consultations and, on May 15, 2000, the United States requested the establishment of a panel. A panel was established on July 27, 2000, and on November 17, 2000, that panel was merged with a panel established at the request of the European Union regarding the same matter. On November 24, 2000, at the request of the complaining parties, the Director-General selected the following panelists to serve in this dispute: Mr. John Weekes, Chairman; Ms. Gloria Peña and Mr. Jeffrey Waincymer, Members. On December 21, 2001, the panel issued its report. The panel found that the measures in question were inconsistent with India's obligations under GATT Articles III:4 and XI:1, and it recommended that India bring the measure into compliance with its obligations. The panel exercised judicial economy and did not reach the claims made under the TRIMS Agreement. India appealed the panel's report, but then withdrew its appeal on March 14, 2002. At the DSB meeting of November 11, 2002, India announced it had implemented the DSB recommendations and rulings.

Japan - Measures Affecting the Importation of Apples (DS245)

On March 1, 2002, the United States requested consultations with Japan regarding Japan's measures restricting the importation of U.S. apples in connection with fire blight or the fire blight disease-causing organism, *Erwinia amylovora*. These restrictions include: the prohibition of imported apples from U.S. states other than Washington or Oregon; the prohibition of imported apples from orchards in which any fire blight is detected; the prohibition of imported apples from any orchard (whether or not it is free of fire blight) should fire blight be detected within a 500 meter buffer zone surrounding such orchard; the requirement that export orchards be inspected three times yearly (at blossom, fruitlet, and harvest stages) for the presence of fire blight for purposes of applying the above-mentioned prohibitions; a post-harvest surface treatment of exported apples with chlorine; production requirements, such as chlorine treatment of containers for harvesting and chlorine treatment of the packing line; and the post-harvest separation of apples for export to Japan from those apples for other destinations. Consultations were held on April 18, 2002, and a panel was established on June 3, 2002. The Director-General selected as panelists Mr. Michael Cartland, Chair, and Ms. Kathy-Ann Brown and Mr. Christian Haeberli, Members.

Mexico—Measures affecting trade in live swine (DS203)

On July 10, 2000, the United States requested consultations with Mexico regarding Mexico's October 20, 1999, definitive antidumping measure involving live swine from the United States as well as sanitary and other restrictions imposed by Mexico on imports of live swine weighing more than 110 kilograms. The United States considers that Mexico made a determination of threat of material injury that appears inconsistent with the Antidumping Agreement, and that other actions by Mexico in the conduct of its investigation are also in violation of the Agreement. In addition, the United States considers that, by maintaining restrictions on the importation of live swine weighing 110 kilograms or more, Mexico was acting contrary to its obligations under the Agreement on Agriculture, the SPS Agreement, the Agreement on Technical Barriers to Trade ("TBT Agreement"), and the GATT 1994. Consultations were held September 7, 2000. Subsequent to the consultations, Mexico issued a protocol which has allowed a resumption of U.S. shipments of live swine weighing 110 kilograms or more into Mexico. At about the same time, Mexico self-initiated a review of its threat of injury determination based on information, including a shortage of slaughter hogs, that suggests that market conditions have changed substantially in Mexico. The United States continues to monitor the situation.

Mexico—Measures affecting telecommunications services (DS204)

On August 17, 2000, the United States requested consultations with Mexico regarding its commitments and obligations under the General Agreement on Trade in Services (``GATS") with respect to basic and value-added telecommunications services. The U.S. consultation request covered a number of key issues, including the Government of Mexico's failure to: (1) maintain effective disciplines over the former monopoly, Telmex, which is able to use its dominant position in the market to thwart competition; (2) ensure timely, cost-oriented interconnection that would permit competing carriers to connect to Telmex customers to provide local, long-distance, and international service; and (3) permit alternatives to an outmoded system of charging U.S. carriers above-cost rates for completing international calls into Mexico. Prior to such consultations, which were held on October 10, 2000, the Government of Mexico issued rules to regulate the anti-competitive practices of Telmex (Mexico's major telecommunications supplier) and announced significant reductions in long-distance interconnection rates for 2001. Nevertheless, given that Mexico still had not fully addressed all U.S. concerns, the United States, on November 10, 2000, filed a request for establishment of a panel as well as an additional request for consultations on Mexico's newly issued measures. Those consultations were held on January 16, 2001. The United States requested the establishment of a panel on March 8, 2002. The panel was established on April 17, 2002. On August 26, 2002, the Director-General appointed as chairperson Mr. Ulrich Petersmann (Germany), and Mr. Raymond Tam (Hong Kong, China) and Mr. Björn Wellenius (Chile) as panelists.

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 system creates a discretionary import licensing regime that 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 2002 when the United States was a defendant.

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

The European Union challenged the FSC provisions of the U.S. tax law, claiming that the provisions constitute prohibited export subsidies and import substitution subsidies under the Subsidies 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 Subsidies 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 Subsidies 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 the FSC Repeal and Extraterritorial Income Exclusion Act of 2000 ("the ETI Act"), legislation that repealed and replaced the FSC provisions. However, the European Union claimed that the new legislation failed to bring the US into compliance with its WTO obligations.

On January 14, 2002, the Appellate Body issued its report with respect to the ETI Act. The Appellate Body affirmed the findings of the panel that: (1) the ETI Act's tax exclusion constituted a prohibited export subsidy under the WTO Subsidies Agreement; (2) the tax exclusion constituted an export subsidy that violated U.S. obligations under the WTO Agriculture Agreement; (3) the ETI Act's foreign article/labor limitation provides less favorable treatment to "like" imported products in violation of Article III:4 of GATT 1994; and (4) the ETI Act's transition rules resulted in a failure to withdraw the subsidy as recommended by the DSB under Article 4.7 of the Subsidies Agreement. The DSB adopted the panel and Appellate Body reports on January 29, 2002.

In November 2000, the European Union had sought authority to impose countermeasures in the amount of $4.043 billion as a result of the alleged U.S. non-compliance, and the United States had challenged this amount by requesting arbitration. Under a September 2000 procedural agreement between the United States and the European Union, the arbitration was suspended pending the outcome of the EU's challenge

to the WTO-consistency of the ETI Act. With the adoption of the panel and Appellate Body reports, the arbitration automatically resumed. On August 30, 2002, the arbitrator circulated its decision. The arbitrator found that the countermeasures sought by the European Union were "appropriate" within the meaning of Article 4.10 of the Subsidies Agreement because, according to the arbitrator, they were not "disproportionate to the initial wrongful act to which they are intended to respond."

Following the adoption of the panel and Appellate Body reports, legislation was introduced in the U.S. House of Representatives to repeal the ETI Act and hearings were held in both the U.S. House of Representatives and the U.S. Senate.

United States—1916 Revenue Act (DS136/162)

Title VII of the Revenue Act of 1916 (15 U.S.C. §§ 71-74, entitled "Unfair Competition"), often referred to as the Antidumping Act of 1916, allows for private claims against, and criminal prosecutions of, parties that import or assist in importing goods into the United States at a price substantially less than the actual market value or wholesale price. On April 1, 1999, the following panelists were selected, with the consent of the parties, to review the EU claims: Mr. Johann Human, Chairman; Mr. Dimitrij Grčar and Mr. Eugeniusz Piontek, Members. On January 29, 1999, the panel found that the 1916 Act is inconsistent with WTO rules because the specific intent requirement of the Act does not satisfy the material injury test required by the Antidumping Agreement. The panel also found that civil and criminal penalties in the 1916 Act go beyond the provisions of the Antidumping Agreement. The panel report was circulated on March 31, 2000. Separately, Japan sought its own rulings on the same matter from the same panelists; that report was circulated on May 29, 2000. On the same day, the United States filed notices of appeal for both cases, which were consolidated into one Appellate Body proceeding. The Appellate Body report, issued August 28, 2000, affirmed the panel reports. This ruling, however, has no effect on the U.S. antidumping law, as codified in the Tariff Act of 1930, as amended. The panel and Appellate Body reports were adopted by the DSB on September 26, 2000. On November 17, 2000, the European Union and Japan 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. A.V. Ganesan was appointed to serve as arbitrator. On February 28, 2001, he determined that the deadline for implementation was July 26, 2001. On July 24, 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. Legislation to repeal the Act and extinguish cases pending under the Act was introduced in the House on December 20, 2001 and in the Senate on April 23, 2002, but legislative action was not completed.

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 permits certain retail establishments to play radio or television music without paying royalties to songwriters and music publishers. The European Union claimed that, as a result of this exception, the United States is in violation of its TRIPS obligations. Consultations with the European Union 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 for in 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 European Union 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 European Union requested arbitration to determine the level of nullification or impairment of benefits to the European Union 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 European Union in this case is $1.1 million per year. On January 7, 2002, the European Union sought authorization from the DSB to suspend obligations vis-á-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 European Union 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. The arbitration may be resumed at any time at the request of either party.

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 it requested consultations on July 7, 1999. Consultations were held September 13 and December 13, 1999. On June 30, 2000, the European Union requested a panel. A panel was established on September 26, 2000, and at the request of the European Union the WTO Director-General composed the panel on October 26, 2000, 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 European Union 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. On March 28, 2002, the United States and the European Union notified the DSB that they had agreed that the reasonable period of time for the United States to implement the DSB's recommendations and rulings would expire on December 31, 2002, or on the date on which the current session of the U.S. Congress adjourns, whichever is later, and in no event later than January 3, 2003. On December 20, 2002, this agreed period was extended to June 30, 2003.

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

Japan alleged that the preliminary and final determinations of the Department of Commerce and the 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 1999, 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, the Department of Commerce issued a new final determination in the hot-rolled steel antidumping duty investigation, which implemented the recommendations and rulings of the DSB with respect to the calculation of antidumping margins in that investigation. In view of other DSB recommendations and rulings, after consultations with Japan, the United States requested that the "reasonable period of time" in this dispute be extended until December 31, 2003, or until the end of the first session of the next Congress, whichever is earlier. That request was approved by the DSB at its meeting of December 5, 2002. Subsequently the two parties agreed to extend this date until December 31, 2003.

United States—Definitive safeguard measures on imports of circular welded carbon quality line pipe from Korea (DS202)

On June 13, 2000, Korea requested consultations regarding safeguard measures imposed by the United States on imports of circular welded carbon quality line pipe. These measures were proclaimed by the United States on February 18, 2000, and introduced on March 1, 2000. Korea argued that such measures were inconsistent with the Agreement on Safeguards and the GATT 1994. Consultations were held July 28, 2000. On September 14, 2000, Korea requested the establishment of a panel. A panel was established on October 23, 2000, and composed of the following panelists: Mr. Dariusz Rosati, Chairman (selected by the Director-General); Robert Azevedo and Eduardo Bianchi, Members (selected by mutual agreement of the parties). The panel report was circulated on October 29, 2001. The panel found that the U.S. measure violates the Safeguards Agreement, but at the same time rejected several of Korea's claims related to both the measure itself and the investigation. The U.S. notice of appeal was filed with the WTO Appellate Body on November 19, 2001.

The Appellate Body issued its report on February 15, 2002. It rejected some of the panel's findings in favor of the United States, but also upheld several of those findings. The DSB adopted the panel report, as modified by the Appellate Body report, on March 8, 2002. The United States and Korea reached agreement in the dispute on July 29, 2002. Pursuant to that agreement, the United States increased the quantity of Korean line pipe exempt from the safeguard measure to 17,500 tons per quarter, effective September 1, 2002. The safeguard measure remained unchanged with regard to other import sources. It is scheduled to terminate on March 1, 2003.

United States—Antidumping measures and countervailing measures on steel plate from India (DS206)

India contended that the Department of Commerce made several errors in its final determinations regarding certain cut-to-length carbon quality steel plate products from India, dated December 13, 1999 and amended on February 10, 2000. India also argued that the USITC made errors with respect to the negligibility, cumulation, and material injury caused by such products. India claimed that these errors

were based on deficient procedures contained in the U.S. antidumping and countervailing duty laws, and thus raised questions concerning the obligations of the United States under the Antidumping Agreement, the GATT 1994, the Subsidies Agreement, and the Agreement Establishing the WTO. India requested consultations with the United States regarding this matter on October 4, 2000. The United States and India held consultations in November 2000 and in July 2001. India then filed a panel request, which focused on a subset of the claims it had raised during consultations. On June 21, 2002, the Panel issued its report in the dispute, rejecting most of India's claims. The Panel agreed with India that one aspect of the challenged determination was not consistent with the Antidumping Agreement. It found that the Department of Commerce had failed to explain why it would have been "unduly difficult" to use certain information that the Indian respondent submitted. The DSB adopted the report on July 29, 2002. On August 27, 2002, the United States announced it intentions on implementing the DSB's rulings and recommendations arising from the report. The United States and India subsequently reached agreement on a reasonable period of time for implementation, ending on December 29, 2002.

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

On November 13, 2000, the European Union 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 European Union, all with respect to the Department of Commerce's "change in ownership" (or "privatization") methodology that was challenged successfully by the European Union in a WTO dispute concerning leaded steel products from the UK. 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 European Union challenged 12 separate US CVD proceedings, as well as Section 771(5)(F) of the Tariff Act of 1930. At the request of the European Union, 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 European Union 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 Subsidies 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 Subsidies Agreement, although it modified the panel's reasoning.

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

On November 13, 2000, the European Union requested dispute settlement consultations with respect to the Department of Commerce's countervailing duty order on certain corrosion-resistant flat rolled steel products from Germany. In a "sunset review", the Department of Commerce declined to revoke the order

based on a finding that subsidization would continue at a rate of 0.54 percent. The European Union alleged that this action violates the Subsidies Agreement, asserting that countervailing duty orders must be revoked where the rate of subsidization found is less than the 1 percent *de minimis* standard for initial countervailing duty investigations. The United States and the European Union held consultations pursuant to this request on December 8, 2000. A second round of consultations was held on March 21, 2001, in which the European Union made a new allegation that the automatic initiation of sunset reviews by the United States is inconsistent with the SCM Agreement. A panel was established at the EU's request on September 10, 2001. The panel was composed of: Mr. Hugh McPhail, Chair, and Mr. Wieslaw Karsz, Member (selected by agreement of the parties); and Mr. Ronald Erdmann, Member (selected by the Director-General).

In its final report, which was circulated on July 3, 2002, the panel made the following findings in favor of the United States: (1) the EU claims regarding "expedited sunset reviews" and "ample opportunity" for parties to submit evidence were not identified in the panel request, and were therefore outside the panel's terms of reference; (2) because Article 21.3 of the Subsidies Agreement contains no evidentiary standard for the self-initiation of sunset reviews, the automatic self-initiation of sunset reviews by Commerce was not a violation; and (3) the U.S. CVD law "as such" is not inconsistent with Article 21.3 with respect to the obligation that authorities "determine" the likelihood of continuation or recurrence of subsidization in a sunset review. Disagreeing with the United States, however, a majority of the panel found that the Subsidies Agreement's one percent *de minimis* standard for the investigation phase of a CVD proceeding applies to sunset reviews. Because U.S. law applies a 0.5 percent *de minimis* standard in reviews, the majority found a violation with respect to U.S. law "as such" and as applied in the German steel sunset review. In a rare step, one panelist dissented from this finding. The panel also found that Commerce's determination of likelihood of continuation or recurrence of subsidization in the German steel sunset review lacked "sufficient factual basis," and therefore was inconsistent with the obligation to "determine" under Article 21.3.

The United States appealed the *de minimis* finding, but not the case-specific finding concerning Commerce's determination of likelihood. The European Union cross-appealed on the findings it lost. The Appellate Body issued its report on November 28, 2002, and found in favor of the United States on all counts. The DSB adopted the panel and Appellate Body reports on December 19, 2002.

United States—Safeguard measures on imports of line pipe and wire rod from the European Communities (DS214)

On December 1, 2000, the European Union requested consultations with the United States regarding U.S. safeguard measures on imports of circular welded carbon quality line pipe and wire rod. The European Union argued that these measures are inconsistent with the Agreement on Safeguards and the GATT 1994. The European Union also claimed that certain aspects of the underlying U.S. safeguards legislation – Sections 201 and 202 of the Trade Act of 1974 – and Section 311 of the NAFTA Implementation Act prevented the United States from respecting certain provisions of the Agreement on Safeguards and the GATT 1994. Consultations were held on January 26, 2001, and informal consultations continued thereafter. A panel was established at the EU's request on September 10, 2001, but it has not yet been composed.

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

On December 21, 2000, Australia, Brazil, Chile, the European Union, India, Indonesia, Japan, Korea, and Thailand requested consultations with the United States regarding the Continued Dumping and Subsidy Offset Act of 2000 (19 USC 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 (selected by mutual agreement of the parties); and Mr. Maamoun Abdel-Fattah and Mr. William Falconer, Members (selected by the Director-General).

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 GATT Article VI. The panel also found that the CDSOA distorts the standing determination conducted by the Commerce Department 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 the Commerce Department's consideration of price undertakings (agreements to settle AD/CVD 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 Anti-dumping 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 DCSOA 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.

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 the Department of Commerce's "change in ownership" (or "privatization") methodology, which was ruled inconsistent with the WTO Subsidies Agreement when applied to leaded steel products from the UK, violates the Subsidies Agreement as it was applied by the United States in this countervailing duty case. Consultations were held on January 17, 2001.

United States—Section 129(c)(1), Uruguay Round Agreements Act (URAA) (DS221)

On January 17, 2001, Canada requested consultations with the United States regarding Section 129(c)(1) of the URAA, and the accompanying Statement of Administrative Action (SAA) at page 1026 of the SAA, alleging that this provision precludes the United States from complying fully with rulings of the WTO Dispute Settlement Body in cases where the United States has acted inconsistently with its WTO

obligations with respect to an antidumping or countervailing duty proceeding. The United States and Canada held consultations in March 2001, and a panel was established at Canada's request in August 2001. The following three panelists were selected by mutual agreement of the parties: Mrs. Claudia Orozco, Chair; and Mr. Edmund McGovern and Mr. Simon Farbenbloom, Members. On June 12, 2002, the Panel issued a report rejecting Canada's challenge. The Panel agreed with the United States that Canada had misinterpreted section 129(c)(1) and found that the provision does not breach any of the WTO provisions that Canada had cited. The Panel refused Canada's request to issue legal findings on the nature of a Member's implementation obligations in WTO cases involving antidumping and countervailing duty measures, since section 129(c)(1) did not implicate any entries of merchandise that would be affected by such issues. Canada did not appeal.

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

On February 5, 2001, the European Union 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 the Department of Commerce generally for initiating "sunset" reviews pursuant to Section 751 of the Tariff Act of 1930 and 19 CFR §351. The European Union alleges that these measures violate the WTO Antidumping Agreement. Consultations were held on March 21, 2001.

United States—Preliminary determinations with respect to certain softwood lumber from Canada (DS236)

On August 21, 2001, Canada requested consultations with the United States regarding the U.S. Department of Commerce's preliminary countervailing duty and critical circumstances determinations concerning certain softwood lumber from Canada, as well as section 777A(e)(2)(A) and (B) of the Tariff Act of 1930 (19 U.S.C. 1677f-1(e)(2)(A) and (B)). Consultations were held on September 17, 2001, and a panel was established at Canada's request on December 5, 2001. The panel members were: Dr. Dariusz Rosati, Chair (selected by the Director-General); and Mr. Robert Arnott (selected by mutual agreement of the parties) and Mr. Gonzalo Biggs (selected by the Director-General), Members. On September 27, 2002, the panel released its report, which: (1) agreed with the United States that the Canadian provincial governments' sale to lumber producers of timber from public lands constitutes a "financial contribution" by the government that can give rise to a subsidy under the terms of the WTO Subsidies Agreement; (2) agreed with the United States that the provisions of U.S. law governing expedited and administrative reviews of final countervailing duty orders are not inconsistent with U.S. obligations under the WTO Subsidies Agreement; (3) found against the United States with respect to the particular methodology used to calculate the amount of the subsidy; and (4) found against the United States with respect to the retroactive imposition of provisional remedies based on its preliminary determination that "critical circumstances" existed in this case. The Dispute Settlement Body adopted the panel's report on November 1, 2002.

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 the U.S. Department of Commerce's final countervailing duty determination concerning certain softwood lumber from Canada. Among other things, Canada challenges the evidence upon which the investigation was initiated, claims

that Commerce imposed countervailing duties against programs and policies that are not subsides and are not "specific" within the meaning of the Agreement on Subsidies and Countervailing Measures, and that the Commerce Department 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 is composed of Mr. Elbio Rosselli, Chair, and Mr. Weislaw Karsz and Mr. Remo Moretta, Members (all selected by the Director-General).

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 the U.S. Department of 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 – Definitive safeguard measures on imports of certain steel products (DS248-49, 251-54, 258-59)

By Presidential Proclamation 7529 of March 5, 2002, the United States imposed safeguard measures on ten products: certain carbon flat-rolled steel, hot-rolled bar, cold-finished bar, rebar, certain welded pipe, carbon and alloy fittings and flanges, stainless steel bar, stainless steel rod, stainless steel wire, and tin mill steel. The measures consisted for the most part of supplemental tariffs, with one type of certain carbon flat-rolled steel (steel slab) being subject to a tariff-rate quota ("TRQ"). All measures are scheduled to remain in effect until March 21, 2005, with the tariff rates being decreased by one-fifth in the second and third years. (For the slab TRQ, the in-quota quantity would increase by 3 percent each year). Our FTA partners (Canada, Mexico, Israel and Jordan), along with developing country WTO Members that account for less than three percent of total imports, are not subject to these measures.

The EC, Japan, Korea, China, Switzerland, and Norway requested consultations under the WTO Dispute Settlement Understanding in March and early April of 2002. Consultations were held on 11-12 April 2002 with these countries as complaining parties, and Canada, Mexico, New Zealand, and Venezuela as third parties. These countries requested the formation of panels, which were established and consolidated with each other in June and July of 2002. New Zealand requested consultations on the steel safeguard measures on May 14, and Brazil on May 21. Consultations were held simultaneously with both on June 13. Panels were established in response to the New Zealand and Brazil requests, and consolidated with the panels in the other disputes. The United States reached agreement with the complaining parties to request that the panel adopt an extended briefing schedule. The United States and the complaining parties could not reach agreement on any panelist for the dispute. Accordingly, the Director-General selected all three panelists on July 25, 2002, with Ambassador Stefan Johannesson as chair, and Mr. Mohan Kumar, and Ms. Margaret Liang as panelists. It is scheduled to issue its report to the parties on April 14, 2003. Chinese Taipei subsequently requested consultations on November 1, 2002, and the consultations were held December 12, 2002.

United States—Rules of origin for textiles and apparel products (DS243)

Section 334 of the Uruguay Round Agreements Act established statutory rules of origin for textile and apparel products. Section 405 of the Trade and Development Act of 2000 amended Section 334. On January 11, 2002, India requested consultations regarding the rules set out in Section 334 and Section 405, claiming that they distorted textile trade and were protectionist in violation of the Agreement on Rules of Origin. Consultations with India took place on February 7, 2002, February 28, 2002 and March 26, 2002. A panel on this matter was established on June 24, 2002, and composed on October 10, 2002. The members are as follows: Mr. Lars Anell, Chair; Mr. Donald McRae and Ms. Elizabeth Chelliah. The first meeting of the Parties with the Panel was held on December 12-13, 2002. A decision is expected on April 11, 2003.

United States – Sunset review of antidumping duties on corrosion-resistant carbon steel flat products from Japan (DS244)

On January 30, 2002, Japan requested consultations with the United States regarding the final determination of both the United States Department of Commerce and the United States International Trade Commission on the full sunset review of corrosion-resistant carbon steel flat products from Japan, issued on August 2, 2000 and November 21, 2000, respectively. Consultations were held on March 14, 2002. A panel was established at Japan's request on May 22, 2002. The Director-General selected as panelists Mr. Dariusz Rosati, Chair, and Mr. Martin Garcia and Mr. David Unterhalter, Members.

United States – Equalizing excise tax imposed by Florida on processed orange and grapefruit products (DS250)

On March 20, 2002, Brazil requested consultations with the United States regarding the "Equalizing Excise Tax" imposed by the State of Florida on processed orange and grapefruit products produced from citrus fruit grown outside the United States – Section 601.155 Florida Statutes. Consultations were held with Brazil on May 2, 2002, and June 27, 2002, and a panel was established on October 1, 2002, but is not yet composed.

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

On July 25, 2002, the European Union requested consultations with the United States with respect to anti-dumping and countervailing duties imposed by the United States on imports of corrosion-resistant carbon steel flat products ("corrosion resistant steel") from France (dealt with under US case numbers A-427-808 and C-427-810) and Germany (dealt with under US case numbers A-428-815 and C-428-817), and on imports of cut-to-length carbon steel plate ("cut-to-length steel") from Germany (dealt with under US case numbers A-428-816 and C-428-817). 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 the U.S. Department of Commerce of sales at less than fair value with respect to certain softwood lumber from Canada, as published in the May 22, 2002 Federal Register, along with an 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 Agreement on Implementation of Article VI of GATT 1994. Consultations were held on October 11, 2002. However, they failed to resolve the matter. On December 6, 2002, Canada requested establishment of a WTO dispute settlement panel to consider this matter. The United States opposed that request at the December 19, 2002 meeting of the WTO Dispute Settlement Body ("DSB"). The DSB established a panel on January 8, 2003, but it is not yet composed.

United States – Subsidies on upland cotton (DS267)

On September 27, 2002, Brazil requested consultations with the United States regarding alleged prohibited and actionable subsidies provided to U.S. producers, users and exporters of upland cotton, as well as legislation, regulations, statutory instructions and amendments thereto providing such subsidies. Consultations were held on December 3-4, 2002, and December 19, 2002.

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 the United States Department of Commerce (USDOC) and the United States International Trade Commission 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 the USDOC'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.

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

On December 20, 2002, Canada requested WTO dispute settlement consultations concerning the May 16, 2002 determination of the U.S. International Trade Commission (notice of which was published in the May 22, 2002 Federal Register) that imports of softwood lumber from Canada, which the U.S. Department of 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 U.S. International Trade Commission's determination caused the United States to violate various aspects of the GATT 1994, the Agreement on Implementation of Article VI of GATT 1994, and the Agreement on Subsidies and Countervailing Measures. On December 23, 2002, the United States accepted Canada's request to enter into consultations.

2. Trade Policy Review Body

Status

The Trade Policy Review Body (TPRB), a subsidiary body of the General Council, was created by the Marrakesh Agreement Establishing the WTO to administer the Trade Policy Review Mechanism (TPRM). The TPRM serves as a valuable resource for improving transparency in WTO Members' trade and investment regimes and in ensuring adherence to WTO rules. The TPRM examines national trade policies of WTO Members on a schedule designed to cover all WTO Members on a frequency determined

by trade volume. The process starts with an independent report on a Member's trade policies and practices that is written by the WTO Secretariat on the basis of information provided by the relevant Member. This report is accompanied by a report prepared by the Member under review. Together the reports are subsequently discussed by WTO Members in a TPRB session, at which representatives of the Member under review discuss the reports on its trade policies and practices and answer questions. The purpose of the process is to strengthen Member observance of WTO provisions and contribute to the smoother functioning of the multilateral trading system. A number of Members have remarked that the preparations for the review are helpful in improving their own trade policy formulation and coordination. The current process reflects improvements to streamline the instrument and gives it more coverage and flexibility. Reports now cover services, intellectual property rights and other issues addressed by WTO Agreements. The reports issued for the reviews are available to the public on the WTO's web site at www.wto.org. Documents are filed on the site's Document Distribution Facility under the document symbol "WT/TPR."

Major Issues in 2002

During 2002, the TPRB conducted 15 reviews: Guatemala, Pakistan, Malawi, Mexico, Slovenia, India, Barbados, the European Union, Mauritania, Australia, the Dominican Republic, Zambia, Japan, Venezuela and Hong Kong. Five countries were reviewed for the first time, including two least developed countries, Malawi and Mauritania. As of the end of 2002, the TPRM had conducted 165 reviews, covering 89 out of 130 Members (counting the European Union as a single Member) and representing approximately 85 percent of world merchandise trade. Sixteen of the WTO's 30 least developed country Members have been reviewed.

For many developing and least developed countries, the reports represent the first comprehensive analysis of their commercial policies, laws and regulations and have implications and uses beyond the meeting of the TPRB. Some Members have used the Secretariat's Report as a national trade and investment promotion document, while others have indicated that the report has served as a basis for internal analysis of inefficiencies and overlaps in domestic laws and government agencies. For other trading partners and U.S. businesses, the reports are a dependable resource for assessing the commercial environment of WTO Member countries.

Reviews have 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 policy, and the current economic performance of Members under review. Another important issue has been the balance between multilateral, bilateral, regional and unilateral trade policy initiatives; in particular, the priorities given to multilateral and regional arrangements have been important systemic concerns. Closer attention has been given to the link between Members' trade policies and the implementation of 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-countries of customs valuation methods, the adaptation of national legislation to WTO requirements and technical assistance. Despite the importance of the TPRM, the WTO's ability to carry out Trade Policy Reviews is being challenged as the Membership expands.

Prospects for 2003

The TPRM is an important tool for monitoring and surveillance and an effective avenue to encourage Members to meet their WTO obligations and to maintain or expand trade liberalization measures. The program for 2003 calls for conducting 16 reviews covering 21 Members (Niger and Senegal will be reviewed simultaneously, and Botswana, Lesotho, Namibia South Africa and Swaziland will be reviewed jointly as members of the Southern African Customs Union). Members to be reviewed individually in 2003 include: the Maldives, El Salvador, Canada, Burundi, New Zealand, Morocco, Indonesia, Honduras, Bulgaria, Guyana, Haiti, Thailand, Chile, and Turkey.

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)) in addition to the Textiles Monitoring Body (TMB), and the Working Party on State Trading.

Major Issues in 2002

In 2002, the CTG held seven formal meetings. As the central oversight body in the WTO for all agreements related to trade in goods, the CTG primarily devoted its attention 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 taken by individual Members with respect to the operation of agreements. Many of these complaints were resolved through consultation. In addition, four major issues were extensively debated in the CTG in 2002:

Waivers: The CTG approved several requests for waivers, including those related to the implementation of the Harmonized Tariff System, renegotiation of tariff schedules, and waivers for El Salvador and the Cote d'Ivoire with respect to the application of minimum values for customs valuation. A list of waivers currently in force can be found in Annex II.

Review of the Agreement on Textiles and Clothing (ATC): The CTG met four times during 2002 to conduct the major review of the implementation of the ATC in the second stage (1998-2001) of its integration into the WTO. Article 8.11 of the ATC contains the provisions regarding integration. These discussions revealed a major disagreement between textile exporters (typically developing country Members) and importers (mostly developed-country Members). The developing countries assert that the spirit of the ATC requires faster liberalization by importers. Exporters point out, for example, that almost all textile products subject to quota restraint in 1995 will still be subject to quotas until the end of the ATC in 2004. Importers reply that they have fulfilled the requirements of the ATC in precisely the manner foreseen by the drafters of the Agreement. With respect to the issue of quotas remaining in force until 2004, importers maintain that the Agreement provides for faster growth rates compared to the situation existing before the entry into force of the ATC. These faster growth rates have resulted in a substantial increase in developing country textile exports since 1995. The differences in views between

exporting and importing countries resulted in the Chair of the CTG reporting that he was not in a position to draft a report with recommendations for the CTG's consideration.

Doha Implementation Issues: The CTG met a number of times formally and informally to consider tirets 4.4 and 4.5 of the Doha Ministerial Declaration related to textile implementation issues. The discussion covered the same issues and revealed the same differences of opinion encountered in the major review of the Agreement on Textiles and Clothing. The outcome of the discussion paralleled the outcome of the ATC review. The Chair reported that he was not in a position to put any draft recommendations before the CTG.

China Transitional Review: On November 22, the CTG conducted China's Transitional Review (TRM) 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 posed by Members and reviewed the TRM reports of CTG subsidiary bodies. (See Chapter IV Section F on China for more detailed discussion of its implementation of WTO commitments).

Trade Facilitation: The CTG met three times in 2002 in sessions dedicated to this issue. The CTG discussed how to improve and clarify Article X (transparency), Article VIII on fees and formalities, and Article V (transit). Progress was made in all of these areas and work will continue in 2003.

Prospects for 2003

The CTG will continue to be the focal point for discussing agreements in the WTO dealing with trade in goods. One issue that Members may continue to consider is whether to reorganize the Councils in a way that eliminates the CTG, allowing the General Council to assume direct oversight responsibilities. Outstanding waiver requests will also be further examined.

1. Committee on Agriculture

Status

The WTO Committee on Agriculture oversees the implementation of the Agreement on Agriculture and provides a forum for WTO Members to consult on matters related to provisions of the Agreement. In many cases, the Committee resolves problems without needing to refer them to WTO dispute settlement. The Committee also has responsibility for monitoring the parties to the Marrakesh Ministerial Decision on Measures Concerning the Possible Negative Effects of the Reform Program on Least Developed and Net Food-Importing Developing Countries (or "NFIDC Decision").

Major Issues in 2002

The Committee held four formal meetings in March, June, September, and November, 2002 to address ongoing issues related to the implementation of the Agreement on Agriculture. The Committee also met in Special Session to negotiate on continuing the reform process in agriculture.

During its meetings, the Committee reviewed progress on the implementation of commitments negotiated in the Uruguay Round. This review was undertaken on the basis of 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, 196 notifications were subject to review during 2002. The United States actively participated in the notification process and raised specific issues concerning the operation of Members' agricultural policies. For example, the United States raised questions concerning elements of domestic support programs used by the European Union and Japan; identified restrictive import licensing and tariff-rate quota administration practices used by China, the Dominican Republic, and Costa Rica; questioned Taiwan's use of the special agricultural safeguard; and raised concerns with China's and India's export policies. The Committee also proved to be an effective forum for raising issues relevant to the implementation of Members commitments. For example, the United States identified concerns with Venezuela's import regime, Turkey's rice import policy, and new European Union subsidies to wine producers.

On a number of occasions, U.S. intervention in the Committee led to corrective action by the Members concerned. For example, Costa Rica allowed the entry of shipments of U.S. rice that had been held up after the United States raised the issue of Costa Rica's restrictive import requirements in the Committee on Agriculture. U.S. interventions in the Committee concerning Venezuela's import licensing system resulted in Venezuela allowing some corn to be imported. However, Venezuela failed to establish an open and predictable system for issuing import licenses, and in November, the United States requested dispute settlement consultations with Venezuela to discuss its import licensing practices that restrict imports of a wide range of U.S. agricultural goods including corn, sorghum, dairy products, fruits, poultry, beef, pork, yellow grease, and soybean meal.

As a follow-up to the relevant Committee recommendations that were approved by the Doha Ministerial Conference, the following implementation-related issues were considered or further considered at the Committee's meetings: (1) the 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 Agreement on Agriculture, taking into account the effect of such disciplines on net food-importing countries; (2) improving the effectiveness of the implementation of the NFIDC Decision; and (3) enhancing Members' notifications on tariff-rate quotas (TRQs) in accordance with the General Council's decision regarding the administration of TRQ regimes in a transparent, equitable, and non-discriminatory manner. In line with the reporting requirements approved by the Doha Ministerial Conference, a follow-up report on these issues was submitted to the General Council on the responsibility of the Chairman.

At the meeting of the Committee in March, Dominica and Jordan were included in the WTO list of net food-importing developing countries. This list currently comprises the least developed countries as recognized by the United Nations, and the following 23 developing country Members of the WTO: Barbados, Botswana, Côte d'Ivoire, Cuba, Dominica, the Dominican Republic, Egypt, Honduras, Jamaica, Jordan, Kenya, Mauritius, Morocco, Pakistan, Peru, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Senegal, Sri Lanka, Trinidad and Tobago, Tunisia, and Venezuela. The annual monitoring exercise on the follow-up to the Marrakesh NFIDC Decision as a whole was undertaken at the November meeting of the Committee.

At the meeting in September, the Committee held its annual Transitional Review under paragraph 18 of the Protocol of Accession of the People's Republic of China. The United States submitted extensive questions on China's TRQ administration and export subsidies in this forum. The Committee's report

regarding its review was submitted to the Council for Trade in Goods on the responsibility of the Chairman.

Prospects for 2003

The United States will continue to make full use of Committee meetings to ensure timely notification, transparency and 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 net food-importing developing countries as indicated in the Agreement on Agriculture.

2. 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 Agreement is overseen by the Committee on Antidumping Practices, 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 Ministerial Decision on Implementation-Related Issues and Concerns in November 2001 referred three issues to the Committee (and, with respect to the first two issues, to the Working Group as well) for examination and preparation of appropriate recommendations within twelve months: (1) clarification of the modalities of application of Article 15 of the Antidumping Agreement pertaining to developing country Members; (2) 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 (3) guidelines for the improvement of annual reviews under Article 18.6 of the Antidumping Agreement. The Committee reached agreement in November 2002 on recommendations with respect to Article 5.8 and Article 18.6, but was unable to reach agreement on a recommendation with respect to Article 15.

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 terms of the Antidumping Agreement. Where possible, the Working Group endeavors to develop draft recommendations on the topics it discusses, which it forwards to the Antidumping Committee for consideration. To date, the Committee has adopted Working Group recommendations on: (1) pre-initiation notifications under Article 5.5 of the 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; and, as noted above, (4) the timeframe for measuring whether import volumes are negligible under Article 5.8. The Committee considered at its April and October 2002 meetings a draft decision regarding the status to be accorded adopted recommendations, but was unable to reach a consensus on the text of the decision, and will consider the issue again at its April 2003 meeting. The Working Group reached a consensus in

October 2001 on a recommendation concerning the contents of preliminary affirmative determinations, but that recommendation was tabled by the Committee, given the lack of agreement within the Committee on the draft decision regarding the status of adopted recommendations.

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. Under this framework, the Informal Group held meetings in April and October 2002 to discuss the topics 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 circumvention can be dealt with under existing WTO rules and what other options may be deemed necessary.

Major Issues in 2002

The Antidumping Committee remains 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 experience with respect to Members' application of antidumping remedies.

In 2002, the Antidumping Committee held two regular meetings, in April and October, as did the Working Group on Implementation and the Informal Group on Anticircumvention. At its regular 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 preliminary and final antidumping measures and actions taken in each case over the preceding six months.

Among the more significant activities undertaken in 2002 by the Antidumping Committee, the Working Group on Implementation and the Informal Group on Anticircumvention are the following:

Doha Implementation Issues: A major focus of the work of the Committee and Working Group was on the issues referred by the Doha Ministerial Decision on Implementation-Related Issues and Concerns. In addition to discussing these Doha implementation issues at the regular meetings in April and October, the Committee and Working Group also convened special meetings in March, June, September, November, and December to further address these issues. The United States played a major role in this process, tabling written proposals containing draft recommendations with respect to Article 15 and Article 18.6, and playing an active role in the discussions of the Committee and/or Working Group on all three issues. As previously noted, the Committee reached agreement in November 2002 on recommendations with respect to Article 5.8 and Article 18.6, but was unable to reach agreement on a recommendation with respect to Article 15.

Notification and Review of Antidumping Legislation: To date, 72 Members of the WTO have notified that they currently have antidumping legislation in place, while 31 Members have notified that they maintain no such legislation. In 2002, the Antidumping Committee reviewed notifications of new or amended antidumping legislation submitted by Antigua and Barbuda; Argentina; Brazil; El Salvador; Georgia; Grenada; India; Japan; Lithuania; Moldova; Myanmar; Pakistan; Peru; Philippines; Taiwan; Turkey; and Uruguay. In addition, the Committee continued its review (for the most part via a written question and

answer procedure) of the previously notified legislation of Peru. Members, including the United States, were active in formulating written questions and in making follow-up inquiries at Committee meetings.

Notification and Review of Antidumping Actions: In 2002, 27 WTO Members notified antidumping actions taken during the latter half of 2001, whereas 30 Members did so for the first half of 2002. (By comparison, 39 Members notified that they had not taken any antidumping actions during the latter half of 2001, while 26 Members notified that they had taken no actions in the first half of 2002). These actions, in addition to outstanding antidumping measures currently maintained by WTO Members, were identified in semi-annual reports submitted for the Antidumping Committee's review and discussion.

China Transitional Review: At the October 2002 meeting, the Committee undertook, pursuant to the Protocol on the Accession of the People's Republic of China, its first transitional review with respect to China's implementation of the Agreement. A number of Members, including the United States, addressed written and oral questions to China, primarily relating to China's notification to the WTO of its antidumping regulations. China's representatives provided responsive information at the October 2002 meeting.

Working Group on Implementation: The Working Group held two rounds of multi-day working meetings in April and October 2002, as well as special one-day meetings in March, June, September, November and December. The Working Group's principal focus in 2002 was on the implementation issues under Article 5.8 and Article 15 referred by the Ministers at Doha. In addition to these implementation issues, the Group also considered at the April and October 2002 meetings a draft recommendation on conditions of competition relevant to cumulation under Article 3.3. No agreement has been reached by the Group on this draft recommendation, but it was agreed to continue work on this topic in the next year.

The Working Group continues to serve as an active venue for work regarding the practical implementation of WTO antidumping provisions. It offers important opportunities for Members to examine issues and candidly exchange views and information across a broad range of topics. 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. 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 one's own administrative experience and from observing the practices of others are equally addressed. While not a negotiating forum in either a technical or formal sense, the Working Group serves a vitally important role in promoting improved understanding of the Agreement's provisions and exploring options for "best practices" among antidumping administrators.

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. At its two meetings in 2002, the Informal Group on Anticircumvention continued its useful discussions on the first two items of the agreed framework of "what constitutes circumvention?" and "what is being done by Members confronted with what they consider to be circumvention?" In addition, the Informal Group began discussions on the third topic of the agreed framework: "to what extent can circumvention be dealt with under the relevant WTO rules? To what extent can it not? And what other options may be deemed necessary?"

Members submitted papers and made presentations outlining scenarios based on factual situations faced by their investigating authorities, 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, responded to inquiries from other Members as to how such legislation operates and the manner in which certain issues may be treated. As to the third topic, the United States submitted a paper in which it reviewed some of the scenarios previously discussed in the Informal Group, and noted that while there was as yet no consensus on what constitutes circumvention, Members would also benefit from general guidelines on what does not constitute circumvention.

Prospects for 2003

Work will proceed in 2003 on the areas that the Antidumping Committee, the Working Group on Implementation and the Informal Group on Anticircumvention addressed this past year, with the exception of the three Doha implementation issues, on which the Committee's work was completed in 2002. 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 Committee is important to ensuring that antidumping laws around the world are properly drafted and implemented, thereby contributing to a well-functioning, liberal 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 countries 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 Committee of semi-annual reports and reports of preliminary and final antidumping actions will also continue in 2003. These reports are becoming accessible to the general public, in keeping with the objectives of the Uruguay Round Agreements Act. (Information on accessing WTO notifications is included in Annex II). This 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 and more Members enact laws and begin to apply them. There has been a sharp and widespread interest in clarifying understanding of the many complex provisions of the Antidumping Agreement. Tackling these issues in a serious manner will require the involvement of the Working Group, as that is the setting best suited to provide the kind and degree of technical and administrative insight needed to shed light on important nuances and to offer practical alternatives for solving problems. Indeed, it is only in the Antidumping Committee and the Working Group that Members can devote the considerable time and resources needed to conduct a responsible examination of these questions. 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 which Members employ to implement them. Therefore, as Members continue to submit papers on the topics being considered and participate actively in the discussions, the Group's utility should continue to grow. In addition to its continuing work on a draft recommendation on conditions of competition relevant to cumulation under Article 3.3, the Working Group will also select and begin addressing new topics for discussion in 2003.

The work of the Informal Group on Anticircumvention will also continue in 2003 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 of Ministers at Marrakesh, who expressed the desirability of achieving uniform rules in this area as soon as possible.

3. Committee on Customs Valuation.

Status

The purpose of the WTO Agreement on the Implementation of GATT Article VII (also known as the "WTO Agreement on Customs Valuation") 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 an important issue for U.S. exporters, particularly to ensure that market access opportunities provided through tariff reductions are not negated by unwarranted and unreasonable "uplifts" in the customs value of goods to which tariffs are applied.

Major Issues in 2002

The Agreement is administered by the WTO Committee on Customs Valuation, which met formally eight times in 2002. The Agreement established a Technical Committee on Customs Valuation under the auspices of the World Customs Organization (WCO). In accordance with a 1999 recommendation of the WTO Working Party on Preshipment Inspection which was adopted by the General Council, the Committee on Customs Valuation also 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. In July 2002, the WTO Secretariat compiled information indicating that 31 Members were using preshipment inspection regimes.

Experience continues to demonstrate that the implementation of the Agreement on Customs Valuation often represents the first concrete and meaningful step taken by developing countries toward reforming their customs regimes, and ultimately moving to a rules-based border environment for conducting trade transactions. Because the Agreement precludes the use of arbitrary customs valuation methodologies, an additional positive result is to diminish one of the incentives for corruption by customs officials. For all of these reasons, as part of an overall strategic approach to trade facilitation, the United States has taken an aggressive leadership role at the WTO on matters related to customs valuation.

U.S. exporters across all sectors – including agriculture, automotive, textile, steel, and information technology products – have experienced difficulties related to the conduct of customs valuation regimes outside of the disciplines set forth under the WTO Agreement on Customs Valuation. U.S. exporters to many developing countries have had market access gains undermined through the application of arbitrarily-established minimum import prices, often used as a crude, broad-brush type of trade remedy—one that provides no measure of administrative transparency or procedural fairness. 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. It is notable that such a use of minimum import prices, a practice inconsistent with the operation of the Agreement on Customs Valuation, is diminishing as more developing countries undertake full implementation of the Agreement.

Achieving universal adherence to the WTO Agreement on Customs Valuation has been a longstanding and important objective of the United States, dating back more than twenty years. The Agreement was

initially negotiated in the Tokyo Round, but its acceptance was voluntary as a "code," until mandated as part of membership in the WTO. Under the Uruguay Round Agreement, special transitional measures were provided for developing country Members, allowing for delayed implementation of the Agreement on Customs Valuation and resulting in individual implementation deadlines for such Members beginning in 2000.

While many developing country Members undertook timely implementation of the Agreement, the Committee continued throughout 2002 to address various individual Member requests for either a transitional reservation for implementation methodology, or for a further extension of time for overall implementation. Working with key trading partners, the United States led consultations on each request, which resulted in the development of a detailed decision tailored to the situation of the requesting Member. 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.

In accordance with the Doha Ministerial mandate on "Implementation-Related Issues and Concerns," in 2002 the Committee continued to examine five proposals from India pertaining to the operation of several provisions of the Agreement. Support for these proposals from other WTO Members was generally quite limited. The Committee also actively worked to meet another Doha implementation-related mandate to "identify and assess practical means" for addressing concerns by several Members on the accuracy of declared values of imported goods.

An important part of the Committee's work is the examination of implementing legislation. As of November 2002, 73 Members had notified their national legislation on customs valuation. During 2002, the Committee concluded the examinations of the legislation of Brunei Darussalam, Croatia, Georgia, Kenya, Korea, Lithuania, Moldova, Tunisia, and Venezuela. In November 2002, while commencing an examination of China's implementing customs valuation legislation, the Committee also conducted a Transitional Review in accordance with Paragraph 18 of the Protocol of China's accession to the WTO.

The Committee's work throughout 2002 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. As part of ongoing Committee efforts to re-invigorate its work in this area, in November 2002 a two-day seminar was held on technical assistance. The seminar focused on working to enhance coordination and cooperation among donors of assistance related to customs valuation, and exploring potential linkage between such technical assistance and the individual implementation work programs elaborated by various developing country Members.

Prospects for 2003

The Committee's work in 2003 will include a review of 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. The Committee will also continue to examine the implementation-related proposals by India, as well as work toward addressing concerns by several

Members with regard to accuracy of declared values on imported goods. 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 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.

4. Committee on Import Licensing

Status

The Agreement on Import Licensing Procedures establishes rules for all WTO Members that use import licensing systems to regulate their trade. Its aim is to ensure that the procedures used by Members in operating their import licensing systems do not in themselves form barriers to trade, to increase the transparency and predictability of such regimes, and to create disciplines to protect the importer against unreasonable requirements or delays associated with the licensing regime. While the Agreement's provisions do not directly address the WTO consistency of the underlying measures that licensing systems regulate, they establish the base line of what constitutes a fair and non-discriminatory application of the procedures. The Agreement covers both "automatic" licensing systems, which are intended only to monitor imports, not regulate them, and "non-automatic" licensing systems where certain conditions must be met before a license is issued. Governments often use non-automatic licensing to administer import restrictions, for quotas and 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 Agreement.

The Committee on Import Licensing was established to administer the Agreement and monitor compliance with the mutually agreed rules for the application of these widely used measures. The Committee does this by reviewing initial or follow-up information on import licensing requirements that WTO Members are required to submit on a regular basis. The Committee meets twice a year to review these submissions, to receive questions from Members on the licensing regimes described, and to address specific observations and complaints concerning Members' licensing systems. While not a substitute for dispute settlement procedures, these consultations on specific issues allow Members to clarify problems and possibly to resolve them before they become disputes. As use of import licensing increases, e.g., to enforce national security, environmental, and technical requirements, to administer TRQs, or to manage safeguard measures, utilization of the Committee as a forum for discussion and review will increase.

Major Issues in 2002

At its meetings in May and September 2002, the Committee reviewed 79 initial or revised notifications, completed questionnaires on procedures, and replies to questions from Committee Members from 48 WTO Members (including European Union Member States). The United States submitted written questions on a number of the notifications in order to clarify the nature of the procedures and to verify that the legislation notified met the procedural requirements of the Agreement. The most extensive of these questions concerned the establishment and maintenance of non-automatic licensing systems for selected agricultural products for what appeared to be protective purposes by both Turkey and Venezuela. The United States sought information on the reasons and WTO justification for the licensing requirements, on their scope of

operation, and on their non-transparent and arbitrary application, as they had not been notified to the Committee nor addressed in the most recent responses to the Import Licensing questionnaire.

In November 2002, the United States requested and held consultations with Venezuela under WTO dispute settlement procedures on this issue. Information was also requested from Costa Rica on its use of non-automatic licensing to operate TRQs on certain agricultural imports. Other questions focused on the use of licensing and other forms of prior authorization requirements to administer the application of technical regulations and sanitary and phytosanitary requirements on imports.

The Committee continued discussions on how the number and frequency of notifications by Members could be increased. The Chairman reported that at the end of 2002, 31 of 144 Members (counting European Union member states individually), had never submitted a notification to the Committee. While this represented a small improvement from the total in 2001, many of the notifications to the Committee were not being submitted with the frequency required by the Agreement. Based on follow-up letters from the Chairman to Members reminding them of their obligations and identifying questions that have not yet received a response, a number of delegations indicated that their submissions were being developed and would soon be provided.

In addition to the traditional review of notifications and discussions, the Committee carried out its first review of China's implementation of its WTO accession commitments in the area of import licensing procedures as part of the Transitional Review Mechanism (TRM). The United States and other WTO Members expressed a number of concerns with China's implementation of its commitments, in particular in the use of import licensing to administer import quotas, TRQs, and sanitary and phytosanitary requirements for imports. Additional information was requested of China.

Prospects for 2003

Consideration of licensing in the administration of agricultural TRQs will intensify as the Doha negotiations proceed. This will include consideration of possible modifications to the Agreement necessary to improve operation of these mechanisms. The Committee will continue discussions to encourage enhanced compliance with the notification and other transparency requirements of the Agreement. This has become a long-standing priority of the Committee. In addition, timely submission of initial information on licensing regimes, including responses to the questionnaire, is a standard commitment of newly acceding Members. The 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 additional attention will be given to encouraging timely responses by Committee Members to questions submitted on the notified information. The Committee will also continue to conduct annual reviews of China's import licensing operations in support of the TRM.

5. Committee on Market Access

Status

WTO Members established the Committee on Market Access in January 1995, consolidating the work of the Committee on Tariff Concessions and the Technical Group on Quantitative Restrictions and other Non-Tariff Measures from the GATT 1947. The Committee on Market Access supervises the implementation of concessions on tariffs and non-tariff measures (where not explicitly covered by another

WTO body, *e.g.*, the Textiles Monitoring Body (TMB)). The Committee also 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 2002

During 2002, WTO Members continued implementing the ambitious package of tariff cuts agreed in the Uruguay Round with the Committee having responsibility for verifying that implementation is proceeding on schedule. The Committee held three formal and ten informal meetings in 2002 to discuss: the ongoing review of WTO tariff schedules to accommodate updates to the Harmonized System (HS) tariff nomenclature; the WTO Integrated Data Base; finalizing consolidated schedules of WTO tariff concessions in current HS nomenclature; and implementation issues related to "substantial interest." The Committee also conducted its first annual transitional review of China's implementation of its WTO accession commitments.

Updates to the Harmonized System (HS) nomenclature: In 1993, the Customs Cooperation Council (now known as the World Customs Organization, or WCO) agreed to approximately 400 sets of amendments to the HS, which were to enter into effect on January 1, 1996. These amendments result in changes to the WTO schedules of tariff bindings. 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 and can pursue unresolved objections under GATT 1994 Article XXVIII.

Since 1996, successive waivers have been granted by decisions of the General Council until the implementation procedures can be finalized. The majority of WTO Members have completed the process, but a few Members continue to require waivers. The Committee also examined issues related to the transposition and renegotiation of the schedules of certain Members which had adopted the HS in the years following its introduction on January 1, 1988.

Using the same procedures, the Committee also began to review Members' WCO amendments which took effect on January 1, 2002 (HS2002). Drawing from the experience of HS96, the Committee, working with the Secretariat, has developed electronic procedures that will facilitate and expedite the process of reviewing and approving the 373 proposed amendments under HS2002. The United States submitted its proposed changes to the Secretariat in December 2001.

Integrated Data Base (IDB): The Committee addressed issues concerning the IDB, which is to be 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 U.S. objectives are to achieve full participation in the IDB by all WTO Members and, ultimately, to develop a method to make the trade and tariff information publicly available. In recent years, the United States has taken 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.

During 2002, the separate Negotiating Group on Non-Agricultural Market Access also took up this issue and developed procedures to facilitate the transfer of applicable tariff and trade data from other sources.

As a result, participation has continued to improve. As of September 2001, seventy-four Members and four acceding countries had provided IDB submissions.

Consolidated schedule of tariff concessions (CTS): The Committee completed its work to create a PC-compatible structure for tariff and trade data. The electronic CTS includes: tariff bindings for each WTO Member that reflects Uruguay Round tariff concessions; HS96 updates to tariff nomenclature and bindings; and, any other modifications to the WTO schedule (*e.g.*, participation in the Information Technology Agreement). The data base also includes agricultural support tables. The CTS will be linked to the IDB and will serve as the vehicle for conducting agricultural and newly mandated non-agricultural market access negotiations in the WTO.

China Transitional Review: In September, the Committee conducted the first annual review of China's implementation of its WTO commitments on market access. The review included issues, such as implementation of China's schedule of tariff commitments, tariff-rate quota administration, management of industrial quotas, and China's application of value added and consumption taxes.

Implementation Issues: The Committee also discussed two implementation issues referred by the General Council. The first, proposed by St. Lucia, dealt with the definition of "substantial supplier" in the context of quota allocations. The Secretariat undertook several analyses on the issue but several other developing countries expressed concern that the proposal could undermine the rights and obligations of Members. The Committee also briefly examined the issue of redistribution of negotiating rights. In December, the Committee reported it could not reach a consensus on either issue. The General Council likely will direct the Committee to continue its work in 2003.

Prospects for 2003

The Committee will play an integral role in the negotiations for non-agricultural goods launched at Doha. The ongoing work program of the Committee, while highly technical, will ensure that all WTO Members' schedules are up-to-date and available in electronic spreadsheet format so that the negotiations on goods market access can be performed with greater efficiency. The Committee will likely explore technical assistance needs related to data submissions and use.

As it finalizes the HS96 updates, the Committee will turn to reviewing Members' amended schedules based on the HS2002 updates. The electronic verification process, which incorporates the CTS data, will facilitate the review process and help developing countries to generate their own HS2002 submissions.

6. Committee on Rules of Origin

Status

The objective of the WTO Agreement on Rules of Origin is to increase transparency, predictability, and consistency in both the preparation and application of rules of origin. The Agreement on Rules of Origin 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 request. In addition to setting forth disciplines related to the administration of rules of origin, the Agreement provides for a work program leading to the multilateral harmonization of rules of origin used for non-preferential trade regimes. The harmonization work program is more complex than initially envisioned under the

Agreement, which originally set for the work to be completed within three years after its commencement in July 1995. This work program continued throughout 2002.

The Agreement is administered by the WTO Committee on Rules of Origin, which met formally three times in 2002. The Committee has also served 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 Agreement also established a Technical Committee on Rules of Origin in the World Customs Organization to assist in the harmonization work program.

As of the end of 2002, 83 WTO Members had made notifications concerning non-preferential rules of origin, of which 42 Members notified their non-preferential rules of origin and 41 Members notified that they did not have a non-preferential rules of origin regime. Eighty-seven Members had made notifications concerning preferential rules of origin, of which 84 notified their preferential rules of origin and three notified that they did not have preferential rules of origin.

Major Issues in 2002

The WTO Committee on Rules of Origin continued to focus on the work program on the multilateral harmonization of non-preferential rules of origin. U.S. proposals for the WTO origin harmonization work program 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 proposals reflect input received from the private sector and ongoing consultations with the private sector as the negotiations have progressed from the technical stage to deliberations at the WTO Committee on Rules of Origin. Representatives from several U.S. Government agencies continue to be actively involved in the WTO origin harmonization work, including the U.S. Customs Service, the U.S. Department of Commerce, and the U.S. Department of Agriculture.

In addition to its three formal meetings, the Committee conducted numerous informal consultations and working party sessions related to the harmonization work program negotiations. The Committee proceeded in accordance with a December 2001 mandate from the General Council, which extended the harmonization work program while specifically requesting that the Committee on Rules of Origin focus during the first half of 2002 on identifying core policy issues arising under the harmonization work program that would require attention of the General Council.

The Committee continued to make progress in reducing the number of issues that remained outstanding under the harmonization work program, and proceeding on a track toward achieving consensus on product-specific rules of origin for more than 5000 tariff lines. In mid-2002, the Chairman of the Committee transmitted approximately 90 unresolved issues to the General Council as "core policy issues." Many of these issues are particularly significant due to their broad application across important product sectors, including steel, beef products, sugar, automotive goods, and dairy products. 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 the refinement, fractionation, and hydrogenation substantially transform oil and fat products to a degree appropriate to confer country of origin. During the fall, the General Council commenced working informally to address these issues, focusing on the implications of implementing the results of the work program in a manner consistent with the rights and obligations under other WTO Agreements.

Prospects for 2003

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 result in non-transparency, discrimination, and a lack of predictability. Attention will continue to be given to the implementation of the Agreement's important disciplines related to transparency, which are recognized elements of what are considered to be "best customs practices."

Further progress in the harmonization work program on its current track will remain contingent on achieving appropriate resolution of the 'core policy issues' transmitted by the Committee to the General Council. In accordance with a decision taken by the General Council in December 2002, work will continue on addressing these issues, with a report to the General Council due in July 2003, with an aim to complete any necessary technical work within six months of resolution of such issues. The General Council put forward the objective of completion of the remaining technical work of the harmonization work program within six months of resolution of the "core policy issues."

7. Committee on Safeguards

Status

The Committee on Safeguards was established to administer the WTO Agreement on Safeguards. The 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, thus providing them with the flexibility they otherwise would not 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 Agreement on Safeguards incorporates into WTO rules many concepts embodied in U.S. safeguards law (section 201 of the Trade Act of 1974, as amended). The Agreement requires all WTO Members to use transparent and objective procedures when taking emergency actions to prevent or remedy serious injury to a domestic industry caused by increased imports.

Among its key provisions, the 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 safeguard measures to be steadily liberalized over their duration;
- establishes an eight-year maximum duration 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 adversely affected third-country markets.

Major Issues in 2002

During its two meetings in April and October 2002, the Committee continued its review of Members' laws, regulations, and administrative procedures, based on notifications required by Article 12.6 of the Agreement. The Committee reviewed new or amended legislative texts from the Dominican Republic, Korea, Lithuania, Moldova, Poland, and Taiwan. As of October 2002, 52 Members had notified the Committee of their domestic safeguards legislation, while 47 other Members had notified that they had no such specific legislation.

The Committee previously noted that all notified pre-existing measures covered by Articles 10 and 11 of the Agreement had been phased out by January 1, 2000. Nigeria notified, in 1998, that its import prohibitions on wheat flour, sorghum, millet, gypsum and kaolin were "pre-existing Article XIX measures." At the Committee's April 2002 meeting, Nigeria confirmed that these measures were still in force.

The Committee reviewed Article 12.1(a) notifications from the following Members of the initiation of a safeguard investigatory process relating to serious injury or threat thereof and the reasons for it: Bulgaria on crown corks, ammonium nitrate, urea and certain steel products; Canada on certain steel products; Chile on certain steel products, lighters and fructose/glucose; Costa Rica on rice; the Czech Republic on ammonium nitrate, cocoa powder, citric acid, wire, ropes and cables, tubes and pipes, and certain steel products; the European Union on certain steel products; Hungary on certain steel products; India on phenol, acetone, epichlorohydrin, industrial sewing machine needles, and vegetable oil; Jordan on magnetic tapes, ceramic sinks, ceramic tiles, cooking appliances, electric accumulators, and pasta; Latvia on live pigs and pork; Mexico on plywood panels; the People's Republic of China on certain steel products; Poland on calcium carbide, water heaters and certain steel products; the Slovak Republic on ammonium nitrate; and Venezuela on paper and iron/steel "U sections."

The Committee reviewed Article 12.1(b) notifications from the following Members of a finding of serious injury or threat thereof caused by increased imports: Brazil on coconuts; Bulgaria on crown corks; Canada on certain steel products; the Czech Republic on cocoa powder; the European Union on certain steel products; India on phenol and epichlorohydrin; Jordan on magnetic tapes; Lithuania on pastry yeast; the Philippines on grey portland cement and ceramic floor tiles; the Slovak Republic on sugar; and the United States on certain steel products.

The Committee reviewed Article 12.1(c) notifications from the following Members of a decision to apply or extend a safeguard measure: Brazil on coconuts; Chile on certain steel products; the Czech Republic on cocoa powder; the European Union on certain steel products; India on acetone, phenol and gamma ferric oxide/magnetic iron oxide; Jordan on magnetic tapes; Lithuania on pastry yeast; the Philippines on ceramic floor tiles; the Slovak Republic on sugar; and the United States on certain steel products. The Committee also reviewed supplemental notifications under Article 12.1(c) from the United States with respect to the termination of a safeguard measure on lamb meat, and the modification of existing safeguard measures on circular welded line pipe and on certain wire rod.

The Committee received notifications from the following Members of the termination of a safeguard investigation with no safeguard measure imposed: Chile on steel, lighters and glucose; Japan on tatami-omote, welsh onion and shiitake mushrooms; Morocco on rubber; the Philippines on tomato paste; El Salvador on fertilizer; and the United States on certain steel products.

The Committee reviewed a notification from Brazil on the results of the mid-term review of its safeguard measure on toys.

The Committee reviewed Article 12.4 notifications from the following Members of the application of a provisional safeguard measure: Bulgaria on ammonium nitrate; Chile on certain steel products; Costa Rica on rice; the Czech Republic on cocoa powder; the European Union on certain steel products; Hungary on certain steel products; Jordan on magnetic tapes; the People's Republic of China on certain steel products; the Philippines on grey portland cement and ceramic floor tiles; Poland on certain steel products.

China Transitional Review. At the October 2002 meeting, the Committee undertook, pursuant to the Protocol on the Accession of the People's Republic of China, its first transitional review with respect to China's implementation of the Agreement. A number of Members, including the United States, addressed written and oral questions to China, primarily relating to China's notification to the WTO of its safeguard regulations, with some questions relating to China's notifications of its safeguard investigation with respect to certain steel products. China's representatives provided responses at the October meeting.
Implementation Issue. At its regular meetings in April and October 2002, and at an informal meeting in October 2002, the Committee discussed a safeguards implementation issue pursuant to paragraph 12 of the Doha Ministerial Declaration and section 13 of the Ministerial Decision on Implementation-Related Issues and Concerns. This implementation issue concerned a proposal to amend Article 9.1 of the Agreement, which currently provides that safeguard measures shall not be applied against a product originating from a developing country Member as long as its share of imports of the product concerned in the importing Member does not exceed 3 percent, provided that developing country Members with less than 3 percent import share collectively account for not more than 9 percent of total imports of the product concerned. The proposed amendment would have raised the 3 percent threshold to 7 percent, and the 9 percent threshold to 15 percent. The Committee was unable to reach consensus, and its consideration of this implementation issue has concluded.

Prospects for 2003

The Committee's work in 2003 will continue to focus on the reviews of safeguard actions that have been notified to the Committee and on the notifications of any new or amended safeguards laws. In addition, while the Committee's consideration of the Article 9.1 implementation issue has concluded, it was agreed that Article 9.1 will be on the agenda for the Committee's April 2003 meeting, pursuant to which the Committee may discuss any concerns that Members have regarding Article 9.1, including concerns beyond those discussed in 2002, but without any mandate for the Committee to address any particular issues.

8. Committee on Sanitary and Phytosanitary Measures

Status

The WTO Agreement on the Application of Sanitary and Phytosanitary (SPS) Measures establishes rules and procedures to ensure that sanitary and phytosanitary measures address legitimate human, animal and plant health concerns; do not arbitrarily or unjustifiably discriminate between Members' agricultural and food products; and are not disguised restrictions on international trade. SPS measures protect against risks associated with plant- or animal-borne pests and diseases; additives, contaminants, toxins; and disease-causing organisms in foods, beverages, or feedstuffs. Fundamentally, the Agreement requires that such measures be based on science and developed through systematic risk assessment procedures. At the same

time, the SPS Agreement preserves every WTO Member's right to choose the level of protection it considers appropriate with respect to SPS risks.

The SPS Committee is a forum for consultation on Members' existing or proposed SPS measures that affect international trade, the implementation and administration of the Agreement, technical assistance, and the activities of the international standard-setting bodies. It also includes discussions of the Agreement's provisions related to transparency in the development and application of SPS measures, special and differential treatment, technical assistance, and equivalence.

Participation in the Committee is open to all WTO Members. Certain non-WTO Members also participate as observers, in accordance with guidance agreed by the General Council. In addition, representatives of a number of international organizations are invited to attend meetings of the Committee as observers on an *ad hoc* basis: the Food and Agriculture Organization (FAO), the World Health Organization (WHO), the FAO/WHO Codex Alimentarius Commission, the FAO International Plant Protection Convention Secretariat (IPPC), the International Office of Epizootics (OIE), the International Organization for Standardization (ISO), the International Trade Center (ITC), and others.

A number of documents relating to the work of the SPS Committee are available to the public directly from the WTO website: www.wto.org. The SPS Committee documents are indicated by the symbols, "G/SPS/...." Beginning in 2000, notifications of proposed SPS measures are indicated by G/SPS/N ("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 country or Member). Parties in the United States interested in submitting comments to foreign governments on their proposals should send them through the U.S. inquiry point shown in the box below. Reports of Committee meetings are issued as "G/SPS/R/..." (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/SPS/W/..." (followed by a number). As a general rule, written information provided by the United States to the Committee is provided on an "unrestricted" basis and available to the public on the WTO's website.

Major Issues in 2002

In 2002, the Committee met three times. These meetings are used increasingly by Members to raise concerns regarding the new and existing SPS measures of other Members. The United States views this as a positive development as it demonstrates growing familiarity with and implementation of the provisions of the SPS Agreement and increasing recognition of the value of the Committee as a venue to discuss SPS-related trade issues among Members. The Committee also continued discussions about the implementation of the Agreement, especially regarding notifications and equivalence.

With assistance from the United States and other donors, all 34 countries participating in the Free Trade Area of the Americas negotiations attended the November meeting of the Committee. This significantly expanded capital-based participation in the Committee and plans are being made to continue this assistance for attendance at future meetings.

Avian Influenza: During 2002, the Committee engaged in extensive discussions regarding the activities of Members to control and eradicate avian influenza. The United States experienced geographically limited outbreaks in 2002 of low pathenogenic avian influenza which prompted some Members to restrict U.S.

exports of poultry and poultry products without sufficient scientific justification. These discussions led to a request by the Committee to the International Office of Epizootics (OIE) to review and modify as appropriate international standards regarding avian influenza. The results of the OIE's efforts should provide updated science-based international standards to facilitate trade in poultry and poultry products.

Foot and Mouth Disease: During 2002, the Committee also discussed Members' activities to control and eradicate Foot and Mouth Disease (FMD). The initial outbreak in February 2001, and subsequent spread of the epidemic to several countries in Europe and in other countries, prompted many Members, including the United States, to take emergency actions restricting trade to protect animals within their borders and control the epidemic. As measures were implemented and the epidemic was controlled, Members reported in November 2001 that they were gradually relaxing emergency control measures. The International Office of Epizootics continued to provide updated information regarding international standards for the control of FMD and the disease status of countries.

BSE-TSE[3]*:* The Committee also devoted considerable time to discussing Members' activities regarding BSE and TSE's. Several Members have proposed and introduced measures to protect consumers and animals against BSE. The Committee discussed the need for these measure to be based on science and that international standards should be used as the basis of Members' actions, unless Members have a scientific justification for a more protective measure than that provided by the international standard. The United States anticipates that BSE will continue to be an issue of interest and concern to many Members, and the Committee will have extensive discussions about the nature of the disease and measures taken by Members to protect public health and animal health. Several Members, including the United States, raised concerns about the non-science based categorization of countries' BSE-status and the use of this categorization to restrict trade.

Equivalence: At the request of developing country Members, the Committee held several informal meetings on the provisions of Article 4 of the Agreement - Equivalence. In 2001, the United States submitted a paper (G/SPS/W/111) outlining our views and the activities of regulatory agencies as they relate to equivalence. This paper and submissions from other Members enabled the Committee to develop and approve a decision of the Committee (G/SPS/19) which outlines steps designed to make it easier for Members to make use of the provisions of Article 4 of the Agreement. In 2002, the Committee began discussions on certain aspects of this decision which need clarification. The Committee adopted a work plan for the next two years on the clarification of this decision.

Notifications: During several discussions in the Committee regarding specific trade concerns among Members and equivalence, Members indicated that a specific discussion on the notification requirements and process would be helpful. The Committee decided to have informal meetings on notifications and transparency in 2002. At the June meeting, the Committee adopted a revision to the notification form and added space for Members to describe measures recognized to be equivalent.

Technical Assistance: In June 2000, the United States submitted information (G/SPS/W/181) on technical assistance which had been provided to Members on SPS issues and updated this information in July 2001

[3] Bovine Spongiform Encephalopathy and Transmissible Spongiform Encephalopathy

(G/SPS/W/181add.1). At the June Committee meeting, the United States provided updated information (G/SPS/W/181add.2) describing the technical assistance provided by U.S. agencies since the last report.

China's Transitional Review: The United States participated in the Committee's first review of China's implementation of its WTO obligations under the mechanism established in Section 18 of the Protocol on the Accession of the People's Republic of China. The United States submitted questions regarding China's inspection permits, raw meat and poultry standards, pest risk assessment, and harmonization of international standards (G/SPS/W/126). This paper and those of other Members formed the basis of the Committee's discussions at the November meeting. China provided oral responses to the questions raised by the United States and other Members and restated its commitment to implement the provisions of the SPS Agreement.

Transparency: The SPS Agreement provides a process whereby WTO Members can obtain information on other Members' proposed SPS regulations and control, inspection, and approval procedures, and the opportunity to provide comments on those proposals before implementing Members' make their final decisions. These transparency procedures have proved extremely useful in preventing trade problems associated with SPS measures. The United States continued to press all WTO Members to establish an official notification authority, as required by the Agreement, and to ensure that the Agreement's notification requirements are fully and effectively implemented. Each Member is also required to establish a central contact point, known as an inquiry point, to be responsible for responding to requests for information or making the appropriate referral. This inquiry point circulates notifications received under the Agreement to interested parties for comment. The SPS inquiry point for the United States is:

U.S. INQUIRY POINT

Office of Food Safety and Technical Services
Attention: Carolyn F. Wilson
Foreign Agricultural Service
U.S. Department of Agriculture
AG Box 1027
Room 5545 South Agriculture Building
14th and Independence Avenue, S.W.
Washington, DC 20250-1027

Telephone: (202) 720-2239
Fax: (202) 690-0677
email: ofsts@fas.usda.gov

Prospects for 2003

The Committee will continue to monitor implementation of the Agreement by WTO Members. As mentioned above, the number of specific trade concerns raised in the Committee appears to be increasing and the Committee has been a useful forum for Members to raise concerns and then work bilaterally to resolve specific trade concerns. The number of disputes in this area is evidence of the importance and Members place on the effective operation of the Agreement. The Committee will continue to be an important forum for Members to provide information about efforts to manage and control food safety and animal health emergencies as well as ongoing food safety, animal and plant health activities that affect international trade.

In addition, during 2003, the United States expects the Committee to continue discussions on technical assistance, notifications and equivalence. To date, developed countries have submitted most of the papers and the United States will be encouraging developing country Members to participate more actively in both formal meetings and informal consultations to identify improvements. As a result of implementation discussions in the General Council, the Committee will need to address plans for conducting a review of the Agreement as agreed upon by the General Council. The Committee will continue to monitor the development of international standards, guidelines and recommendations by standard-setting

organizations. The Committee will seek to identify areas where the development of additional or new standards would facilitate international trade and provide this information to the appropriate standard-setting organization for consideration. The Committee will also prepare for and conduct a review of China's implementation of the SPS Agreement.

9. Committee on Subsidies and Countervailing Measures[4]

Status

The Agreement on Subsidies and Countervailing Measures (Subsidies 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 Agreement nominally divides subsidy practices among three classes: prohibited (red light) subsidies; permitted yet actionable (yellow light) subsidies; and permitted, non-actionable (green light) subsidies.[5] Export subsidies and import substitution subsidies are prohibited. All other subsidies are permitted, yet are also actionable (through CVD or dispute settlement action) 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 WTO 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 2002

The Committee held two regular meetings in 2002. In addition to its routine activities concerned with reviewing and clarifying the consistency of WTO Members' domestic laws, regulations and actions with Agreement requirements, the Committee continued to accord special attention to the general matter of

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[4] 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 2003.

[5] Prior to 2000, Article 8 of the 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 so long as such assistance conformed to the applicable terms and conditions set forth in Article 8. In addition, Article 6.1 of the Agreement provided that certain other subsidies, referred to as dark amber subsidies, could be presumed to cause serious prejudice. These were: (i) subsidies to cover an industry's operating losses; (ii) repeated subsidies to cover a firm's operating losses; (iii) the direct forgiveness of debt (including grants for debt repayment); and (iv) when the *ad valorem* subsidization of a product exceeds five percent. 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 our1999 report, a mandatory review was conducted in 1999 under Article 31 of the Agreement to determine whether to extend the application of these provisions beyond December 31 of that year. They expired on January 1, 2000 because a consensus could not be reached among WTO Members on whether to extend or the terms by which these provisions might be extended beyond their five-year period of provisional application.

subsidy notifications and the process by which such notifications are made to and considered by the Subsidies Committee. In this regard, the Committee took action to address the poor and declining state of compliance with subsidy notifications in an effort to find a long-term solution to the problem. During the fall meeting, the Committee also undertook its first transitional review with respect to China's implementation of the Agreement

The Committee throughout the year extensively discussed and addressed a very large number of requests made by certain developing countries to extend the transition period for the phase-out of their export subsidy programs as well as other implementation issues referred to it by the Fourth Ministerial Conference. At the fall formal meeting of the Committee, the United States expressed serious concerns regarding the government financial assistance provided to the Korean specialty paper industry. Finally, the Committee selected a new Member for its 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: (i) new or amended CVD legislation and regulations; (ii) CVD investigations initiated and decisions taken; and (iii) 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 regular meetings. In reviewing notified CVD legislation and subsidies, the 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, 95 Members of the WTO (counting the European Union as one) have notified that they currently have CVD legislation in place, while 34 Members have not yet notified that they maintain such legislation. Among the notifications of CVD laws and regulations reviewed in 2002 were those of Antigua and Barbuda, Argentina, El Salvador, Georgia, Grenada, India, Moldova, Myanmar, Pakistan, Peru, Philippines and Uruguay.[6] The notifications of the following Members were scheduled to be reviewed at the fall 2002 regular meeting: Antigua and Barbuda, Argentina, Brazil, Grenada, Japan, Lithuania, Taiwan, and Turkey but were postponed until next year.

As for CVD measures, eight WTO Members notified CVD actions taken during the latter half of 2001, and eight Members notified actions taken in the first half of 2002. The Committee reviewed actions taken by Argentina, Australia, Canada, the European Union, Mexico, New Zealand, South Africa and the United States. With respect to subsidy notifications, the Committee continued its examination of new and full notifications submitted for 1998 and 2001, as well as updating notifications submitted for 1999 and 2000.[7] Importantly, the United States submitted its subsidy notification in 2002 – covering the years 1998-2001 – thereby bringing it into compliance with its subsidy notification obligations under the Agreement.

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[6] 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.

[7] One Indian subsidy program not notified of particular interest to U.S. industry provides subsidies to producers of a specific fertilizer. In April 2002, the United States submitted written questions to India regarding this program. A partial written response to these questions was received in November 2002 and is being reviewed to determine the appropriate future course of action.

As of January 1, 2002, when Membership in the WTO had reached 144, only 51 Members had submitted new and full subsidy notifications for 2001, while 47 and 39 Members, respectively, had submitted updating notifications for the 1999 and 2000 periods. Notably, 32 Members have never made a subsidy notification to the WTO.

In view of the ongoing difficulties experienced by Members, in meeting the Agreement's subsidy notification obligations, a three-prong strategy has been employed to address the problems of subsidy notifications. The first prong was to examine alternative practical approaches to the frequency and nature of subsidy notifications, as well as their review. In 2001, Members decided to devote maximum effort to submitting new and full notifications, every two years, and to de-emphasize the review of the annual updating notifications. Examination of the format for a subsidy notification constitutes the second prong of the strategy. Efforts in this regard were made in 2002 and will continue into 2003. The third prong was the organization of a subsidy notification seminar, geared to participation by capital-based officials responsible for notification, held prior to the fall committee meeting. The WTO funded capital-based participation from Members which identified themselves as developing countries in need of assistance.

China Transitional Review. At the fall meeting, the Committee undertook, pursuant to the Protocol on the Accession of the People's Republic of China, its first transitional review with respect to China's implementation of the Agreement. A number of Members, including the United States, addressed written and oral questions to China, relating to China's notification to the WTO of its countervailing duty law and regulations, subsidy programs and pricing policies. At the meeting, China's representatives provided responsive information.

Extension of the transition period for the phase out of export subsidies: Under the Agreement, most developing countries were obligated to eliminate their export subsidies by December 31, 2001. Article 27.4 of the Agreement allows for an extension of this deadline provided consultations were entered into with the Subsidies Committee by December 31, 2002. The Committee has the authority to decide whether an extension is justified. In making this determination, the Committee must consider the "economic, financial and development needs" of the developing country Member. If the Committee grants an extension, annual consultations with the Committee must be held to determine the necessity of maintaining the subsidies.[8] If the Committee does not affirmatively sanction a continuation, the export subsidies must be phased out within two years.

In an attempt to try and address the concerns of small exporter developing countries, a special procedure within the context of Article 27.4 of the 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

[8] Any extension granted by the 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 countervailing duty action under its national laws would not be affected.

all the qualifications for the agreed upon special procedures are eligible for a five-year extension of the transition period, in addition to the two years referred to under Article 27.4.[9]

Colombia, El Salvador, Panama and Thailand made requests under the normal extension process provided for in the Agreement. Antigua and Barbuda, Barbados, Belize, Bolivia, Costa Rica, Dominica, Dominican Republic, El Salvador, Grenada, Guatemala, Honduras, Jamaica, Jordan, Kenya, Mauritius, Panama, Papua New Guinea, St. Kitts and Nevis, St. Lucia, St. Vincent and Grenadines, Sri Lanka, and Suriname made requests under the special procedures adopted at the Fourth Ministerial Conference for small exporter developing countries.[10] Uruguay requested an extension for one program under both the normal and special procedures. Additionally, Colombia sought an extension for two of its export subsidies programs under a procedure agreed to at the Fourth Ministerial Conference analogous to that provided for small exporter developing countries.

Altogether the Committee conducted a detailed review of more than 70 export subsidy programs for which extensions were requested. Although nearly all of the requests were granted, some were eventually withdrawn and others were not approved for the full extension requested. Throughout the review and approval process, the United States took a leadership role to define as narrowly as possible the scope of the extensions and to ensure that the conditions imposed on the extensions will strengthen the ability of the developing countries involved to come into compliance with their obligations upon expiration of the extension.

Other implementation issues: Two other implementation issues were addressed by the Committee in 2002: (1) a review of the Agreement's provisions regarding countervailing duty investigations; and, (2) the methodology for the calculation of the per capita GNP threshold in Annex VII of the Agreement.

1. Review of the provisions of the Agreement regarding countervailing duty investigations

The General Council first referred this topic to the Committee in August 2001. Brazil and India submitted papers making specific proposals as to how to clarify or, in some instances, modify the provisions of the Agreement regarding countervailing duty investigations. The proposals related to: the appropriate definitions of "domestic industry"and "like product;" the use of "facts available;" numerous calculation issues; and the conduct of annual reviews of countervailing duty orders already in place. Due to the breadth and complexity of the issues raised and the relatively short period of time prior to the Fourth Ministerial Conference, very little substantive discussion occurred with respect to the specific proposals made beyond the formal presentation of proposals. Thus, the Committee recommended to the General

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[9] In addition to agreement on the specific length of the extension, it was also agreed at the Fourth Ministerial Conference, in essence, that the Committee should look favorably upon the extension requests of Members which do not meet all the specific eligibility criteria for the special small exporter procedures but which are similarly situated to those that do meet all the criteria. This provision added at the request of Colombia.

[10] Bolivia, Guatemala, Honduras, Kenya and Sri Lanka are all listed in Annex VII of the Subsidies Agreement and thus, may continue to provide export subsidies until their "graduation". Therefore, these countries 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 countries are only reserving their rights at this time, the Committee did need to make any decisions as to whether their particular programs qualify under the special procedures.

Council that the Committee continue to consider these issues and report to the General Council by July 31, 2002. This recommendation was adopted as part of the implementation decision adopted at the Fourth Ministerial Conference.

Pursuant to this mandate, the Committee held several meetings to address the procedural and substantive aspects of the review. The substance of the review was conducted on the basis of the proposals from Brazil and India tabled prior to the Fourth Ministerial Conference, as well as an exchange of written questions and answers. No consensus was reached as to how to address these issues. Many Members, including the United States, suggested that the Rules Negotiating Group was the most appropriate forum to discuss the issues raised. The Committee Chair submitted his report to the General Council in July 2002.[11]

2. *The methodology for the calculation of the per capita GNP threshold in Annex VII of the Agreement*

Annex VII of the Agreement identifies certain lesser developed countries that are eligible for particular special and differential treatment. Specifically, the export subsidies of these countries are not prohibited and, therefore, are not actionable under the dispute settlement process. Secondly, a higher *de minimis* threshold is provided for in countervailing duty investigations of imports from these countries, although this standard expired at the end of 2002.[12] The countries identified in Annex VII include those WTO Members designated by the United Nations as "least developed countries" (Annex VII(a)) as well as countries that had, at the time of the negotiation of the Agreement, a per capita GNP under $1,000 per annum and are specifically listed in Annex VII(b).[13] 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 Agreement in 1995, the *de facto* interpretation by the Committee of the $1,000 threshold was 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 Committee, in conjunction with the WTO Secretariat, developed an approach based on certain World Bank data that were used by the Uruguay Round negotiators in 1990 in developing Annex VII(b). While many Members expressed the view that they could accept this proposed methodology, other Members indicated that it was more appropriate to rely on more recently available data. Thus, it was not possible to reach a consensus on the question of methodology.

At the Fourth Ministerial Conference, it was agreed:

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[11] See, G/SCM/45.

[12] This *de minimis* for Annex VII countries is 3 percent, compared with the 2 percent for other developing countries.

[13] Annex VII(b) countries 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.

. . . that Annex VII(b) to the Agreement on Subsidies and Countervailing Measures includes the Members that are listed therein until their GNP per capita reaches U.S. $1,000 in constant 1990 dollars for three consecutive years. This decision will enter into effect upon the adoption by the Committee on Subsidies and Countervailing Measures of an appropriate methodology for calculating constant 1990 dollars. If, however, the Committee on Subsidies and Countervailing Measures does not reach a consensus agreement on an appropriate methodology by 1 January 2003, the methodology proposed by the Chairman of the Committee set forth in G/SCM/38, Appendix 2 shall be applied. A Member shall not leave Annex VII(b) so long as its GNP per capita in current dollars has not reached U.S. $1000 based upon the most recent data from the World Bank.[14]

In the course of 2002, no alternative methodology was proposed. Therefore, the Chairman's methodology proposed in 2001 will be applied in the future.

Financial Support by the Government of Korea for the Korean specialty paper industry: At the fall formal meeting in 2002, the United States made a statement expressing concern regarding the financial support which various Korean government authorities have been providing to the Korean specialty paper industry. In the wake of the Asian financial crisis, several Korean paper companies, like many other companies in Korea, were beset by severe liquidity shortages and overwhelming debt-to-equity ratios. As has been seen in other sectors, such as steel and semiconductors, some companies, which under normal market conditions would have been reorganized, sold, or forced out of business, were instead the beneficiaries of special government help designed to ensure their survival. In the paper sector, there have been reports of debt-for-equity swaps, reduced interest rates on various types of loans, loan guarantees, extensions on debt repayment periods, and tax benefits for facilities expansion. Most, if not all of these measures appear to have been undertaken either directly by the government or by government-owned or -controlled financial institutions, such as the Korea Development Bank and the Industrial Bank of Korea, which frequently implement government policy. In addition to expressing its concern, the United States submitted written questions to Korean authorities on a bilateral basis and received partial answers which are currently under review.

Permanent Group of Experts: Article 24 of the 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 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 WTO 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. At of the beginning of 2002, the members of the Permanent Group of Experts were: Prof. Okan Aktan; Mr. Jorge Castro Bernieri;

[14] The addition of the phrase "for three consecutive years" was added at the request of Honduras which was concerned that their possible graduation from Annex VII in the near future might place them in a worse condition than those Members which avail themselves of the special procedures under Article 27.4 for small developing country exporters.

Dr. Marco Bronckers; Prof. R.G. Flores Jr.; and Mr. Hyung-Jin Kim. At its spring 2002 regular meeting, the Committee re-elected Prof. Aktan to serve another term.

Prospects for 2003

In 2003, the United States will continue to work with others to try to identify ways to rationalize the burdens of subsidy notification for all WTO Members without diminishing transparency or taking away from the other substantive benefits of the notification obligation. Second, the United States will participate actively in the review of other WTO Members' CVD legislation and actions, as well as China's Transitional Review, and will bring to Members' and the Committee's attention any concerns which may arise about such laws or actions, whether in general or in the context of specific proceedings. The United States will also actively review any additional normal extension requests made under Article 27.4 and will ensure the close adherence to the provisions of the agreed upon extension procedures for small exporter developing countries. Finally, the United States is prepared to take a leadership role in addressing any technical questions that the Subsidies Committee may be asked to consider in the context of issues that may arise within the Rules Negotiating Group.

10. Committee on Technical Barriers to Trade

Status

The Agreement on Technical Barriers to Trade (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. Its aim is to prevent the use of technical requirements as unnecessary barriers to trade. The Agreement applies to a broad range of industrial and agricultural products, though sanitary and phytosanitary (SPS) measures and specifications for government procurement are covered under separate agreements. It establishes rules that 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 non-discriminatory basis, developed and applied transparently, and should be based on relevant international standards and guidelines, when appropriate.

The TBT Committee[15] serves as a forum for consultation on issues associated with the implementation and administration of the Agreement. This includes discussions and/or presentations concerning specific standards, technical regulations and conformity assessment procedures 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 Agreement and relevant international developments.

Transparency and Availability of WTO/TBT Documents: A key opportunity for the public resulting from the TBT Agreement is the ability to obtain information on proposed standards, technical regulations and 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, which 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, standards of U.S. private standards-developing organizations, and foreign national standardizing bodies. The inquiry point responds to requests for information concerning federal, state and private regulations, standards and conformity assessment procedures. Upon request, NIST will provide copies of notifications of proposed regulations from foreign governments received under the TBT Agreement. The NIST also will provide information on central contact points for information maintained by other WTO Members. The NIST refers requests for information concerning standards and technical regulations for agricultural products,

U.S. Inquiry Point

National Center for Standards and Certification Information
National Institute of Standards and Technology (NIST)
100 Bureau Drive, Stop 2150
Gaithersburg, MD 20899-2150

Telephone:	(301) 975-4040
Fax:	(301) 926-1559
email:	ncsci@NIST.GOV

NIST offers a free web-based service, Export Alert!, that provides U.S. customers with the opportunity to review and comment on proposed foreign technical regulations that can affect them. By registering for the Export Alert! Service, U.S. customers receive, via e-mail, notifications of drafts or changes to foreign regulations for a specific industry sector and/or country. To register on-line contact: http://ts.nist.gov/ncsci.

[15] 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.

including SPS measures, to the U.S. Department of Agriculture, which maintains the U.S. inquiry point under the Sanitary and Phytosanitary Agreement.

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 country or Member).[16] 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 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). As a general rule, written information provided by the United States to the Committee is provided on an "unrestricted" basis and is available to the public on the WTO's website.

Major Issues in 2002

The TBT Committee met three times in 2002. At the meetings, the Committee addressed implementation of the Agreement, including an exchange of information on actions taken by Members domestically to ensure implementation and ongoing compliance. A number of Members used the Committee meetings to raise concerns about specific technical regulations which affected, or had the potential to affect, trade adversely and were perceived to create unnecessary barriers to trade. U.S. interventions were primarily targeted at a variety of proposals from the European Commission that could seriously disrupt trade.

The Committee conducted its seventh Annual Review of the Implementation and Operation of the Agreement based on background documentation contained in G/TBT/11, and its Seventh Annual Review of the Code of Good Practice for the Preparation, Adoption and Application of Standards (Annex 3 of the Agreement) based on background documentation contained in G/TBT/CS/1/Add.6 and G/TBT/CS/2/Rev.8. Decisions and recommendations adopted by the Committee are contained in G/TBT/1/Rev.8.

Follow-up to the Second Triennial Review of the Agreement: Beyond bilateral trade concerns discussed under "Statements on Implementation," the work of the Committee has focused on issues identified in the Second Triennial Review of the Agreement (see G/TBT/9). The review provided the opportunity for WTO Members to review and discuss all of the provisions of the Agreement, which facilitated a common understanding of their rights and obligations under the Agreement. In follow-up to that review, priority attention has been given to technical assistance and the implementation needs of developing countries, as well as to trade effects resulting from labeling requirements.

Technical Assistance: In the Second Triennial Review, the Committee recognized the importance of ensuring that solutions to implementation problems were targeted at the specific priorities and needs

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

identified by individual or groups of developing country Members. This called for effective coordination at the national level between authorities, agencies, and other interested parties to identify and assess the priority infrastructure needs of a specific Member. The Committee recognized the need for coordination and cooperation between donor Members and organizations, as well as between the Committee, other relevant WTO bodies, and donor organizations. In order to enhance the effectiveness of technical assistance and cooperation, the Committee agreed to develop a demand-driven technical cooperation program beginning with the identification and prioritization of needs by developing countries, and working with other relevant international and regional organizations. To this end, the Committee developed and conducted a *Questionnaire for a Survey to Assist Developing Country Members to Identify and Prioritize their Specific Needs in the TBT Field* (G/TBT/W/178). To date, some 50 WTO Members have responded to the survey and a Workshop is planned on Technical Assistance for March 2003. While the survey responses are not publically available, the Secretariat prepared an un-restricted summary of the information received prior to the October 17, 2002, meeting of the Committee (G/TBT/W/186). The United States is evaluating the requests received with a view to targeting resources to assist with implementation, as appropriate.

Labeling: The Committee intensified its exchange of information on issues associated with labeling requirements, noting the frequency with which specific concerns regarding mandatory labeling were raised at meetings of the Committee during discussions on implementation, and stressing that although such requirements can be legitimate measures, they should not become disguised restrictions on trade. Since the conclusion of the Second Triennial Review, a number of Members have put forward papers on the subject: Switzerland (G/TBT/W/162), the United States (G/TBT/W/165), Canada (G/TBT/W/174), the European Union (G/TBT/W/175), and Japan (G/TBT/W/176). Although Switzerland and the European Union have suggested the need for clarification of TBT disciplines to better address labeling concerns, their view has gained little support, with most WTO Members including the United States who have emphasized the need to comply with existing obligations. In response to a request from the Committee, the Secretariat prepared two background papers to inform the discussions: a compilation of notifications made since 1995 (G/TBT/W/183), and a compilation of specific trade concerns related to labeling raised at meetings of the TBT Committee (G/TBT/W/184). The Secretariat estimates some 723 notifications have been made between January 1, 1995 and August 31, 2002 which involved labeling proposals. The Committee is developing an agenda for a "learning event" (originally proposed by Canada) to be held in conjunction with its June 2003 Committee meeting.

Prospects for 2003

The Committee will continue to monitor implementation of the Agreement by WTO Members. The number of specific trade concerns raised in the Committee appears to be increasing. The Committee has been a useful forum for Members to raise concerns and facilitate bilateral resolution of specific concerns. In 2003, the Committee is required to conclude its Third Triennial Review of the Agreement, which is mandated by Article 15.4. The Second Triennial Review requires the Committee to evaluate its progress on implementing the technical assistance work program. The United States is considering other areas which may be useful to highlight in the context of the review that could assist Members in implementation.

11. Committee on Trade-Related Investment Measures

Status

The Agreement on Trade-Related Investment Measures (TRIMS) prohibits investment measures that violate the GATT Article III obligation to treat imports no less favorably than domestically produced products and the GATT Article XI obligation not to impose quantitative restrictions on imports. The TRIMS Agreement thus requires the elimination of certain measures imposing requirements on the performance 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 provides an illustrative list of measures that violate its obligations. When the WTO Agreement entered into force in January 1, 1995, formal notification to the WTO, and eventual elimination, of any TRIMS in place was required. Developed countries were required to eliminate notified TRIMS by January 1, 1997. Developing countries were required to eliminate any TRIMS by January 1, 2000. Least developed countries were given a deadline of January 1, 2002. Several developing countries requested and were granted up to four additional years in which to come into full compliance with their TRIMS Agreement obligations.

Developments relating to the TRIMS Agreement are monitored and discussed both in the Council for Trade in Goods (CTG) and in the Committee on Trade-Related Investment Measures (TRIMS Committee).

Major Issues in 2002

During 2002, the CTG continued the review of the operation of the TRIMS Agreement mandated by Article 9 of the Agreement. As part of this review, Members discussed a study of trade-related investment measures and other performance requirements prepared jointly by the secretariats of the WTO and UNCTAD. The first part of the joint study described different types of performance requirements and surveyed disciplines on such requirements found in various international agreements. The second part of the study reviewed evidence on the economic impact of TRIMS and other performance requirements. Members also discussed a proposal submitted by Brazil and India recommending that the TRIMS Agreement be amended to allow developing countries to use measures prohibited by the Agreement for development purposes. The United States and several other WTO Member countries opposed the Brazil/India proposal, arguing that TRIMS have been shown to distort trade flows and discourage foreign investment, harming developing countries. The United States opposed any amendment of the TRIMS Agreement and suggested that the Article 9 review should be concluded.

During its May 7 meeting, the CTG assigned to the TRIMS Committee responsibility for conducting work on outstanding TRIMS implementation issues under the Doha Ministerial mandate. The TRIMS Committee met four times during 2002 to discuss implementation and other issues. In these meetings, and in the CTG, the United States continued to press WTO Members that received extensions of the deadline for phasing out their remaining TRIMS to meet their phase-out deadlines and to come into full compliance with the Agreement. The TRIMS Committee also devoted some time to discussions of the joint WTO/UNCTAD study.

Pursuant to paragraph 18 the Protocol on the Accession of the People's Republic of China to the WTO, the TRIMS Committee also reviewed China's implementation of the TRIMS Agreement and related

provisions of the Protocol. The United States joined several other WTO Members, including the European Union and Japan, in pressing China to meet its TRIMS obligations and to clarify the intent of several domestic laws and regulations. In response to questions by the United States and other countries, China provided more detailed information on its progress in implementing the TRIMS Agreement and on related domestic policies during an October TRIMS Committee meeting,

Prospects for 2003

The CTG and the TRIMS Committee, with strong support from the United States, will continue to monitor the status of the TRIMS phase-out efforts of the developing countries that received formal extensions of the deadline for complying with the Agreement. The Article 9 review will continue. The TRIMS Committee will also continue to work on implementation issues, which are likely to be a principal focus of discussion at the Fifth Ministerial Conference.

12. Textiles Monitoring Body

Status

The Textiles Monitoring Body (TMB), established in the Agreement on Textiles and Clothing (ATC), supervises the implementation of all aspects of the Agreement. In 2002, TMB membership was composed of appointees and alternates from the United States, the European Union, Japan, Canada/Norway, Switzerland/Turkey, Brazil, Thailand, China/Pakistan/Macau, India/Egypt, and Hong Kong/Republic of Korea. Each TMB member serves in a personal capacity.

The ATC succeeded the Multifiber Arrangement (MFA) as an interim arrangement establishing special rules for trade in textile and apparel products on January 1, 1995. All Members of the WTO are subject to the disciplines of the ATC, whether or not they were signatories to the MFA, and only Members of the WTO are entitled to the benefits of the ATC. The ATC is a ten-year arrangement which provides for the gradual integration of the textile and clothing sector into the WTO and provides for improved market access and the gradual and orderly phase-out of the special quantitative arrangements that have regulated trade in the sector among the major exporting and importing nations.

The United States has implemented the ATC in a manner which ensures that the affected U.S. industries and workers as well as U.S. importers and retailers have a gradual, stable and predictable regime under which to operate during the quota phase-out period. At the same time, the United States has aggressively sought to ensure full compliance with market-opening commitments by U.S. trading partners, so that U.S. exporters may enjoy growing opportunities in foreign markets.

Under the ATC, the United States is required to "integrate" products which accounted for specified percentages of 1990 imports in volume over three stages during the course of the transition period– that is, to designate those textile and apparel products for which it will henceforth observe full GATT disciplines. Once a WTO Member has "integrated" a product, the Member may not impose or maintain import quotas on that product other than under normal GATT procedures, such as Article XIX. As required by Section 331 of the Uruguay Round Agreements Act, the United States selected the products for early integration after seeking public comment, and published the list of items at the outset of the transition period, for purposes of certainty and transparency. The integration commitments for stages one and two were completed in 1995 and 1998. The United States notified the TMB in 2001 of the integration commitments

for stage three and implemented these commitments on January 1, 2002. The list for all three stages may be found in the Federal Register, volume 60, number 83, pages 21075-21130, May 1, 1995.

Also keyed to the ATC "stages" is a requirement that the United States and other importing Members increase the annual growth rates applicable to each quota maintained under the Agreement by designated factors. Under the ATC, the weighted average annual growth rate for WTO Members' quotas increased from 4.9 percent in 1994 to 9.3 percent in 2002.

Major Issues in 2002

Notifications: A considerable portion of the TMB's time was spent reviewing notifications made under Article 2 of the ATC dealing with textile products integrated into normal GATT rules and no longer subject to the provisions of the ATC. WTO Members wishing to retain the right to use the Article 6 safeguard mechanism were required in 2001 to submit a list of products comprising at least 18 percent by trade volume of the products included in the annex to the ATC. A number of these notifications were defective for various reasons and in a number of cases the TMB's review has carried into 2002. The TMB expressed concern that a number of countries which announced their intention to retain the right to use Article 6 safeguards failed to make the required integration notification. TMB documents are available on the WTO's web site: http://www.wto.org. Documents are filed in the Document Distribution Facility under the document symbol "G/TMB." The TMB also reviewed notifications from the United States, the European Union, Canada and Turkey concerning their textile restraints on China and Taiwan. These notifications were made to the TMB following the accession of China to the WTO in December 2001 and Taiwan in January 2002.

Doha Implementation Issues: The Council on Trade in Goods (CTG) met a number of times formally and informally to consider tirets 4.4 and 4.5 of the Doha Ministerial Declaration related to textile implementation issues. The discussion covered the same issues and revealed the same differences of opinion encountered in the major review of the Agreement on Textiles and Clothing (see CTG section). The outcome of the discussion paralleled the outcome of the ATC review. The Chair reported that he was not in a position to put any draft recommendations before the CTG.

Prospects for 2003

The United States will continue to monitor compliance by trading partners with market opening commitments, and will raise concerns regarding the implementation of these commitments in the TMB or other WTO fora, as appropriate. The United States will also pursue further market openings, including in the negotiation of new Members' accessions to the WTO. In addition, the United States will continue to respond to surges in imports of textile products which cause or threaten serious damage to U.S. domestic producers. The United States will also continue efforts to enhance cooperation with U.S. trading partners and improve the effectiveness of customs measures to ensure that restraints on textile products are not circumvented through illegal transshipment or other means.

13. Working Party on State Trading

Status

Article XVII of GATT 1994 requires Members to place certain restrictions on the behavior of state trading firms and on private firms to which they accord special or exclusive privileges to engage in importation and exportation. Among other things, Article XVII requires Members to ensure that these "state trading enterprises" act in a manner consistent with the general principle of non-discriminatory treatment, that is to make purchases or sales solely in accordance with commercial considerations, and to abide by other GATT disciplines. To address the ambiguity regarding which types of firms fall within the scope of "state trading enterprises," an agreement was reached in the Uruguay Round referred to as *"The Understanding on the Interpretation of Article XVII"* (the "Understanding"). The Understanding provides a working definition of a state trading enterprise and instructs Members to notify the Working Party of all enterprises in their territory that fall within the agreed definition, whether or not such enterprises have imported or exported goods.

A WTO Working Party was established to review, *inter alia*, the notifications of state trading enterprises and the coverage of state trading enterprises that are notified, and to develop an illustrative list of relationships between Members and state trading enterprises and the kinds of activities engaged in by these enterprises. All Members are required under Article XVII of GATT 1994 and paragraph 1 of the Understanding to submit annually notifications of their state trading activities.

The Uruguay Round ensured that the operation of agricultural state trading enterprises would be subject to international scrutiny and disciplines. Before the Uruguay Round, agricultural products were effectively outside the disciplines, of GATT 1947. This limited the scrutiny of state trading enterprises since many of them directed trade in agricultural products. The lack of tariff bindings on agricultural products in most countries also limited the scope of GATT 1947 disciplines because without tariff bindings governments could raise import duties and state trading enterprises could impose domestic mark-ups on imported products.

The Uruguay Round Agreement on Agriculture marked an important step in bringing the activities of agricultural state trading entities under the same disciplines that apply to non-agricultural products. All agricultural tariffs (including TRQs) are now bound. While further work is needed on the administration of TRQs, bindings act to limit the scope of state traders to manipulate imports. Likewise, the disciplines on export competition, including value and quantity ceilings on export subsidies, apply fully to state trading enterprises. U.S. agricultural producers and exporters have expressed concerns about the operation of certain state trading enterprises, particularly single-desk importers or exporters of agricultural products, and called for more meaningful disciplines.

Major Issues in 2002

New and full notifications were first required in 1995 and, subsequently, every third year thereafter. Updating notifications indicating any changes are to be made in the intervening years. The notifications submitted by WTO Members as of November 19, 2002 were: 21 updating notifications for 2002; 20 new and full notification for 2001; 6 updating notifications for 2000; five updating notifications for 1999; four updating notifications for 1998; and two updating notifications for 1997.

The Working Party held one formal meeting in November 2002 where it reviewed Member notifications. At the meeting, the Working Party discussed the situation regarding the notifications of state trading enterprises.

Prospects for 2003

In December 2002, the United States submitted a request for information from Canada concerning the sales and purchases of western Canadian wheat by the Canadian Wheat Board, pursuant to Article XVII:4(c) of GATT 1994. The Article provides that a Member who has reason to believe its interests are being adversely affected by the operations of a state trading enterprise may request the Member establishing, maintaining or authorizing such enterprise supply information about its operations related to the GATT. The United States believes that its interests are being adversely affected by the operations of the Canadian Wheat Board (CWB), which the Government of Canada notified to the WTO. The request for additional information was made in concert with the filing of a U.S. request for consultations under the Dispute Settlement Understanding.

As part of the agricultural negotiations in the WTO, the United States proposed specific disciplines on both import and export agricultural state trading enterprises that would expand transparency and competition for these entities. Specifically, the United States has proposed the elimination of exclusive trading rights of single desk exporters, stronger notification requirements, and the elimination of the use of government funds or guarantees to finance potential operational deficits or to otherwise insulate export state trading enterprises from market or pricing risk.

The Working Party on state trading enterprises 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 might be appropriate to notify to enhance transparency of state trading enterprises. The Working Party will undertake a process to identify solutions to the problem of compliance with notification obligations.

F. Council for Trade in Services

Status

The General Agreement on Trade in Services (GATS) is the first multilateral, legally enforceable agreement covering trade and investment in the services sector. It is designed to reduce or eliminate governmental measures that prevent services from being freely provided across national borders or that discriminate against locally-established service firms with foreign ownership. The Agreement 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 national schedules, similar to the national schedules for tariffs. The Council for Trade in Services (CTS) oversees implementation of the GATS and reports to the General Council. Ongoing negotiations take place in the CTS meeting in Special Session, described earlier in this chapter. The following section discusses work of the CTS regular session.

Major Issues in 2002

The Council reached agreement on procedures dealing with changes to exemptions from Most Favored Nation (MFN) treatment. A GATS annex provides that such exemptions are subject to negotiation but procedures did not exist should a WTO Member decide to liberalize or terminate an MFN exemption. Procedures also did not exist to allow for purely technical changes. Document S/L/106 contains procedures agreed to in 2002 by the Council.

As discussed below, the CTS decided to extend the deadline for negotiations on the question of emergency safeguards, under GATS Article X, to March 15, 2004.

At the request of the concerned WTO Members, the CTS took the steps necessary to allow Bolivia and Papua New Guinea to implement new commitments on financial services and basic telecommunications, respectively.

The United States, with the support of other WTO Members, raised concerns with China's implementation of its GATS commitments in the insurance and express delivery sectors during regular CTS meetings and as part of the Transitional Review of China's implementation of its services commitments.

The CTS has discussed proposals by some WTO Members for a technical review of one or more GATS provisions. Discussion has focused on the scheduling provisions in Article XX:2, which may produce unintended confusion. No decision has yet been taken on whether to conduct such a review.

The air transport review, which is required in the GATS Annex on Air Transport Services, began in late 2000. The review continued in 2002, although only one meeting was held. The review examines "developments in the air transport sector and the operation of this Annex with a view to considering the possible further application of the Agreement in this sector." The CTS chair held informal consultations on scheduling of further meetings. In October 2001, the United States submitted a written statement presenting its views that to date bilateral and plurilateral venues outside the WTO have proven to be effective in promoting liberalization in this important sector (available at http://docsonline.wto.org. Documents are filed in the Document Distribution Facility under the document symbol: S/C/W/198).

Prospects for 2003

The CTS will continue to discuss work related to ongoing implementation of the GATS.

1. Committee on Trade in Financial Services

Status

The Committee on Trade in Financial Services (CTFS) enables WTO Members to explore any financial services market access or regulatory issue deemed appropriate, including implementation of existing trade commitments.

Major Issues in 2002

CTFS met five times in 2002. Several WTO Members reported the developments under their financial services regimes. One focus of discussion was transparency in development and application of financial services regulations spurred by an earlier presentation from the United States regarding the advance notice and comment procedures it followed for regulations necessary to implement the Financial Modernization Act. Taiwan, Mexico, and Canada shared their own experiences regarding development of advance notice and comment and other transparency measures.

In October 2002, the CTFS carried out a review of China's implementation of its WTO financial services commitments as part of China's Transitional Review. The United States and other WTO Members expressed concerns with China's implementation of its commitments in the insurance, motor vehicle financing, banking and other financial sectors.

WTO Members urged those seven countries that have not yet ratified their commitments under the 1997 Financial Services Agreement – the Fifth Protocol to the GATS – to do so as quickly as possible and required those Members to provide detailed information on the status of their domestic ratification processes. During the reporting period, Bolivia notified that it had completed ratification procedures and subsequently obtained the agreement of CTS Members to reopen the Fifth Protocol for acceptance. Brazil, the Dominican Republic, Jamaica, Poland, the Philippines, and Uruguay have not yet completed their ratification procedures.

In July, the IMF made a presentation on the Financial Sector Assessment Program.

Prospects for 2003

Work will continue on transparency and other technical issues in support of the ongoing negotiations.

2. Working Party on Domestic Regulation

Status

GATS Article VI, on Domestic Regulation, directs the CTS to develop any necessary disciplines, with a view to ensuring that measures relating to qualification requirements and procedures, technical standards, and licensing requirements and procedures "do not constitute unnecessary barriers to trade in services." A 1994 Ministerial Decision assigned priority to the professional services sector, for which the Working Party on Professional Services (WPPS) was established. The WPPS developed Guidelines for the Negotiation of Mutual Recognition Agreements in the Accountancy Sector, adopted by the WTO in May 1997. The WPPS completed Disciplines on Domestic Regulation in the Accountancy Sector in December 1998 (The texts are available at www.wto.org).

After the completion of the Accountancy Disciplines, in May 1999 the CTS established a new Working Party on Domestic Regulation (WPDR) which also took on the work of the predecessor WPPS and its existing mandate. Using the experience from accountancy, the WPDR is now charged with determining whether these or similar disciplines may be generally applicable across sectors. The Working Party is to report its recommendations to the CTS not later than the conclusion of the services negotiations.

Major Issues in 2002

With respect to development of generally applicable regulatory disciplines, Members have discussed needed improvements in GATS transparency obligations, which the United States supports. Members also have begun discussion of possible disciplines aimed at ensuring that regulations are not in themselves a restriction on the supply of services. The United States has taken a deliberate approach in this second area and has supported discussion focusing first on problems or restrictions for which new disciplines would be appropriate. Some Members suggested that any regulatory disciplines only apply to sectors in which countries have scheduled specific commitments.

To continue work on professional services, Members agreed to solicit views on the accountancy disciplines from their relevant domestic professional bodies, exploring whether the accountancy disciplines might serve as a model for those professions with appropriate modifications. As agreed, Members contacted their domestic professional bodies, requesting comments on the applicability of the accountancy disciplines to those professions. Some professions in various countries found that the disciplines, with perhaps a few modifications, could apply to their profession; some professions in several countries found otherwise. Given the large number of professions and Member countries, the information thus far is incomplete and work is continuing. Members also agreed on a list of international professional organizations, compiled by the Secretariat from Member submissions, and sent a letter to the organizations listed to consult regarding the applicability of the accountancy disciplines to those professions.

Prospects for 2003

The Working Party will continue discussion of possible regulatory disciplines, both horizontal and sector-specific, to promote the GATS objective of effective market access.

The work program on accounting was an important step in the multilateral liberalization of this important sector. While the United States was disappointed that Members ultimately were not able to agree to early application of the accountancy disciplines, the disciplines remain open for improvement before they are to become effective at the conclusion of the current GATS negotiations. The United States will be working to improve the accountancy disciplines, as well as working with interested U.S. constituencies to consider their applicability to other professions.

3. Working Party on GATS Rules

Status

The Working Party on GATS Rules was established to determine whether the GATS should include new disciplines on safeguards, government procurement, or subsidies.

Major Issues in 2002

Of the three issues, the GATS established a deadline only for safeguards. In 2002, this deadline was again extended, to March 15, 2004, reflecting the continuing disagreement among WTO Members on both the desirability and feasibility of a safeguards provision for trade in services. Additionally, Members agreed to provide a progress report by March 2003 on safeguards negotiations and to prepare to "take stock of progress" on government procurement and subsidies at the Fifth Ministerial Conference.

Safeguards discussions in 2002 evaluated different approaches including establishing a core mechanism for emergency safeguards or the desirability and feasibility of services safeguards across different modes of delivering services. Discussions drew from submissions made by Australia, the European Union, and the United States. The United States argued that the desirability and feasibility of an emergency safeguard mechanism had not been adequately considered and needed to be discussed further. Members also drew on previous submissions by ASEAN, Canada, Mexico, Mauritius, Argentina, Chile, Switzerland, and Costa Rica which addressed concepts including domestic industry, acquired rights, modal application of safeguards, situations justifying safeguards, and indicators and criteria to determine injury and causality. All discussions were without prejudice to the question of whether the GATS should include such provisions.

Regarding government procurement, work continued on definitional questions relevant to services and how such disciplines would relate to the results of ongoing negotiations in the WTO Working Group on Transparency in Government Procurement. Members also discussed an EU proposal to establish transparency disciplines and market access commitments for government procurement of services. The United States noted its interest in pursuing transparency of government procurement in goods and services through the WTO Working Group on Transparency in Government Procurement.

With respect to subsidies negotiations, the Committee is working through a "checklist" of issues to help understand better whether new provisions are appropriate in this area, including identification of trade distortions caused by subsidy-like measures. Chile and other WTO Members favor circulating a revised questionnaire on all subsidies, not simply those that are trade-distortive. Discussion was limited in this area due to the Working Party's focus on safeguards and government procurement.

Prospects for 2003

Information-gathering and discussion on all three issues will continue. The continuing sharp divergence of views on safeguards may result in this issue being discussed at a political level. Developing countries are indicating that their meaningful services liberalization commitments in the current negotiations may depend on agreement for an emergency safeguard mechanism. On government procurement, the United States will have to ensure that any course of action does not negatively affect U.S. objectives in the WTO Working Group on Transparency and Government Procurement. Subsidies discussions will continue to focus on definitional issues, including the scope of subsidies to be considered.

4. Committee on Specific Commitments

Status

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

Major Issues in 2002

In 2002, the Committee took up two issues relevant to new commitments resulting from the ongoing GATS negotiations. First, the Committee decided that new commitments ultimately should be included in a single, consolidated schedule that would incorporate both pre-existing and new commitments. Second, the Committee agreed that offers should be presented on the basis of informal consolidated schedules incorporating Uruguay Round and post-Uruguay Round commitments (e.g., from the extended negotiations on financial services and basic telecommunications).

The Committee also continued work on improving classification of services in individual sectors for which problems have been identified.

Prospects for 2003

Work will continue on technical issues, including classification of services, in support of the ongoing negotiations.

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

Status

The Agreement on Trade-Related Aspects of Intellectual Property Rights (the TRIPS Agreement) is a multilateral agreement that sets minimum standards of protection for copyrights and neighboring rights, trademarks, geographical indications, 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 WTO Members with regards to the protection and enforcement of intellectual property rights. Disputes between WTO Members regarding implementation of the TRIPS Agreement can be settled using the procedures of the WTO's Dispute Settlement Understanding.

The TRIPS Agreement entered into force on January 1, 1995, and its obligations to provide "most favored nation" and national treatment became effective on January 1, 1996 for all Members. Most substantive obligations are phased in based on a Member's level of development. Developed-country Members were required to implement the obligations of the Agreement fully by January 1, 1996; developing country Members generally had to implement fully by January 1, 2000; and least-developed country Members must implement by January 1, 2006. Based on a proposal made by the United States at the Doha WTO Ministerial Conference, however, the transition period for least developed countries 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, was extended by the TRIPS Council until January 1, 2016. The WTO General Council, on the recommendation of the TRIPS Council, similarly waived until 2016 the obligation for least developed country Members to provide exclusive marketing rights for certain pharmaceutical products if those Members did not provide product protection for pharmaceutical inventions.

The WTO 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 2002

In 2002, the TRIPS Council held four formal meetings, including "special negotiation sessions" on the establishment of a multilateral system for notification and registration of geographical indications for wines and spirits called for in Article 23.4 of the Agreement (See separate discussion of this topic elsewhere in Chapter IV and below). In addition to continuing its work reviewing the implementation of the Agreement by developing countries and newly-acceding Members, the Council's work in 2002 focused on TRIPS issues addressed in the Doha Ministerial Declaration and the Declaration on the TRIPS Agreement and Public Health.

Review of Developing Country Members' TRIPS Implementation: As a result of the Agreement's staggered implementation provisions, the TRIPS Council during 2002 devoted much of its time to reviewing the Agreement's implementation by developing country Members and newly acceding Members as well as to providing assistance to developing country Members so they can fully implement the Agreement. In particular, the TRIPS Council called for developing country Members to respond to the questionnaires already answered by developed-country Members regarding their protection of geographical indications and implementation of the Agreement's enforcement provisions, and to provide detailed information on their implementation of Article 27.3(b) of the Agreement. This article permits Members to exclude from patentability plants, animals, and essential biological processes for producing plants and animals. The Council also concentrated on institution building internally and with the World Intellectual Property Organization (WIPO). During the TRIPS Council meetings, 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 Members' implementation of their obligations.

During 2002, the TRIPS Council initiated reviews of the implementing legislation of China (as part of China's transitional review), Taiwan, Qatar, Saint Vincent and the Grenadines, and completed its reviews of the legislation of Albania, Antigua and Barbuda, Barbados, Botswana, Brunei Darussalam, Taiwan, Côte d'Ivoire, Gabon, Ghana, Guyana, India, Lithuania, Malaysia, Namibia, Oman, Sri Lanka, Thailand, Tunisia, the United Arab Emirates, and Uruguay.

Intellectual Property and Access to Medicines: At the Doha Ministerial Conference, Ministers acknowledged the serious public health problems afflicting Africa and other developing and least developed countries, especially those resulting from HIV/AIDS, malaria, tuberculosis, and other epidemics. In doing so, WTO Ministers adopted the Declaration on the TRIPS Agreement and Public Health, clarifying the flexibilities available in the TRIPS Agreement that may be used by WTO Members to address public health crises. The declaration sends a strong message of support for the TRIPS Agreement, confirming that it is an essential part of the wider national and international response to the public health crises that afflict many developing and least developed Members of the WTO, in particular those resulting from HIV/AIDS, tuberculosis and malaria and other epidemics. Ministers worked in a cooperative and constructive fashion to produce a political statement that answers the questions identified by certain Members regarding the flexibility inherent in the TRIPS Agreement. This strong political

statement demonstrates that TRIPS is part of the solution to these crises. The statement does so, without altering the rights and obligations of WTO Members under the TRIPS Agreement, by reaffirming that Members are maintaining their commitments under the Agreement while at the same time highlighting the flexibilities in the Agreement. Ministers agreed on the need for a balance between the needs of poor countries without the resources to pay for cutting-edge pharmaceuticals and the need to ensure that the patent rights system which promotes the continued development and creation of new lifesaving drugs is promoted.

The United States is pleased that the Declaration reflects and confirms our profound conviction that the exclusive rights provided by Members as required under the TRIPS Agreement are a powerful force supporting public health objectives. As a consequence of Ministers' efforts, we believe those Members suffering under the effects of the pandemics of HIV/AIDS, tuberculosis and malaria, particularly those in sub-Saharan Africa, should have greater confidence in meeting their responsibilities to address these crises. The United States will continue working with the international community to ensure that additional funding and resources are made available to the least developed and developing country Members to assist them in addressing their public health care problems.

One major part of the Doha Declaration was the agreement to provide an additional ten-year transition period (until 2016) for least developed countries, which was first proposed by the United States. On June 27, 2002, the TRIPS Council implemented this aspect of the Doha Declaration by taking a decision that least developed country Members will not be obliged, with respect to pharmaceutical products, to implement or apply sections 5 and 7 of Part II of the TRIPS Agreement or to enforce rights provided for under these Sections until January 1, 2016. This decision is made without prejudice to the right of least developed country Members to seek other extensions of the period provided for in paragraph 1 of Article 66 of the TRIPS Agreement.

In paragraph 6 of the Declaration on the TRIPS Agreement and Public Health, Ministers recognized the complex issues associated with the ability of certain Members lacking domestic manufacturing capacity to make use of the flexibilities in the TRIPS Agreement. Ministers directed the TRIPS Council to find an expeditious solution to the difficulties certain Members might face in using compulsory licensing if they lacked sufficient manufacturing capacity in the pharmaceutical sector and to report to the WTO General Council by the end of 2002. The TRIPS Council began its work at the March 2002 meeting and continued throughout 2002 in both formal and informal meetings. Developed country Members generally supported a solution that, with appropriate provisions on scope, safeguards and transparency, would waive the obligation in paragraph 31(f) that requires that compulsory licenses, when granted, be predominantly for the supply of the domestic market, since it is this limitation that could make it difficult for a Member lacking manufacturing capacity of its own to obtain a needed pharmaceutical if that product were patented in the Member from which supply was being sought.

Throughout the ensuing negotiations to develop such a solution, the United States remained committed to the Doha Declaration and worked intensively to find a solution that would provide life-saving drugs to those truly in need. As the negotiations drew to a close, however, it became clear that some WTO Members and advocacy organizations sought to expand the scope of diseases beyond that intended at Doha to allow countries to override drug patents to treat a wide range of concerns, such as obesity. The United States was seriously concerned that this approach could substantially undermine the WTO rules on patents which provide incentives for the development of new pharmaceutical products. As no consensus could be obtained in support of the final proposal made by the Chairman of the TRIPS Council, negotiations

concluded for the year on December 20, 2002. In concluding the negotiations, Members agreed that the General Council should instruct the TRIPS Council to resume its work as soon as possible in the new year so that a decision on this issue could be taken at the next meeting of the General Council on February 10, 2003.

While pledging to continue to work with other WTO Members to try to find a solution within the WTO, on December 20, the United States announced an immediate practical solution to allow African and other developing countries to gain greater access to pharmaceuticals and HIV/AIDS test kits when facing public health crises. The United States pledged to permit these countries to override patents on drugs produced outside their countries in order to fight HIV/AIDS, malaria, tuberculosis, and other types of infectious epidemics, including those that may arise in the future. Specifically, the United States pledged not to challenge any WTO Member that contravenes WTO rules to export drugs produced under compulsory license to a country in need, and called on others to join the United States in this moratorium on dispute settlement.

The United States notified the WTO in early January 2003 of the specific terms and conditions of the moratorium. The key elements of this moratorium include a commitment not to pursue dispute settlement against a Member that notifies the TRIPS Council of its intention to issue a compulsory license to permit the production and export of a patented pharmaceutical product or HIV/AIDS test kit to eligible importing economies. Eligible importing economies will be those economies, other than those classified by the world bank as "high income economies," that: (1) are facing a grave public health crisis associated with HIV/AIDS, malaria or tuberculosis or other infectious epidemics of comparable scale and gravity, including those that may arise in the future; (2) have no or insufficient production capacities in the pharmaceutical sector; and (3) have so notified the TRIPS Council. The moratorium will also include measures to guard against product diversion, including steps to ensure that the product can be easily identified and a requirement that all countries, to the extent of their ability, act to ensure that the drugs are not diverted from countries in need.

TRIPS-related WTO Dispute Settlement Cases: During the year, the United States continued to pursue consultations with the European Union regarding its failure to provide TRIPS-consistent protection of geographical indications of U.S. nationals. On May 31, the United States and Argentina notified the partial settlement of a WTO dispute settlement procedure related to patent and data protection issues. Of the ten claims raised by the United States, eight were settled. The United States reserved its right to pursue future consultations and WTO dispute settlement with respect to two claims: protection of test data against unfair commercial use, and the application of enhanced TRIPS rights to patent applications pending as of the entry into force of TRIPS for Argentina.

There are a number of other WTO Members that likewise appear not to be in full compliance with their TRIPS obligations. The United States, for this reason, is still considering initiating dispute settlement procedures with members of the Andean Community, the Dominican Republic, Hungary, India, Israel, and Kuwait. We will continue to consult informally with these countries 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 countries' enforcement of their TRIPS obligations and assess the best cases for further action if consultations prove unsuccessful.

Geographical Indications: The Doha Ministerial Declaration directed the TRIPS Council to discuss "issues related to extension" of Article 23-level protection to geographical indications for products other

than wines and spirits and to report to the Trade Negotiations Committee by the end of 2002 for appropriate action. Throughout 2002, the United States has argued that *demandeurs* had not established that the protection provided geographical indications for products other than wines and spirits was not adequate, that the administrative costs and burdens would be considerable for those Members that did not have a longstanding statutory regime for the protection of geographical indications, and that the benefits accruing to those few Members that had longstanding statutory regimes for the protection of geographical indications would represent a windfall, while other Members with few or no geographical indications would receive no counterbalancing benefits. A number of multiple-sponsor papers were introduced during the year expressing the views and concerns of both supporters of extension and Members opposing such extension. To facilitate the discussion, the Council Chairman identified three sets of issues and focused discussions at each meeting on one or more sets. The Secretariat prepared compilations of oral statements of various Members and of documents submitted, to assist Members in making reference to those statements and documents. At the November meeting, those favoring negotiations on extension recommended a report to the Trade Negotiations Committee proposing initiation of negotiations on such extension while those opposing extension of Article 23 to geographical indications for products other than wines and spirits recommended that the report note that issues had been discussed thoroughly but no consensus reached.

Ultimately, 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 geographical indications for products other than wines and spirits. At the TNC meeting, in light of the strong divergence of positions on the way forward on geographical indications and other implementation issues, the TNC Chair closed the discussion by saying he would consult further with Members and revert to this issue at the next meeting of the TNC (February 4-5, 2003).

No further progress has been made on the Article 24.2 review of the application by Members of TRIPS provisions on geographical indications in spite of the review continuing to be on the TRIPS Council's agenda. At each of the 2002 TRIPS Council meetings, the United States urged developing country Members that have not yet provided information on their regimes for the protection of geographical indications, and most of them have not, to do so. The United States also continued to support a proposal by New Zealand in 2000, and by Australia in 2001, that the Council conduct the review by addressing each article of the TRIPS Agreement covering geographical indications in light of the experience of Members as reflected in the responses to the "checklist," but others, including the European Union, continue to oppose such a review, saying that Members that are interested can read the papers.

Review of Current Exceptions to Patentability for Plants and Animals: TRIPS Article 27.3(b) permits Members to except from patentability plants and animals and biological processes for the production of plants and animals. Members may not, however, except from patentability micro-organisms and non-biological and microbiological processes. As called for in the Agreement, the TRIPS Council initiated a review of this provision in 1999 and, because of the interest expressed by some Members, the discussion continued through 2000 and 2001. In 1999, in order to facilitate the review by enabling easy comparisons, the Secretariat had prepared a synoptic table of information provided by developed Members on their practices. This portion of the review revealed that there was considerable uniformity in the practices of the developed Members. During the discussion, the United States noted that the ability to patent micro-organisms and non-biological and microbiological processes, as well as plants and animals, had given rise to a whole new industry that has brought inestimable benefits in health care, agriculture, and protection of the environment in those countries providing patent protection in this area. In 2001, the

United States again called for developing country Members to provide this same information so that the Council would have a more complete picture on which to base its discussion. Regrettably, 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), such as the relationship between the TRIPS Agreement and the Convention on Biological Diversity (CBD), and traditional knowledge.

The Doha Ministerial Declaration directs the Council for TRIPS, 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 CBD, and the protection of traditional knowledge and folklore. The Council, at its March 2002 meeting, agreed to handle each of these topics as a separate agenda item, in order to avoid confusion, but the discussions have tended to overlap during 2002. Since the review began in 1999, the United States has introduced five separate papers discussing various aspects of the subjects under discussion, including a paper discussing in depth the provisions of the CBD that might have any relationship to the TRIPS Agreement and describing how the CBD's provisions regarding access to genetic resources and benefit sharing can be implemented through an access regime based on contracts that would spell out the conditions of access, including benefit sharing and reporting. Other papers describe the practices of the National Cancer Institute and the access regime of the U.S. National Park Service as examples of how a contractual access regime would function. The United States has suggested that any Member that has a question about whether a particular CBD implementation proposal would run afoul of TRIPS obligations raise the issue with the Council so that it might obtain the views of other Members. Updated information on organization activities was submitted from the FAO, the CBD, UNCTAD, UPOV, WIPO and the World Bank.

Non-violation: The Doha Ministerial Declaration on Implementation directs the TRIPS Council to continue its examination of the scope and modalities for non-violation nullification and impairment complaints related to the TRIPS Agreement, to make recommendations to the Fifth Ministerial Conference, and, during the intervening period, not to make use of such complaints. Throughout the year, the Council continued to discuss the operation of non-violation nullification and impairment complaints in the context of the TRIPS Agreement. Some Members argued that the possibility of such complaints created uncertainty. As in past years, the United States continued to argue that no more uncertainty was created than was the case with other WTO agreements, 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.

Electronic Commerce: The TRIPS Council continued discussing the provisions of the TRIPS Agreement most relevant to electronic commerce and explored how these provisions apply in the digital world. The United States specifically suggested that the Secretariat might usefully undertake a study of how Members are implementing TRIPS with respect to the Internet environment. The United States will continue to support discussion of the application of the TRIPS Agreement in the digital environment. The Secretariat updated its factual background note on intellectual property and electronic commerce.

Further Reviews of the TRIPS Agreement: Article 71.1 calls for a review of the Agreement in light of experience gained in implementation, beginning in 2002. The 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 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.

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.

Implementation of Article 66.2: Article 66.2 requires developed countries to provide incentives for enterprises and institutions in their territories to promote and encourage technology transfer to least developed 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, and developed countries were directed to submit before the end of 2002 detailed reports on the actual functioning of the incentives they provide. The reports are to be reviewed in the TRIPS Council and are to be updated annually. The Chairman circulated an informal paper prior to the September meeting suggesting elements that might be considered by the Council to fulfill the instructions. Another informal note was circulated by the Chairman containing a draft decision for consideration by the TRIPS Council. The United States had given detailed reports on specific U.S. Government institutions (the African Development Foundation and Agency for International Development) at the first two Council meetings. Because there was insufficient time for consultations, the Chairman pushed back the discussion of the implementation of Article 66.2 to the February 2003 TRIPS Council meeting. As a result, the United States submitted its report on Article 66.2 at the end of December 2002.

Prospects for 2003

In 2003, the TRIPS Council will continue to focus on its built-in agenda and the additional mandates established in Doha, including on the Council's work on paragraph 6 of the Doha Declaration on TRIPS and Public Health, on issues related to the extension of Article 23-level protection for geographical indications 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 2003 continue to be:

- to achieve a multilateral solution to the compulsory licensing issue identified in paragraph 6 of the Doha Declaration on TRIPS and Public Health;
- to resolve differences through dispute settlement consultations and panels, where appropriate;
- to continue its efforts to ensure full TRIPS implementation by developing-country Members;
- to ensure that provisions of the TRIPS Agreement are not weakened; and
- to develop further Members' views on the relationship between the TRIPS Agreement and electronic commerce.

H. 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. Following the Doha Ministerial Conference concluded in November 2002, the CTE in regular session continued discussion of many of the issues under consideration in recent years. The CTE regular session focused on issues identified in the Doha Declaration as those to pursue within the Committee's current terms of reference, including market access for issues associated with environmental measures; TRIPS and environment, and 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.

Major Issues in 2002

The CTE in regular session met three times in 2002. The United States played an active role in discussions, particularly with respect to those issues identified in the Doha Declaration, as discussed below.

Market Access under Doha Sub-Paragraph 32(i): The CTE in regular session structured discussions on both a general and sectoral basis. With respect to the general discussion, Members focused on a submission from India that outlined some of the particular challenges faced by developing countries in meeting environmental requirements in the markets of developed countries. On sectoral questions, Members considered a submission from New Zealand on fisheries (which is being negotiated separately in the Rules Negotiating Group), Japan on forestry, and Saudi Arabia on energy.

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. While Members generally acknowledged that the TRIPS Council was the most appropriate forum to consider this issue, they reiterated in the CTE in regular session views that had been previously expressed in the TRIPS Council. In this regard, a few Members argued for consideration of changes to the TRIPS Agreement to address perceived contradictions between the WTO and the CBD. The United States referred to two papers that it had circulated last year in the TRIPS Council on the relationship between WTO and CBD provisions and on programs for the sharing of benefits associated with genetic resources, making clear its view that there is no incompatibility between WTO Agreements and the CBD.

Labeling for Environmental Purposes under Doha Sub-Paragraph 32(iii): Members focused discussions on a paper from Switzerland. Most noted the view that existing WTO obligations, particularly those set forth in the TBT and SPS agreements, are sufficient with respect to the development and application of labeling programs and that there is no need for negotiations in this area.

Capacity Building and Environmental Reviews under Doha Paragraph 33: Many developing country Members stressed the importance of benefitting from technical assistance related to negotiations in the

WTO on trade and environment, particularly given the complexity of some of these issues. Most Members agreed that a key aspect of capacity building in this area involves increasing communication and coordination between trade and environment officials at national levels. Regarding environmental reviews, the United States and Canada regularly updated the CTE in regular session on their respective reviews of the WTO negotiations, while the European Union provided information on its sustainability impact assessments.

Discussion of Environmental Effects of Negotiations under Doha Paragraph 51: Most of the discussion that took place under paragraph 51during 2002 involved procedural questions of how to carry out this mandate. The United States, however, pushed other Members to move beyond procedural questions and onto a substantive discussion of Members' views of what might be the environmental implications of negotiations across all areas of the Doha mandate.

Prospects for 2003

Much of the focus in 2003 is likely to continue to be on the environmental issues identified in the Doha Declaration that do not have a negotiating mandate, particularly with respect to those issues identified for reporting at the Fifth Ministerial Conference. Additionally, the CTE in regular session is likely to devote increasing attention to the substance of the mandate in paragraph 51 of the Doha Declaration.

2. Committee on Trade and Development

Status

The GATT established the Committee on Trade and Development (CTD) in 1965 to strengthen the institution's role in the economic development of less-developed Contracting Parties. In the WTO, the CTD is a subsidiary body of the General Council. The Committee provides developing-country Members, who comprise two-thirds of the WTO's Membership, an opportunity to discuss trade issues from a development perspective, in contrast to the other committees in the WTO structure which are responsible for the operation and implementation of particular Agreements. The Committee focuses on the means to accomplish the WTO's goal of full integration of Members into the multilateral trading system with particular attention paid to the benefits of trade liberalization as means a to improve the prospects for economic development.

Following the WTO's First Ministerial Conference held in Singapore in 1996, the CTD formed a sub-committee to implement a plan of action agreed by Ministers that was designed to concentrate efforts to integrate least-developed countries into the trading system. The plan of action outlines an "Integrated Framework" (IF) to better coordinate trade-related technical assistance activities of donors to least-developed countries from six core international organizations: the International Monetary Fund, the International Trade Center, the United Nations Conference on Trade and Development, the United Nations Development Program, the World Bank, and the WTO. The IF process also encourages the participation of the broader development community through a consultative group of bilateral donors and other multilateral organizations. The Doha Declaration, in order to continue progress toward this goal, instructed the subcommittee to design a work plan to consider issues of importance to least-developed countries including further coordination of technical assistance through the IF and additional steps to facilitate the process of least-developed countries in joining the WTO.

Major Issues in 2002

The Committee held eight formal meetings and one seminar in 2002. The Committee's work focused on the participation of developing countries in world trade, the implementation of WTO agreements, technical cooperation and training, small economy issues, the development dimensions of electronic commerce, development of guidelines for the terms of accession for least-developed countries seeking to join the WTO, and the generalized system of tariff preferences. The Committee held one seminar which examined the revenue implications of electronic commerce.

WTO Technical Assistance Plan: The Doha Ministerial Declaration confirmed that technical cooperation and capacity building are core elements of the development dimension of the multilateral trading system. Ministers established an extensive mandate on technical cooperation and capacity building to enable beneficiary countries to implement WTO rules and obligations, and prepare them for effective participation in the work of the WTO, including for future negotiations.

Throughout 2002, the Committee worked to improve the WTO's trade-related technical assistance programs. The WTO Secretariat introduced its first annual technical assistance plan to coordinate the trade-related technical assistance requests of developing countries, which form the basis for the 2002 plan. The WTO received over 900 requests from 111 countries (reflecting all levels of development) and delivered over 450 activities for trade-related technical assistance in 2002. Activities generally took the form of regional or national seminars and workshops, trade policy courses, and internships, and covered topics ranging from accession and market access issues to technical barriers to trade. In addition, the U.S. Government contributed $250,000 to expand the WTO's Trade Policy Training Programs to two universities in Africa, located in Morocco and Kenya. This important WTO project, which builds on the excellent Trade Policy Training Courses offered in Geneva, will be continued in 2003.

While concerns persist about the quality of the technical assistance plan, the Committee has worked tirelessly with donors and recipient Members to improve its efficiency and effectiveness. Continued collaboration among all participants will ensure the success of the plan as it strives to meet the goals of the DDA.

Small Economy Issues: The Doha Declaration mandates an examination of issues relating to trade of small economies with the objective of framing responses to those issues identified. The goal of this activity is to achieve the fuller integration of such economies into the multilateral trading system, not to create a sub-category of WTO Members. In written submissions and Committee discussions, a number of small economy Members described the structural impediments or shared characteristics of vulnerability of small economies in the multilateral trading system. The United States engaged in Committee discussions on development strategies for small economies, emphasizing the potential benefits of Doha negotiations for smaller economies which rely on an open trading system to foster growth. The Declaration mandates that the General Council provide recommendations to the Fifth Ministerial Conference.

Sub-Committee on Least-Developed Countries: In 2002, the Sub-Committee on Least-Developed Countries took several important steps towards its goal of furthering trade integration of least-developed countries. The Subcommittee began the year by adopting a work program focusing on several key issues for least developed countries, including market access, trade-related technical assistance and capacity building, support for diversification of production and the export base, mainstreaming trade to improve participation in the multilateral trading system, and accessions of least developed countries into the WTO.

The "Integrated Framework"(IF): The IF process starts with a Diagnostic Trade Integration Study (DTIS), which analyzes the technical assistance requirements for each country. Such analysis is critical to enabling least developed countries to draw on the benefits of the multilateral trading system. Beginning as a pilot process in 2001, diagnostic studies were conducted for three countries: Cambodia, Madagascar, and Mauritania. Additional studies are scheduled for Burundi, Djibouti, Eritrea, Ethiopia, Guinea, Lesotho, Malawi, Mali, Nepal, Senegal, and Yemen. The DTIS is a first step toward mainstreaming trade, producing policy recommendations, identifying technical assistance needs, and developing poverty reduction strategies. Follow-up activities are planned for each country. Timely and effective follow-up projects remain the greatest challenge to the IF process. The U.S. Government has set aside $3 million to support such projects and has helped fund the DTIS during the past two years by contributing to the Integrated Framework Trust Fund. Voluntary contributions finance the Trust Fund, which is managed on behalf of the six agencies by the UNDP. Total pledges from all donors amounted to $10.4 million as of October 2002.

WTO Accessions of Least Developed Countries: The Sub-Committee also worked to develop guidelines to streamline and simplify the accession process for least developed applicant countries, which the General Council adopted in December 2002. The guidelines reflect to a large extent the current consensus that least developed accession applicants should have full recourse to the flexibilities and transitional provisions already provided for least developed countries in WTO Agreements and that market access commitments should not be onerous. The agreed guidelines call for minimizing the number of meetings, and other methods to help accelerate the negotiating process for least-developed countries prepared to undertake reasonable market access commitments and to adopt and enforce WTO-consistent trade rules. In designing these guidelines, the United States worked with other WTO Members and the Secretariat to ensure that technical assistance will be available to help least developed countries to implement their WTO commitments.

Electronic Commerce Seminar: In April 2002, the Sub-Committee held a seminar on the revenue effect of electronic commerce. The seminar concluded that e-commerce posed both a challenge and an opportunity to developed and developing countries and for both governments and companies. The direct effects on government revenue appeared small whereas the potential gains in efficiency for an economy can be large.

Prospects for 2003

The CTD will continue its function as the forum for discussion of development issues within the WTO. Particular emphasis is likely to be placed on participation of developing countries in the multilateral trading system, electronic commerce, issues facing small-economy Members, and efforts to improve the effectiveness and accountability of technical cooperation.

The Sub-Committee on Least-Developed Countries will meet four times in 2003. The Sub-Committee will continue to take steps to improve the opportunities available to the least-developed countries and increase integration into the trading system through encouraging greater participation in the Doha negotiations, the subcommittee's agreed work plan, and technical cooperation efforts such as the IF process.

3. Committee on Balance of Payments Restrictions

Status

WTO rules require any Member imposing restrictions for balance of payments purposes to consult regularly with the Balance of Payments (BOP) Committee to determine whether the use of restrictive measures is necessary or desirable to address its balance of payments difficulties. Full consultations involve a complete examination of a country's trade restrictions and balance of payments situation, while simplified consultations provide 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. The Uruguay Round results strengthened substantially the provisions on balance of payments. The BOP Committee works closely with the International Monetary Fund in conducting its consultations.

Major Issues in 2002

Since entry-into-force of the WTO on January 1, 1995, the WTO BOP Committee has demonstrated that the new WTO rules provide Members additional, effective tools to enforce obligations under the BOP provisions. The year began with the welcomed announcement by Pakistan that it had completed its phase-out plan of BOP restrictions ahead of schedule. In February and again in October, the BOP Committee consulted with Bangladesh on the maintenance of restrictions on four items for BOP purposes. Members noted that Bangladesh had begun the removal of most restrictions under the timetable agreed in consultations concluded in 2000. The Committee approved the maintenance of import restrictions on the four products in question until 2009 recognizing the unique circumstances of Bangladesh as a least-developed country facing continuing balance-of-payments difficulties.

The BOP Committee undertook discussions of two new items in 2002. As part of the work program agreed at Doha, the BOP Committee requested a paper outlining the evolving role of the IMF in BOP proceedings. The paper was prepared by the Secretariat with the help of the IMF, reviewed by Members, and discussed by the Committee. The Committee also discussed proposals to clarify the various roles of the Committee and the IMF in BOP proceedings. In this regard, the Chair made some suggestions on which the Committee did not reach a consensus in 2002. At the November meeting, the BOP Committee also conducted the first annual review of China's accession commitments as part of Transitional Review Mechanism.

Prospects for 2003

Should other Members resort to new BOP measures, the WTO provides for a program of rigorous consultation with the Committee. The United States expects the Committee to continue to ensure that WTO BOP provisions are used as intended, to address legitimate, serious BOP problems through the imposition of temporary, price-based measures. The Committee will continue to rely upon its close cooperation with the IMF and plans on further consultations among Members on several ideas proposed by the Chair with a view to clarifying the respective roles of the IMF and Committee in BOP proceedings.

4. Committee on Budget, Finance, and Administration

Status

WTO Members are responsible for establishing and approving the budget for the WTO Secretariat via the Budget Committee. Although the Committee meets throughout the year to address the financial requirements of the organization, the formal process to approve the budget for the upcoming year begins in the fall when the Secretariat provides to Members the financial data from the previous year and forecasts the financial needs for the upcoming year. The WTO annual budget is reviewed by the Committee and approved by the WTO General Council. It is the practice in the WTO to take decisions on budgetary issues by consensus.

The United States is an active participant in the Budget Committee. For the 2003 budget, the U.S. assessment rate is 15.899 percent of the total assessment, or Swiss Francs (CHF) 24,452,662 (about $17.5 million). During the course of 2002, the United States paid off longstanding accumulated arrears to the WTO of CHF 3,205,232 (about $2.1 million). The total assessments of WTO Members are based on the share of WTO Members' trade in goods, services, and intellectual property. Details on the WTO's budget required by Section 124 of the Uruguay Round Agreements Act are provided in Annex II.

Major Issues in 2002

In 2002, the demands created by the launch of the new round of negotiations in Doha and the capacity building needs of developing countries continued to be the major issues facing the Budget Committee. In addition, the Committee began work on the first triennial review of WTO salaries.

Agreed Budget for 2003: After considerable discussion aimed at reconciling growing demands on the WTO Secretariat as a result of the new round of negotiations with budgetary realities, the Committee proposed, and the General Council approved, a 2003 budget for the WTO Secretariat and Appellate Body of CHF 154,954,350 (approximately $110 million).

As a result of the ongoing first triennial review of WTO salaries, the agreed budget for 2003 provides for an interim salary adjustment of 4 percent, with a 3 percent raise effective January 1, 2003 and the remainder effective July 1, 2003. These adjustments were made because it was found during the review process that WTO salaries had fallen behind UN salaries. In addition, the budget package provides for the possibility of a further adjustment of salaries on July 1, 2003 to take into account a further increase in UN salaries for its professional staff that was still pending at the UN when the Budget Committee completed its work. The Director-General had proposed a higher level of increase to make WTO salaries comparable to a broader range of international institutions dealing with economic issues. However, some Members did not agree with the reasoning behind this proposal and many others believed they needed more time to consider the whole issue of the methodology for determining the remuneration of WTO staff. Therefore, it was decided to continue the triennial review but to complete it and reach conclusions by the end of March 2003. If this review results in a further increase in salaries, the increase would take effect on January 1, 2004. The 2003 budget also provides for an increase in the staffing of the organization by six people to address higher workloads resulting from the launch of the new round.

As provided for in last year's decision creating the Doha Development Agenda Trust Fund, which is financed by voluntary contributions, the Budget Committee was required to set a target level for

contributions for 2003. Based on the 2003 Plan for Trade-Related Technical Assistance, which was agreed by the WTO's Committee on Trade and Development, the Budget Committee agreed to a target of CHF 24 million. In addition, the regular budget of the WTO for 2003 provides for one more of the highly acclaimed WTO training courses, which educate developing countries' officials on how to participate in the work of the WTO, including how to meet their trade obligations.

Building Facilities: The Budget Committee continued to consider a building proposal from the Swiss government intended to accommodate the current needs of the WTO Secretariat, which exceeds the space available in the WTO's main building, and to take into account the future needs of the WTO and its Appellate Body. The proposal allows for the WTO to finance design studies and construction of the building with a loan of CHF 50,000,000 (close to $31 million) payable over 50 years. The Government of Switzerland would pay the interest on the loan and the Canton of Geneva would pay for the rental of the ground the building would occupy until 2059, at which time the WTO could either purchase the land, negotiate an extension of the agreement, or sell the building. Construction could begin in 2005 and be completed in 2007-2008. A final decision will need to be made by the General Council at some time in the future. Last year the Budget Committee recommended, and the General Council agreed, to accept Switzerland's proposal in principle so that the Swiss authorities can hold the necessary land and work with the WTO to develop the additional plans and analysis that will be necessary to take a final decision. This year the Swiss authorities briefed the Budget Committee on a design competition that it was initiating for the new building, which will be necessary for the Swiss authorities to make their proposal for action to the General Council.

Prospects for 2003

In 2003, the Budget Committee will work on an urgent basis to complete its work on the triennial review of salaries and to recommend to the General Council by the end of March 2003 an agreed methodology for establishing staff salaries. The Budget Committee will also work closely with the Committee on Trade and Development to develop a program of technical cooperation for 2004 and recommend to the General Council a target level of financing from the Doha Development Agenda Trust Fund that will be necessary to fund these efforts. Additional consideration will also need to be given to the Swiss proposal on additional facilities for the WTO. The Budget Committee has also agreed, on the initiative of the United States, to consider moving to a biennial budgeting cycle, as opposed to the current annual budget cycle. In addition, the Committee will take a comprehensive look at the staffing of the Secretariat as compared to the demands placed upon it by Members, as well as ways of achieving savings by adjusting the way the WTO does business.

5. Committee on Regional Trade Agreements

Status

The Committee on Regional Trade Agreements (CRTA), a subsidiary body of the General Council, was established in early 1996 as a central body to oversee all regional agreements to which Members are party. The CRTA is charged with conducting reviews of individual agreements, seeking ways to facilitate and improve the review process, implementing the biennial reporting requirements established by the Uruguay Round agreements, and considering the systemic implications of such agreements and regional initiatives on the multilateral trading system. Prior to 1996, these reviews were typically conducted by a "working party" formed to review a specific agreement.

The WTO addresses regional trade agreements in more than one agreement. In the GATT 1947, Article XXIV was the principal provision governing Free Trade Areas (FTAs), Customs Unions (CUs), and interim agreements leading to an FTA or CU. 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 agreements between or among developing countries. The Uruguay Round added two more provisions: the Understanding on the Interpretation of Article XXIV, which clarifies and enhances the requirements of GATT Article XXIV; and Article V of the General Agreement on Trade in Services (GATS), which governs services economic integration agreements.

FTAs and CUs are authorized departures from the principle of MFN treatment if certain requirements are met. First, tariffs and other restrictions on trade must be eliminated on substantially all trade between the parties. Second, the incidence of duties and other restrictions of commerce applied to third countries upon the formation of the FTA or CU must not, on the whole, be higher or more restrictive than was the case before the agreement. Finally, while interim agreements leading to FTAs or CUs are permissible, transition periods to full FTAs or CUs can exceed ten years only in exceptional cases. With respect to the formation of a CU, the parties must notify Members to negotiate compensation to other Members for exceeding their WTO bindings with market access concessions. An analogous compensation requirement exists for services as well.

Major Issues in 2002

Examination of Reports: The Committee held three formal meetings during 2002. The Committee has 125 agreements under review, 102 referred by the Council on Trade in Goods, 22 by the Council for Trade in Services, and 1 by the Committee on Trade and Development[17]. In January 2002, the United States notified the entry into force of the U.S.-Jordan FTA. The Committee has completed its factual examination for over 70 agreements but has a backlog of draft reports, as Members do not agree on the nature of appropriate conclusions. At the same time, in 2002 the Committee received 11 biennial reports on regional agreements notified under Article XXIV of GATT 1947.

Other Issues: The Committee discussed two horizontal surveys prepared by the Secretariat to assist the Committee understand more specifically the impact of regional trade agreements on the multilateral trading system. The reports, *Rules of Origin Regimes in RTAs* ((WT/REG/W/45) and *Coverage, Liberalization Process and Transitional Provisions in RTAs* (WT/REG/W/46) were made publicly available in September 2002. The Committee also sponsored a well-attended seminar on April 26, entitled "Regionalism and the WTO" that engaged economists and the academic community to focus on the impact of regional trade agreements on the multilateral trading system, particularly in terms of market access and various regulatory regimes.

Prospects for 2003

Paragraph 29 of the Doha Declaration calls for clarifying and improving rules for regional trade agreements, a mandate that is being undertaken by the Rules Negotiating Group. Accordingly, the discussion of systemic issues and improving the examination process in the CRTA has in effect been put in

[17] A list of all regional trade agreements notified to the GATT/WTO and in force is included in Annex II to this report.

abeyance. In the meantime, two meetings have been scheduled for 2003, during which the Committee will continue to review the new regional trade agreements notified to the WTO and referred to the Committee. The biennial reporting requirement on the operation of agreements has been shifted by a year, to 2004, given the 2003 workload due to preparations for the Fifth Ministerial Conference planned for September in Cancun.

6. Accessions to the World Trade Organization

Status

Taiwan became the 144th WTO Member on January 1, 2002. In addition, the General Council approved the accession packages of Armenia and Macedonia (officially known as the Former Yugoslav Republic of Macedonia), both of which will become Members after their respective parliaments ratify their accession commitments. Significant progress towards completion of negotiations also was recorded with the twenty-six applicants with established Working Parties, particularly with Russia, Ukraine, Cambodia, and Nepal. Along with Samoa and Tonga, it is expected that negotiations will enter a critical phase for these countries during 2003. WTO Members agreed on guidelines to accelerate and simplify the accession process for least developed countries (LDCs). Equatorial Guinea joined Ethiopia and Sao Tome and Principe as observers to the WTO, not yet seeking accession.

By the end of 2002, only five of the accession applicants with established Working Parties had not yet activated their accession process by submitting initial descriptions of their trade regimes. Bosnia, Yemen, and Yugoslavia provided this essential information during 2002. Initial working parties convened for the accessions of Azerbaijan, Lebanon, and Uzbekistan to conduct a first review of the information that these applicants submitted. After a hiatus of almost four years, work on Algeria's accession resumed at an accelerated pace. Working Party meetings and/or bilateral market access negotiations were also held during 2002 with Armenia, Cambodia, Kazakhstan, Macedonia, Nepal, Russia, Ukraine, and Vietnam. The chart included in Annex II of this report presents the current status of each accession negotiation.

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. It is widely recognized that 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 growth, development, and investment.

The accession process strengthens the international trading system by ensuring that new Members understand and can implement WTO rules from the outset, and it offers current Members the opportunity to secure expanded market access opportunities and to address outstanding trade issues in a multilateral context. In a typical accession negotiation, the applicant submits an application to the WTO General Council, which establishes a Working Party to review information on the applicant's trade regime and to conduct the negotiations. Accession negotiations can be time consuming and technically complex, involving a detailed review of the applicant's entire trade regime by the Working Party and negotiations for import market access. Applicants need to be prepared to make legislative changes to implement WTO institutional and regulatory requirements, to eliminate existing WTO-inconsistent measures, and to make trade-liberalizing specific commitments on market access for goods, services, and agriculture.

The terms of accession developed with Working Party Members in these bilateral and multilateral negotiations are recorded in an accession "protocol package" consisting of a Working Party report and Protocol of Accession, consolidated schedules of specific commitments on market access for imported goods and foreign service 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 to the General Council or Ministerial Conference for approval. After approval, accession applicants normally submit the package to their domestic authorities for ratification. Thirty days after the applicant's instrument of ratification is received in Geneva, WTO Membership becomes effective.

The United States 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. The 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. Current WTO Members that received technical assistance in their accession process from the United States include Albania, Armenia, Bulgaria, Estonia, Georgia, Jordan, Kyrgyz Republic, Latvia, Lithuania, Macedonia, and Moldova. Most had U.S.-provided resident experts for some portion of the process. Among current accession applicants, the United States provides a resident WTO expert for the accessions of Azerbaijan, Cape Verde, Lebanon, Ukraine, and Yugoslavia, and a U.S.-funded WTO expert resident in the Kyrgyz Republic provides WTO accession assistance to Kazakhstan, Uzbekistan, and Tajikistan on an "as requested" basis. The United States provides other forms of technical and expert support on WTO accession issues to Algeria, Bosnia, Nepal, Russia, and Vietnam.

Major Issues in 2002

As part of broader efforts to address the concerns of developing countries in the context of work on the Doha Development Agenda, in December 2002, the General Council formalized guidelines for a streamlined and accelerated accession process for least developed accession applicants.[18] WTO Members have recognized that LDCs, as countries with extremely low levels of income and economic development, face unique problems in applying for WTO accession, e.g., lack of human resources to conduct the negotiations, infrastructure deficiencies, and a general lack of capacity to implement WTO provisions without additional time and technical assistance. Most of the elements of the new guidelines were already being applied in ongoing LDC accessions, e.g., moderated market access requests, use of existing WTO provisions for LDCs and additional transitions for implementation of WTO Agreements and other commitments, and extensive recourse to technical assistance. The guidelines also include more specific suggestions, for instance, that account be taken of the levels of concessions and commitments undertaken by current LDC Members, and that transitional arrangements be accompanied by action plans for WTO compliance by the LDC applicant, and that technical assistance and capacity building measures be

[18]Twenty-nine LDCs are already WTO Members. Of the nine additional LDCs that have applied for WTO accession, only Vanuatu has completed negotiations, but it has not submitted the results to the General Council for approval. Negotiations with Cambodia, Nepal, and Samoa are advanced and moving forward. Bhutan, Cape Verde, Laos, Sudan, and Yemen have not yet commenced negotiations. Of the ten remaining LDCs that have not applied for WTO membership, three (Ethiopia, Equatorial Guinea, and Sao Tome and Principe) are WTO observers.

available to complete implementation. However, the guidelines do not mandate a "one size fits all" template for commitments, and preserve the ability of WTO Members to use the process to promote reform and build trade capacity in the applicant economic regimes while simplifying and streamlining the accession process.

Intensive work to complete the accessions of Armenia and Macedonia and to make progress on those of Russia, Cambodia, Nepal, and Algeria took up most of the attention given by WTO Members to individual accessions in 2002. Taking note of this progress, Ukraine, Kazakhstan, and other accession applicants also sought to intensify negotiations during 2002, but as work on the Doha Ministerial agenda intensified, work on other accessions slowed considerably, especially in the latter part of the year. While there were no WTO meetings scheduled on Saudi Arabia's WTO accession during 2002, bilateral contacts and work on legislative implementation continued. U.S. And Saudi Arabian representatives met in September to review the status of work and exchange information on possible next steps.

Macedonia completed its negotiations in July 2002, substantially revising the legal basis for its trade regime to bring it into conformity with WTO Agreements and undertaking market access commitments that lock in liberal non-agricultural tariff and services terms, cap and roll back protective agricultural tariffs, and confirm elimination of agricultural export subsidies. The General Council approved Macedonia's accession package in October 2002.

Armenia, the fourth of the Republics of the former Soviet Union and the twelfth transforming economy to complete accession negotiations under Article XII of the WTO Agreement, was also able to complete legislative work in 2002. At the time its accession package was approved by the General Council in December 2002, Armenia affirmed that it would not take any direct or indirect action that would impede or slow down the accession process of Azerbaijan to the WTO, nor block the decision-making process concerning the accession of Azerbaijan to the WTO. Prior to General Council approval of the accession package, the United States invoked the non-application provisions of the WTO Agreement contained in Article XIII with respect to Armenia. This was necessary because the United States must retain the right to withdraw "normal trade relations" (NTR) (called "most-favored-nation" treatment in the WTO) for WTO Members that receive NTR with the United States subject to the provisions of the "Jackson-Vanik" clause and the other requirements of Title IV of the Trade Act of 1974.[19] In such cases, the United States and the other country do not have "WTO relations" which, among other things, prevents the United States from bringing a WTO dispute based on a violation by the other country of the WTO or the commitments in its accession package. This brings to six the number of times since the establishment of the WTO in 1995 that the United States as invoked non-application.[20]

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[19]In addition to Armenia, seven of the remaining 28 WTO accession applicants with active Working Parties are covered by Title IV. They are: Azerbaijan, Belarus, Kazakhstan, Russia, Ukraine, Uzbekistan, and Vietnam. For further information on this issue, please consult Chapter IV.

[20] The United States invoked nonapplication of the WTO when Romania became an original Member in 1995, and when the accession packages of Mongolia, the Kyrgyz Republic, Georgia and Moldova were approved by the WTO General Council in 1996, 1998, 1999, and 2001, respectively. Congress subsequently authorized the President to grant Romania, Mongolia, the Kyrgyz Republic, and Georgia permanent NTR, and the United States withdrew its invocation of non-application in the WTO for these countries.

Prospects for 2003

The quickening pace of work on Doha issues and preparations for the Fifth Ministerial Conference in Cancun, Mexico in September 2003 will occupy an increasing share of WTO Members' time and resources during the year. As a consequence, most attention will be on accession applicants already well advanced in the process of implementing WTO provisions and in market access negotiations, as well as on continuing efforts to promote progress in the accessions of LDCs. U.S. representatives will remain key players in all accession meetings, as the negotiations provide opportunities to expand market access for U.S. exports, to encourage trade liberalization in developing and transforming economies, to promote trade capacity building in LDC applicants, and to support a high standard of implementation of WTO provisions by both new and current Members.

Of all the accession negotiations still underway, Russia is the furthest advanced. During 2002, the Working Party on Russia's WTO Accession met five times. At each meeting, delegations reviewed progress in Russia's legislative plan for implementation of WTO provisions and in bilateral market access negotiations. Based on progress to date, an initial draft of the Working Party report was developed and circulated in March. On the margins of Working Party meetings and other WTO meetings, delegations also met plurilaterally to clarify specific issues in the accession, e.g., in the areas of agriculture, TRIPS, TBT/SPS, services, and energy/subsidies. The goal of the Working Party is to finalize a Working Party report text that accurately reflects both Russia's commitments to WTO implementation and how they have implemented those commitments. The United States strongly supports Russia's WTO accession efforts, and U.S. and Russian teams intensified their bilateral contacts on all aspects of the accession during 2002 to give momentum to the Working Party process. Despite these efforts, a great deal of work remains to be done to bridge outstanding issues in goods and services market access negotiations, to address Russia's commitments on agricultural supports and subsidies, and to establish the legal basis for implementing WTO obligations in the Russian trade regime. Russia, nevertheless, is seeking an accelerated pace for work. Deputy Prime Minister Kudrin, addressing the Working Party in December, pressed for completion of the accession process as soon as possible and pledged the full efforts of the Russian government to promote a rapid completion of the negotiations.

The United States is also committed to promoting trade capacity building among least developed countries through the WTO accessions process. Negotiations with LDCS Cambodia, Nepal, Samoa and Tonga , are expected to make substantial additional progress in 2003. Cape Verde has also announced its intentions to move decisively towards WTO Membership in 2003. The United States chairs Cape Verde's Working Party and is providing technical support to its negotiating team to assist in achieving this goal.

Algeria, Kazakstan, and Belarus, whose accession negotiations stalled earlier in the process, sought to re-energize their negotiations during 2002, and have indicated that they will make WTO accession a priority during 2003. Azerbaijan, Lebanon, and Uzbekistan, which initiated Working Party deliberations in 2002, will be seeking additional meetings, and Yugoslavia, Bosnia, and Yemen, which circulated initial documentation in 2002, will press for initial Working Party reviews.

I. Plurilateral Agreements

1. Committee on the Expansion of Trade in Information Technology Products

Status

The Information Technology Agreement, or ITA, was concluded at the WTO's First Ministerial Conference at Singapore in December 1996. The Agreement eliminated tariffs as of January 1, 2000 on a wide range of information technology products. Currently, the ITA has 57 participants representing 93 percent of world trade in information technology products.[21] The Agreement covers computers and computer equipment, electronic components including semiconductors, computer software products, set-top boxes, telecommunications equipment, semiconductor manufacturing equipment and computer-based analytical instruments.

Major Issues in 2002

The WTO Committee of ITA Participants held four formal meetings in 2002, during which the Committee reviewed the implementation status of the Agreement. While most participants have fully implemented tariff commitments, a few countries are still awaiting the completion of domestic procedural requirements or have not yet submitted the necessary documentation.

The Committee continued its work to address divergent classification of information technology products. The Committee received a reply from the WCO regarding the list of classification issues sent to it by the Committee. An informal meeting of customs experts was held in May 2002 to discuss these classification issues and a report is expected soon summarizing the outcome of the work undertaken by these experts.

The Committee also made progress on the NTMs Work Program, affecting trade in ITA products. As part of this work, the Committee received over two dozen submissions from participants identifying a number of non-tariff measures that act as unnecessary impediments to trade. The Committee prepared an overview of the submissions on which ITA participants had an opportunity to review and comment. The Committee also agreed to a pilot project on Electromagnetic Compatibility (EMC) and Electromagnetic Interference (EMI). Eighteen responses were submitted to a survey on EMC drafted by Canada. Canada also proposed for Committee consideration a workshop be held in 2003 for industry representatives and government regulators to examine EMC practices.

In 2002, China circulated its tariff schedule to all participants. However, China's membership in the Committee has been blocked because it has been requiring end-use certification for ITA products.

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[21] ITA participants are: Albania, Australia, Bulgaria, Canada, Costa Rica, Croatia, Cyprus, Czech Republic, El Salvador, Estonia, European Union (on behalf of 15 Member States), Georgia, Hong Kong China, Iceland, India, Indonesia, Israel, Japan, Jordan, Republic of Korea, Krygyz Republic, Latvia, Lithuania, Macau, Malaysia, Mauritius, Moldova, New Zealand, Norway, Oman, Panama, Philippines, Poland, Romania, Singapore, Slovak Republic, Slovenia, Switzerland and Liechtenstein, Taiwan, Thailand, Turkey, and the United States. Armenia, China, Egypt, Macedonia and Morocco have indicated their intention to join the ITA.

Additionally, the Committee agreed to adopt the General Council decision (WT/L/452) to derestrict and circulate documents of the Committee, with the exception of the documents pertaining to the NTM work program. The decision to derestrict the NTM document series remains to be addressed by the Committee.

Prospects for 2003

The Committee's work program on non-tariff measures continues to proceed in step with tariff implementation issues. The Committee will need to take a decision on whether to hold an EMC workshop and if so, work to maximize participation from both developed and developing ITA participants. Throughout 2003 the Committee will continue to undertake its mandated work, including reviewing new applicants' tariff schedules for ITA participation, along with addressing further technical classification issues. In addition, the Committee will continue to monitor implementation of the Agreement, including undertaking any necessary clarifications.

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 it. WTO Members are not required to join the GPA, but the United States strongly encourages all WTO Members to participate in this important Agreement. The 28 current signatories are: the United States, the European Union and its member states (Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, United Kingdom), the Netherlands with respect to Aruba, Canada, Hong Kong, China, Iceland, Israel, Japan, Liechtenstein, Norway, the Republic of Korea, Singapore and Switzerland. Iceland acceded to the GPA in April 2001. Albania, Bulgaria, Chinese Taipei, Estonia, Georgia, Jordan, the Kyrgyz Republic, Latvia, Lithuania, Moldova, Oman, Panama, and Slovenia are in the process of negotiating GPA accession. As provided in the Protocol of Accession of the People's Republic of China, China became an observer in the Government Procurement Committee in February 2002.

Major Issues in 2002

Article XXIV:7 of the GPA calls for the Parties to conduct further negotiations with a view to improving both the text of the Agreement and its market access coverage. In 2002, the Parties focused primarily on the simplification and improvement of the Agreement, with the overall objective of promoting expanded membership of the GPA by making it more accessible to non-members. The review has also included discussion of expansion of coverage of the Agreement and elimination of remaining discriminatory measures and practices.

With these objectives in mind, the United States has taken the lead in advocating significant streamlining and clarification of the GPA's procedural requirements, while continuing to ensure full transparency and predictable market access. Much of the existing text of the GPA was developed in the late 1970s during the negotiations on the original GATT Government Procurement Code. As the current review of the Agreement has proceeded, the Committee has become aware that the GPA text needs to be carefully

analyzed and modified to reflect ongoing modernization of the Parties' procurement systems and technologies.

As provided for in the GPA, the Committee monitors participants' implementing legislation. The Committee has completed the reviews of the national implementing legislation of Canada; the European Union; Hong Kong, China; Israel; Japan; Korea; Liechtenstein; Norway; Singapore; Switzerland; and the United States.

Prospects for 2003

In 2003, the Committee will continue its review and revision of the text of the GPA, focusing on proposals by the United States and other Parties aimed at "streamlining" the Agreement's procedural requirements. The Committee has agreed to complete negotiations under Article XXIV:7 by January 1, 2005. The Committee has the aim of reaching provisional agreement on the revised text of the GPA by the Fifth Ministerial Conference, recognizing that it may not be possible to conclude some elements of the text until market access negotiations are completed.

The Committee plans to take up market access negotiations in 2003. It will consider proposals that have been made with respect to potential negotiations to further expand the Agreement's market access coverage. In 2003, the Committee will take up the review of the implementing legislation of Iceland, and continue its review of the legislation of the Netherlands with respect to Aruba.

The Committee also plans in 2003 to consider ways to improve accession procedures, including modalities that could accelerate the process in the case of Members with economies in transition and developing countries.

3. Committee on Trade in Civil Aircraft

Status

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

The Aircraft Agreement requires signatories to eliminate duties on civil aircraft, their engines, subassemblies and parts, ground flight simulators and their components, and to provide these benefits on a non-discriminatory or MFN basis to all WTO Members. On non-tariff issues, the Aircraft Agreement establishes international obligations concerning government intervention in aircraft and aircraft component development, manufacture and marketing.

As of January 1, 2003, there were 30 signatories to the Aircraft Agreement: Bulgaria, Canada, the European Union, Austria, Belgium, Denmark, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, the United Kingdom, Egypt, Estonia, Georgia, Japan, Latvia, Lithuania, Macau, Malta, Norway, Romania, Switzerland, Taiwan, and the United States. Although Albania and Croatia have committed to become parties upon accession to the WTO, which occurred in 2001, neither has formally accepted the Agreement. Oman agreed to become a party within three years of accession, which occurred in 2001.

Major Issues in 2002

The Aircraft Committee, permanently established under the Aircraft Agreement, provides the signatories an opportunity to consult on the operation of the Agreement, to propose amendments to the Agreement and to resolve any disputes. During 2002, the full Committee met twice.

In addition to adopting several technical and statistical improvements in the operation of the Agreement, the Committee also agreed to provide duty-free treatment to aircraft ground maintenance simulators on a provisional basis, since this product does not currently fall within the defined coverage of the Agreement. The United States also raised certain activities by other signatories that might result in market distortions, such as government support for Airbus aircraft development and marketing.

Prospects for 2003

The United States will continue to make it a high priority for countries with aircraft industries that are seeking membership in the WTO to become signatories to the Aircraft Agreement. In addition, other countries that might procure civil aircraft products, but are not currently significant aircraft product manufacturers, are being encouraged to become signatories to the Agreement in order to foster non-discriminatory and efficient selection processes for aircraft products based solely upon product quality, price, and delivery.

III. Regional Negotiations

A. Free Trade Area of the Americas

In 2002, the United States and the other 33 governments participating in the Free Trade Area of the Americas (FTAA) negotiations initiated market access negotiations, continued to make progress on the draft texts of the Agreement in negotiations, and launched a Hemispheric Cooperation Program to assist countries in negotiating, undertaking the FTAA obligations, and adjusting to regional integration. The FTAA will create the largest free trade area in the world, with over 800 million people. American workers, farmers, consumers and businesses will benefit from increased access to Latin American markets and greater variety of products available here.

The negotiations are guided by general principles and objectives approved by the leaders of the 34 democratically-elected FTAA countries. Among the most important principles are that the FTAA should improve upon World Trade Organization (WTO) rules and disciplines wherever possible and appropriate. Among the most important objectives are: progressive elimination of tariffs and non-tariff barriers, as well as other measures with equivalent effects, which restrict trade; elimination of agricultural export subsidies on trade in the hemisphere; liberalization of trade in services in order to achieve hemispheric free trade under conditions of certainty and transparency; adequate and effective protection of intellectual property rights, taking into account changes in technology; establishment of a fair and transparent legal framework for investment and related capital flows; that our trade liberalization and environment policies are mutually supportive, and observance and promotion of internationally-recognized core labor standards, as was agreed at the 2002 Trade Ministerial in Quito, Ecuador.

During the course of the year, the United States participated actively in meetings of each of the nine FTAA negotiating groups (market access, agriculture, intellectual property rights, services, investment, government procurement, competition policy, dispute settlement, and subsidies/anti-dumping/countervailing duties) and the four non-negotiating groups and committees (the Technical Committee on Institutional Issues (TCI), the Consultative Group on Smaller Economies (SME), the Joint Government - Private Sector Committee of Experts on Electronic Commerce (ECOM), and the Committee of Government Representatives on the Participation of Civil Society (SOC)). The work of the nine negotiating groups focused on eliminating to the greatest extent possible the brackets in the existing text, while the TCI focused on developing initial proposals for texts on the general and institutional provisions of the agreement for the Trade Ministers' review at their November 1, 2002, meeting in Quito, Ecuador.

At the Quito Ministerial meeting, the FTAA Trade Ministers received the second draft consolidated texts, provided guidance for the next phase of the FTAA negotiations, and reinforced the deadlines set by the Vice Ministers for the market access phase of the negotiations which commenced on May 15, 2002. Ministers confirmed that the exchange of initial market access offers in agricultural and industrial products, services, investment, and government procurement will occur between December 15, 2002 and February 15, 2003, that requests for improvements in initial offers will take place between February 15 and June 15, 2003, and that the process for exchanging improved offers will begin no later than July 15, 2003. This timetable was set to reinforce the commitment of the FTAA governments to conclude the negotiations

of the Agreement by January 2005, the deadline agreed by Heads of State and Government at the Quebec Summit.

In addition to assuming the co-chairmanship of the FTAA with Brazil, the United States worked with the other FTAA countries to ensure a slate of strong chairs was selected for each of the FTAA negotiating groups and committees. Beginning November 1, 2002, officials from the following countries assumed chairmanships of FTAA entities: Colombia (Market Access); Uruguay (Agriculture); Costa Rica (Government Procurement); Panama (Investment); Peru (Competition Policy); Dominican Republic (Intellectual Property Rights); Caricom (Services); Canada (Dispute Settlement); Argentina (Subsidies/Antidumping/Countervailing Duties); Chile (Technical Committee on Institutional Issues); Ecuador (Consultative Group on Smaller Economies); and Bolivia (Committee of Government Representatives on the Participation of Civil Society).

The United States won endorsement for the Hemispheric Cooperation Program, a comprehensive trade capacity-building program to help small and developing countries in the region to fully benefit from the FTAA. Ambassador Zoellick announced at Quito that President Bush would seek a 37 percent increase in U.S. trade capacity-building assistance for the region in FY 2003, to $140 million.

Ambassador Zoellick, along with the other 33 FTAA Trade Ministers met with representatives of the Seventh Americas Business Forum (ABF) on October 31, 2002, and received detailed recommendations from workshops covering all areas of the negotiations. The 34 Ministers also met with representatives of hemispheric environmental groups, labor unions, parliamentarians and indigenous peoples to receive recommendations. USTR also participated in a civil society meeting held on the margins of the Quito Ministerial to discuss U.S. environmental assessments of trade agreements.

In an effort to further improve the transparency of the FTAA process and to build broader public understanding of and support for the FTAA, at the November 2002 Ministerial, the Ministers made the decision again to make public the second draft consolidated texts of the FTAA agreement. The text is available on the USTR website (www.ustr.gov) and the official FTAA website (www.ftaa-alca.org). The Ministers also instructed each of the nine FTAA negotiating groups to continue to work to reach consensus on the draft chapters and to eliminate brackets to the maximum extent possible.

In a complementary effort to provide the public with an opportunity for input on the FTAA process, the FTAA Committee of Government Representatives on the Participation of Civil Society issued an Open and On-Going Invitation for comment on all aspects of the FTAA negotiations. Information on the Open and On-Going Invitation can be found on both the USTR and FTAA websites. On three previous occasions, the Civil Society Committee has invited the public to comment on the FTAA negotiations. As has happened in the past, the FTAA Civil Society Committee will oversee the timely delivery of all submissions to the negotiators so that they may review and benefit from the comments of civil society.

The FTAA countries have also pledged to use national mechanisms to disseminate the invitation further. In December 2002, USTR issued a Federal Register Notice (FRN) to solicit comments on the second FTAA draft text and other components of the negotiations, and a separate FRN (also in December 2002) to advertise the issuance of the Civil Society Committee's Open and On-Going Invitation. USTR also issued a press release and notices to trade advisory committees alerting the public to the Open Invitation. USTR regularly briefed members of the statutory Advisory Committees and others in several public meetings.

FTAA Trade Ministers agreed that their next meeting will be hosted by the United States, in Miami, Florida during the fourth quarter of 2003, with another meeting set for Brazil in 2004.

The United States, along with the Governments of Mexico and Canada, coordinated the first regional seminar on the FTAA in the hemisphere, entitled "FTAA: Opportunities and Challenges for North America," hosted in Merida, Mexico, on July 18, 2002. The objective of the North America Regional Seminar was to foster a constructive dialogue with civil society, which was represented by over one hundred people from throughout North America. High-level government officials involved in the FTAA negotiations also participated. Topics discussed in the three panels featured in the North America seminar included: market access and agriculture; services and investment; and transparency and civil society participation in the FTAA process. Each panel included presentations by a representative of civil society and a government official from each of the three countries.

U.S. Government officials also met with civil society representatives on the margins of the FTAA Vice Ministerial-level meeting in August to discuss the status of the negotiations, hear the interests and concerns expressed by civil society and to encourage further civil society participation in the FTAA process.

B. North American Free Trade Agreement

Overview

On January 1, 1994, the North American Free Trade Agreement (NAFTA) between the United States, Canada and Mexico entered into force. NAFTA created the world's largest free trade area, which now links 414 million people producing more than $11 trillion worth of goods and services. The dismantling of trade barriers and the opening of markets has led to economic growth and rising prosperity in all three countries. NAFTA also includes the first significant labor and environmental cooperation agreements that the United States has negotiated as part of a trade agreement. The NAFTA has dramatically improved our trade and economic relations with our neighbors. The net result of these efforts is more economic opportunity and growth, greater fairness in our trade relations, and a coordinated effort to better protect worker rights and the environment in North America. NAFTA also included significant labor and environment side agreements to augment the trade agreement.

The magnitude of our trade relations in North America is impressive: U.S. two-way trade with Canada and Mexico exceeds U.S. trade with the European Union and Japan combined. U.S. goods exports to NAFTA partners nearly doubled between 1993 and 2001, from $142 billion to $265 billion, significantly higher than export growth of 44 percent for the rest of the world over the same period.

NAFTA's record is clear. By lowering trade barriers, the agreement has expanded trade in all three countries. This has led to increased employment, more choices for consumers at competitive prices, and rising prosperity. From 1993 (the year preceding the start of NAFTA implementation) to 2001, trade among the NAFTA nations climbed 109 percent, from $297 billion to $622 billion. Each day the NAFTA parties conduct nearly $1.7 billion in trilateral trade. Thanks to NAFTA, North America is one of the most competitive, prosperous and economically integrated regions in the world.

Elements of NAFTA

1. Operation of the Agreement

The NAFTA's central oversight body is the NAFTA Free Trade Commission, chaired jointly by the U.S. Trade Representative, the Canadian Minister for International Trade, and the Mexican Secretary of Economy. The NAFTA Commission is responsible for overseeing implementation and elaboration of the NAFTA and for dispute settlement. The Commission held its most recent annual meeting in May 2002 in

Mexico. The ministers reiterated their commitment to full and timely implementation of the Agreement, and released "NAFTA at Eight," a summary of the achievements to date. The Commission agreed to explore additional ways to stimulate further trade in North America. The ministers also agreed to cooperate in other trade negotiations, including the FTAA, WTO, and APEC.

2. Rules of Origin

In 2002, the NAFTA Parties agreed on changes to liberalize the NAFTA Rules of Origin for seven products: alcoholic beverages, chassis fitted with engines, esters of glycerol, headphones with microphones, pearl jewelry, petroleum/topped crude, and photocopiers. These changes are scheduled to take effect upon the completion of each party's domestic procedures.

3. NAFTA and Labor

The North American Agreement on Labor Cooperation (NAALC), a supplemental agreement to the NAFTA, promotes effective enforcement of domestic labor laws and fosters transparency in their administration. The NAALC also has generated a trilateral work program in the areas of migrant worker rights, occupational safety and health, employment and training, and child labor.

Each NAFTA Party has also established a National Administrative Office (NAO) within its Labor Ministry to serve as a contact point for information, to examine labor concerns, and to coordinate the expansive cooperative work programs. In addition, the Agreement created a trinational Commission for Labor Cooperation, comprised on a Ministerial Council and an administrative Secretariat.

Under the NAALC and various NAO procedural guidelines, any person can file a submission to request their government to review the labor practices of a NAFTA partner. Several submissions have resulted in ministerial consultations and the adoption of work programs to address the underlying concerns. In 2002, the U.S. Secretary of Labor and the Mexican Secretary of Labor and Social Welfare held ministerial consultations to address issues raised in public submissions. The ministers agreed to work together to address issues related to freedom of association and protection of the right to organize; the right to bargain collectively; minimum employment standards; prevention of occupational injuries and illnesses; compensation in cases of occupational injuries and illnesses; and protection of migrant workers.

Pursuant to ministerial agreements signed by the U.S., Mexican and Canadian ministers of labor, the parties held a public forum on working conditions and treatment of migrant and agricultural workers in the United States and established a Trilateral Technical Working Group on Safety and Health to develop specific recommendations for consideration by the governments and to identify technical areas for collaboration aimed at improving occupational safety and health in the workplace. The United States and Mexico also collaborated in specific areas of workforce development including Internet-based job banks, one stop employment service centers, occupational classification system, and development of labor market information.

Over the last several years, the Parties have held numerous trilateral conferences, seminars, and technical exchanges to share information and make improvements in many critical areas. By addressing issues of labor rights, the NAALC has contributed to transparency and public dialogue on labor issues.

4. NAFTA and the Environment

A further supplemental accord, the North American Agreement on Environmental Cooperation (NAAEC), ensures that trade liberalization and efforts to protect the environment are mutually supportive. The NAAEC created the Commission for Environmental Cooperation (CEC), which is comprised of: (1) the Council made up of the environmental ministers from the United States, Canada, and Mexico; (2) the Joint Public Advisory Committee made up of five private citizens from each of the NAFTA countries; and (3) the Secretariat made up of professional staff, located in Montreal, Canada.

The 2003-2005 Program Plan, approved in December 2002, is centered around four core program areas: Environment, Economy and Trade; Conservation of Biodiversity; Pollutants and Health; and Law and Policy. Additional information on the CEC work program can be found in Chapter V.

In November 1993, Mexico and the United States agreed on arrangements to help border communities with environmental infrastructure projects, so as to further the goals of the NAFTA and the NAAEC. The Border Environment Cooperation Commission (BECC) and the North American Development Bank (NADB) are working with more than 100 communities throughout the U.S.-Mexico border region to address their environmental infrastructure needs. Since their creation, the institutions have been instrumental in the development of over 50 projects, now complete or under construction, with an aggregate cost of nearly $1.35 billion. These projects, when complete, will serve about 9 million residents of the United States and Mexico, with new projects being developed continually.

C. Asia Pacific Economic Cooperation

Overview

Over the past nine years, the Asia Pacific Economic Cooperation (APEC) forum, which was founded in 1989, was transformed from a largely consultative body to a dynamic force for market opening and trade expansion in the Asia Pacific region and in the world. Recognizing that the Asia Pacific accounted for more than half of U.S. exports to the world, and had steadily increased in importance in recent years, the United States invited Leaders from 18 Asia Pacific economies to Blake Island, Washington in 1993, the first ever regional meeting of Leaders, who have met annually since.

The growth in U.S. goods exports to APEC clearly demonstrates the benefits of market opening and trade expansion. Since 1994, U.S. exports to APEC increased nearly 37 percent. In 2002, two-way trade with APEC members totaled $1.2 trillion, a decline of 1.4 percent from 2001.

It was at Blake Island that APEC Leaders first expressed their collective desire to move toward an "Asia Pacific community" of economies. APEC has made progress on this vision.

- In 1994, APEC Leaders announced their commitment to the "Bogor vision" to establish free and open trade and investment in the region by 2010 for industrialized economies and 2020 for developing economies;
- In 1995, the Osaka Action Agenda, which developed a specific road map for opening markets in the region in 14 substantive areas, was agreed upon;
- In 1996, APEC economies submitted their first "Individual Action Plans" indicating how they intended to move toward fulfillment of the Bogor goals. Moreover, APEC Leaders called for

conclusion of the Information Technology Agreement in the WTO, which acted as a decisive catalyst toward successful completion of this agreement in 1997;

- In 1997 and 1998, APEC Leaders, seeking to further advance APEC's leadership role in the multilateral trading system, called for the opening of 15 key sectors on a global basis, developed the details for market opening in each sector, and affirmed their commitment to working to this end in the WTO;

- In 1999, APEC Leaders called for a new round of WTO negotiations, to include among other things industrial tariffs, the abolition of agricultural export subsidies, as well as the eight "accelerated tariff liberalization" sectors that APEC had identified in 1997-98;

- In 2000, APEC Leaders reiterated the importance of agreement on a WTO agenda as soon as possible in 2001, and the need to launch a new WTO round before the end of the year in 2001. They also launched a broad based Action Agenda on the New Economy, to ensure that APEC members used advances in information technology to boost productivity and stimulate economic growth in the region;

- In 2001, APEC Leaders, meeting shortly before the WTO Ministerial in Doha, Qatar, gave strong support to the launch of the new WTO Round at Doha, as well as the accession of China and Taiwan to the WTO at the Doha Ministerial. At the urging of the United States, they also adopted the Shanghai Accord, a series of specific commitments to ensure APEC reaches its free trade and investment goals, and agreed to a policy dialogue on agricultural biotechnology; and

- In 2002, APEC Leaders welcomed the launch of new multilateral trade negotiations in Doha and encouraged all economies to pursue substantive negotiations in all areas of the Doha Development Agenda (DDA) by the agreed time lines to ensure that the deadline of 1 January, 2005, to conclude such negotiations is met. To fulfill the Shanghai Accord, they also agreed to adopt specific transparency standards, reduce trade barriers critical for the digital economy, and implement a plan to facilitate trade that will significantly reduce business transaction costs.

2002 Activities

APEC Trade Ministers and Leaders recognized the importance of last year's launch of multilateral trade negotiations at Doha, called on all WTO members to intensify substantive discussions in Geneva on all elements of the DDA, and stressed the region's continued commitment to trade expansion and market opening. While APEC economies continued to open their markets in 2002 (see the *APEC 2002 Economic Outlook,* and the *2002 Individual Action Plans* at www.apecsec.org.sg), Ministers and Leaders emphasized the need for APEC to take a leadership role on global trade issues so the DDA negotiations will be successfully completed by 1 January 2005.

Important activity took place at all APEC levels in 2002 to give effect to APEC's vision of free and open regional trade and investment. APEC demonstrated its continuing commitment to this vision in several concrete ways. In particular, it:

- reaffirmed its commitment to play a leading role in the multilateral trading system;

- took concrete steps to implement key aspects of the Shanghai Accord - advancing its own work program of regional trade and investment liberalization and facilitation; and

- constructed a database of detailed information on bilateral and multilateral WTO capacity building activities in the region.

1. Leadership in the Multilateral Trading System

APEC Trade Ministers indicated clearly their desire for the region to continue to play a leading, catalytic role in fostering the opening of markets worldwide. At the APEC Trade Ministers meeting in Puerto Vallarta in May 2002, Ministers welcomed the launch of the DDA and noted the important role that APEC played in achieving this outcome. Trade Ministers agreed to make progress on all elements of the agenda, including market access, agriculture, trade rules, investment, competition, trade facilitation and transparency in government procurement. In doing so, they committed to meeting the mandates and schedules established for all of the relevant negotiating and working groups. Specifically, APEC Members agreed on the WTO deadline of June 30, 2002, to submit initial services requests, and agreed that modalities for non-agricultural market access negotiations should be established by April 30, 2003.

At the October joint ministerial meeting in Los Cabos, APEC Ministers called on all WTO members to intensify substantive discussions in Geneva on all elements of the DDA in order to maintain the negotiating timetable, and agreed to work to ensure that the cooperative dynamic in APEC complements and supports the DDA negotiations. Ministers committed to working together to meet all DDA deadlines and schedules in preparation for the September 2003 Ministerial in Cancun, Mexico. The Cancun Ministerial was also the agreed target date for APEC Ministers to negotiate the establishment of a system of notification and registration of geographical indications for wines and spirits under the WTO TRIPS Agreement. Additionally, they agreed on March 2003 as the goal for establishing modalities for the agriculture negotiations, and agreed in particular that one of the objectives of such negotiations should be the abolition of all forms of agricultural export subsidies and unjustifiable export prohibitions. Ministers agreed to ensure a common understanding on the modalities for the non-agricultural market access negotiations is achieved by March 31, 2003, so that agreement on the modalities for those negotiations is reached by May 31, 2003.

To continue building confidence in the WTO, APEC Ministers and Leaders also emphasized the importance of the many APEC activities undertaken in 2002 to provide capacity building assistance under the APEC Strategic Plan, created in 2000 to help developing APEC economies implement their WTO obligations. Ministers and Leaders welcomed the creation of APEC's new electronic database for WTO capacity building, and noted the valuable role it will play in monitoring and coordinating capacity building efforts in the region. Ministers and Leaders called for APEC to continue developing new assistance programs under the Strategic Plan and implement them on an accelerated basis. Ministers also agreed to bolster APEC's capacity building activities by including work focused on building developing economies' confidence in the DDA. They agreed to encourage and coordinate confidence building activities in all areas of the DDA, including investment, competition, trade facilitation, transparency in government procurement, and trade and environment.

2. Advancement of APEC's Work on Trade and Investment Liberalization and Facilitation

APEC took concrete steps to implement key provisions of the Shanghai Accord. Ministers agreed that implementation of the Shanghai Accord provides critical elements of a new "APEC Implementation Framework" through which APEC economies agree to move forward to achieve the Bogor Goals. Mexico's chosen theme of "Implementing the Vision" was appropriate, as APEC Leaders met in Los Cabos and endorsed three important initiatives from the Shanghai Accord:

- a Statement to Implement APEC Transparency Standards by January 2005, to foster greater predictability and openness of government;

- a Statement to Implement APEC Policies on Trade and the Digital Economy, containing trade policies for the digital economy that sixteen APEC economies agreed to implement as a "Pathfinder Initiative;" and

- an APEC Trade Facilitation Action Plan to implement APEC's commitment to reduce international trade transaction costs by five percent in the APEC region by 2006.

The Shanghai Accord also called for the creation of "Pathfinder Initiatives" - cooperative arrangements which enable a group of countries to pilot initiatives, even though not all APEC Members can initially participate – to advance trade liberalization in the region more quickly. In addition to the Statement to Implement APEC Policies on Trade and the Digital Economy, in Los Cabos Leaders also endorsed Pathfinder Initiatives on: advance passenger information systems; the revised Kyoto Convention on the Simplification and Harmonization of Customs Procedures; electronic SPS certification (e-cert); electronic certificates of origin; a mutual recognition arrangement of conformity assessment on electrical and electronic equipment; and corporate governance.

APEC Members report annually on their actions to achieve free trade and investment by preparing Individual Action Plans (IAPs). The Shanghai Accord called for, and APEC Senior Officials developed, a more meaningful process for reviewing IAPs. This year APEC Senior Officials met in Acapulco to conduct the first of these enhanced IAP peer reviews. Mexico and Japan offered to be the first to have their IAPs reviewed in detail. The delegations from Mexico and Japan presented opening statements, while officials from other APEC economies, as well as outside experts, submitted oral and written questions to both economies. The participants engaged in a productive exchange, bringing increased focus to trade and investment liberalization in APEC. In Los Cabos, Ministers welcomed the new IAP peer review process, and stressed its importance as a means to chart progress toward meeting the Bogor Goals. Reports of the IAP Peer Review Meetings can be found on the APEC website (www.apecsec.org.sg).

APEC work on trade and investment liberalization and facilitation is overseen by the *Committee on Trade and Investment* (CTI) and its sub-fora. The CTI and its sub-fora have well-developed, specific work programs in the fifteen substantive issue areas first defined in the 1995 Osaka Action Agenda (OAA). These areas are: tariffs, non-tariff measures, services, investment, government procurement, standards and conformance, customs, competition policy, deregulation, intellectual property rights, dispute mediation, mobility of business people, rules of origin, information gathering/analysis, and implementation of the Uruguay Round. In 2002, Ministers endorsed the recommendation of the CTI and senior officials to broaden the OAA to better reflect fundamental changes in the global economy, including by incorporating a new chapter on Strengthening Economic Legal Infrastructure in Part I of the OAA.

While the CTI has overall responsibility for developing and overseeing work in the fifteen substantive OAA issues areas, much of the work program at a technical level is conducted by CTI sub-fora. The CTI met three times during 2002 in Mexico: in Mexico City, 25-26 February; in Merida, 21-22 May; and in Acapulco, 16-17 August. In addition, the following CTI sub-fora met:

- *Market Access Group* (MAG) – Mexico City, 21 February; Merida, 19-20 May; and Acapulco, 14 August;

- *Group on Services* (GOS) – Mexico City, 19-20 February; Merida, 16-18 May; and Acapulco, 13-15 August;
- *Investment Experts' Group* (IEG) – Lima, Peru, 28 February – 1 March; Merida, 19-20 May; and Acapulco, 11-12 August;
- *Sub-Committee on Standards and Conformance* (SCSC) – Mexico City, 23-24 February; Merida, 19-20 May; and Acapulco, 15-16 August;
- *Sub-Committee on Customs Procedures* (SCCP) – Mexico City, 22-25 February; and Acapulco, 13-15 August;
- *Intellectual Property Rights Experts' Group* (IPEG) – Hong Kong, China, 19-20 March; and Los Angeles, the United States of America, 22-23 July;
- *Competition Policy/Deregulation Group* – Merida, 17-18 May;
- *Government Procurement Experts' Group* (GPEG) – Mexico City, 19-20 February; and Acapulco, 12-13 August;
- *Informal Experts' Group on the Mobility of Business People* (IEGBM) – Mexico City, 21-22 February; Merida, 27-28 May; and Acapulco, 14-15 August;
- *WTO Capacity Building Group* – Mexico City, 23 February; and Acapulco, 14 August.

Progress on Collective Action Plans

Among other things, the CTI and its sub-fora are responsible for implementing APEC's "Collective Action Plans" (CAP) in each of the fifteen areas. The objective of the Collective Action Plans is to develop cooperative means and programs by which APEC members progress toward the APEC goals of regional open and free trade and investment. In 2002, a number of concrete results were achieved in the implementation of these Collective Action Plans. A complete description of steps undertaken in advancing Collective Action Plans can be found in the *Committee on Trade and Investment's 2002 Annual Report to Ministers*, which is at the APEC Secretariat's website (www.apecsec.org.sg).

Highlights of Collective Actions conducted by some of the key CTI sub-fora are outlined below.

The *Sub-Committee on Standards and Conformance (SCSC)* completed several technical infrastructure development projects. SCSC undertook a review of the various Mutual Recognition Agreements (MRAs) under its umbrella of activities and worked on improving their effectiveness and relevance to regulators. Two economies (Australia and Singapore) acted as pathfinders to start participating in Parts II and III of the APEC MRA on electrical and electronic products, which was first implemented in December 1999 when 10 APEC member economies indicated their intention to participate in Part I. Today, 14 member economies are participating in this Part.

The *Sub-Committee on Customs Procedures (SCCP)* continued implementing its multi-year technical assistance programs aimed at assisting members in CAP implementation. The SCCP completed a best practices compendium of customs and business partnership, and conducted for the first time the SCCP Peer Review on CAPs, stage 2 (CAPs for which technical assistance has been completed).

The *Market Access Group (MAG)* focused on intensifying its confidence-building work on tariffs and non tariff measures (NTMs), including through conducting trade policy discussions (TPDs) on NTMs and Trade Facilitation and Domestic Consultations for WTO negotiations. MAG built on its report "*APEC Economies: Breaking Down the Barriers,*" published in 2001. In 2002 further case studies were collected on regulatory and administrative reforms, as well as an examination of ways to assess the benefits of such reforms and how their contribution helps to facilitate trade in APEC. MAG started an electronic newsletter as an outreach initiative to promote its trade liberalization and facilitation work to business in the region.

The *Group on Services (GOS)* conducted work on transparency and domestic regulation under Phase III of the "Development of the Menu of Options for Voluntary Liberalization, Facilitation and Promotion of ECOTECH in Services Trade and Investment." This work is related to the WTO services negotiations, and GOS will deepen this work next year. GOS is also responsible for two studies that will be undertaken concerning services liberalization. Work has begun on a study of environmental services liberalization. Work is to be commenced on a study of the Costs and Benefits of Services Trade Liberalization, which will focus on particular sectors. GOS had a useful exchange of information on economies' approach to agreements on mutual recognition of professional standards/qualifications.

The *Investment Experts' Group (IEG)* was tasked by Ministers to review economies' progress in implementing the Menu of Options on Investment and to provide a report by the Ministerial Meeting in 2003. The Menu of Options was expanded to include "Competition Policy and Regulatory Reform." The IEG also completed Phase I of the Study on Cross-border Mergers and Acquisitions.

The *Intellectual Property Rights Experts' Group (IPEG)* commenced implementation of its newly overhauled CAP, focusing in particular on enforcement. IPEG endorsed the IP Toolkit proposal to allow member economies to have access to IP-related enforcement information. It also conducted an IP Enforcement Seminar in conjunction with the IPEG Meeting held in Los Angeles in July 2002. The objective of the seminar was to provide IP enforcement personnel the opportunity to discuss with industry representatives the techniques and process on investigating IP infringement and preparing effective prosecutions.

The *Competition Policy and Deregulation Group (CPDG)* continued to promote dialogue, information exchange and study of competition policy, competition laws, their enforcement and interrelationship with other policies related to deregulation, trade and investment.

The *Government Procurement Experts' Group (GPEG)* work during the year focused on continuing the agreed process of voluntary reviews and reporting by member economies on consistency of their government procurement regimes with the Non-Binding Principles on Government Procurement (NBPs) adopted in 1999. The GPEG also hosted a series of presentations on e-procurement aimed at demonstrating the contribution electronic government procurement systems can make to the achievement of the NBPs and capacity building through the sharing of technical information.

The *Informal Experts' Group on Mobility of Business People (IEGBM)* continued to support the APEC Business Advisory Council's (ABAC's) call for expanding the APEC Business Travel Card. Thirteen economies now participate in the scheme. IEGBM has completed and launched a website that will enhance dialogue with the APEC business community, other APEC fora and within the IEGBM itself. The IEGBM undertook several capacity building activities during the year, such as a project on document examination techniques, where developing APEC Members were provided training in the use of a generic resource package to assist implementation of effective and speedy document examination regimes. The group also endorsed a "Standards for Professional Conduct" paper.

The *WTO Capacity Building Group (WTO Group)* produced a major deliverable this year, launching a website containing detailed information on bilateral and APEC-funded WTO-related capacity building projects in the region (www.apec-trta.org). The information was gathered from matrices completed by APEC economies, describing their bilateral capacity building activities. The web-site provides organization and direction to regional capacity building, and supports the work of the WTO in this area. Additionally, the WTO Group implemented projects addressing the needs identified in the APEC Strategic Plan on Capacity Building.

Automotive and Chemical Dialogue

The *Automotive Dialogue* (first held in 2001) and the newly launched Chemical Dialogue are public-private sector dialogues recognized as important for improving the mutual understanding of key imperatives for the development of future policy and for enhancing the competitiveness of each sector.

The 4h utomotive Dialogue was held in Singapore on 17-19 April 2002 and attracted more than 150 participants from industry and government. Following the agreement reached at its Bangkok meeting last year, the Dialogue has been re-organized into six working groups – customs, technical regulatory harmonization, environment, information technology, ECOTECH and market access – to advance the substantive work program. The Dialogue endorsed the revised Principles of Automotive Technical Regulation Harmonization and agreed to send the Principles document to all APEC Trade and Transportation Ministers, recommending that their economies use the principles to guide their harmonization and regulatory programs. In affirming the importance of improving members' understanding of WTO laws and processes, the Dialogue approved a letter to be sent by the Dialogue Chair to the Director-General of the WTO expressing the Dialogue's interest in the new round and its possible contributions to it.

The 1st APEC *Chemical Dialogue* was held in Merida on 22-23 May 2002, and was attended by approximately 50 participants from industry and government. The Dialogue agreed to adopt and implement voluntarily the Globally Harmonized System on hazard classification and labeling of chemicals and safety data sheets as soon as feasible as a contribution to APEC trade facilitation work. As a next step, the Steering Group for the Dialogue will develop an implementation plan that includes a significant capacity building element through education and training programs and pilot projects. The Steering Group also agreed that the Chemical Dialogue should respond to an issue that could negatively impact trade between member economies of the APEC region and the EU. The EU is currently drafting regulations to submit to the Council of Ministers and the European Parliament in the fall that implement proposals for new regulation of chemicals and downstream products (all manufactured products) contained in the "EU White Paper: Strategy for a Future Chemicals Policy."

3. Free Trade Agreements

APEC Trade Ministers noted the growing number of regional trade agreements (RTAs) and free trade agreements (FTAs) being negotiated and concluded, to which many APEC members are parties. They agreed that regional and bilateral trade agreements should serve as building blocks for multilateral liberalization in the WTO. There was further consensus on the importance of such agreements being consistent with WTO rules and disciplines, and in line with APEC architecture and supportive of APEC goals and principles. Ministers instructed officials to engage in a constructive exchange of views on RTAs and FTAs in 2003.

IV. Bilateral Negotiations

A. Free Trade Agreements

1. Chile

Chile has been a recognized leader of economic reform and trade liberalization in Latin America and currently is the only South American country with an investment grade credit rating. Real GDP growth averaged eight percent for the decade prior to Chile's economic slowdown in 1998-99. Chile's real GDP grew at about a 2 percent rate in 2002.

Our two-way trade in goods and services totaled $8.8 billion in 2001. Trade in services amounted to $2.2 billion with the United States in surplus by $472 million. Trade in goods totaled $6.6 billion with the United States in deficit by $424 million. In the seven years prior to 2001, U.S. goods trade with Chile expanded by 44 percent and services trade by 37 percent.

On December 11, 2002, the United States and Chile reached agreement on an historic Free Trade Agreement (FTA) designed to strip away barriers and facilitate trade and investment between both countries. The U.S.-Chile FTA will be the first comprehensive free trade agreement between the United States and a South American country. To date, the United States has only four FTA partners: Canada, Mexico, Israel and Jordan. The U.S.-Chile FTA is expected to spur progress on negotiations of the Free Trade Area of the Americas (FTAA, targeted for completion by 2005), as well as ongoing global trade negotiations.

The U.S.-Chile FTA will eliminate tariffs and opens markets, reduce barriers for services, protect leading-edge intellectual property, keep pace with new technologies, ensure regulatory transparency, and provide explicit guarantees for electronic commerce and digital products and effective labor and environmental enforcement. American workers, consumers, investors, manufacturers and farmers will enjoy access to one of the region's most stable and fastest growing economies, enabling products and services to flow between the two economies with no tariffs and streamlined customs procedures.

The December 2002 agreement represented the culmination of fourteen rounds of negotiations, initiated in December 2000. Throughout the process, U.S. negotiators consulted closely with Congress, industry representatives and labor and environmental groups to ensure the FTA advanced U.S. interests and, in its final provisions, reflected the goals contained in Trade Promotion Authority. Under the Trade Act of 2002, the Administration must notify Congress at least 90 days before signing an FTA. On January 30, 2003, President Bush notified Congress of his intent to enter into an FTA with Chile. During the 90-day period, both the United States and Chile will undertake legal reviews of the texts and continue to consult with their respective legislatures and other interested groups regarding the provisions negotiated.

Under the agreement, more than 87 percent of two-way trade in goods will become tariff-free immediately, with most remaining tariffs and quotas eliminated in four years and all tariffs and quotas eliminated in 12 years. Among the key U.S. industrial sectors benefitting from the agreement and the aggressive liberalization schedule are agricultural and construction equipment, autos and auto parts, computers and

other information technology products, medical equipment and paper products. More than three-quarters of U.S. farm goods will enter Chile tariff-free within 4 years, with all tariffs and quotas phased out within 12 years. U.S. farm products such as pork, beef, soybeans, durum wheat, feed grains, potatoes and processed food products will benefit from increased market access. Tariffs on wine will be harmonized at low U.S. rates, then eliminated.

This agreement will create access to Chile's fast growing services market, including telecommunications, insurance, banking, securities, express delivery and professional services. U.S. firms will be able to offer financial services to participants in Chile's private pension system. The agreement offers state of the art protections for digital products such as software, music, text and video. Protection for patents and trade secrets exceeds past trade agreements.

The agreement establishes a secure, predictable legal framework for U.S. investors, sets ground-breaking anti-corruption rules in government contracting, and guarantees U.S. firms transparent procurement procedures to sell goods and services to Chilean government entities.

With respect to labor and the environment, both parties commit to effectively enforce their domestic labor and environment laws. An innovative enforcement mechanism includes monetary assessments to enforce commercial, labor and environmental obligations of the trade agreement. In addition, it establishes a framework for cooperative environmental projects and promotes internationally recognized labor standards.

2. Singapore

The United States and Singapore completed the negotiations of an FTA in early 2003. The U.S.-Singapore FTA is the first comprehensive U.S. FTA with any Asian nation. Singapore is our 11th largest trading partner, with two-way trade of goods and services exceeding $38 billion. The provisions of the U.S.-Singapore FTA build on the WTO and NAFTA and make important advances in many key areas. Most tariffs will be eliminated immediately upon entry into force of the Agreement, with the remaining tariffs phased-out over a 3-10 year period.

The FTA chapters cover goods, rules of origin, customs administration, technical barriers to trade, services, telecommunications, financial services, temporary entry, competition policy, government procurement, investment, intellectual property, electronic commerce, customs cooperation, transparency, labor and environment, and dispute settlement.

The FTA will provide strong disciplines in the most competitive U.S. sectors. U.S. firms will enjoy barrier-free market access, a transparent regulatory environment and non-discriminatory treatment across a wide range of services, including: financial services (banking, insurance, securities and related services), computer and related services, direct selling, telecommunications services, audiovisual services, construction and engineering, tourism, advertising, express delivery, professional services (architects, engineers, accountants, etc.), distribution services (such as wholesaling, retailing and franchising), adult education and training services, environmental services, and energy services.

The FTA has other important features. For example, this FTA will provide: a secure, legal environment for U.S. investors operating in Singapore; explicit guarantees for electronic commerce and digital products; enhanced, state-of-the art protection for intellectual property; specific commitments regarding the conduct of Singapore's government enterprises; reinforced commitments to strong and transparent disciplines on government procurement procedures; strong, simple and transparent rules of origin; firm

commitments to combat illegal transhipments of all traded goods and to prevent circumvention for textiles and apparel; mobility for highly-trained personnel; and requirements to ensure effective enforcement of domestic labor and environmental laws. An innovative enforcement mechanism includes monetary assessments to enforce commercial, labor and environmental obligations of the trade agreement.
The FTA with Singapore will foster economic growth and create higher paying jobs in the United States by reducing and eliminating barriers to trade and investment. The agreement will not only improve market opportunities for U.S. goods and services exports, but it may also serve as a model for the Asia-Pacific region, encouraging trade liberalization, regulatory reform and transparency, including under the Enterprise for ASEAN Initiative (EAI), which President Bush announced at the Summit of Leaders' of the Asia-Pacific Economic Cooperation forum in October 2002. The FTA will offer important benefits to U.S. workers, ranchers, farmers, and businesses while reinforcing important American values in the region.

These negotiations, in recognition of Singapore's importance as a trading partner and strategic role in the Asia Pacific region began in December 2000. The negotiations on the U.S.-Singapore FTA have been conducted in a transparent manner to ensure that businesses, labor organizations, non-governmental organizations, state and local governments, and the public are kept informed and have ample opportunity to provide input on the negotiations. The Administration has briefed Congress on the status of negotiations through periodic meetings with the House Committee on Ways and Means and the Senate Committee on Finance, as well as other committees with interests in the negotiations and individual Members' staffs.

B. The Americas

1. Canada

Canada is the largest trading partner of the United States with over $1 billion of two-way trade crossing our border daily. At the same time, the United States and Canada share one of the world's largest bilateral direct investment relationships. In 2001, the stock of U.S. foreign direct investment in Canada was $139 billion, an increase of 7.9 percent from 2000. In 2001, the stock of Canadian direct foreign investment in the United States was $108.68 billion, a decrease of 5.2 percent.[22]

a. Softwood Lumber

The 1996 U.S.-Canada Softwood Lumber Agreement expired on March 31, 2001. The bilateral agreement was put in place to mitigate the effects of subsidies in several Canadian provinces. Upon expiration of the 1996 Agreement, the U.S. lumber industry filed antidumping and countervailing duty petitions regarding Canadian softwood lumber. Preliminary investigations found both dumping and subsidies, and led to the imposition of preliminary duties. On March 22, 2002, the U.S. Department of Commerce announced its final, company-specific antidumping duties and a countrywide (except for the Maritime provinces) countervailing duty determination. On April 26, 2002, the Commerce Department announced amended final antidumping rates ranging from 2.18 percent to 12.44 percent and an amended final countervailing duty rate of 18.79 percent.

Canada is challenging the underlying Commerce Department and ITC investigations in the WTO and NAFTA. On November 1, 2002 the WTO Dispute Settlement Body officially adopted a panel report which addressed the Canadian challenge of the Commerce Department's preliminary countervailing duty

[22] 2002 estimates are annualized based on 11 months data.

determination. The report is a victory for the U.S. on two key issues in the ongoing dispute: Canadian provinces' sale of timber from public lands can constitute a subsidy under the WTO Subsidies Agreement; and U.S. laws governing reviews of countervailing duty orders are consistent with the WTO Subsidies Agreement.

Negotiations to find a durable solution as an alternative to litigation broke off in March 2002. The United States remains prepared to offer Canadian lumber producers the market access they seek in exchange for Canadian provinces implementing market-based pricing for sales of timber from public lands. However, the provinces have not offered sufficient commitments to ensure that competitive timber markets would operate in Canada. The Department of Commerce has indicated its willingness to consider petitions from individual provinces for a review of provincial market reforms, with the potential for province-specific revocation of the countervailing duty order. In the absence of an agreement on basic reforms, the United States will effectively enforce U.S. trade laws to address the U.S. industry's concerns about subsidies to, and dumping of, Canadian softwood lumber.

b. Agriculture

Canada is the United States' second largest market for food and agricultural exports. For fiscal year 2002 (October 2001 - September 2002), U.S. agricultural exports to Canada grew by 7.4 percent to $8.6 billion. As a result of the 1998 U.S.-Canada Record of Understanding on Agricultural Matters (ROU), the U.S.-Canada Consultative Committee (CCA) and the Province/State Advisory Group (PSAG) were formed to provide fora to strengthen bilateral agricultural trade relations and to facilitate discussion and cooperation on matters related to agriculture. In 2002, the CCA and PSAG met twice on issues covering livestock, processed food, plant, seed, and horticultural trade, as well as pesticide and animal drug regulations.

The U.S. Government continues to have concerns about the marketing practices of the Canadian Wheat Board. On October 23, 2000, USTR initiated a Section 301 investigation of certain trade practices of the Canadian Wheat Board, in response to a petition filed by the North Dakota Wheat Commission. At the request of USTR, the ITC conducted an investigation on Canadian wheat marketing practices, and released its report in December 2001. On February 15, 2002, USTR announced a positive determination in the 301 investigation that the Government of Canada provides special monopoly rights and privileges that disadvantage U.S. wheat farmers and undermine the integrity of the trading system.

USTR announced a four prong approach to level the playing field for American farmers and began implementation in 2002. First, on December 17, 2002, USTR announced that it would pursue dispute settlement proceedings against the Canadian Wheat Board and the Government of Canada in the WTO. Second, USTR identified specific impediments to U.S. wheat entering Canada. Those findings are a part of the U.S. WTO dispute settlement case. Third, the United States is seeking reforms to state trading enterprises (STE) as part of the WTO agricultural negotiations. The U.S. proposal calls for the end of exclusive STE export rights to ensure private sector competition in markets controlled by single desk exporters; the establishment of WTO requirements to notify acquisition costs, export pricing, and other sales information for single desk exporters; and the elimination of the use of government funds or guarantees to support or ensure the financial viability of single desk exporters. Fourth, the Administration is conducting countervailing and antidumping investigations in response to petitions filed by the North Dakota Wheat Commission.

In April 1999, the United States and New Zealand successfully challenged Canada's subsidized dairy industry under WTO dispute settlement procedures. A WTO panel found that the Canadian government, through its government-managed provincial marketing boards, was subsidizing the price of exported milk

through a two-tiered pricing system. In light of this finding, the Panel also concluded that Canada had violated its export subsidy reduction commitments by exporting a higher volume of subsidized dairy products than permitted by Canada's obligations under the WTO Agreement on Agriculture. The Panel also found that Canada had improperly imposed a limit on the value of milk that could be imported in any single entry under the relevant tariff-rate quota. This finding was sustained by an appeal panel in October 1999.

Under a negotiated implementation agreement, Canada committed to bring its export regime into compliance with its WTO export subsidy commitments on butter, skimmed milk powder and an array of other dairy products by January 31, 2001. Although Canada eliminated one export subsidy program in this process, new programs were substituted in nine provinces. Because the United States was concerned that the new measures appear to duplicate most of the elements of the export subsidies which they replaced, the United States requested a panel be reconvened to review Canada's compliance. In July 2001, the compliance review panel agreed with the United States that Canada was not in compliance. However, Canada appealed the July report. On December 3, 2001, the Appellate Body determined that there was insufficient information to make a ruling. The United States and New Zealand then requested another WTO panel to review the additional information requested by the Appellate Body. In July 2002, the panel concluded that Canada was continuing to provide illegal export subsidies to Canadian dairy processors with the discounted milk. Canada appealed that decision, and in December 2002, the Appellate Body affirmed that panel's findings. The WTO's Dispute Settlement Body formally adopted the Appellate Body's report on January 17, 2003. There is no further appeal.

c. Intellectual Property Rights

Canada made some progress in improving its IPR regime over the past year, including amending its patent law to provide at least a 20-year term of protection for patents filed before October 1, 1989. However, some problems remain unresolved. For example, Canada does not provide adequate data protection in the pharmaceutical area, and systematic inadequacies in Canadian administrative and judicial procedures allow early and often infringing entry of generic versions of patented medicines into the marketplace. Moreover, progress has stalled on resolving the outstanding issue of national treatment for U.S. artists in the distribution of proceeds from Canada's private copying levy and its "neighboring rights" regime. The United States is also concerned about Canada's lax, and potentially deteriorating, border measures that appear to be non-compliant with TRIPS requirements.

2. Mexico

Mexico is our second largest single-country trading partner and has been among the fastest growing major export markets for goods since 1993, with U.S. exports up an estimated 134 percent through 2002.[23] The NAFTA, now commencing its tenth year, has fostered this enormous relationship with its unprecedented, comprehensive market opening rules. It is also creating a more equitable set of trade rules as Mexico's higher trade barriers are being reduced or eliminated.

a. Intellectual Property Rights

Piracy and counterfeiting of U.S. intellectual property in Mexico continue to raise serious concerns. Over the past year, enforcement against piracy has declined dramatically, resulting in even greater losses for

[23] 2002 estimates are annualized based on 11 months data.

U.S. copyright industries and the closure of legitimate copyright industry-related businesses in Mexico. Despite significant efforts to raid pirate production facilities, only a small percentage of arrests have resulted in court decisions and deterrent penalties. The United States is concerned about the lack of coordination between health and intellectual property agencies in Mexico. The Ministry of Health has granted health registration to generic products even where a patent exists for these products. Both the U.S. pharmaceutical and agrochemical industries also have expressed concern regarding the confidentiality of data submitted in conjunction with applications for marketing approval.

b. Agriculture

North American agricultural trade has grown significantly since the NAFTA was implemented. Mexico is currently the United States' third largest agricultural export market. For fiscal year 2002, U.S. agricultural exports to Mexico fell by 2.6 percent, to $7.1 billion.

Current trade irritants include Mexico's limits on the importation and domestic consumption of high fructose corn syrup (HFCS). In 1997, Mexico initiated an antidumping investigation and in 1998 imposed antidumping duties. The United States challenged Mexico's determination in the WTO. The panel ruled in favor of the United States in January 2000. Mexico did not appeal. In September 2000, Mexico issued a new determination that purported to comply with the original panel decision. The United States challenged the new determination and in June 2001 the panel ruled in favor of the United States. Mexico appealed the panel's decision. The Appellate Body rejected Mexico's appeal on October 22 and on November 21, 2001, the WTO adopted the Appellate Body's report.

On December 31, 2001, the Mexican Congress imposed a tax on soft drinks produced using HFCS. Although temporarily suspended by the Fox Administration, the tax was reimposed in 2002, and remains in place. The tax effectively eliminated the use of HFCS in the Mexican beverage industry, and will reduce sales of HFCS by U.S. firms, lower U.S. corn exports used to produce HFCS, and threaten U.S. beverage exports. USTR continues to work to achieve a long term solution.

The Administration has worked to address problems associated with Mexico's antidumping regime. The United States is concerned about the procedures applied in the investigation of U.S. exports of beef, rice, and apples. In addition, despite repeated assurances, the Mexican government has not published a redetermination of the antidumping order on U.S. exports of live swine. Until these regulations are published, U.S. exports continue to be subject unnecessarily to antidumping duties. In December 2002, the Mexican Congress amended certain provisions of the Foreign Trade Law that apply to the conduct of antidumping investigations. The United States is analyzing these changes to ensure consistency with Mexico's international obligations.

In April 2002, USTR and the U.S. Department of Agriculture entered into a Memorandum of Understanding on Agricultural Trade with Mexico to strengthen cooperation on agricultural trade, including sanitary and phytosanitary measures. The MOU established a Consultative Committee on Agriculture, which held its inaugural meeting in October 2002, and discussed a range of issues covering livestock, grains and horticulture.

On January 7, 2003, Mexico initiated an antidumping investigation on U.S. pork. The United States has raised its concerns regarding the initiation, which appears to be inconsistent with the requirements of the WTO Antidumping Agreement.

c. Telecommunications

Market barriers in Mexico's telecommunications sector remain a serious source of concern. In particular, through a series of rules and other measures, Mexico does not permit effective competition and otherwise discriminates against U.S. suppliers of basic telecommunications services. As a result, wholesale telecommunications rates for U.S.-Mexico calls are still roughly four times their cost. These high rates cost U.S. companies and consumers about $600 million in excess payments each year.

The United States initially requested WTO consultations with Mexico on telecommunications issues in August 2000, and first requested the establishment of a WTO panel in November 2000. At that time, Mexico took steps to address several important barriers to telecommunications trade. However, relevant Mexican agencies have not yet addressed trade barriers affecting international telecommunications services. A WTO panel was formed in April 2002 to address this issue. A further discussion of this case is contained in Chapter II.

3. Brazil and Southern Cone

a. Mercosur (Argentina, Brazil, Paraguay and Uruguay)

The Common Market of the South, referred to as "Mercosur", from its Spanish abbreviation, is the largest preferential trade agreement in Latin America. It consists of Brazil, Argentina, Uruguay and Paraguay and represents over half of Latin America's gross domestic product. Chile and Bolivia are Associate Members of the group. Mercosur was established in 1991, with the goal of creating a common market. Implementation of the Mercosur customs union commenced January 1, 1995, with the establishment of a common external tariff (CET), covering some 85 percent of intra-Mercosur trade. Convergence of tariffs on remaining items is slated for completion by January 1, 2006.

Four Plus One: In September 2001, the United States and the four Mercosur countries resumed meeting under the auspices of the 1991 Rose Garden Agreement. This agreement created a framework, known as the Four Plus One, for the United States and the Mercosur countries to discuss means to deepen their trade relationship. At the September ministerial meeting, the Four Plus One agreed on a work plan and a series of meetings to discuss coordination in multilateral fora, such as the FTAA and the WTO, and bilateral trade and investment issues of mutual interest. The Four Plus One met in Buenos Aires, Argentina in April 2002 and continued its work plan with respect to the multilateral agenda and on-going work on sanitary and phytosanitary issues and technical barriers to trade.

b. Argentina

U.S. exports to Argentina were $1.5 billion in 2002, down 61 percent from 2001. Overall bilateral trade was $4.6 billion, and the U.S. surplus of $0.9 billion in 2001 shifted into deficit of $1.6 billion in 2002.[24] A key factor in the Argentine economy is its trade with Brazil, Argentina's number one trading partner.

During 2002, the trade agenda with Argentina was affected by the on-going financial crisis and the devaluation of the currency. With the conclusion of an agreement regarding the WTO patent issue (see below) the United States Trade Representative sent a team to Argentina to explain the possibilities of utilizing Generalized System of Preferences (GSP) to the Argentine private sector. On August 6, President

[24] 2002 estimates are annualized based on 11 months' data.

Bush signed a proclamation granting Argentina's request for GSP redesignation and *de minimis* waivers for 57 tariff line items. USTR is in the process of conducting an expedited review for Argentina's 2001 GSP petitions.

Intellectual Property Rights (IPR): Argentina's intellectual property rights regime does not yet appear to meet TRIPS standards and fails to fulfill long-standing commitments to the United States. Failure to provide adequate protection for copyright and patents has led to Argentina's placement on the Special 301 Priority Watch List through 2002. In 1997, the United States withdrew 50 percent of Argentina's benefits under the GSP over this same issue, and benefits will not be restored unless the concerns of the United States are addressed adequately. In May of 1999, the United States initiated a WTO case against Argentina because of its failure to protect patents and test data. The United States added additional claims to this case in May of 2000, due to the fact that the TRIPS Agreement became fully applicable for Argentina in the year 2000. The United States engaged in a series of consultations with Argentina in Geneva throughout 2001, however, the problem remained unresolved. The establishment of the U.S.-Argentina Bilateral Council on Trade and Investment (BCTI) gave the two countries a vehicle to address various bilateral trade issues.

As a result of the April 24, 2002 meeting of the BCTI, the U.S. and Argentina finalized the elements of a joint notification to the World Trade Organization (WTO) regarding the dispute on intellectual property matters. In the joint notification, Argentina clarified how certain aspects of its intellectual property system, such as those related to its import restriction regime, operate so as to conform with the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights. In addition, Argentina agreed to amend its patent law to provide protection for products obtained from a process patent and to ensure that preliminary injunctions are available in intellectual property court proceedings, among other amendments. Finally, on the remaining issues, including that of data protection, the United States retains its right to seek resolution under the WTO dispute settlement mechanism. Argentina and the United States notified a settlement of these issues to the WTO on May 31, 2002. Consultations continue on the unresolved issues.

The United States is committed to giving full consideration to Argentine requests to expand market access for Argentine products under the preferences of the U.S. GSP.

c. Brazil

The United States exported goods valued at an estimated $12.4 billion to Brazil in 2002. Brazil's market accounts for 24 percent of U.S. annual exports to Latin America and the Caribbean excluding Mexico, and 72 percent of U.S. goods exports to Mercosur.[25]

Intellectual Property Rights (IPR): In 1997, Brazil enacted laws providing protection for computer software, copyrights, patents and trademarks. The United States has identified certain problems with parts of this legislation, including a local working requirement and extensive exceptions in the patent law to a prohibition on parallel imports. U.S. industry has also voiced concerns about the high levels of piracy and counterfeiting in Brazil and the lack of effective enforcement of copyright (especially for sound recordings and video cassettes) and trademark legislation. In 2001, the International Intellectual Property Association (IIPA) filed a petition to remove Brazil's GSP benefits due to its failure to offer adequate protection to copyrighted materials, in particular sound recordings. The petition remains under review.

[25]2002 estimates are annualized based on 11 months' data.

On April 30, 2000, the United States requested that the WTO establish a dispute resolution panel to review a narrow part of Brazil's patent law referred to as a local manufacturing requirement. Article 68(1)(I) of the law provides that if a patented product is not being manufactured in Brazil within three years of the issuance of the patent, the government may compel the patent owner to license a competitor. However, Article 27.1 of the TRIPS Agreement provides that patents may be used without discrimination as to " . . . whether the products are imported or locally produced." The United States continues to question the consistency of this provision under the obligations of the TRIPS Agreement, which prohibits such conditions.

In June 2001 the United States and Brazil agreed to transfer their WTO disagreement over Brazil's patent law from formal WTO litigation to a newly created bilateral consultative mechanism. Under the terms of the agreement, Brazil will provide advance notice to the U.S. Government before utilizing Article 68 (1)(I). If Brazil seeks to activate this provision there will be an adequate opportunity for consultations in the bilateral Consultative Mechanism. This will provide an early warning system to protect U.S. interests. The United States reserved all its rights in the WTO with respect to this matter.

Autos: In March 1998, USTR signed an agreement with the Government of Brazil to terminate its TRIMS-inconsistent auto regime, enacted in December 1995. The regime had offered auto manufacturers reduced duties on imports of assembled cars and auto parts and other benefits if they exported sufficient quantities of parts and vehicles and promised to meet local content targets in their Brazilian plants. The Brazilian government committed to eliminate the trade and investment distorting measures in its auto regime and not to extend the measures to its Mercosur partners when their auto regimes were unified in 2000. Argentina and Brazil recently reached agreement on a new regime, which remains TRIMS-inconsistent. Argentina requested a WTO TRIMS extension, which was granted.

d. Paraguay

With a population of just over five million, Paraguay is one of the smaller markets in Latin America. In 2002, the United States exported an estimated $444 million worth of goods to Paraguay.[26] However, Paraguay is a major exporter of, and a transshipment point for, pirated and counterfeit products in the region, particularly to Brazil.

Intellectual Property Rights (IPR): In January 1998, the USTR identified Paraguay as a "Priority Foreign Country" (PFC) under the "Special 301" provisions of the Trade Act of 1974. In identifying Paraguay as a PFC, the USTR noted deficiencies in Paraguay's intellectual property regime, especially a lack of effective action to enforce IPR. As required under the Trade Act of 1974 as amended, the USTR initiated an investigation of Paraguay in February 1998.

During negotiations under Special 301, the Government of Paraguay indicated that it had undertaken a number of actions to improve IPR protection, such as passing new copyright and trademark laws and undertaking efforts to improve enforcement. In November 1998, in light of commitments made by the Government of Paraguay in a bilateral Memorandum of Understanding (MOU), USTR concluded its Special 301 investigation. The Government of Paraguay committed to take a number of near-term and long-term actions to address the practices that were the targets of the investigation, including implementing institutional reforms to strengthen enforcement and taking immediate action against known centers of piracy and counterfeiting. The U.S. Government is currently monitoring Paraguay's

[26] 2002 estimates are annualized based on 11 months' data.

implementation of the MOU. The two governments have agreed to review the MOU with a view toward revising and extending it in 2003.

e. Uruguay

With the smallest population of Mercosur (just over three million people), Uruguay nonetheless imported an estimated $203 million of goods from the United States in 2002.[27] Areas of recent consultation have included coordinating U.S efforts in multilateral fora such as the FTAA and WTO and the importance of Uruguay's apparent failure to bring its intellectual property regime into line with TRIPS standards by January 1, 2000. In April 2001, the two countries established the U.S.-Uruguay Joint Commission on Trade and Investment in order to explore means to deepen the trade and investment relationship between the two countries. This group completed a comprehensive work program in 2002.

f. Chile

U.S.-Chile bilateral trade relations in 2002 were dominated by the negotiation of an FTA as discussed at the beginning of this Chapter.

4. The Andean Community

The U.S. trade deficit with the Andean region increased from $12.6 billion in 2001 to an estimated $13 billion in 2002. U.S. goods exports to the region were an estimated $11.5 billion in 2002, a decrease of 7 percent from 2001. U.S. goods imports were $24.6 billion in 2002, a decrease of 2 percent from 2001.[28]

The Andean Community originated as the Andean Pact in 1969, with Bolivia, Colombia, Ecuador, Peru and Venezuela as members. However, it was only in the 1990s that the Andean Pact's commitment to form a customs union gained momentum, with the reduction and elimination of most duties among the members and an increasingly common external tariff. In 1997 the Andean Community became operational. Among its features are strengthened institutions, such as a Council of Presidents and a Council of Foreign Ministers, meetings of Trade Ministers, and the creation of a General Secretariat of the Andean Community mandated to act as the group's executive body.

a. Andean Trade Preference Act

On August 6, 2002, President Bush signed into law the Andean Trade Promotion and Drug Eradication Act (ATPDEA). In doing so he fulfilled an Administration goal to renew and expand the product coverage of the Andean Trade Preference Act (ATPA), which had expired on December 4, 2001. The ATPA was originally enacted in 1991 in order to provide incentives to Bolivia, Colombia, Ecuador and Peru to diversify their economies away from narcotics production. As virtually all cocaine sold in the United States originates in these countries, the program functions as a U.S. trade policy tool that contributes to our fight against drug production and trafficking. It has strengthened the legitimate economies in these Andean countries and created viable alternatives to the profitable drug trade.

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[27] 2002 estimates are annualized based on 11 months' data.

[28] 2002 estimates are annualized based on 11 months' data.

The original ATPA provided beneficiary countries duty-free treatment for most of their exports to the United States, except for textiles, apparel, footwear, leather, tuna in airtight containers, and certain other items. The ATPDEA restored all of the benefits of the original program, providing for retroactive reimbursement of duties paid during the period since the program's lapse in December 2001. It also expanded the list of items eligible for duty-free treatment to about 700 more products.

The most significant expansion of benefits in the ATPA as amended by the ATPDEA is in the apparel sector. Apparel assembled in the region from U.S. fabric or fabric components or components knit-to-shape in the United States may enter the United States duty-free in unlimited quantities. Apparel assembled from Andean regional fabric or components knit-to-shape in the region may enter duty-free subject to a cap. The cap is set at two percent of total U.S. apparel imports, increasing annually in equal increments to five percent. These countries currently account for only about one percent of U.S. apparel imports. New products benefitting from the program include: tuna in pouches, leather products, footwear, petroleum and petroleum products, and watches and watch parts.

b. ATPDEA Eligibility

The ATPDEA established a number of criteria which countries must meet in order to be designated as eligible for the expanded benefits of the ATPA. The new criteria relate to issues such as intellectual property rights, worker rights, government procurement procedures, and cooperation on countering narcotics and combating terrorism. After analyzing with other U.S. Government agencies the responses to a USTR request for public comment on the matter, USTR raised with the four countries a number of commercial matters, investment disputes and worker rights issues related to the eligibility criteria. In response, the four governments took several measures and provided written commitments for future actions to address U.S. Government concerns. For instance, Colombia issued a decree on the protection of data; Bolivia ratified its WTO financial services commitments; Ecuador committed to establish a high-level commission to investigate the treatment of banana plantation workers; and Peru committed to issue a decree requiring that software used by government agencies be legally acquired. On the basis of these and other measures and commitments, the President on October 31, 2002 signed the proclamation designating the four countries as full beneficiaries of the ATPA, as amended. The U.S. Government will continue to monitor the performance of the beneficiary countries with respect to the program's eligibility criteria.

5. Central America and the Caribbean

a. U.S.-Central America Free Trade Agreement (CAFTA) Negotiations

On January 8, 2003, the United States Trade Representative and Ministers from Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua announced the launch of negotiations on an agreement to eliminate tariffs and other barriers to trade in goods, agriculture, services, and investment between the United States and those Central American nations. Negotiations on the U.S.-Central American Free Trade Agreement, or CAFTA, began in San José, Costa Rica, on January 27. The participants will seek to complete the negotiations by December 2003.

The United States and Central America enjoy an increasingly productive trade partnership. U.S. exports to the region have grown 54 percent since 1996 and totaled an estimated $9.8 billion in 2002. Imports totaled $11.7 billion.[29]

[29] 2002 estimates are annualized based on 11 months' data.

On January 16, 2002, President Bush announced his intention to explore an FTA with Central American nations. Throughout 2002, USTR held a series of preparatory "trade workshops" with Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua to discuss topics that are covered in a free trade agreement such as: market access; investment and services; government procurement and intellectual property rights; labor and environment; and institutional issues including dispute settlement. The President formally notified Congress of his intention to begin free trade negotiations on October 1, 2002, following passage of Trade Promotion Authority. USTR held public hearings on November 19, 2002, at which oral testimony from more than 20 witnesses was heard and more than 40 additional written submissions were received.

b. Central America

The United States is Central America's principal trading partner. The Central American Common Market (CACM) consists of Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua, and provides duty-free trade for most products traded among the five countries. Panama, which has observer status, and Belize participate in CACM summits but not in regional trade integration efforts. The Central American countries continued during 2002 to pursue a range of bilateral and regional trade agreements. Negotiations between Canada and El Salvador, Guatemala, Honduras and Nicaragua made substantial progress in 2002. Negotiations for a Panama-CACM free trade agreement have resulted in agreement on common disciplines; negotiations of related market access provisions continued throughout 2002.

All of the countries are active participants in the FTAA negotiations. From May 2001 until October 2002, Guatemala chaired the Negotiating Group on Agriculture, Costa Rica chaired the Negotiating Group on Government Procurement, and Nicaragua served as Vice-Chair of the Consultative Group on Smaller Economies. Beginning November 1, 2002, Costa Rica will continue as the chair of the Government Procurement group and Panama will assume the chairmanship of the FTAA Investment group. At the Quito Ministerial meeting on November 1, 2002, El Salvador offered to host a meeting of the FTAA Trade Negotiating Committee in 2003.

The United States continues to meet with Panama under our existing Trade and Investment Council (TIC) mechanism. In 2002, the countries met twice and maintain a ongoing work program that includes investment issues.

c. Caribbean Basin Initiative

The trade programs collectively known as the Caribbean Basin Initiative (CBI) remain a vital element in the United States' economic relations with its neighbors in Central America and the Caribbean. CBI was initially launched in 1983 through the Caribbean Basin Economic Recovery Act (CBERA), and was substantially expanded in 2000 through the U.S.-Caribbean Basin Trade Partnership Act (CBTPA).

The Trade Act of 2002 increased the type and quantity of textile and apparel articles eligible for the preferential tariff treatment accorded to designated beneficiary CBTPA countries. Among other actions, the Trade Act of 2002 extended duty-free treatment for clothing made in beneficiary countries from both U.S. and regional inputs, and increased the quantity of clothing made from regional inputs that regional producers can ship duty-free to the United States annually. The Administration will continue to work with Congress, the private sector, CBI beneficiary countries, and other interested parties to ensure a faithful and effective implementation of this important expansion of trade benefits.
Since its inception, the CBERA program has helped beneficiaries diversify their exports. On a region-wide basis, this export diversification has led to a more balanced production and export base and has resulted in a reduction in the region's vulnerability to fluctuations in markets for traditional products.

Since 1983, the year prior to the implementation of the CBI, total CBI country non-petroleum exports to the United States have more than tripled. Light manufactures, principally printed circuit assemblies and apparel, but also medical instruments and chemicals, account for an increasing share of U.S. imports from the region and constitute the fastest growing sectors for new investment in CBERA countries and territories.

Apparel constitutes one of the fastest growing categories of imports from the CBI countries and territories – growing from just 5.5 percent of total U.S. imports from the region in 1984, to nearly 46 percent in 2001, valued at over US$9.5 billion. Apparel has ranked as the leading category of U.S. imports from the region since 1988.

CBI currently provides 24 beneficiary countries and territories with duty-free access to the U.S. market. They are: Antigua and Barbuda, Aruba, The Bahamas, Barbados, Belize, British Virgin Islands, Costa Rica, Dominica, Dominican Republic, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Montserrat, Netherlands Antilles, Nicaragua, Panama, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, and Trinidad and Tobago.

d. The Caribbean

The Dominican Republic: The Dominican Republic continues to lead all countries in taking advantage of CBI, as they have done in virtually every year since the program became effective, accounting for 28 percent of U.S. imports under CBI provisions. The Dominican Republic does not belong to any regional trade association, but has negotiated trade agreements with its partners in Central America and CARICOM.

The Dominican Republic is the United States' largest single trading partner in the CBI region. Reflecting the importance of this trade relationship, the United States and the Dominican Republic revitalized the Trade and Investment Council (TIC) mechanism and held productive meetings under the TIC during 2002, covering both bilateral issues and cooperation in the FTAA and WTO negotiations. On November 1, 2002, the Dominican Republic assumed the chairmanship of the FTAA Intellectual Property Rights group.

The United States has expressed ongoing concerns about the Dominican Republic's Industrial Property Law and its implementing regulations, which are now currently under review within the Dominican Republic. The United States has also raised concerns regarding the discriminatory effects of the Dominican Republic's Dealer Protection Law 173 and has sought improvements in government procurement practices and resolution of outstanding investment disputes.

CARICOM: Members of the Caribbean Community and Common Market (CARICOM) are: Antigua and Barbuda, The Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, and Trinidad and Tobago. In theory, CARICOM is a customs union rather than a common market. However, progress towards a customs union remains limited.

CARICOM countries are active in the FTAA negotiations, which provide opportunity for frequent bilateral dialogue between U.S. and Caribbean officials. In addition, the United States Trade Representative met with CARICOM trade ministers in Trinidad in September, 2002 to discuss ways to further enhance our trade relations both bilaterally and in multilateral trade negotiations.

C. Western Europe

Overview

The U.S. economic relationship (measured as trade plus investment) with Western Europe is the largest and most complex in the world. Due to the size and nature of the transatlantic economic relationship, serious trade issues inevitably arise. Sometimes small in dollar terms, especially compared with the overall value of transatlantic commerce, these issues can take on significance for their precedential impact on U.S. trade policies.

From its origins in the 1950s, the European Union has grown from six to fifteen Member States, with Austria, Finland, and Sweden becoming the newest EU members states on January 1, 1995. These fifteen countries together comprise a market of some 370 million consumers with a total gross domestic product of more than $8 trillion. U.S. goods exports to the EU totaled an estimated $143.5 billion in 2002. Since 1994, U.S. goods exports to the EU have increased 33 percent.[30]

The other major trade group within Western Europe is the European Free Trade Association (EFTA), which includes Switzerland, Norway, Iceland, and Liechtenstein – Austria, Finland, and Sweden had also been members prior to their accession to the EU in 1995. Formed in 1960, EFTA provides for the elimination of tariffs on manufactured goods and selected agricultural products that originate in, and are traded among, the member countries.

Norway, Iceland, and Liechtenstein have structured their economic relations with the EU through the Agreement on the European Economic Area (EEA), which permits the three countries to participate in the EU Single Market – Switzerland rejected the EEA in a referendum at the end of 1992. In practice, the EEA involves the adoption by non-EU signatories of approximately 70 percent of EU legislation.

2002 Activities

1. European Union

In 2002, the EU continued on its path of deepening the economic and political integration of its Member States. The pace of additional Western European integration efforts over the next few years is being set first by the experience of implementing the Economic and Monetary Union (EMU) established by the EU's Maastricht Treaty, which went into force on November 1, 1993, and amendments to Maastricht contained in the 1997 Amsterdam and 2000 Nice Treaties. Under the Maastricht Treaty schedule, eleven Member States, on January 1, 2002, replaced their national currency notes and coins in circulation with the new "euro."

The second major factor affecting the pace of European integration will be the process of enlarging the EU to include new members to the East and South. The EU has signed association agreements and other types of free trade arrangements with many of its neighbors, including the Czech Republic, Slovakia, Hungary, Poland, Bulgaria, Romania, Latvia, Lithuania, Estonia, Albania, Slovenia, Israel, Algeria, Morocco, and Tunisia. The EU has also negotiated a customs union with Turkey. In December 2002, at the EU Summit in Copenhagen, the EU formally decided to finalize EU accession agreements with ten new members - Cyprus, Malta, Poland, Czech Republic, Slovakia, Hungary, Slovenia, Estonia, Latvia and Lithuania.

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[30] 2002 estimates are annualized based on 11 months data.

Signature of the accession agreements for these countries is expected in early 2003, to be followed by ratification procedures in each country involved, with the aim of formal accession to the EU of the new members by early 2004. The EU has also committed to enter into accession negotiations with Romania and Bulgaria (Turkey remains an accession candidate, with no EU commitment to commence formal negotiations). Important EU institutional questions associated with enlargement still need to be resolved as the enlargement process proceeds.

In 2002, USTR continued to devote considerable resources to addressing pressing or potential trade problems with the EU and its individual Member States, as well as to efforts to enhance the transatlantic economic relationship. In May 2002, U.S. and EU leaders at the U.S.-EU Summit announced their intention to pursue as a priority a Positive Economic Agenda, aimed at increasing U.S.-EU cooperation in a number of areas (See below). In addition, both sides worked to resolve or manage a number of ongoing trade disputes.

a. Geographical Indications

The EU's system for the protection of geographical indications, namely Council Regulations 1493/99 for wines and spirits and 2081/92 for other agricultural products, is not available to other WTO Members on a national treatment basis. All non-EU WTO members are required instead to negotiate a specific bilateral agreement with the EU in order to achieve equivalent protection. Under the terms of the WTO TRIPS Agreement, the EU is obligated to make such special protection available to all WTO Members, without the requirement for concluding special agreements. In addition, both EU regulations appear to deprive non-EU trademark owners of TRIPS-level ownership rights by requiring the phase-out of marks that conflict with later-in-time geographical indications. U.S. industry has been vocal in raising concerns about the impact of these EU regulations on U.S.-owned trademarks.

For these reasons, in 1999 the United States initiated formal WTO consultations with the EU on Regulation 2081/92. A number of subsequent bilateral discussions have taken place; however, to date the EU has not amended Regulation 2081/92 to address any of the United States' concerns.

b. Agricultural Biotechnology

The EU's four and a half year moratorium on the approval of new products of modern biotechnology continues to hinder U.S. exports of corn, and threatens exports of soya. Restarting the EU approvals process remains a high priority for the United States in order to restore these exports. The U.S. Government continues to raise its concerns regarding the failure of the EU to have a functioning approval process.

Despite implementation of EU Directive 01/18 in October 2002 (which governs the approval of biotechnology products, including seeds and grains, for environmental release and commercialization), EU Member States continue to refuse lifting the approvals moratorium. Member States insist that EU proposals for new rules governing traceability and labeling and biotechnology food and feed authorizations must first enter into force. The proposals include mandatory traceability and labeling requirements for all biotechnology products that would be onerous and expensive for producers and foreign suppliers to meet. As of December 2002, the European Council had reached common positions on the proposed food and feed directive and the traceability and labeling directives. The proposed directives must still go through the Parliament before final adoption by the Council. If adopted, the proposals will not come into force for at least one year.

c. Positive Economic Agenda

U.S. and EU Leaders at the May 2002 U.S.-EU Summit in Washington agreed on a list of subject areas in which the United States and the EU intend to initiate, or give new impetus to existing, cooperative efforts. Labeled as the "Positive Economic Agenda," both sides have indicated their interest in using this list as a first step in an open-ended process of enhancing transatlantic cooperation, both for its own sake and as a means to put headline-grabbing trade disputes in their proper context. The agenda initially covers activities with respect to financial services, regulatory cooperation, electronic procurement and customs, regulation of organic foods, and sanitary and phytosanitary measures. Through 2002, officials on both sides worked to develop or advance transatlantic dialogues in all of these areas.

d. Transatlantic Economic Partnership

At the May 1998 U.S.-EU Summit in London, the President and EU Leaders announced the Transatlantic Economic Partnership (TEP) initiative, designed to deepen and systematize cooperation in the trade field. Under the TEP, the two sides identified a number of broad areas in which they committed to work together in order to increase trade, avoid disputes, address disagreements, remove barriers, and achieve mutual interests.

These areas include: technical barriers to trade, agriculture, intellectual property, government procurement, services, electronic commerce, environment and labor. In addition, the United States and the EU agreed to put an emphasis throughout the initiative on shared values, i.e., they agreed to more fully involve citizens and civil society on both sides of the Atlantic in trade policy so as to strengthen the consensus for open trade. Cooperation under the TEP occurs with respect to bilateral matters, as well as in the context of multilateral activities such as in the WTO. The TEP Action Plan, endorsed by Leaders at the December 1998 U.S.-EU Summit in Washington, lays out specific goals under each of the above categories. At the June 1999 U.S.-EU Summit, U.S. and EU leaders agreed to use TEP mechanisms to carry out part of a joint effort to identify – and hopefully defuse – potential trade problems at an early stage, before they become irritants to the bilateral economic relationship.

e. Public Dialogues

Important companions to the official exchanges between governments in the United States and the EU are the various private dialogues among European and American businesses, labor organizations, and environmental and consumer groups. The first of these to be established, the Transatlantic Business Dialogue (TABD), is a forum in which American and European business leaders can meet to discuss ways to reduce barriers to U.S.-European trade and investment. Other dialogues – such as the Transatlantic Consumer Dialogue (TACD) – stem from a similar premise, i.e., that corresponding organizations on both sides of the Atlantic should share views and, where possible, present joint recommendations to governments in both the United States and the EU on how to improve transatlantic relations and to elevate the debate among countries in multilateral fora. In 2002, a number of the dialogues forwarded recommendations related to trade policy issues to governments on both sides of the Atlantic.

f. Technical Regulations and Standards

As traditional trade barriers affecting transatlantic trade and investment have declined in recent years, specific trade obstacles arising from unnecessary divergences in U.S. and EU regulations and the lack of transparency in the EU rulemaking and standardization processes have loomed relatively larger in

importance. During 2002, the United States continued efforts to enhance U.S.-EU regulatory cooperation and reduce unnecessary technical barriers to transatlantic trade.

Under the auspices of the Transatlantic Economic Partnership (TEP) initiative, the United States Government and the European Commission in April 2002 concluded "Guidelines for Regulatory Cooperation and Transparency." The TEP Guidelines are voluntary principles intended to promote a more systematic dialogue between U.S. and European regulators early in the development of regulatory approaches. The Guidelines outline specific cooperative steps that U.S. and European regulators are encouraged to follow in bilateral dialogues, including early and regular consultations, extensive data and information exchanges, and sharing of contemplated regulatory approaches. The Guidelines also stress improved transparency and public participation as necessary elements to promote more effective regulatory cooperation, better quality regulation, and to help minimize possible regulatory-based trade disputes. Regulatory cooperation projects launched under the Guidelines in 2002 include such areas as cosmetics, auto safety, food additives, metrology, and nutritional labeling.

The United States and the EU also reached agreement in 2002 under TEP auspices on a new, precedent-setting mutual recognition agreement (MRA) on marine equipment, under which designated U.S. equipment which meets all U.S. requirements can be marketed in the EU without additional testing. This agreement is expected to enter into force during 2003. The United States also continues to pursue implementation of the 1998 U.S.-EU Mutual Recognition Agreement (MRA), which includes sectoral annexes on telecommunications equipment; electromagnetic compatibility (EMC) for electrical products; electrical safety for electrical and electronic products; good manufacturing practices (GMP) for pharmaceutical products; product evaluation for certain medical devices; and safety of recreational craft. The annexes on telecommunications equipment, EMC, and recreational craft are fully operational.

g. Foreign Sales Corporation Tax Rules

Potentially the most damaging of the trade disputes currently involving the United States and the EU is the EU's complaint to the WTO that the U.S. Foreign Sales Corporation (FSC) tax rules are an illegal export subsidy. The United States lost this case on February 24, 2000, repealed the FSC law, and enacted new legislation in November to correct the shortcomings identified in the dispute. On January 14, 2002, the WTO review of the new legislation was completed, resulting in a finding that the new legislation is also WTO-inconsistent. Subsequently, a WTO arbitration process determined that the EU was within its rights to retaliate against $4.043 billion of U.S. products if the United States fails to bring its law into conformity with the WTO ruling. Legislation was introduced in the U.S. House of Representatives in 2002 that would, *inter alia*, repeal the November 2000 law. The Administration will be working with the Congress in 2003 as Congress considers a legislative solution that would bring the United States into compliance with its WTO obligations in this area. (For more information on this dispute, see Chapter II).

h. Ban on Growth Promoting Hormones in Meat Production

The EU continues to ban the import of U.S. beef obtained from cattle treated with growth-promoting hormones. In 1996 the United States challenged the EU ban on imports of U.S. beef in the WTO. In June 1997, a WTO panel found in favor of the United States on the basis that the EU's ban was inconsistent with the EU's obligations under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) because the ban was not based on a scientific risk assessment. In January 1998, the WTO Appellate Body upheld the panel's finding that the EU's ban on imported meat from animals treated with certain growth-promoting hormones is inconsistent with obligations under the WTO SPS Agreement. In 1999, the WTO authorized U.S. trade retaliation because the EU failed to comply with

the WTO rulings by the May 13, 1999 deadline. Subsequent to receiving WTO authorization, in July 1999 the United States applied 100 percent duties on $116.8 million of U.S. imports from the EU. The duties remain in effect.

In December of 2002, the EU permanently banned the use of estradiol-17-ß, a growth promoting hormone widely used in the United States and which has been determined by the U.S. Food and Drug Administration (FDA) to pose no health risk to consumers. The EU also presented a number of studies that analyzed the use of hormones in beef production, though none of these studies presented any new evidence to support the EU's hormone ban.

The United States and the EU continue to explore possible ways to resolve this dispute.

i. Veterinary Equivalence - U.S. Poultry Exports to the EU

Though the 1999 U.S.-EU Veterinary Equivalence Agreement was designed to make trading in various livestock products, including poultry and poultry products, less restrictive, the EU continues to maintain its 1997 ban on imports of U.S. poultry because U.S. producers have regularly used washes of low-concentration chlorine as an antimicrobial treatment (AMT) to reduce the level of pathogens in poultry meat production, a practice not permitted by the EU sanitary regime. The United States has been working to compile detailed scientific information regarding U.S. food safety rules for poultry to address EU concerns with a view to reestablishing poultry exports to the EU. U.S. and EU leaders agreed at the May 2002 Summit to place this issue on the Positive Economic Agenda (See Section on Positive Economic Agenda above).

j. Wine

U.S.-EU negotiations on a bilateral wine agreement were launched in 1999 and accelerated during 2002. The United States continues to be concerned about the EU's requirements for import certification and the review and approval of wine making practices, and has sought reductions in the EU's export subsidies and subsidies to its grape growers and wine producers. A major EU concern is the use of semi-generic names on some U.S. wines. Other issues include tariffs and trade restrictive requirements under the April 29, 2002 EU wine labeling regulation (Commission Regulation No. 753/2002). The United States will continue to press the EU to provide U.S. wine makers equitable access to the EU market.

k. Margin of Preference

In mid-2002, the European Commission (EC) notified the United States of its intentions to withdraw from market access concessions on grains made during the Uruguay Round. These concessions, known as the Margin of Preference (MOP), were meant to replace the EU's pre-1995 variable levy system for grains so as to ensure maintenance of market access opportunities for grain imports into the EU. The EC proposed replacing the MOP with a series of global Tariff-Rate Quotas (TRQs) on grain imports, which were scheduled to go into effect on January 1, 2003.

The United States has derived substantial benefits from the Margin of Preference. In response to the EC proposal, the United States worked with the governments of Argentina and Canada to ensure that access to EU markets would not be impeded. In December 2002, the United States and the EC reached an agreement that would maintain the MOP for almost all wheat and feed grain imports. The EC agreed to limit its changes only to certain qualities of wheat not commonly exported by the United States. These

new import arrangements for low and medium quality common wheat and barley went into effect on January 1, 2003.

2. EFTA

Although USTR activity in 2002 with the EFTA countries as a group was modest, we intend to start negotiation of a mutual recognition agreement (MRA) with the EFTA EEA countries (i.e., Norway, Iceland, and Liechtenstein) in 2003, and we have begun exploring other ways to expand the U.S.-EFTA trade relationship.

3. Turkey

General: As a result of its 1996 customs union with the European Union, Turkey applies the EU's common external customs tariff for third country (including U.S.) imports and imposes no duty on non-agricultural imports from EU and EFTA countries. Turkey's harmonization of its trade and customs regulations with those of the EU, coupled with a decline in most of its MFN tariff rates, benefits third country exporters as well. Nevertheless, Turkey continues to maintain high tariff rates on many agricultural and food products to protect domestic producers. The Turkish Government also levies high duties, as well as excise taxes and other domestic charges, on imported alcoholic beverages that increase wholesale prices by more than 200 percent. Turkey does not permit any meat imports.

Investment: While Turkey's legal regime for foreign investment is liberal, private sector investment is often hindered, regardless of nationality, by: excessive bureaucracy; political and macroeconomic uncertainty; weaknesses in the judicial system; high tax rates; a weak framework for corporate governance; and frequent, sometimes unclear changes in the legal and regulatory environment. The Turkish government is considering legal and other changes to reduce red tape and dismantle other barriers to investment.

Intellectual Property: While maintaining that it is in full compliance with its obligations under the WTO TRIPS agreement, Turkey provides neither patent protection nor adequate data exclusivity for pharmaceutical products, both of which are required under TRIPS. Turkey has passed a patent law, but it will only protect drugs coming on the market in another 3-4 years. Local producers still rely on data submitted by drug inventors in registering their generic copies. The U.S. Government continues to urge Turkey to adopt data exclusivity retroactive to January 2000, when Turkey's TRIPS obligations came into effect.

Qualifying Industrial Zones (QIZs): In January 2002, President Bush offered to make Turkey eligible for Qualifying Industrial Zones (QIZs), which would permit products manufactured within such QIZs to enter the United States duty-free. At the U.S.-Turkey Economic Partnership Commission (EPC) meeting in February, and at the U.S.-Turkey Trade and Investment Framework Agreement (TIFA) Council meeting in April, U.S. delegations presented the Turkish government with information on the QIZ program, requesting that the Turkish side in return provide basic information on how it foresaw utilizing the program. In Fall 2002, the Administration submitted draft legislation to Congress to amend current QIZ legislation to permit Turkish participation in the initiative. Although the legislation passed the U.S. House of Representatives, the Senate was unable to act prior to adjournment. We anticipate the new Congress will take up the QIZ legislation early in 2003.

D. Russia, Central Europe and the Newly Independent States

Overview

Over the past decade, the United States has been actively supporting political and economic reforms in Central Europe (Poland, Hungary, Slovenia, the Czech Republic, Slovakia, Romania, Bulgaria, Estonia, Latvia, Lithuania, Croatia, Albania, Bosnia-Herzegovina, the Former Yugoslav Republic of Macedonia, and Serbia-Montenegro) and the Newly Independent States (NIS) (Russia, Ukraine, Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, the Kyrgyz Republic, Moldova, Tajikistan, Turkmenistan, and Uzbekistan). The U.S. Government has been striving to construct a framework for the development of strong trade and investment links between the United States and Central Europe and the NIS. This approach has been pressed on both bilateral and multilateral fronts. Bilaterally, the United States has negotiated trade agreements to extend Normal Trade Relations (formerly referred to as "most-favored nation" or "MFN") tariff treatment to these countries and to enhance intellectual property rights protection. The United States also has extended Generalized System of Preferences (GSP) benefits to eligible countries and negotiated bilateral investment treaties (BITs) to guarantee compensation for expropriation, transfers in convertible currency, and the use of appropriate dispute settlement procedures. Multilaterally, the United States has encouraged accession to the WTO as an important method of supporting economic reform. Now that much of this framework is in place, USTR and its interagency colleagues are working to ensure that Central Europe and the NIS satisfy their bilateral and multilateral trade obligations, as well as comply with U.S. trade laws and regulations, such as those governing eligibility for participation in the GSP program.

2002 Activities

1. Normal Trade Relations Status

Russia, Ukraine, and seven of the other NIS republics within the region receive conditional NTR tariff treatment pursuant to the provisions of Title IV of the Trade Act of 1974, also known as the Jackson-Vanik amendment. As part of U.S. sanctions policy related to the conflict in Southeast Europe, the United States revoked NTR from Serbia-Montenegro (now the Federal Republic of Yugoslavia) in 1992. While certain sanctions against Serbia-Montenegro were lifted in 1996 pursuant to the peace accords negotiated in Dayton, Ohio, NTR tariff treatment has not yet been restored.

Under the Jackson-Vanik amendment, the President is required to deny NTR tariff treatment to any non-market economy that was not eligible for such treatment in 1974 and that the President determines denies or seriously restricts or burdens its citizens' right to emigrate. This provision is subject to waiver, if the President determines that such a waiver will substantially promote the legislation's objectives. Alternatively, the President can determine that an affected country complies fully with the legislation's emigration requirements and report on this status semi-annually. Affected countries must also have a trade agreement with the United States, including certain specified elements, in order to obtain conditional NTR status.

The President has determined that Russia, Ukraine and all of the other NIS republics, with the exception of Belarus, are in full compliance with the emigration requirements. Belarus, on the other hand, receives NTR tariff treatment under an annual waiver, as Congress must enact a law to terminate application of Title IV to a country. In 2000, pursuant to specific legislation, the President terminated application of Title IV to the Kyrgyz Republic, Albania and Georgia. These countries now receive full NTR treatment. The Administration is currently consulting with the Congress and interested stakeholders with a view to

removing Russia and the remaining NIS republics (except Belarus) from the coverage of Title IV provisions.

If a country is still subject to Jackson-Vanik at the time of its accession to the WTO, the United States has invoked the "non-application" provisions of the WTO. In such cases, the United States and the other country in effect have no "WTO relations." This situation, among other things, prevents the United States from bringing a WTO dispute based on a country's violation of the WTO or of commitments the country undertook as part of its WTO accession package. (See Chapter II for further information).

2. Intellectual Property Rights

Since the United States has concluded bilateral agreements covering intellectual property rights (IPR) protection throughout Central Europe and the NIS, USTR concentrates principally on ensuring compliance by these countries with their IPR obligations. In 2000, the transitional period granted developing countries and formerly centrally planned economies for compliance with the WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) expired. Accordingly, USTR has conducted a close examination of compliance of WTO Members in the region with the TRIPS Agreement. The U.S. Government has cooperated with and provided technical assistance to the countries in the region to help improve the level of IPR protection. Much of USTR's focus in the region is on improving enforcement of existing IPR legislation. Copyright and trademark piracy has been a widespread and serious problem throughout much of Central Europe and the NIS. Customs and law enforcement authorities in the region are making slow progress in upgrading these countries' enforcement efforts, but continued close monitoring and technical assistance are still warranted.

Three IPR issues in the region merit special mention:

a. Ukraine – Optical Media Piracy

Ukraine has become the leading producer and exporter of pirated compact discs (CDs) in Europe. U.S. industry estimated that in 1999 pirates exported over 35 million pirated CDs to Europe and elsewhere, which represented over $200 million in lost revenues. In June 2000, Ukrainian President Kuchma committed to a plan of action to stop the unauthorized production of CDs and to enact legislation to outlaw such piracy by November 1, 2000. However, due to the failure of Ukraine to pass an adequate optical disc media licensing law , USTR designated Ukraine a Priority Foreign Country in March 2000 and initiated a Special 301 investigation. In August 2001, USTR withdrew GSP beneficiary status from Ukraine. On December 11, 2001, USTR announced that the U.S. Government would impose 100 percent duties on a list of 23 Ukrainian products with an annual trade value of approximately $75 million contingent upon the outcome of a vote on an optical media licensing law in the Ukrainian Parliament scheduled for December 13, 2001. As Ukraine failed to adopt the optical media licensing law, USTR announced on December 20, 2001 that the sanctions would take effect January 23, 2002. Those sanctions currently remain in effect.

b. Hungary, Slovenia, and Poland – Protection of Confidential Data

USTR places a high priority on protecting the confidential data submitted by pharmaceutical firms to health authorities in order to obtain marketing approval. Data exclusivity is an important issue in U.S. relations with the countries of Central Europe, because at present many pharmaceutical products of U.S. firms do not yet enjoy product patent protection in these countries. Many foreign pharmaceuticals, at best, receive process patents, a relatively weak form of protection. For those drugs without product patent protection, limits on other producer's use of data supporting marketing approval can take on special

importance. Accordingly, USTR has pressed the Central European countries - especially Hungary and Slovenia with their large generic drug industries - to limit use of data submitted in connection with obtaining marketing approval. In December 2001, Poland restored the three-year period of data exclusivity which it earlier had had in place by amending a newer law which would have eliminated protection for confidential test data. In 2002, Slovenia passed legislation which provides such protection in conformity with the TRIPS Agreement. Hungary is scheduled to put limited protection on use of data into place in January 2003, in order to comply with EU directives.

c. The Russian Federation – Widespread Piracy

In April 2002, Russia was again placed on the Special 301 "Priority Watch List" because of deficiencies in both the protection and enforcement of IPR. Later in 2002, Russia revised several IPR laws, including those on the protection of trademarks, integrated circuits and plant varieties. Revisions to several other IPR laws, including the copyright law, remain under consideration in the Duma. Notably, enforcement of IPR remains a pervasive problem. The prosecution and adjudication of intellectual property cases remains weak and sporadic; there is a lack of transparency, and a failure to impose deterrent penalties. Russia's Customs administration also needs significant strengthening. Piracy of U.S. films, videos, sound recordings, and computer software is a growing problem. In October 2002, as a result of U.S. efforts to work with the Government of Russia to address the growing optical media piracy problem, the Government of Russia established an inter-ministerial task force, headed by Russian Prime Minister Kasyanov, to combat optical media piracy. Since October the Russian government has taken some steps to remedy this problem, including raids on several of the illegal plants in operation which resulted in the confiscation of 250,000 pirated CDs, DVDs and videos. We remain concerned about this issue and continue to urge adoption of effective measures to address optical media piracy, including adoption of an optical media law.

3. Generalized System of Preferences

Under the U.S. Government's GSP program, developing countries are eligible to receive duty-free access to the U.S. market for many items, if it is determined that these countries meet certain statutory criteria. All of the Central European countries (other than Slovenia and the Federal Republic of Yugoslavia) and most of the NIS (Armenia, Georgia, Moldova, Kazakhstan, the Kyrgyz Republic, Russia and Uzbekistan) participate in the GSP program. Azerbaijan, Tajikistan and Turkmenistan have never requested to be designated as a country eligible to receive the benefits of the GSP program. Belarus's GSP benefits were suspended in 2000 due to worker rights violations.

In 1997, the Government of Russia petitioned the United States for duty-free treatment under the GSP program for exports of both unwrought titanium and wrought titanium. On July 1, 1998, the President granted the request on wrought titanium. The petition on unwrought titanium was left pending based on the situation in the U.S. titanium industry at that time. Three petitions on titanium were submitted during the 2001-2002 GSP Annual Product Review. The GSP interagency committee will announce its decision on whether to accept or deny review of these petitions in early 2003.

In order to receive GSP benefits under the U.S. statute, beneficiary countries must provide for adequate and effective protection and enforcement of intellectual property rights. USTR has conducted reviews, based on petitions from the U.S. copyright industry, of several countries' eligibility to receive GSP benefits on this basis, namely Ukraine, Armenia, Moldova, Kazakhstan, Russia and Uzbekistan. In late 2000, based on significant improvement in Moldova's intellectual property rights regime, the U.S. copyright industry withdrew its petition with respect to Moldova. In August 2001, USTR withdrew GSP

beneficiary status from Ukraine (see subsection on Ukraine -Optical Media Piracy above). The reviews of Armenia, Kazakhstan, Russia and Uzbekistan remain ongoing.

The GSP statute provides that a country may not receive GSP benefits if it affords preferential treatment to the products of a developed country, other than the United States, that has a significant adverse effect on U.S. commerce. Based in part on this legislative requirement, the U.S. Government has been consulting with several Central European countries concerning those countries' granting, pursuant to their Association Agreements with the EU, of preferential tariffs to EU exporters vis-a-vis U.S. exporters (see section on EU Association Agreements below).

4. WTO Accession

Prior to the end of 2002, virtually all of the Central European countries (Poland, Hungary, the Czech Republic, Slovakia, Romania, Albania, Slovenia, Croatia, Latvia, Lithuania and Estonia) and three NIS countries (the Kyrgyz Republic, Georgia, and Moldova) had become members of the WTO. In 2002 the terms of accession for both Armenia and the Former Yugoslav Republic of Macedonia were approved by the WTO General Council, and these countries are expected to become WTO members in early 2003 following ratification in these country's respective parliaments.

WTO accession working parties have been established for an additional seven NIS countries (the Russian Federation, Ukraine, Azerbaijan, Belarus, Kazakhstan, Tajikistan and Uzbekistan) and two Central European states (Bosnia-Herzegovina, and the Federal Republic of Yugoslavia). Of the NIS, Turkmenistan has not yet applied for observer status or membership in the WTO.

The United States supports accession to the WTO on commercial terms and on the basis of a new Member's implementation of WTO provisions immediately upon accession. The United States has provided technical assistance, in the form of short- and long-term advisors, to many of the countries in the region in support of the WTO accession process. (See Chapter II for further information on accessions).

Russia's WTO accession was particularly active in 2002. Russia indicated an interest in accelerating the negotiations and has taken steps to put in place new and amended laws and regulations to bring it into conformity with WTO provisions. Since Russia applied for membership, the United States has strongly supported Russia's efforts to join the GATT 1947 and then the WTO, through active participation in the WTO Working Party established to conduct the negotiations and through technical assistance on how to move Russia's trade regime into conformity with WTO rules. In a series of Working Party meetings through December 2002, Russia continued to describe its trade regime, with WTO delegations noting specific aspects of the trade regime that require further legislative action to become compatible with the WTO. The United States and Russia also continued bilateral discussions on Russia's offers on goods and services market access throughout 2002.

WTO-based reforms to Russia's trade regime will strengthen its ongoing efforts for broader-based market-oriented economic reform and can help Russia integrate more smoothly into the global economy. Adopting WTO provisions will give Russia a world-class framework for intellectual property protection, customs duties and procedures, and application of other requirements to imports that will encourage increased investment and economic growth. Completion of the accession negotiations will depend on how rapidly Russia implements WTO rules and moves to conclude negotiations on goods and services with current WTO members.

5. Bilateral Trade Agreements and Bilateral Investment Treaties

The United States has some form of bilateral trade agreement with all of the Central European and NIS countries. In addition to these general trade agreements, the United States has concluded a variety of trade agreements concerning specific product areas with various Central European countries and the NIS, such as those regarding firearms with Russia, textiles with Romania and Macedonia, customs valuation with Romania, and poultry with Poland and Russia.

In Central Europe, the United States has Bilateral Investment Treaties (BITs) in force with Albania, Bulgaria, the Czech Republic, Estonia, Latvia, Lithuania, Poland, Romania, Slovakia, and Croatia. Of the NIS, the United States currently has BITs in force with seven countries (Armenia, Azerbaijan, Georgia, Kazakhstan, the Kyrgyz Republic, Moldova, and Ukraine) and has signed BITs with three others (Russia, Belarus, and Uzbekistan) for which the formal process of ratification has not been completed.

6. EU Association Agreements

The United States has been strongly supportive of the integration of the Central European countries into Western Europe. Ten Central European countries (Poland, Hungary, Slovenia, the Czech Republic, Slovakia, Romania, Bulgaria, Estonia, Latvia, and Lithuania) have concluded Association Agreements (often called "Europe Agreements") with the EU which are meant to set the stage for eventual EU membership. The Europe Agreements provide for the reduction to zero of virtually all tariff rates on industrial products and preferential rates and quotas for many agricultural products. In 2000, the EU and all the candidate countries, as a follow-on to the Association Agreements, agreed to reduce their mutual tariff rates to zero for the vast majority of each other's agricultural products. The candidate countries' most-favored nation (MFN) tariff rates on industrial goods are generally higher than comparable EU rates while the MFN rates on agricultural goods are usually lower than EU rates. Consequently, U.S. exporters often face relatively high Central European MFN tariff rates on industrial goods in contrast with the zero or preferential rates faced by EU exporters. Much of this tariff differential problem with respect to industrial goods will disappear when the candidate countries formally join the EU (See Western Europe section above) and adopt generally low EU industrial tariff rates.

Until these countries' accession to the EU, the United States has been consulting with the Central European countries to address the tariff differential problem:

a. **Poland – Tariff Reductions:** In 2001, the United States and Poland concluded a comprehensive trade package designed to lower tariffs on key U.S. exports to Poland. The agreement, which was implemented by Poland in September 2002, creates a bilateral working group where these issues can be addressed. The industrial products for which tariff reductions were negotiated include: certain chemicals and chemical products, beauty products, personal deodorants and antiperspirants, gas turbines, centrifuge filters, machines for the preparation of food or drink, fiber optic cables, tractors, large engine autos and auto parts, certain medical supplies, and measuring instruments. With respect to agricultural products, Poland agreed to lower tariffs on grapefruit, non-sparkling wine, and almonds. Poland also agreed to an independent peer review of its phytosanitary measure on ragweed. In exchange for Poland's commitments, the United States expressed its intention to continue support for Poland's participation in the U.S. Generalized System of Preferences (GSP) program.

b. **Hungary – Tariff Reductions:** The United States and Hungary signed a comprehensive trade agreement in January 2002 which lowered tariffs on key U.S. exports to Hungary effective April

2002. The industrial products for which tariff reductions were negotiated include: steam and gas turbines, large engine autos and auto and tractor parts, automatic data processing machines, office machine parts, beauty products, various chemicals, plastics, medical instruments and equipment, laser disks, and telephone equipment. Hungary also agreed to lower tariffs on almonds and pecans, grapefruit, and bovine semen. In light of Hungary's commitments, the United States agreed to continue its support for Hungary's participation in the GSP program.

c. **The Czech Republic and Slovakia – Waiver of Tariffs on Civil Aircraft and Parts**: The Czech Republic and Slovakia, which have a customs union, impose a 4.8 percent tariff rate on large civil aircraft and parts from U.S. exporters, but allow duty-free access to their markets for EU exporters. This tariff differential posed a major impediment to the ability of U.S. firms to compete against EU firms for large aircraft tenders in the Czech/Slovak market. In late 2000, the Czech Republic and Slovakia, in response to U.S. Government requests, agreed to waive 2001 tariffs on large civil aircraft and key parts. This waiver was renewed for 2002 and has been renewed for 2003.

In October 2002, USTR began discussions with **Romania** on a similar tariff reduction agreement.

To facilitate trade with EU accession candidate countries, the EU is concluding Protocols to the Europe Agreements on Conformity Assessment and Acceptance of Industrial Products (called "PECAs"). The first PECAs, which entered into force with Hungary and the Czech Republic in 2001, eliminated the need for further product testing and certification of EU-origin products in designated product sectors. During 2002, the United States continued to press its concerns, both bilaterally and in the WTO, that the rule of origin provision in the agreements with Hungary and the Czech Republic unjustifiably discriminates against non-EU origin products and is inconsistent with WTO obligations. The European Union is now proceeding to remove this origin provision from its existing PECAs. New PECAs, without the problematic rule of origin provision, entered into force with Latvia and Lithuania in 2002. We will continue to monitor this issue.

7. Country Specific Issues

The United States continued to encounter a number of country specific trade issues in the region, which were not described above. The major items are discussed below.

a. Russia – Market Access for Poultry

The United States was actively engaged with the Russian government throughout 2002 to ensure that U.S. poultry producers continue to maintain access to the Russian market. Following intense discussions in the wake of the Russian government's temporary ban on U.S. poultry exports in March 2002, the United States signed a protocol with the Russian government that led to the resumption of trade flows. This protocol established a framework for closer cooperation between U.S. and Russian veterinary officials and provided for improved certification and testing procedures. Following the negotiation of this protocol, the United States began intensive negotiations with Russia on a new veterinary certificate for U.S. poultry exports which was finalized in August 2002. The United States continues to monitor Russia's implementation of the new certification and testing requirements.

b. Russia – Product Standards, Testing, Labeling and Certification

U.S. companies still cite product certification requirements as a principal obstacle to U.S. trade and investment in Russia. In the context of Russia's WTO accession negotiations, we continue to urge Russia to bring its standards and certification regime into compliance with international practice. The Russian

government is now attempting to put in place the necessary legal and administrative framework to establish standards procedures and processes for certification and licensing of products in Russia in order to better align with WTO rules.

There has been some movement to eliminate duplication among regulatory agencies and to clarify categories of products subject to certification. However, businesses are still experiencing difficulties in getting product approvals in key sectors. Manufacturer declaration of conformity is now feasible under Russian law, but is not yet widely used. In 1998, the Russian State Committee on Standards adopted a new nomenclature of goods subject to mandatory certification, effective January 1, 1999, and the Russian government has been moving to revise problematic legislation, as provided under its Technical Barriers to Trade action plan.

Certification is a particularly costly and prolonged procedure in the case of telecommunications equipment. In many sectors, type certification or self-certification by manufacturers is currently not possible. Veterinary certification is often arbitrary and needs to be more transparent and based on science. Russian phytosanitary import requirements for certain planting seeds (notably corn, soybeans and sunflowers) appear to lack scientific basis and have blocked imports from the United States. Discussions to ease or eliminate burdensome Russian requirements are ongoing.

c. Russia – Aircraft Market Access

The United States and Russia concluded a joint Memorandum of Understanding (MOU) in 1996 which was designed to address U.S. concerns about access to the Russian civil aircraft market and the application of international trade rules to the Russian aircraft sector. Under the MOU, the Russian Federation confirmed that it will become a signatory to the WTO Agreement on Trade in Civil Aircraft, although thus far Russia has refused to make this commitment in its WTO accession negotiations. In the interim, before Russia accepts its full international trade obligations, the MOU also commits the Russian Federation to provide fair and reasonable access for foreign aircraft to its market. Russia agreed to take specific steps, such as the granting of tariff waivers and the reduction of tariffs, to enable its airlines to meet their needs for U.S. and other non-Russian aircraft on a non-discriminatory basis. In 2002, Russia announced a decision to reallocate existing tariff waivers in favor of Airbus. We continue to press the Russian government to join the WTO Agreement on Trade in Civil Aircraft as soon as possible and to take immediately other steps, including increasing the limited number of tariff-waivers currently available, to facilitate increased market access for U.S. aircraft.

E. Mediterranean/Middle East

Overview

U.S. trade relations with the countries of Northern Africa and the Middle East, while to date relatively modest, have considerable potential value in terms of both U.S. commercial and foreign policy interests. The events of September 11, 2001 highlighted the importance of supporting peace and stability in the region by fostering economic development. The U.S.-Jordan Free Trade Agreement (FTA), the U.S.-Israel Free Trade Agreement, the U.S. commitment to negotiate a Free Trade Agreement with Morocco, together with the Trade and Investment Framework Agreements (TIFAs) established with several countries in the region, provide the context for our bilateral trade policy discussions with these countries, which are aimed at increasing U.S. exports to the region and assisting in the development of intra-regional trade.

2002 Activities

1. Morocco Free Trade Agreement

In April of 2002 President Bush and King Mohammed VI agreed to pursue a Free Trade Agreement (FTA) between the United States and Morocco. On October 1, 2002, USTR Zoellick notified Congress that trade negotiations would be initiated with the Moroccans in January of 2003. The FTA with Morocco will be comprehensive and is part of the Administration's effort to promote more open and prosperous Muslim societies. The FTA will support the significant economic and political reforms underway in Morocco, and create improved commercial and market opportunities for U.S. exports to Morocco by reducing and eliminating trade barriers. USTR Zoellick has had consultations with Congress on the FTA, and in November 2002, public hearings were held. In response to a notice in The Federal Register, 37 written submissions were submitted regarding the matters to be addressed. USTR is pursuing an aggressive negotiation schedule, and negotiations are expected to be finished by the end of calendar year 2003.

2. Egypt

In June 2002 USTR Zoellick traveled to Cairo in the first visit by a U.S. Trade Representative to Egypt. His visit underscored the importance the United States attaches to expanding bilateral trade and investment ties with this key Middle East partner. USTR Zoellick's trip to Egypt complemented efforts by the two countries throughout the year to use the U.S.-Egypt Trade and Investment Framework Agreement (TIFA) to strengthen the U.S.-Egyptian economic relationship and promote Egypt's economic reform program.

At the October 2002 meeting of the U.S.-Egypt TIFA Council, the two governments agreed to form four working groups to facilitate rapid progress on priority trade and investment issues in the areas of Customs Administration and Reform, Government Procurement, Sanitary and Phytosanitary Issues Related to Agricultural Trade, and Agricultural Tariff and Trade issues. They also discussed expanded U.S.-Egypt cooperation on issues related to the Doha Development Agenda. In addition, the two sides reviewed recent progress in Egypt's on-going economic reform program in which the United States plays a major role through assistance by the U.S. Agency for International Development. Resolution of problems affecting U.S. firms and investors in Egypt also continues to be a key focus of U.S. efforts in the TIFA process.

3. Israel

The United States and Israel held four formal rounds of negotiations throughout 2002 on a new bilateral agreement on trade in agricultural products. This new agreement would succeed the 1996 Agriculture Agreement which expired at the end of 2001 and was extended through 2002. At the time this report went to press, the two sides had not yet concluded a new agreement. The United States and Israel have undertaken negotiations on agricultural trade to address problems arising from the two sides' disagreement as to whether or not the 1985 U.S.-Israel Free Trade Agreement permits either party to apply restrictions on bilateral trade in this area.

4. Jordan – Implementing the Free Trade Agreement

The United States and Jordan cooperated in 2002 to help their business communities take advantage of the opportunities afforded by the U.S.-Jordan Free Trade Agreement (FTA) which went into effect in December 2001. These efforts included the first U.S.-Jordan Joint Committee meeting held under the FTA in December 2002 in Washington. The FTA established the Joint Committee to bring together senior U.S. and Jordanian officials to discuss and act on ways to further boost bilateral trade and investment.

The FTA will eliminate nearly all tariffs on industrial goods and farm products within 10 years, as well as commercial barriers to bilateral trade in goods and services originating in the United States and Jordan. The FTA includes, for the first time ever in the text of a trade agreement, substantive provisions on electronic commerce. Other provisions address intellectual property rights protection, balance of payments, rules of origin, safeguards, labor, environment, and procedural matters such as consultations and dispute settlement. Because the United States already has an up-to-date Bilateral Investment Treaty with Jordan, the FTA does not include an investment chapter.

While the FTA is key part of part of the U.S.-Jordan economic relationship, it is just one component of an extensive U.S.-Jordanian collaboration in economic relations. Close economic cooperation between the two countries began in earnest with joint efforts on Jordan's accession to the World Trade Organization (WTO) in 2000. The United States and Jordan continue to work together closely in the WTO, particularly on issues of special concern to developing nations. The United State's efforts to support Jordan's rapid and successful WTO accession were followed on the bilateral front by the conclusion of the U.S.-Jordan Trade and Investment Framework Agreement and a Bilateral Investment Treaty. Qualifying Industrial Zones (QIZs) are another important example of successful U.S.-Jordanian efforts to boost Jordan's economic growth and promote peace in the Middle East.

These measures have played a significant role in boosting U.S.-Jordanian economic ties. In 1998, Jordan's goods exports to the United States totaled only $16 million. By 2002 U.S. goods imports had increased to an estimated $414 million, an 81 percent increase ($185 million) from 2001. In 2002 U.S. goods exports to Jordan were an estimated $420 million, up 24 percent ($81 million) from 2001[31].

5. Jordan – Qualifying Industrial Zones

Qualifying Industrial Zones (QIZs) continue to be a bright spot in Jordanian economic performance. Eleven Qualifying Industrial Zones (QIZ) have been established in Jordan since 1998. They played an important role in helping to boost Jordan's exports to the United States from $18 million in 1998 to a projected $400 million in 2002. Jordan estimates that QIZs have created up to 15,000 jobs. Peak QIZ employment is forecast at 40,000 to 45,000. Investment in the establishment of QIZs is approximately $85 million to $100 million, which is expected to grow to $180 to $200 million when all projects are completed.

In 2001, USTR designated the eleventh QIZ in Jordan, the Zarqa Industrial Zone. Five QIZs were designated in 2000: The Investors and Eastern Arab for Industrial and Real Estate Investments Company Ltd. (Mushatta International Complex), El Zay Ready Wear Manufacturing Company Duty-Free Area, Al Qastal Industrial Zone, Aqaba Industrial Estate, and Industry and Information Technology Park Company (Jordan CyberCity Company). Four QIZs were designated in 1999, Al-Tajamouat Industrial City, Ad-Dulayl Industrial Park, Al-Kerak Industrial Estate, and Gateway Projects Industrial Zone. The first QIZ in Jordan, Irbid, opened in 1998.

QIZs are established pursuant to legislation passed by the Congress in October 1996, authorizing the President to proclaim elimination of duties on articles produced in the West Bank, Gaza Strip, and qualifying industrial zones in Israel and Jordan and Israel and Egypt. To date all QIZs have been established in Jordan.

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[31] 2002 estimates are annualized based on 11 months' data.

The steady growth of QIZs testifies to the economic potential of regional economic integration. In addition to the competitive benefit of duty-free status for QIZ exports to the United States, QIZs increasingly offer participating companies the advantages of modern infrastructure and strong export expertise and linkages. This evolution should serve to increase the economic benefits of QIZs.

6. Trade and Investment Framework Agreements

In 2002, the United States concluded Trade and Investment Framework Agreements (TIFAs) with Bahrain and Tunisia. TIFAs previously have been previously negotiated with Egypt, Jordan, Turkey, Morocco, and Algeria. Each TIFA establishes a bilateral Trade and Investment Council that enables USTR-chaired representatives to meet directly with their counterparts regularly to discuss specific trade and investment matters and to negotiate the removal of impediments and barriers to trade and investment.

7. WTO Accession

Negotiations on the accession to the WTO of Saudi Arabia and Algeria continued in 2002, and the first WTO Working Group on Lebanese WTO accession was held. The United States supports accession to the WTO on the basis of a new Member's implementation of WTO provisions immediately upon accession and of a new Member's commercially meaningful market access commitments for U.S. goods, services, and agricultural products.

8. Intellectual Property Rights

Protection of intellectual property rights remains a leading priority in the Middle East region. Egypt, Israel and Lebanon are on the Special 301 Priority Watch List, while Kuwait, Qatar, Turkey and Saudi Arabia are on the Watch List. An out-of-cycle review (OCR) was initiated for Israel in 2002 to further assess progress in its efforts to improve enforcement of copyright and trademark rights.

F. Asia and the Pacific

Overview

The Asia-Pacific region has witnessed a dramatic expansion of trade and economic growth over the past decade. This growth is largely the result of the commitment of the regional governments to economic reform and liberalization. While there is clearly additional work to be done in opening markets in Asia and the Pacific, significant progress has been made. The commitment of regional leaders in the Asia Pacific Economic Cooperation (APEC) forum to move forward toward free and open regional trade and investment has been an important factor in spurring this regional trend (see Chapter III for information on APEC). In addition, the Administration is committed to further opening markets of interest to American farmers, ranchers, manufacturers, and services providers and to the implementation of bilateral and multilateral agreements, including those protecting intellectual property, which is critical to U.S. exporters in high-technology, entertainment and other key sectors.

Highlights of the achievements in this region during 2002 include:

- *Conclusion of the Singapore FTA.* In January 2003, the United States and Singapore reached agreement on an FTA, the first comprehensive agreement between the United States and an Asian nation. The FTA's provisions cover not only goods and services, but customs procedures and cooperation, investment, competition policy, intellectual property rights, electronic commerce,

transparency, labor and environment. The agreement with the United States' 11th largest trading partner is expected to eliminate trade barriers between the two countries and spur bilateral trade and investment. The agreement also will serve as a benchmark for possible free trade agreements with other countries in Southeast Asia. More detailed discussion regarding the negotiation of this agreement appears in Chapter IV, Section A.

- *Announcement of the Enterprise for ASEAN Initiative.* In October 2002, President Bush announced the Enterprise for ASEAN Initiative (EAI), a new initiative intended to further build U.S.-ASEAN trade ties. Under the EAI, the United States offered the prospect of bilateral FTAs with ASEAN countries that are committed to the economic reforms and openness inherent in an FTA with the United States.

- *Launch of the U.S.-Australia Free Trade Agreement.* In November 2002, the United States launched FTA negotiations with Australia. The United States expects an FTA with Australia to boost trade in both goods and services and enhance employment opportunities in both countries. Such and agreement will enhance commercial ties and address barriers that U.S. exporters face. The United States also sees the FTA negotiations as helping to further deepen the already close cooperation between the United States and Australia in the WTO.

2002 Activities

The United States announced major new regional and bilateral trade initiatives in the Asia Pacific region in 2002 to expand opportunities for U.S. industry, farmers, and ranchers. The United States pursued bilateral FTAs and undertook other bilateral work to strengthen trade ties with the Asia Pacific region and eliminate barriers faced by U.S. exporters in this region, began work on the EAI, and continued efforts with APEC Members to implement the Shanghai Accord, a series of specific commitments to ensure APEC reaches its free trade and investment goals. These initiatives are intended to complement our global trade priorities, particularly the successful conclusion of the Doha Development Agenda.

1. Australia

a. Free Trade Agreement

On November 13, 2002, the Administration notified Congress of its intent to launch FTA negotiations with Australia. In its notification letter, the Administration noted that the increased access to Australia's market that an FTA would provide would further boost trade in both goods and services, enhancing employment opportunities in both countries. An FTA also would encourage additional foreign investment flows between the United States and Australia, adding to the many jobs that the already significant investment flows between the two countries currently support. Moreover, the discussion of an FTA with Australia has strengthened our WTO partnership as well as the U.S. position in global trade negotiations. Australia was the first strong supporter of the United States WTO agriculture proposal made in July 2002. The United States expects the FTA negotiations to provide the opportunity for further cooperation on agriculture and other issues the United States is seeking to resolve through the WTO Doha Development Agenda negotiations, as well as deepen the broader ties between our countries and strengthen the foundation of our security relationship.

b. Bilateral Issues

The United States held extensive and detailed discussions with Australia on sanitary and phytosanitary (SPS) issues over the past year. The two sides made progress on specific issues, including opening the Australian market to U.S. table grapes. The two sides agreed that SPS measures must be based on science and be fully transparent. The Australian government implemented a new administrative framework in early 2002 to enhance the transparency of its SPS regime. Nonetheless, the United States continues to have concerns about the stringency of Australia's SPS regime, and the two sides agreed to continue discussion of SPS measures in parallel with the FTA negotiations.

2. New Zealand

The United States held a Trade and Investment Framework Agreement (TIFA) meeting with New Zealand in May, during which the two sides discussed the range of outstanding bilateral trade issues between them. Progress was made on several sanitary and phytosanitary (SPS) issues, including table grapes and pork, although the United States continues to have concerns about the stringency of New Zealand's SPS regime. The United States raised concerns about New Zealand's biotechnology labeling regime, its two-year moratorium on the release of genetically-modified organisms, and its approval process for biotechnology seeds. The U.S. Government also noted longstanding concerns on intellectual property, including parallel imports and trademarks, and pharmaceutical issues. The United States will continue working with New Zealand under the TIFA to address bilateral trade issues, as well as in APEC and the WTO to advance our common trade interests.

3. The Association of Southeast Asian Nations (ASEAN)

President Bush announced a major new initiative, the Enterprise for ASEAN Initiative (EAI), in October 2002 to strengthen U.S. trade and investment ties with ASEAN both as a region and bilaterally. With two-way trade of nearly $120 billion annually, the ten-member ASEAN group already is the United States' fifth largest trading partner collectively. The new initiative is intended to further enhance the already close U.S. relationship with this strategic and commercially important region. With the ASEAN countries anticipating solid future economic growth and their population of 500 million, the United States anticipates significant opportunities for U.S. companies, particularly agricultural exporters. For ASEAN, this initiative will help boost trade and redirect investment back to the ASEAN region.

Under the EAI, the United States offered the prospect of bilateral free trade agreements with ASEAN countries that are committed to the economic reforms and openness inherent in an FTA with the United States. Any potential FTA partner must be a WTO member and have a TIFA with the United States. The United States already had TIFAs with Indonesia and Philippines and signed TIFAs with Thailand in October and Brunei Darussalam in December. The U.S. Government sees progress in addressing bilateral issues under these TIFAs as important to laying the groundwork for entering FTA negotiations with the confidence that they can be concluded successfully. The U.S. goal is to create a network of bilateral FTAs with ASEAN countries.

Under the EAI, the United States also committed to support the efforts of the three ASEAN members that do not yet belong to the WTO to complete their accessions successfully. The United States offered to assist countries needing help to develop the capacity to participate in and implement FTAs, as well as to connect openness and trade liberalization to other reforms.

In November 2002, the United States and ASEAN trade ministers met to discuss the EAI in greater detail. The ministers agreed to intensify their efforts to make progress under the initiative (as well as the U.S.-ASEAN work program established in April 2002) including efforts on intellectual property rights, customs and trade facilitation, biotechnology, standards, agriculture, human resource development and capacity building, small and medium enterprises, and information and communications technology.

a. Indonesia

i. General

The United States has worked to bolster its trade and investment relationship with Indonesia, seeking to help strengthen Indonesia's economy and encourage liberalization and other economic reforms that would generate additional trade and foreign investment. The United States and Indonesia held their fourth Trade and Investment Council meeting under the bilateral TIFA in Bali in November, 2002, during which the trade ministers discussed the range of outstanding issues affecting U.S.-Indonesian trade. The United States urged Indonesia to eliminate its ban on poultry parts and new regulations impeding exports of textiles to Indonesia. The two sides also discussed ways to improve Indonesia's investment climate and facilitate trade, including capacity building. They discussed the need to hold regular consultations under the TIFA to resolve bilateral issues and other steps to help lay the groundwork for a free trade agreement, as envisioned by the Enterprise for ASEAN Initiative. Indonesia is the United States' 26th largest trading partner, with $13 billion in two-way trade.

ii. Intellectual Property Rights (IPR)

On IPR, the U.S. Government reiterated longstanding concerns and urged Indonesia to take steps to strengthen its IPR regime. USTR placed Indonesia on the Special 301 Priority Watch List in April 2001 because of concerns over increased optical media piracy and weaknesses in Indonesia's IPR enforcement. To help Indonesia address these concerns, the U.S. Government in May 2002 provided Indonesia with an IPR Action Plan. In July, the Indonesian government passed a new copyright law, which took some initial steps in areas of concern to the United States, including circumvention of technological protection measures and penalties for corporate end-user piracy, as well as regulations on optical disc production. However, the legislation failed to address other areas of concern, particularly deficiencies related to enforcement. U.S. industry estimates that the weak IPR environment in Indonesia resulted in $188 million in losses last year. The U.S. Government will continue to work with Indonesia under the TIFA to achieve progress on IPR issues.

b. Malaysia

i. General

During 2002, the United States and Malaysia consulted, including at the ministerial level, on their trade relationship and ways to enhance cooperation in regional and multilateral fora. The United States will continue to encourage Malaysia to further open and liberalize its economy, which is heavily trade-dependent. Malaysia is the United States' 12th largest trading partner, with $32 billion in two-way trade.

ii. Intellectual Property Rights

Malaysia has made strides in strengthening its IPR regime, including determined efforts to eliminate optical media piracy. It passed strong copyright legislation and increased its resources aimed at copyright

enforcement. Although progress has been steady, Malaysia remained on the Special 301 Watch List in April 2002 because of continuing concerns over its failure to fully implement all provisions of the Optical Disk Act and the inability to establish a climate of deterrence by prosecuting IPR offenders and imposing deterrent penalties. U.S. industry estimates that the deficiencies in Malaysia's IPR regime cost it $316 million last year. The U.S. Government will continue to work with Malaysia to further strengthen its IPR environment.

iii. Automotive Measures

Malaysia continues to promote the development of domestic automobile manufacturers under its "national automobile" program through high tariffs, quotas, and other measures. In addition, it maintains local content requirements on investment in the auto sector. As required by the WTO Agreement on Trade-Related Investment Measures, Malaysia was scheduled to eliminate its incentives for local production by January 1, 2000, but it received an extension to December 2003 to phase out these measures. Malaysia also received a delay from its ASEAN partners to lower tariffs in this sector as it committed to do under the ASEAN Free Trade Area (AFTA). The United States will continue to urge Malaysia to eliminate measures that protect its auto industry, which undermine the benefits the heavily trade-dependent country stands to gain from further liberalization, as well as investor confidence and the success of AFTA.

c. Philippines

i. General

The United States sought to further enhance its trade and investment relationship with the Philippines in 2002, urging additional trade liberalization and facilitation and other steps to encourage trade and investment. The United States and the Philippines held a Trade and Investment Council (TIC) meeting under the bilateral TIFA in November, during which the trade ministers discussed the range of outstanding U.S.-Philippines trade. The two sides agreed on the need for regular consultations under the TIFA to resolve bilateral issues and to consider other steps to help lay the groundwork for a free trade agreement, as envisioned by the Enterprise for ASEAN Initiative. The Philippines is the United States' 23th largest trading partner, with $19 billion in two-way trade.

ii. Intellectual Property Rights

The Philippines intensified its efforts to strengthen IPR protection in the last year, including measures to stop imports of pirated products and increase the number of raids, resulting in the seizure and destruction of millions of dollars worth of pirated products. However, the Philippines so far has failed to pass an optical media law that would curb the still rampant pirate production of optical media or to pass legislation on electronic commerce piracy. Moreover, while it has increased the number of raids, the Philippines has been slow to prosecute IPR offenders and reluctant to impose deterrent penalties. U.S. industry estimates that the weak IPR environment in the Philippines resulted in $116 million in losses in 2001.

To help the Philippines strengthen its IPR regime, the U.S. Government in August 2002 provided it with an IPR Action Plan that included specific steps on judicial, legislative and regulatory, and enforcement issues. The Philippines has made limited progress in implementing these recommendations. The U.S. and Philippines trade ministers discussed U.S. IPR concerns during the November 2002 TIC meeting, and the U.S. Government reiterated its offer to provide the Philippines support in this area. The United States will

hold an out-of-cycle review in early 2003 to assess the Philippines' progress in strengthening its IPR regime.

iii. Sanitary and Phytosanitary (SPS) Issues

The Philippines proposed a new requirement of quarterly mandatory third-party inspections of meat and dairy production facilities overseas. The measures, if implemented as proposed, would disrupt U.S. meat and dairy exports to the Philippines, estimated at $56 million. The United States, EU, Canada, Australia, and New Zealand raised objections to this proposed regulation at a meeting of the WTO SPS Committee in Geneva on November 7, 2002. In addition, U.S. and Philippine trade ministers discussed the issue at their November 20, 2002, TIC meeting. The measure originally was to be implemented on January 1, 2003. The Philippines announced in early December 2002 that the requirement will be implemented on April 1, 2003, and it will be conducted biannually in the first year and annually thereafter. The U.S. Government will continue to urge the Philippines not to implement this requirement.

iv. Automotive Sector

The Philippines is revising its auto excise tax system to a value-based structure. The U.S. Government supports this change, but has expressed concerns to the Philippine government about certain details of the proposal. In addition, the United States has raised serious concerns about proposals the Philippines reportedly is considering to significantly raise import duties on automobiles to help develop its automotive industry. Such increases would raise questions about previous Philippines announcements that tariff reductions in this sector would occur in 2004. The U.S. Government will continue to monitor this issue closely.

d. Singapore

In November 2000, the United States and Singapore announced the launch of negotiations for a bilateral Free Trade Agreement (FTA), which concluded in early 2003. Discussion of U.S.-Singapore trade issues had been handled in the context of these negotiations (see U.S.-Singapore FTA).

e. Thailand

i. General

The United States sought to bolster its trade ties with Thailand in 2002, signing a Trade and Investment Framework Agreement (TIFA) in October. The two sides agreed to hold a first Trade and Investment Council meeting in February 2003 in order to resolve outstanding bilateral issues and consider other steps to help lay the groundwork for a free trade agreement, as envisioned by the Enterprise for ASEAN Initiative. Thailand is the United States' 19th largest trading partner with $21 billion in two-way trade.

ii. Intellectual Property Rights

Thailand heightened its efforts to strengthen its IPR regime in 2002, including new legislation and stepped-up enforcement efforts, resulting in some improvements, but significant and sustained progress is still needed. On March 1, the Thai Parliament passed a Trade Secrets Act; the U.S. Government has concerns about some provisions of this measure. In addition, the Thai government drafted an Optical Disk Plant Control Act, which is intended to enhance the authority and capabilities of enforcement authorities to

take action against pirate optical disk producers. The Thai government has committed to introduce the bill into Parliament in 2003; however, key provisions remain under debate and timely passage of a strong law remains uncertain. There appears little chance that the Thai government will amend its copyright law to deal with electronic commerce piracy, despite indications earlier in the year that it would do so.

Weak and uncoordinated enforcement efforts, resource limitations, and corruption and other problems led to continued increases in IPR piracy. U.S. industry estimates losses due to piracy at over $130 million last year. Thailand has acknowledged the gravity of the piracy situation and in December, a Memorandum of Understanding (MOU) on the Cooperation of the Relevant Government Agencies on the Enforcement of IPR was signed by 13 government agencies. In this MOU, Thailand called on agencies to intensify and further cooperate in their enforcement efforts and consider other measures to curb piracy. The U.S. Government will closely monitor the results of this new effort and will conduct an out-of-cycle review in early 2003 to assess Thailand's progress in strengthening its IPR regime.

iii. Customs

Thailand's customs rules and procedures are non-transparent and inconsistently applied, serving as a serious barrier to trade. A customs valuation law passed in 2000 has alleviated to some degree our longstanding problems in this area, but implementation has been uneven, and discretionary application of minimum import prices in lieu of transaction values continues. Thailand's customs procedures cause undue and costly processing delays. The system continues to involve excessive paperwork and formalities, and lacks coordination between custom and other import regulating agencies as well as modern, computerized processes. Moreover, the appellate process for customs determinations is non-transparent and ineffective. The U.S. Government will continue to monitor Thailand's implementation of its customs valuation law and urge it to improve its customs regime.

iv. Market Access

Thailand maintains relatively high tariffs and a complicated tariff regime, which serve to protect Thailand's agricultural, automotive, alcoholic beverage, textile, and electronics industries. While it continues to reduce selected duties in line with its WTO and ASEAN Free Trade Area commitments, it is behind schedule in implementing its own tariff reduction goals. U.S. industry also has faced tariff reclassifications, including of motion pictures, that raise duties to prohibitive levels. Tariff-rate quotas and arbitrarily applied phytosanitary standards serve as constraints to the import of certain agricultural products. In addition, Thailand has implemented non-transparent price controls on some products, including pharmaceuticals, which impede market access. Thailand's uneven application of Buy Thai policies has also has hurt U.S. bidders. The U.S. Government will continue to raise its serious concerns over these issues with the Thai government.

f. Cambodia

On December 31, 2001, the United States and Cambodia reached agreement extending the Bilateral Textile Agreement for an additional three years, through December 31, 2004. In the renewed agreement, the quota for most textile exports from Cambodia in 2002 was 15 percent higher than in 2001. This increase reflected the normal quota increase of 6 percent as well as a 9 percent increase in recognition of Cambodia's progress in reforming labor conditions in textile factories and ensuring that these conditions were in "substantial compliance" with internationally recognized labor standards and provisions of Cambodia's labor law. The increase followed recent formal U.S.- Cambodian labor consultations. The

International Labor Organization also has two projects underway assisting Cambodia in the implementation of its labor law.

As in the original agreement, Cambodia is eligible for future additional quota increases if working conditions in the garment industry substantially comply with internationally recognized core labor standards. The U.S. and Cambodian Governments have agreed to increase this potential quota reward for full compliance from 14 percent to 18 percent. Following two rounds of consultations on labor issues in 2002, Cambodia was granted a 12 percent increase in all of its quotas pursuant to the Agreement.

g. Normalization of Trade Relations with Vietnam and Laos

i. Vietnam

On July 13, 2000, the United States and Vietnam signed an historic bilateral trade agreement (BTA), concluding a four-year negotiation to normalize trade relations. Upon implementation, the BTA granted Vietnam "Normal Trade Relations" (NTR) status, that is, the same low tariffs that the United States applies to imports from nearly every other country. The BTA also committed Vietnam to sweeping economic reforms, which created trade and investment opportunities for both U.S. and Vietnamese companies, and will lay the foundation for a new U.S. relationship with Vietnam.

At present, for Vietnam to receive NTR status, a bilateral trade agreement must be completed and approved by Congress, and the President must "waive" the "Jackson-Vanik" provision, indicating that Vietnam is making sufficient progress on the issue of free emigration. Since 1998, the President has granted a Jackson-Vanik waiver for Vietnam. Thus, completion of the BTA and its subsequent approval by Congress have cleared the way for Vietnam to receive annually renewed (as opposed to permanent) NTR treatment from the United States.

On June 8, 2001, President Bush signed Proclamation 7449 and transmitted the BTA to Congress on that date for its approval. In the proclamation, the President directed the USTR to publish notice of the effective date of the BTA. Congress approved the BTA on October 3, 2001 and the President signed the legislation approving the BTA on October 16, 2001. The National Assembly of Vietnam approved the resolution ratifying the BTA on November 28, 2001 and the President of Vietnam signed the legislation on December 4, 2001.

On December 10, 2001, U.S. Trade Representative Robert B. Zoellick and Vu Khoan, Minister of Trade of the Socialist Republic of Vietnam, exchanged written notices of acceptance, implementing the BTA. Thus, in accordance with the terms of the BTA, NTR tariff treatment for products of Vietnam became effective on December 10, 2001.

The first meeting of the Joint Committee established by the BTA was convened at vice-ministerial level on May 6, 2002, in Hanoi, during which the two sides assessed progress toward implementation of the BTA. While applauding Vietnam's commitment to economic reform, the United States underscored the importance of Vietnam moving quickly to meet the timetables contained in the BTA for implementation. The two countries also discussed Vietnam's pursuit of WTO membership and the negotiation of a textile agreement. The next meeting of the Joint Committee will be held in the first quarter of 2003 and will review the first year of implementation of the BTA.

ii. Laos

In 1997, the United States completed a comprehensive bilateral trade agreement with Laos aimed at normalizing trade relations. Laos, unlike Vietnam, is not covered by the "Jackson-Vanik" provisions of U.S. trade law. As with the Vietnam agreement, the Laos agreement requires separate legislation enabling the President to grant normal trade relations status to Laos once formal acceptance of the agreement is completed.

3. Republic of Korea

a. Macroeconomics and Trade

At the end of 1997, Korea experienced a financial crisis brought on by a major mismatch in the maturity structure of its external assets and liabilities. The crisis, and the IMF stabilization program that followed which included credit from the IMF, the World Bank, and the Asian Development Bank, resulted in significant restructuring of the Korean economy.

While the Korean government still maintains a majority ownership in several of the largest commercial banks in Korea and a significant stake in a number of others, the government has made progress on implementing some of its reform commitments during the past five years. Key reforms were carried out in the financial sector, through the rationalization and recapitalization of its banks, and by consolidation of the regulatory authority over the financial sector in a new, independent Financial Supervisory Commission. The fiscal, monetary, and restructuring policies laid out by the Administration of President Kim Dae Jung have contributed to a resumption of foreign and domestic consumer confidence in Korea's economy. In 2001 Korea's economy grew about 2.6 percent, despite the global downturn, and in 2002 grew approximately 6 percent. However, Korean authorities are seeking to further strengthen commercial bank balance sheets and restructure merchant banks, investment trust companies and the insurance industry.

The United States and Korea consult regularly on a variety of trade issues. Meetings held on a quarterly basis serve as the primary forum for bilateral discussion. During quarterly trade meetings held in 2002, the United States and Korea focused on addressing issues in the following areas: automotive, telecommunications, pharmaceuticals, intellectual property rights, and agriculture. The United States and Korea also continue to cooperate effectively in regional and multilateral fora. These cooperative efforts helped lead to the successful launch of new multilateral trade negotiations at the Doha Ministerial in November 2001 and subsequent movement forward on a number of Doha Development Agenda issues.

b. Motor Vehicles

On October 20, 1998, the United States and Korea concluded a Memorandum of Understanding (MOU) to improve market access for foreign motor vehicles. This MOU followed USTR identification of Korean barriers to motor vehicles as a priority foreign country practice under Section 301. Under this MOU, Korea agreed to: (1) bind in the WTO its 80 percent applied tariff rate at 8 percent; (2) lower some of its motor-vehicle-related taxes and to eliminate others, thereby substantially reducing the tax burden on motor vehicle owners; (3) streamline its standards and certification procedures and adopt a manufacturer driven self-certification system by 2002; (4) establish a new mortgage mechanism to make it easier to purchase motor vehicles in Korea; and (5) continue to actively and expeditiously address instances of anti-import activity and to proactively educate Korean citizens on the benefits of free trade and competition. As a result of the measures the Korean government committed to in the 1998 MOU, the USTR terminated a

Section 301 investigation and began monitoring the Korean government's implementation of these measures through formal reviews.

During the 2002 MOU reviews, held in January, April, August and November, the United States and Korea assessed progress under the agreement and discussed additional steps Korea will take to implement this agreement. The Korean government has implemented many of the specific provisions of the MOU. However, the U.S. Government remains concerned about the lack of more substantial import penetration in the Korean automotive market. Despite a notable increase in U.S. vehicle sales in Korea in 2002, the share of foreign vehicles in the Korean market is approximately one percent as a result of continued high taxes and tariffs, anti-import sentiments among many Korean consumers, and ROKG positions vis-a-vis several important standards and certification issues.

Over the last year, the United States has made specific proposals for addressing these concerns and achieving further progress under the agreement. At the most recent MOU review, held in November, U.S. proposals focused on addressing a tax classification issue related to U.S. pickup truck imports and improving transparency in the implementation of Korea's self-certification system for motor vehicle safety and environmental regulations. The U.S. Government also made specific proposals to address outstanding standards and certification issues, simplification of automotive taxes, overly high automotive tariffs and the need for further Korean government action to improve the generally negative perception of foreign vehicles among Korean citizens.

In November 2001, the Korean government reduced one auto-related consumption tax which had a positive effect on foreign auto sales. With the U.S. Government and U.S. industry joining a number of domestic voices calling for the extension of this reduction, the ROKG continued this useful program through August 2002 (extended from the original June cut-off date). The Korean government also announced that it plans to simplify and reduce this tax, with the modification set to be introduced in January 2004. The U.S. Government views this as one step forward in Korea's fulfillment of the automotive MOU commitment to "steadily reduce the tax burden on motor vehicle owner in the ROK in a way that advances the objectives of this MOU." Further, while negative consumer perception of foreign products remains the single most significant barrier to foreign vehicle sales, the Korean Government has taken a few steps in this area. The Korean government completed the purchase of 50 U.S. produced cars for its Police Agency fleet, and committed to a similar purchase in 2003. Nonetheless, it has refused to consider lowering tariffs outside of the Doha WTO negotiations, despite its own study that showed that tariff reductions would lead to significant increases in foreign car sales.

c. Steel

A discussion of the overall situation facing the steel industry in the United States and the initiatives of the Administration during 2002, including those affecting Korea, is contained in Chapter V of this report.

d. Pharmaceuticals

Over the past year U.S. concerns regarding pharmaceuticals trade relate mainly to the pricing of innovative pharmaceuticals under Korea's national health insurance reimbursement system. In 1999 and 2000, the Korean government took a number of positive steps to address U.S. concerns in this sector, and since then the U.S. Government has been closely monitoring Korea's implementation of these changes. In 2002 the Korean government began backing away from its previous actions and commitments.

The U.S. Government has three distinct concerns regarding Korean government actions related to pharmaceutical pricing: (1) The change from an Actual Transaction Pricing (ATP) to a Lowest Transaction Pricing (LTP) system. In August 2002, Korea adopted a ministerial ordinance establishing LTP. The United States had urged Korea to take steps to ensure the full implementation and enforcement of the ATP system whereby both imported and domestically manufactured pharmaceuticals are reimbursed without hospital margins. Korea announced in August 2002 plans to discard the ATP system and adopt on a one-year trial basis an LTP system in which the reimbursement price of a drug will be based on the lowest transaction price from the previous quarter rather than the actual transaction price. This change to LTP will likely lower the reimbursement prices for U.S.-made drugs. The U.S. Government has strongly urged Korea to ensure that any changes to its pricing system do not undermine its previous commitments on this issue or lead to a distortion of the incentives needed to promote innovation and the availability of innovative pharmaceutical products. The U.S. Government has therefore urged Korea to seek meaningful discussions with stakeholders including U.S. industry, which can provide valuable input on pricing. Korea's failure to state how it will handle companies' appeals of government pricing decisions is also of concern.

(2) Re-Pricing: As of January 1, 2003, patented and bio-equivalent generic drugs will be subject to price changes – cuts, in seemingly all cases – while non-bio-equivalent generics will not be subject to the price cuts. The proposed scheme appears discriminatory in that it will force proportionally larger price cuts on innovative, patented drugs (the specialty of U.S. and other foreign pharmaceutical companies) than on generic drugs (the specialty of Korean companies). The U.S. Government is closely examining these cuts and is continuing to press Korea to fully consult with all relevant stakeholders before taking any further steps.

(3) Adoption of a Reference Pricing System: In October 2002, Korea proposed a plan for the adoption of reference pricing, a system whereby the health ministry groups drugs into various categories and sets reimbursement prices for the group rather than taking into account distinct differences among drugs. Interested parties, including physicians, patients, pharmacists, and pharmaceutical makers expressed opposition to reference pricing at a November 2002 public hearing. The U.S. Government also opposes the reference pricing plan because it discriminates against the most effective and innovative drugs. These drugs tend to be relatively expensive (due to high research and development costs) and represent a high proportion of U.S.-made products in the Korean market. Reference pricing also limits the affordability of innovative medicines for low- and middle-income patients. This fosters the creation of a two-tier health system consisting of the relatively wealthy, who can buy the most advanced, effective drugs, and patients who cannot afford the additional co-payment for these drugs. Korea has not made a final determination on whether to adopt reference pricing.

The U.S. Government raised these issues on numerous occasions during trade consultations with Korea in 2002 and will continue to closely monitor developments in this sector. Of particular interest will be the extent to which the Ministry of Health and Welfare fully involves all relevant stakeholders, including U.S. industry, as it develops and implements new plans.

e. Intellectual Property Rights

In 2000, USTR placed Korea on the Special 301 Priority Watch List as a result of serious concerns over legal protection and enforcement of intellectual property rights (IPR). Based on commitments made in April 2002 bilateral trade meetings, USTR downgraded Korea to the Watch List in 2002. To date, some progress has been made by the ROKG toward fulfilling its April 2002 commitments; however, more needs to be done, including passage of legislation granting the Korean Standing Inspection Team (a key body

charged with investigating software piracy) police powers and provision of additional data to the U.S. Government by the ROKG on its IPR enforcement efforts. Further, new enforcement concerns have arisen concerning authorization of the distribution of U.S. films in Korea without the permission of the U.S. copyright owner. The U.S. Government continues to monitor developments related to these issues in Korea closely.

In 2002, the Korean government submitted amendments to the Copyright Act of Korea. These amendments have not yet passed the Korean National Assembly. The U.S. Government remains concerned about outstanding issues in the Copyright Act, such as the lack of a transmission right for sound recordings and a reciprocity provision for database protection that will hurt U.S. database producers. The Korean government has not been willing to make changes to this set of amendments before they pass the National Assembly. In 2002, the Korean government also put forward amendments to the Computer Programs Protection Act, which addressed some U.S. Government concerns. These amendments successfully passed the National Assembly in late 2002. The U.S. Government has raised these and other inadequacies in Korean copyright laws, including the failure to protect temporary copies, insufficient protection against the circumvention of technological protection measures, and the failure to provide full protection for pre-existing copyrighted works as required under the TRIPS Agreement in detail with Korea on numerous occasions in 2002. The U.S. Government will continue to work with the Korean government to ensure its full compliance with its WTO obligations, including those on protection of copyrights. Resolution of these issues will be key to concluding a Bilateral Investment Treaty (BIT).

f. Telecommunications

Standard-Setting: Increasing Korean government intervention in the private sector, including in its selection of technologies, continued to be of significant concern to the U.S. Government in 2002. This governmental influence on the choice of sources of equipment and technologies is often apparent in the licensing process for operators and in localization policies for procurement. The Korean government may use its influence directly but often works indirectly through industry associations and quasi-governmental commissions or other entities. As a result, some U.S. firms with leading-edge technologies have continued to encounter resistance to their efforts to introduce new software and technologies to the market, and some U.S. firms that formerly had a dominant market share have lost significant market share to Korean firms in the past few years. By limiting competition in the Korean telecommunications market, the Korean government is hampering the ability of Korean firms to develop state-of-the-art, globally competitive products as well as Korea's goal of becoming an economic hub in Northeast Asia.

A key new concern for U.S. industry and the U.S. Government that has been the focus of a number of bilateral meetings in 2002 relates to Korea's pursuit of domestically-created standards in the telecom sector which the Korean government has suggested that it intends to make mandatory . Of prime interest were developments related to the "wireless internet platform for interoperability ("WIPI") standard for mobile phone applications. The U.S. Government has a number of concerns related to the ROKG's plans related to WIPI, including: inappropriate government involvement in the creation, standardization and deployment of WIP; recent actions taken by the ROKG to discourage Korean telecommunications service providers from subscribing to competing foreign standards; overly-restrictive WIPI specifications which appear to be designed to keep competing foreign systems out of the market; and plans to make the standard mandatory without proper notification to, and consultation in, the WTO. The Korean government has also announced plans to reallocate the 2.3 gigahertz spectrum to a new wireless Internet system and appears to be planning to mandate a new standard in this area as well. The U.S. Government has repeatedly expressed its expectation that Korea, in launching any new telecommunications standards, will fulfill its bilateral and multilateral obligations and that all efforts will be made to avoid creating unnecessary

obstacles to international trade in the telecommunications sector. In this vein, the U.S. Government was pleased when in November 2002, the ROKG announced that it would not make any decisions on whether to make WIPI mandatory until it had fully consulted bilaterally and within the WTO.

Korea Telecom (KT) Privatization: On April 23, 2002 the ROKG officially requested that Korea Telecom (KT) be removed from coverage under the 1997 U.S.-Korea bilateral procurement agreement following the complete diverstiture of ROKG shares in the company, which took place in June 2002. Korea has made a similar request to WTO Members to remove KT from coverage under the WTO General Procurement Agreement (GPA).

In response, the U.S. Government has informed the Korean government that KT would remain covered under the bilateral agreement and the GPA until the United States and other interested governments, including Canada and the European Union, agree that all ROKG control and influence over the company have ceased (the GPA standard for removal from coverage) and that KT is behaving like a fully privatized company. Consultations on the matter continue.

g. Financial Services

As a condition in the IMF stabilization package, Korea agreed to bind its OECD commitments on financial services market access in the WTO. In January 1999, Korea provided WTO Members with a revised and somewhat improved schedule of financial services commitments that entered into force as of September 1999. The U.S. Government will continue to work with Korea to bring about more liberal treatment of foreign financial services providers.

h. Government Support for Semiconductor Production and Export

The U.S. Government continued to express strong concerns about instances of possible Korean subsidization of semiconductor production and export that could adversely affect U.S. trade interests. In particular, the U.S. Government raised concerns about the support by the Korean government of Hyundai Electronics, Ltd. (now, Hynix Semiconductor, Inc.), Korea's second largest semiconductor manufacturer. In late 2002, a new Hynix bailout package was accepted by Hynix creditors which included: a hefty debt forgiveness package in the form of a three-year-plus payback moratorium on 3 trillion Korean won of debt; a significant reductions in interest on the 3 trillion Korean won principal (from 6.7 percent to 3.2 percent); and a new 1.9 trillion Korean won debt-to-equity swap. This action comes after a series of steps taken to help the company in 2001 which included a $4 billion bailout instigated by the partially state-owned Korea Exchange Bank (KEB) and another $7 billion debt restructuring package and approximately $500 million in new loans organized by KEB in late 2001.

The U.S. Government has raised its concerns on this issue in a number of fora and has noted Korea's obligations under the Subsidies Agreement not to provide subsidies that may cause adverse effects to other WTO Members. The U.S. Government will continue to press Korea to fulfill its international obligations and to move forward with genuine structural reform of its financial sector.

i. Cinema Screen Quotas

Korean Law requires that domestic films be shown in each cinema for a minimum number of days per year. Current law requires that Korean films be shown 146 days of the year, with a potential discretionary reduction to 106 days. The Korean National Assembly adopted a resolution on December 8, 2000, stating that the screen quota system must not be abolished until the domestic market share for Korean films

maintains a 40 percent level. Although domestic films "maintained" a market share close to 50 percent in 2001 and 2002, there has been very little progress on the issue. In early 2002, hopes were raised that the issue could be resolved in time for President Bush's state visit to Korea. However, this effort was apparently blocked by a lack of flexibility on the part of the various Korean stakeholders and did not occur.

j. Bilateral Investment Treaty

Since 1998, the U.S. Government has sought to negotiate a bilateral investment treaty (BIT) with Korea aimed at securing Korean commitments on a balanced and open investment regime and providing protections for U.S. investors in Korea. Negotiations in 1999 made progress on Korean commitments to liberalize investment restrictions in a number of sectors, but several issues remained unresolved, including greater access for U.S. investors in telecommunication services, liberalization of the screen quota system, and resolution of IPR issues, specifically, with respect to retroactive copyright protection for pre-existing works and sound recordings. By 2001, both sides agreed that, without resolution of these issues it was not productive to continue negotiations. (See Screen Quotas).

k. Cosmeceuticals

The Korean Cosmetic Products Act, which became effective in July 2000, separates cosmetic products from cosmeceuticals or cosmetics with a function, such as sun screen, wrinkle cream or skin whiteners. The new regulations govern the sale and promotion of cosmeceuticals and require that these products be labeled as cosmeceuticals and not include claims that are beyond proven efficacy. In 2002, the Korean government took some steps to reform the approval process for marketing new cosmetics in Korea. However, the United States continues to have serious concerns related to this system, including the continued slow pace of approvals, and believes that Korea should simplify its cosmetics regulations and harmonize them with other cosmetics exporters such as the United States, the European Union, and Japan.

l. Agriculture

Implementation of the Biosafety Protocol: On March 28, 2001, the Ministry of Commerce, Industry, and Energy (MOCIE) issued legislation (the so called "LMO Act") to implement Korea's interpretation of the Cartagena Biosafety protocol. In June 2002, MOCIE announced a proposed Presidential Decree and Ministerial Ordinance to the LMO Act. However, these have not been notified to the WTO as required by the SPS Agreement. The U.S. Government has expressed concern that Korea's plans for implementation of the Biosafety Protocol, which will lead to mandatory environmental risk assessments of biotech crops, could disrupt an estimated $520 million in U.S. exports to Korea. The United States has urged Korea to make every effort to implement a regulatory approach to biotechnology that is rigorously based on science, transparent and predictable. Moreover, as Korea develops and implements new regulations, the United States has pressed Korea to fully involve all stakeholders, avoid duplication and adhere to international commitments.

Mandatory Food Safety Assessment: Under the Food Safety Act, issued by Korea's Ministry of Health and Welfare (MHW), the Korea Food and Drug Administration (KFDA) was given the authority to conduct mandatory safety assessments to evaluate biotechnology applications intended for human consumption. The Act, which was passed in August 2002, provides for an 18 month (grace) period during which technology firms must file and have completed applications for safety assessment. U.S. officials have urged their Korean counterparts to consult with both local and foreign industry to address concerns prior to finalizing the implementing regulations so as to avoid trade disruptions.

Additional U.S. Concerns Regarding Korea's Biotech Regulations: (1) biotechnology labeling requirements, and (2) special advertising requirements for biotech products. Related to biotechnology labeling requirements, after lengthy negotiations with the United States Korea finally permitted acceptance of a notarized self-declaration in-lieu-of the full, identity preserved (IP) documentation that was originally required. In response to U.S. concerns related to labeling requirements for fresh potatoes, Ministry of Agriculture and Forestry (MAF) officials have indicated that U.S. fresh potatoes will be exempt from biotechnology labeling requirements and will require no extra documentation as long as potatoes that are a product of biotechnology are not produced in the United States. Concerning biotech advertisement requirements, U.S. officials have pressed Korea to eliminate this non-science based requirement on the grounds that it duplicates existing labeling requirements and creates an unfounded negative perception of biotechnology products among consumers.

Organic Shipment Documentation Requirements: Absence of clearly written guidelines for documents that are required for organic foods often caused detention at Korean ports. While KFDA headquarters agreed to accept certain types of documents from exporters of organic foods, this list was not provided to port inspectors in writing which caused a number of detentions of quarantine inspection at port. The U.S. Government continues to work toward resolution of this issue.

Rice: Since the Uruguay Round Agreement on Agriculture went into effect, the United States has sold rice to Korea during two years (40,000 MT out of a TRQ of 171,023 MT in CY2002 and 30,000 MT, out of the 142,520 MT TRQ in CY2001). Such sales were only possible when Korea agreed to hold tenders for U.S. #1 grade medium rice. However, all rice including U.S. rice that is imported under the TRQ has severe restrictions on how it may be marketed. Currently, none of the rice imported under the TRQ is being sold to the general public for direct consumption. The United States has pressed Korea to eliminate restrictions on how the rice TRQ is administered.

Alcoholic Beverages Labeling: On October 1, 2002, the National Tax Service (NTS) of Korea implemented a regulation requiring that all alcoholic beverages, except canned liquor products, to be labeled to indicate where the product is to be sold. NTS now requires four different types of labels, and liquors for home use and discount stores must have a warning that states "not allowed to be sold in restaurants and bars" on the main label or supplementary label. Importers have serious concerns related to the additional cost associated with the new labeling requirements. The U.S. Government has urged Korea to allow less restrictive means of applying the usage label (i.e. stickers). The National Tax Service has agreed to continue to work with interested industry representatives and the U.S. Government to resolve this issue.

U.S. officials have also expressed concerns regarding Korea's customs classification of citrus pulp pellets, tariff rate quota administration for oranges, and prohibitively high tariff rates on croaker fish. After U.S. officials raised concerns regarding Korea's restrictions on the use of whey in fermented milk and prohibition against freezing meat sold as "fresh" or "chilled," Korea changed its regulations to address the issues.

m. Import Clearance Procedures, Food Standards, and Labeling

After WTO dispute settlement consultations with the United States between 1995 and 1999, the Korean Government revised its import clearance procedures to harmonize them with international practice including: (1) expediting clearance for fresh fruits and vegetables; (2) instituting a new sampling, testing, and inspection regime; (3) eliminating some non-science-based phytosanitary requirements; and (4) beginning revisions of food related regulations. However, additional work will be needed to bring Korea's

food related regulations into conformity with international standards, specifically those related to limited classification of food categories and burdensome testing requirements.

U.S. firms continue to experience problems with import clearance in Korea associated with FSIS health certificates and non-science based and excessive criteria for heat treatment for meat products. USDA officials plan to hold discussions with the Korean Government on these concerns in early 2003. On the positive side, Korea's plant quarantine requirements were improved in 2002 to recognize industry fumigation practices for shelled walnuts. However, Korean's phytosanitary and sanitary certification requirements still continue to limit market access for a variety of products due to delays in Korea's review of documentation on pest mitigation provided by the United States.

In early 2002, U.S. fruit and grain exporters experienced delays in quarantine inspection with extra testing costs due to a policy change in the "same company, same product" treatment. Same company, same product treatment allows exemptions from laboratory tests if the same company had previously passed tests for the same product in an earlier shipment. In January 2002, the KFDA added 12 new chemicals to their list of chemicals subject to simultaneous residue testing and required all products to be tested (including products with same company, same product status from earlier tests). Those companies/products which passed the new test regained same company, same product status. However, re-testing will be required if KFDA adds additional chemicals to their list of chemicals subject to simultaneous residue testing.

The U.S. Government is also concerned about the extended clearance time resulting from the new chemical tests and the cost associated with the tests (over US$1,000 for each simultaneous multi-residue test). KFDA Headquarters maintained that same company, same product status will have to be renewed whenever there is a change in the chemical test requirements or standards. Since KFDA makes such changes at least once or twice each year, the new policy will burden traders with additional testing costs and extended clearance times.

In December 2002, MHW announced a proposed Ministerial Ordinance related to the Food Sanitation Act. This proposal includes a significant change to the current import inspection system to limit the same company same product status up to three years for processed food and one year for fresh produce. Along with KFDA's policy on renewal of the same company same product status whenever there is a change in test requirements or standards, this proposal will add excessive burdens to imported agriculture and food products when finalized. The U.S. Government will continue to work with the ROKG to address these concerns.

4. India

a. General

The United States and India continued their efforts to developing a constructive long-term trade relationship. Important events during the year included a U.S. success in its WTO challenge to India's automotive TRIMS regime and elimination of the measures in question. However, India continues to limit market access in various areas, including through high taxes and tariffs, minimum reference prices on steel and other products and onerous labelling requirements.

b. Trade Dialogue

USTR Zoellick and Indian Minister of Trade and Industry Murasoli Maran agreed in August 2001 to operationalize the United States-India Trade Policy Working Group (TPWG) at the Ministerial level. The TPWG will facilitate regular consultations on the range of trade issues between the United States and India. The ministers also agreed that their respective staffs would meet periodically to discuss trade issues of mutual interest. To that end, TPSC agencies, led by USTR, met with their Indian counterparts, led by the Ministry of Commerce, three times by video conference during 2002. Participants covered the full range of trade issues during these discussions.

c. Auto TRIMS

The United States considers India's measures affecting trade and investment in the motor vehicle sector to be inconsistent with India's obligations under Articles III and XI of the GATT and Article 2 of the Agreement on Trade-Related Investment Measures. Indian policies require manufacturing firms in the motor vehicle sector to achieve specified levels of local content; to achieve a neutralization of foreign exchange by balancing the value of certain imports with the value of exports of cars and components over a stated period, and to limit imports to a value based on the previous year's exports.

In June 1999, the United States requested consultations with the Government of India pursuant to the WTO Dispute Settlement Understanding (DSU), and these consultations were held on July 20, 1999. The United States and the EU requested panels, which subsequently were merged. On December 21, 2001, the final panel report was released, confirming that WTO Members cannot impose local content requirements or trade balancing requirements on companies doing business in their countries, thus rejecting India's defense of its regime.

India appealed the panel's report on January 31, 2002, but later dropped the appeal before the Appellate Body could rule. The United States and India agreed on a short period for India to implement the panel's findings. In September 2002, India implemented the panel's decision by removing the offending measures.

d. Intellectual Property Rights

As a signatory to the Uruguay Round of GATT trade negotiations, India was required to comply with most of the obligations of the TRIPS Agreement by January 1, 2000, and must introduce a comprehensive patent system for pharmaceuticals and agricultural chemicals no later than 2005. The Indian Government has announced its intention to conform fully with the IPR-related requirements of the Uruguay Round. In December 1999, Parliament successfully passed three IPR related bills: the Copyrights Amendment Bill, the Trademark Bill, and the Geographic Indicators Bill. While the copyright law is generally compliant with the TRIPS Agreement, the 1999 amendments undermine TRIPS requirements concerning protection for computer programs. In 1999, the Parliament failed to amend the Patents Act and, thus, apparently failed to meet fully its WTO TRIPS obligations by the January 1, 2000 deadline. The Patents Act was originally expected to pass the Parliament in July 2000, and subsequently in November. Finally, in June 2002, Parliament passed legislation amending the Patents Act.

While the new legislation recognizes some of the shortcomings of the 1970 Patents Act, the legislation contains numerous deficiencies and fails to comply with both the letter and spirit of the TRIPs Agreement. Most notably, the following problems pose significant concerns: numerous categories of inventions are not patentable; lack of protection for product-by-process inventions; failure to address the abusive government

use and revocation provisions present in the 1970 Act; failure to comply with all of the safeguard of Article 31 of the TRIPs Agreement when granting compulsory licenses; and failure to recognize importation as satisfying the "working" requirement. Moreover, the law adds a new requirement to patentability, i.e., disclosure of the source and geographical origin of biological material used in an invention. To the extent that these types of requirements are unrelated to obtaining patent protection, they serve no legitimate purpose in a patent system and impose unnecessary burdens on patent applicants.

e. Reference Pricing

In August 2001, following allegations of under invoicing by vegetable oil importers, the Government of India imposed reference prices on imports of palm oil and palm products. In September 2002, India added soybean oil to its fixed reference price regime and in December 2002, raised the reference price to a level that substantially exceeds world prices for vegetable oils. The applied tariff for crude soybean oil was already at the WTO bound rate of 45 percent. Given fluctuations of world market prices, the effective tariff for crude soybean oil has exceeded India's tariff binding. The Indian Finance Ministry amends the reference price for soybean oil only when the world market price fluctuates above or below 10 percent of the reference price.

f. Export Subsidies

The Government of India supports producers of wheat (since October 2000) and rice (since April 2001) via the administration of a minimum support price-purchase program. Increased price supports (known as the "procurement price"), coupled with India's decision to raise the sales prices of wheat and rice to consumers through the public distribution system, has resulted in record level government-held stocks. The sale of government-held stocks of these products for export, at prices significantly lower than the domestic price, contradicts India's WTO commitments. U.S. exporters of wheat and rice are likely to be displaced in markets such as South East Asia and the Middle East where imports are highly sensitive to price.

5. Pakistan

In 2002, the United States began a dialogue with Pakistan on the issues affecting our trade and investment relationship. On December 10-12, 2002, the United States held an initial meeting of the U.S.-Pakistan Working Group. The Working Group provided an opportunity to exchange views on the Doha Development Agenda and to clarify issues of concern to both governments.

Further, both sides were able to air their concerns regarding the full range of trade and investment issues affecting both of our markets. Areas of discussion, clarification, and need for further work included tariff bindings, agricultural export subsidies, trade-related investment measures, and intellectual property rights, especially optical piracy. In the context of our bilateral agenda, the two sides exchanged views on cooperation with a view to enhancing bilateral trade, including by helping Pakistan expand its export base.

6. Afghanistan

A Trade Task Force, chaired by the State Department, was created to develop an Afghan Trade Initiative. This Initiative is designed to produce economic results in the near-term.

Effective June 6, 2002, the United States restored Normal Trade Relations (NTR) tariff treatment to the products of Afghanistan. NTR treatment had been revoked in 1986.

Soon after receiving NTR, the Bush Administration initiated an expedited review of a request from Afghanistan to be designated as a beneficiary under the U.S. Generalized System of Preferences (GSP). This required public comment and a finding that Afghanistan met the statutory designation requirements. On January 10, 2003, President Bush signed a proclamation designating Afghanistan a least developed beneficiary developing country. This will allow approximately 5,700 products from Afghanistan to enter the United States on a duty-free basis.

This GSP designation marked another important step in Afghanistan's return to the world trading system. It will provide increased opportunities for trade that will help Afghanistan build an economy that can offer its citizens a more prosperous future.

The Administration strongly supported in the last Congress, and presently supports in the current Congress, a legislative effort to remove the statutory exclusion of hand-made rugs from the list of articles eligible for duty-free treatment under the GSP. Hand-made rugs have been among Afghanistan's principal exports.

7. People's Republic of China

For much of the past two decades, the People's Republic of China (China) had been gradually transitioning toward a market economy from what in the late 1970's was a strict command economy. As part of its accession to the World Trade Organization (WTO), which became effective on December 11, 2001, China was required by the United States and other WTO members to agree to accelerate this process of market reform in order to comply with WTO requirements. Accordingly, China's WTO accession agreement embodies a set of extensive and far-reaching commitments on the part of China to change its trade regime, at all levels of government. Given the breadth and complexity of these commitments, assessing China's WTO compliance efforts is not a simple task.

Overall, during the first year of its WTO membership, China made significant progress in implementing its WTO commitments, although much is left to do. Progress was made both in making many of the required systemic changes and in implementing specific commitments. At the same time, serious concerns arose in some areas, where implementation had not yet occurred or was inadequate.

As expected, the principal focus of China's first year of WTO membership was on its framework of laws and regulations governing trade in goods and services, at both the central and local levels. China's trade ministry, the Ministry of Foreign Trade and Economic Cooperation (MOFTEC), reports that the central government has reviewed more than 2,500 trade-related laws and regulations for WTO consistency. By mid-2002, it had reportedly repealed 830 of these laws and regulations and amended 325 more. It had also reportedly drafted and adopted 118 new laws and regulations. Similar reviews are taking place at the local level, although the local governments are generally not as far along in their review process, in part because of the need to give effect to changes made by the central government. At the same time, some localities, particularly those in China's eastern provinces, are much further along in their review process than others.

Beginning early in 2002, China also devoted considerable resources to the restructuring of the various government ministries and agencies with a role in overseeing trade in goods and services. Some of these changes were mandated by China's accession agreement, while others were undertaken by China to facilitate its compliance with WTO rules.

Another significant focus for China during the past year involved education and training. China embarked on an extensive campaign to teach central and local government officials and state-owned enterprise

managers about both the requirements and the benefits of WTO membership, with the goal of facilitating China's WTO compliance. The United States and other WTO members, along with many private sector groups, contributed substantial technical assistance and capacity building resources to this effort.

As a general matter, China took positive steps to implement many of its specific WTO commitments during the past year. It made required tariff reductions, notably for information technology products, chemicals, autos and auto parts, wood and paper products, and many agricultural goods, including beef, dairy products and citrus, among others. When discrepancies between committed and implemented rates were reported, China usually made necessary adjustments. China also began the process of removing numerous non-tariff trade barriers that had affected a range of industries, from chemicals to scientific equipment, and it continued to improve its standards regime. For the most part, these steps were managed without serious incident, and market access for U.S. products in the affected sectors has generally improved. In addition, although not without problems, China took the necessary legal steps to allow for increased market access for foreign service suppliers in a variety of sectors, including financial services, telecommunications, audio-visual services, tourism and travel-related services, constructions and engineering services, educational services and environmental services.

While the efforts of China's leadership to implement China's WTO commitments should be recognized, the Administration also found a number of causes for serious concern during China's first year of WTO membership.

One area of cross-cutting concern involved transparency. In particular, China implemented its commitment to greater transparency in the adoption and operation of new laws and regulations unevenly at best. While some ministries and agencies did take steps to improve opportunities for public comment on draft laws and regulations, and to provide appropriate WTO enquiry points, the Administration found China's overall effort to be plagued by uncertainty and a lack of uniformity. The Administration is committed to seeking improvements in China's efforts in this area.

Apart from this systemic concern, three other areas generated significant problems and warrant continued U.S. scrutiny – agriculture, intellectual property rights and services.

The area of agriculture proved to be especially contentious between the United States and China. While concerns over market access for U.S. agriculture products are not unique to China, particularly serious problems were encountered on many fronts, including China's regulation of agricultural goods made with biotechnology, the administration of China's tariff-rate quota (TRQ) system for bulk agricultural commodities, the application of sanitary and phytosanitary measures and inspection requirements. The United States and China were able to make progress toward resolving some of these problems, particularly with regard to biotechnology. Other problems remain unresolved, however, with the most troublesome being China's inadequate implementation of its TRQ commitments.

In the area of intellectual property rights (IPR), China did make significant improvements to its framework of laws and regulations. However, the lack of effective IPR enforcement remained a major challenge. If significant improvements are to be achieved on this front, China will have to devote considerable resources and political will to this problem, and there will continue to be a need for sustained efforts from the United States and other WTO members.

Meanwhile, concerns arose in many services sectors due to transparency problems and China's use of prudential requirements that exceeded international norms. In addition, Chinese regulators imposed particularly problematic restrictions in the insurance sector, where transparency issues, excessive

capitalization requirements and restrictions on branching combined to present unique difficulties, and in the express delivery sector, where existing rights were placed in jeopardy. Nevertheless, progress was made in 2002 toward resolving the concerns associated with these two sectors.

China's compliance problems are occasionally generated by a lack of coordination among relevant ministries in the Chinese government. Another source of compliance problems has been a lack of effective or uniform application of China's WTO commitments at local and provincial levels. China is taking steps to address both of these concerns, through more effective inter-ministerial mechanisms at the national level, and through a more concerted effort to reinforce the importance of WTO-consistency with sub-national authorities. In other cases, however, compliance problems involve entrenched domestic Chinese interests that may be seeking to minimize their exposure to foreign competition, circumstances that require particular vigilance by the Administration and the private sector.

When confronted with compliance problems in 2002, the Administration used all available and appropriate means to obtain China's full compliance, including intervention at the highest levels of government. The Administration worked closely with the affected U.S. industries on compliance concerns, and utilized bilateral channels through multiple agencies, at all levels, to press these concerns. The Administration also initiated a regular dialogue on compliance issues between USTR and China's lead trade agency, MOFTEC, with the goal of bringing all involved Chinese ministries and agencies together when the resolution of particular problems warrants it. Where possible, the Administration also multilateralized its enforcement efforts, by working with like-minded WTO members on an ad hoc basis, whenever particular issues have had an adverse impact beyond the United States.

Despite the compliance problems that arose over the course of the past year, most U.S. industry representatives remain enthusiastic about the actual and potential benefits from China's WTO membership. They understand that the institutional, legal and regulatory changes demanded of China by its accession agreement are extraordinary and far-reaching and are complicated further by China's highly decentralized administrative structure. At the same time, they want to see China comply fully with its WTO commitments, as does the Administration. The United States, working with fellow WTO members, will use all means at its disposal to ensure that China achieves full implementation.

For a more detailed discussion of trade-related issues involving China in 2002, see USTR's 2002 Report to Congress on China's WTO Compliance, issued on December 11, 2002.

8. Japan

In 2002, the United States continued to place a high premium on promoting structural and regulatory reform in Japan, improving market access for U.S. goods and services, and supporting the adoption and successful implementation of pro-competitive policies throughout the Japanese economy. The United States welcomed Prime Minister Koizumi's unwavering commitment to "structural reforms without sanctuaries" and his continuing efforts to "implement bold regulatory reform across sectors." Nonetheless, the Japanese economy is still underperforming in part because of the non-performing loans problem and deflation. Growth is also being significantly hampered by structural rigidities, excessive regulation, and market access barriers. Over the past year, the U.S. Government has therefore been working with the Government of Japan to develop and implement concrete measures to further open and deregulate Japan's markets. These measures will help Japan revitalize its economy and generate sustainable economic growth in the medium and long-term.

The United States also utilized a wide range of regional and multilateral fora in 2002 to advance its trade agenda with Japan. The United States is working to ensure that our trade priorities in these fora, including on agriculture and services, are well coordinated with our bilateral agenda so that the various initiatives are mutually reinforcing and complementary.

Overview of Accomplishments in 2002

U.S.-Japan Economic Partnership for Growth

The United States promoted much-needed regulatory reforms and obtained improved access for U.S. goods and services in a number of areas in Japan in 2002. In addition, under the U.S.-Japan Economic Partnership for Growth ("the Partnership"), the United States continued to work with Japan to promote sustainable growth by addressing such issues as sound macroeconomic policies, structural and regulatory reform, financial and corporate restructuring, foreign direct investment, and open markets. The United States and Japan also addressed new and lingering trade issues in a variety of sectors while regulatory and structural reform remains of paramount importance.

The following provides a brief update on each component of the Partnership along with progress achieved in 2002:

Subcabinet Economic Dialogue: Co-chaired by the NSC/NEC and Japan's Ministry of Foreign Affairs (MOFA), the "Subcabinet" sets the tone and direction of the Partnership, with Deputy/Vice Ministerial level officials meeting on an annual basis to discuss a broad range of bilateral, regional, and multilateral issues. Recommendations from these meetings are given to the respective Governments for use in developing policy. At the meeting of the Subcabinet in May 2002 in Japan, participants covered a range of issues, including the problem of non-performing loans in Japan, bilateral cooperation on terrorist financing, and regional economic relations. The next meeting of the Subcabinet is expected to convene in the spring of 2003, coincident with the 2003 annual meeting of the Private Sector/Government Commission, which is described below.

Private Sector/Government Commission: The "Commission" is designed to integrate the U.S. and Japanese private sectors more fully into the economic work of the two Governments. Private sector delegates from Japan and the United States meet annually with the Subcabinet to discuss issues of key importance to both countries. The Commission convened its inaugural meeting in May 2002, addressing the topic "Creating an Environment for Sustainable Growth: Raising Productivity and Corporate Revitalization." That meeting provided the private sector the opportunity to draft recommendations for consideration by both Governments, including the need to more aggressively address Japan's non-performing loan problem, improve corporate governance, and speed deregulation in key sectors. The Commission convened a followup meeting in November 2002, which provided an opportunity for the Governments to respond to the recommendations put forward in May.

Regulatory Reform and Competition Policy Initiative: Co-chaired by USTR and MOFA, the "Regulatory Reform Initiative" aims to promote economic growth and open markets by focusing on sectoral and cross-sectoral issues related to regulatory reform and competition policy. Under this Initiative, the United States has made a concerted effort to focus on issues that the Koizumi Administration has identified as important areas for reform, such as information technologies, telecommunications, medical devices and pharmaceuticals, energy, and competition policy. Throughout 2002, Working Groups and a High-Level Officials Group met to discuss reform proposals that culminated in the First Report to the Leaders, which

was conveyed to President Bush and Prime Minister Koizumi on June 25, 2002. It detailed numerous regulatory reform measures that Japan had implemented or would implement.

Investment Initiative: The Investment Initiative addresses laws, regulations, policies, and other measures intended to improve the climate for foreign direct investment (FDI). Led by the U.S. Department of State and Japan's Ministry of Economy, Trade, and Industry (METI), the Investment Initiative meets regularly to resolve investment issues and prepare a joint report for the Leaders' summit. Key topics being discussed this year include the role investment can play in addressing demographic changes, promotion of mergers and acquisitions, and facilitating labor and land policy reforms. The Initiative includes co-sponsored investment promotion seminars in both countries to bring about better understanding and support for FDI from regional government and business leaders. During the talks, the U.S. private sector is given an opportunity to actively participate and directly present their investment concerns to the Government of Japan.

Financial Dialogue: The Financial Dialogue serves as a forum for the U.S. Department of Treasury, Japan's Ministry of Finance (MOF) and the Financial Services Agency (FSA) to exchange information on key macroeconomic and financial sector issues, including non-performing loans. The Financial Dialogue met in Tokyo in October 2002, and future meetings will be held annually.

Trade Forum: The Trade Forum, which is led by USTR and MOFA, was created to foster focused and substantive discussion on a wide-range of sectoral trade issues of interest and concern to both Governments. It also serves as an "early warning" mechanism to facilitate resolution of emerging trade problems. Issues raised at the first meeting of the Trade Forum, in July 2002 in Tokyo, included agriculture, public works, flat glass and transportation issues. The Trade Forum meets at least once a year.

a. Regulatory Reform and Competition Policy Initiative

Under the Regulatory Reform and Competition Policy Initiative ("Regulatory Reform Initiative") the United States and Japan issued the First Report to the Leaders wherein Japan agreed to undertake a myriad of important regulatory reform measures. Notable achievements were made in various sectors, including telecommunications, information technologies, energy, medical devices and pharmaceuticals, and financial services. Significant progress was also made in key areas such as competition policy, transparency and other government practices, legal system reform, revision of Japan's Commercial Code, and distribution.

Building on the success of the inaugural year of the Regulatory Reform Initiative, the United States presented Japan on October 23, 2002 with 45 pages of recommendations, which called on Japan to adopt sweeping regulatory reforms. Consistent with the overall objective of the Partnership, these recommendations include reform measures intended both to open markets and help Japan return to sustainable growth. Furthermore, the United States made a concentrated effort to focus on issues that Japan has identified as priorities for reform.

The October 2002 recommendations presented to Japan are acting as the basis for bilateral discussions in a High-level Officials Group and the various Working Groups. These discussions will in turn serve as the basis for a second annual report to the President and Prime Minister in mid-2003 detailing the progress made under this Initiative, including specific measures to be taken by each Government.

Highlights of the First Report to the Leaders and key reform recommendations submitted in October are as follows:

i. Sectoral Regulatory Reform

Telecommunications: The establishment of a pro-competitive telecommunications services market in Japan is the primary focus of the United States in pursuing regulatory reform for this sector. However, Japan's telecommunications regulator, the Ministry of Public Management, Home Affairs, Posts and Telecommunications (MPHPT), continues to defer to the interests of NTT at the expense of business and residential users and the promotion of competition in the telecommunications services market. In this environment, the inability of competitive telecommunications carriers to make inroads into NTT's control of 98 percent of subscriber lines and 58 percent of mobile customers continues to impair the introduction of innovative, low-cost services to business and residential users in Japan's $145 billion telecommunications market, which is one of the world's largest.

The June 2002 First Report to the Leaders highlighted measures taken by Japan to implement several 2001 legislative reforms intended to promote further competition in this sector. These measures included the introduction of asymmetric regulation to eliminate anticompetitive behavior in the mobile services market and other improvements to regulation over essential wireline facilities. In May 2002, Japan classified NTT DoCoMo as a carrier with market power and committed to ensure that the price of interconnection with DoCoMo's designated facilities be cost-oriented. The Telecommunications Business Dispute Settlement Commission created under the 2001 reforms issued an administrative judgment in October 2002 supporting the right of a particular wireline carrier to set retail rates for calls from its network to a DoCoMo customer. MPHPT, which previously opposed such a right, supported the finding and agreed to study how to set interconnection rates for mobile services. As a result, there is now an opportunity for wireline originating carriers to overturn a longstanding discriminatory practice of price-setting. Japan completed its two-year study on pro-competitive reforms in August 2002. The final report advocated measures to promote the opening of the telecommunications network, stronger policies for consumer support, and the introduction of a new framework for competition policy which eliminates the outdated and cumbersome classification of carriers by whether they own or lease facilities.

In the First Report to Leaders, Japan also committed to recalculate rates for interconnection to NTT East and West networks with a view to further reductions of those rates and the removal of non-traffic sensitive costs from the rates paid by competitors to NTT. Work to revise the interconnection costing model was concluded in the first quarter of 2002, and in August an advisory panel provided guidance for calculating cost-oriented rates. The United States and Japan discussed in October and December 2002 the extent of the progress to be expected pending final decisions on several issues. Japan also pledged to continue efforts to facilitate access to rights of way for carriers by maintaining guidelines for non-discriminatory, cost-based access to poles, ducts and conduits; relaxing restrictions on attaching cables to poles and on road construction; and improving cooperation with local authorities.

In the October 2002 Regulatory Reform submission, the United States urged Japan to complete the process of instituting and implementing a pro-competitive regime. In recommendations toward this goal, the United States suggested that Japan promote transparency and strengthen regulatory independence by separating regulatory functions from ministry control and allowing fully private ownership of NTT. In addition, the United States suggested Japan exercise oversight over industry organizations with quasi-regulatory functions. The United States also asked Japan to deregulate competitive carriers and to implement dominant carrier regulation and competition safeguards. In keeping with dominant carrier regulation, the United States called on Japan to correct problems which raise the payments competitors make for interconnection to the NTT network to a level considerably above cost, for non-discriminatory access to basic NTT services, and to ensure competitive rates for interconnection to the wireless network. The United States also proposed that the two countries work together to identify and explore ways to

address issues of mutual concern related to the promotion of advanced technologies and services. The first meeting of the Telecommunications Working Group took place in November 2002 to discuss the U.S. recommendations.

Information Technologies: The primary objective of the Information Technologies (IT) Working Group under the Regulatory Reform Initiative is to work with Japan to establish a vibrant and competitive IT sector which can benefit both our economies, as well as provide global leadership in this area. Although Japan's electronic commerce market is one of the largest in the world, its tremendous potential for growth remains unfulfilled because the IT sector is burdened by regulatory and other barriers. Japan has taken significant steps towards, and continues to make progress on, realizing its ambitious plan to become a global leader in IT. Even so, the Japanese government itself has recognized through the "2002 e-Japan Priority Policy Program" that legal and other barriers persist which hinder growth in the IT sector. As Japan responds to the challenges that lie ahead in this pivotal sector, the U.S. Government is working with Japan to establish a regulatory framework that ensures competition, promotes innovation, allows private sector-led regulation where appropriate, and protects intellectual property rights in the digital age. Establishing such a framework will promote the development of IT-related businesses and electronic commerce, and thus provide significant opportunities for U.S. firms and their leading technology products and services in a market that is expected to reach nearly $125 billion by 2005.

Through the first IT Working Group meeting under the Regulatory Reform Initiative, the United States raised and discussed key recommendations submitted in October 2001 to address IT sectoral issues and concerns with Japan. These recommendations focused on protecting intellectual property, increasing user confidence in electronic commerce, and reinforcing the leadership role of the private sector in IT, as well as on proposals for cooperative efforts in the areas of electronic education, the promotion of electronic commerce and IT in the private sector, and network security. In response to the discussions related to these recommendations, Japan agreed to take significant steps to promote growth in the IT sector.

The specific measures Japan has taken are summarized in the June 2002 First Report to the Leaders under the Regulatory Reform Initiative. Among the major highlights of the Report are the three "e-initiatives" which the United States and Japan agreed to work on in the areas of electronic commerce, e-government, and cybersecurity. In recognizing the importance of establishing global leadership in these important areas, the United States and Japan agreed to work together to recognize and support important principles and objectives in the multilateral framework for liberalizing trade of digital products, to promote the expansion of e-government services, and to strengthen cyber-security by cooperating to facilitate broader acceptance and use of the Council of Europe Convention on Cybercrime.

With regard to strengthening the protection of intellectual property in the digital age, Japan ratified and acceded to the WIPO Performances and Phonograms Treaty (WPPT), which protects performances and sound recordings online. This will significantly strengthen protection of intellectual property rights on the Internet. In addition, Japan recognized that "temporary storage" of digital content (such as software and music held in the random-access memory, or RAM, of a computer) may be a reproduction so that the right holder's reproduction rights are preserved. Japan also took steps to increase user confidence in electronic commerce by confirming that all technologies for secured electronic signatures will be treated equally, that electronic records will have the same legal effect as written documents, and that certification providers do not have to be accredited by the government. Japan reinforced the leadership role of the private sector by agreeing to support the development of private sector self-regulatory mechanisms for online consumer protection and management of personal data. In addition, Japan recognized the important role of e-government in expanding the use of electronic commerce by accelerating the use of interactive online procurement in both central and local governments. This was one of several measures to improve the

openness, fairness, and transparency for government procurement of information systems. Japan also agreed to cooperate with the U.S. Government in the areas of e-education, network security, and the promotion of IT and electronic commerce technologies for start-ups and small firms.

Building on these accomplishments and the progress achieved over the past year, the United States made several recommendations in the October 2002 Regulatory Reform submission to reinvigorate Japan's IT sector. These recommendations included removing regulatory and other barriers, strengthening the protection of digital content, promoting the use of electronic commerce in the public and private sectors, and expanding IT procurement opportunities. An overarching objective of this year's IT Working Group, incorporated throughout the specific recommendations, is to promote and expand private-sector input and the use of public comment opportunities in the Japanese policy-making and regulatory processes. Specific recommendations include removing existing barriers that impede business-to-business and business-to-consumer electronic commerce, and allowing non-attorneys to provide mediation and arbitration services for profit. With regard to strengthening the protection of intellectual property, the United States made several recommendations to extend Japan's terms of copyright protection, strengthen the enforcement system against infringement and provide security for commerce in the digital age. To promote the use of electronic commerce, the United States has urged Japan to support private sector self-regulatory mechanisms for privacy and alternative dispute resolution, as well as to ensure that laws governing electronic transactions are technology-neutral. The United States has also called on Japan to support fair and open procedures for e-government and e-education procurement by ensuring transparency, efficiency, security, and private sector-led innovation. The United States conveyed and discussed these recommendations in detail during the first round of talks of the IT Working Group, which took place in December 2002.

Energy: Dominated by ten regional utilities, Japan's energy market is the third largest in the world after the United States and China. Through continued regulatory reform, Japan aims to increase efficiency in its power sector and reduce its energy prices, still the highest among OECD members. Since the March 2000 liberalization of one-third of its electricity market (which has yielded little new entry by competitors), Japan gradually has been moving toward another phase of reform to further its goals of increased efficiency and lower prices. A truly competitive Japanese energy sector would not only spur economic growth domestically, but also would expand opportunities for U.S. firms to produce, sell and trade energy products and services in Japan's electricity and gas markets. In addition, regulatory reform will help generate new opportunities for U.S. firms to export to the electricity generation equipment market.

During the inaugural year of the Regulatory Reform Initiative, the United States urged Japan to take bolder steps to promote a regulatory and competitive environment in both its wholesale and retail energy sectors. This would enable Japan to achieve its goals of reducing electricity costs to internationally competitive levels, encouraging innovation and efficiency, and increasing the share of natural gas in its primary energy supply. The United States also called on Japan to remove impediments that discourage market entry.

Toward addressing these problems, Japan agreed in the First Report to the Leaders to work actively to establish important principles and objectives for reforming the electricity sector, such as ensuring that the electricity network guarantees transparent and fair competition; considering the establishment of a wholesale power exchange over a broad geographic market; and examining existing transmission capacity and interregional transmission links to facilitate power transactions nationwide. Other principles and objectives included in the Report were establishing a retail market environment where consumers can choose from multiple suppliers through competition, and clarifying a plan and schedule for expanded retail choice.

Similarly, the Report includes important objectives for reforming the gas sector, such as creating an efficient, transparent, fair, and competitive gas market, fostering third-party usage of gas infrastructure, and promoting incentives for investing in gas infrastructure. Also included were principles and objectives for promoting construction and interconnection of gas pipelines, fostering transparency measures to enhance third-party usage of pipelines and Liquified Natural Gas (LNG) terminals, and expanding the scope of retail liberalization in the gas sector.

In addition, to promote competition in the electricity sector and to clarify the conduct by incumbent utilities and other enterprises that may contravene the Antimonopoly Act or the Electricity Utilities Industry Law, the Japan Fair Trade Commission and METI agreed in the Report to review their joint Guidelines on Fair Transaction and issue new guidelines in 2002. Those guidelines were finalized in July 2002.

In October 2002, the United States made numerous energy sector recommendations under the Regulatory Reform Initiative. Initial Energy Working Group meetings were held in mid-November 2002 in Tokyo to discuss the recommendations, which refined and reinforced the reform principles and objectives detailed in the First Report to the Leaders.

Consistent with this year's discussions, the Electricity Industry Subcommittee issued a draft report on electricity sector reform in December 2002. This draft report was open to public comment. METI has said the final version of this report will serve as a basis for reform legislation. Key elements of the draft plan include: (1) establishing a neutral body to set transmission and distribution rules; (2) securing fairness and transparency of transmission and distribution systems through information firewalls, monitoring, and prevention of cross-subsidization; (3) reviewing the transmission pancaking system; (4) preparing for a nationwide wholesale power exchange; (5) organizing and strengthening the governmental structure responsible for market monitoring and dispute resolution; and (6) setting forth a plan and schedule for expanded retail choice.

Regarding gas sector reform, the Urban Heat Subcommittee issued a draft report, which was also released in December 2002 and open to public comment. Like the electricity report, the final version will serve as a basis for legislation to reform the gas sector. Key elements of the draft report include: (1) taking special measures to increase pipeline investment incentives and promote interconnection of pipeline networks; (2) securing fair and transparent competition between the gas companies that maintain and operate the network and other companies that use the pipelines; (3) taking necessary measures to separate accounts and prohibit discriminatory treatment towards certain businesses to which gas companies supply gas; (4) promoting third-party usage of LNG terminals by, for example, establishing rules for resolving disputes over negotiations; (5) setting forth a plan and schedule for expanded retail liberalization; and (6) developing guidelines and establishing a neutral and fair system for conducting market monitoring and dispute resolution.

These reforms are designed to foster Japan's economic recovery, help U.S. firms compete in the Japanese electricity and gas markets, and create new opportunities for competitively priced, high-quality exports to the Japanese market for electrical generation equipment. The United States welcomes Japan's current undertaking to embark on another round of reform in the electricity and gas sectors.

Medical Devices and Pharmaceuticals: Continued over-regulation, inefficiencies, and an over-emphasis on short-term budget savings have slowed the introduction of innovative and cost-effective products into Japan's medical device and pharmaceutical markets. Increasing the availability of these products is key to

helping Japan meet the challenge of providing increased quality health care to its aging population while containing overall health care costs.

In the First Report to the Leaders, Japan agreed to take numerous concrete deregulation measures that are critical to ensuring that the steady stream of innovative medical devices and drugs being developed by U.S. firms gain timely access to the Japanese market.

Severe fiscal pressure on Japan's national healthcare system led Japan to implement various pricing reforms, including price cuts on medical devices, pharmaceuticals and doctors' technical fees, and increases to patients' premium payments and co-payments. The United States actively engaged Japan at all levels to ensure that Japan did not implement these steps in manners that arbitrarily targeted U.S. products for price reductions. As a result, the overall adverse impact of medical device and pharmaceutical pricing reforms was less than anticipated. However, there is still significant opportunity for Japan to reform its pricing systems to better recognize and reward the value of innovative medical devices and pharmaceuticals. This matter will continue to be addressed within the context of Japan's ongoing comprehensive healthcare reform process.

Although pricing issues were a source of trade friction, progress was made in resolving issues relating to the regulatory approval of medical devices and pharmaceuticals. Japan took steps to harmonize its application review and approval processes and improve and expand the use of foreign clinical data. These steps are critical to enhancing the transparency and consistency of regulatory approvals, which are helping to reduce approval times, lessen burdens on applicants, and expedite patient access to new treatments. The Pharmaceutical Affairs Law, which governs the entire regulatory system for medical devices, is being revised for the first time in more than 40 years. In addition, the regulatory bodies that conduct product reviews and regulate clinical trials are being restructured into one agency that will oversee the regulation of medical devices and pharmaceuticals from development to final market approval. These steps are expected to further improve the speed and efficiency of Japan's regulatory system.

Building on these steps, the United States in its October 2002 Regulatory Reform Initiative submission proposed that Japan: (1) establish a Prime Minister's council on comprehensive healthcare reform that would provide meaningful access for all stakeholders, including foreign industries, to present and discuss ideas; (2) ensure that innovative medical devices and pharmaceuticals are introduced into the healthcare system in a timely manner, and that such products receive appropriate evaluations in a transparent and predictable pricing process; (3) continue to reform the regulatory systems for medical devices and pharmaceuticals to ensure faster, more efficient product approvals that give maximum consideration to common international practices; and (4) ensure that the pricing process for biological products (medical devices and pharmaceuticals) reflects the investment costs needed to meet the regulatory requirements of such products, and that treatment of such products takes place in a nondiscriminatory, science-based manner. The United States elaborated on these recommendations at the first meeting of the Medical Devices and Pharmaceuticals Working Group, which met in November 2002 in Washington, D.C.

Financial Services The Government of Japan has implemented the majority of its "Big Bang" financial deregulation initiative, which aimed to make Tokyo's financial markets "free, fair and global" by allowing new financial products, increasing competition within and between financial industry segments, and enhancing accounting and disclosure standards. "Big Bang" liberalization has substantially improved the ability of foreign financial service providers to reach customers in most segments of the Japanese financial system.

In January 2002, rules governing Money Management Funds (MMFs) were improved, although an exception from mark-to-market valuation still remains. Legislation eliminating the requirement for physical certificates for Japanese government bonds and corporate debentures passed the Diet in June 2002 and is set to be implemented effective January 6, 2003. This follows legislative action to eliminate a similar requirement for commercial paper that took effect in April 2002. Banks were granted limited entry into the insurance business in April 2001 (initially non-life only). Further restrictions were lifted in October 2002, including allowing bank sales of variable annuities.

In mid-August 2002, the Financial Services Agency (FSA) announced a package of securities market reforms, including the possible submission to the January 2003 ordinary Diet session of legislation to reduce minimum capital requirements for securities companies, investment trust management companies, and investment advisory companies in order to facilitate new entry. The FSA also seeks to introduce a sales agent system to permit certified public accountants, licensed tax accountants, and financial planners to sell corporate stocks to investors as an agent of a security brokerage house. The FSA package included permission for banks and securities firms to share business space beginning mid-September 2002 and the relaxation of restrictions on discretionary execution of customer orders by securities firms. The GOJ has also promised reform of government financial institutions to avoid competition with the private sector.

The United States welcomes Japan's progress in increasing the efficiency and competitiveness of its financial markets. In its October 2001 submission, the United States put forward proposals to support further opening and development of the Japanese financial markets, which will allow Japan to take full advantage of international financial expertise and support future Japanese growth. These include: (1) permitting postal financial institutions to employ investment advisory companies on terms similar to those for public pensions; (2) granting regulatory approval to prototype plans for defined contribution (DC) pensions; (3) increasing the DC pension plan contribution limits; (4) permitting multiple classes of shares for investment trusts; (5) further improving rules governing MMFs; (6) revising the E-Notification Law to include lenders subject to the Moneylending Business Law; (7) working closely with the private financial services community to review current reporting and record-keeping requirements; and (8) subjecting any legislative action for the financial services activities proposed for the Postal Public Corporation (to be created April 2003) to full public notice and comment.

These issues were discussed on December 12, 2002 in the second meeting of the U.S.-Japan Financial Services Working Group, a component of the Financial Dialogue of the U.S.-Japan Economic Partnership for Growth.

For information on deregulation in the insurance sector, please see the Insurance entry under "Existing Bilateral Agreements."

ii. Structural Regulatory Reform

Competition Law and Policy: A key goal of our regulatory reform efforts is to ensure that steps to deregulate and introduce competition into Japan's economy are not undone by anticompetitive actions by firms and trade associations resistant to such steps. An active and strong antitrust enforcement policy in Japan is needed to restrain anticompetitive behavior, including by incumbent firms in once heavily regulated sectors.

In the First Report to the Leaders under the Regulatory Reform Initiative, Japan agreed to review the status of the Japan Fair Trade Commission (JFTC) with a view to ensuring its independence and neutrality from other regulatory agencies, and to increase the JFTC's staff levels by more than 6 percent to 607 people. To

strengthen the JFTC's enforcement effectiveness, the Antimonopoly Act (AMA) was amended in May 2002 to increase five-fold the maximum criminal fine for corporate offenders and to expand the JFTC's power to issue cease-and-desist orders with respect to AMA violations by trade associations and violations of the AMA's international contract prohibitions. The JFTC agreed to devote a sizable portion of its staff to monitor markets undergoing deregulation, and MPHPT and METI committed to work with JFTC to promote competition in the telecommunications and energy sectors, respectively. With respect to measures to combat bid rigging, Japan enacted legislation to address the problem of so called bureaucrat-led bid rigging. That legislation empowers the JFTC to require corrective measures by government ministries and agencies in which complicity by government officials has been found. In addition, Ministry of Land, Infrastructure, and Transport (MLIT) agreed to prepare and publish on its website a bid rigging countermeasures booklet for use by central government, local government and quasi-governmental commissioning entities.

In its October 2002 Regulatory Reform submission, the United States recommended that Japan introduce legislation to make the JFTC an independent agency under the Cabinet Office. The submission also called on Japan to increase the budget and staff of the JFTC substantially, and to establish an office within the JFTC composed of graduate-school level economists to provide economic analysis and expertise to the JFTC's enforcement and competition advocacy activities. The United States urged Japan to strengthen the JFTC's investigative and enforcement powers, including by giving the JFTC criminal investigation powers, substantially increasing administrative surcharge levels and making cartel activity *per se* illegal. The United States also recommended that Japan take further measures to address prolific bid rigging, including instituting procedures for collecting overcharges from bid rigging and assisting citizen lawsuits aimed at recovering overcharges suffered by local governments as a result of bid rigging. The submission urged that the Government of Japan actively solicit and fully consider the JFTC's views before implementing plans for deregulation in the energy and telecommunications sectors and for the restructuring and privatization of public corporations and other public entities. These recommendations were discussed in detail at a meeting of the Cross-Sectoral Working Group in November 2002.

Transparency and Other Government Practices: Despite improvements in recent years, Japan's regulatory system continues to lack the transparency and accountability necessary to ensure that all entities have the same access to government information and the policymaking process. Reforms that increase the transparency of the regulatory process and make the bureaucracy more accountable help curb burdensome discretionary powers of the bureaucracy and shift power to the general public. Such reforms also help level the playing field for foreign firms, reducing the special advantages traditionally enjoyed by Japan's domestic firms.

In 2002, Japan took several steps to increase the transparency and accountability of its regulatory system. As detailed in the First Report to the Leaders, Japan implemented an information disclosure law in October 2002 that provides the public the right to request the disclosure of information held by Independent Administrative Institutions (*dokuritsu gyosei hojin*), public corporations (*tokushu hojin*), and similar entities. Japan is also taking active steps to increase the use of the "No Action Letter" (NAL) system. That system allows businesses to submit inquiries to ministries and agencies on the interpretation and application of laws and ordinances. The ministries and agencies respond in writing to inquiries and make their responses public. In addition, Japan implemented a Government Policy Evaluation Act in April 2002 aimed at enhancing the effectiveness of its policy evaluation system and government accountability.

Building on these measures, the United States recommended in its October 2002 submission that Japan undertake additional improvements in its regulatory system to support its reform efforts and ensure that all partners have the same access to government information and the policymaking process. The United

States urged Japan to: (1) improve the effectiveness of the Public Comment Procedures (PCP) by establishing a centralized system that would allow parties to find solicitations of public comments in one location, requiring a minimum 30-day comment period, and strengthening the PCP from being mere guidelines to being a law; (2) ensure that establishment of Special Zones for Structural Reform is done in a transparent, non-discriminatory manner, with a focus being placed on encouraging market entry and an understanding that successful measures used in the zones should be applied on a national basis as expeditiously as possible; (3) take steps to facilitate public input into draft legislation while it is being developed by the government before it is submitted to the Diet; and (4) ensure that the process to restructure and privatize public corporations is transparent and that the private sector has opportunities to provide input. Further discussions on transparency issues took place in mid-November 2002 during the inaugural meeting of the Cross-Sectoral Working Group.

Legal Services and Judicial System Reform: The creation of a legal environment in Japan that supports regulatory and structural reform and that meets the needs of international business is a critical element of successful regulatory reform in Japan. Of particular concern has been a number of outmoded restrictions on the delivery of international legal services in Japan that interfere with the ability of foreign lawyers to practice in Japan in an effective manner.

In 2002, Japan took some important steps toward modernizing its legal system. Most significant was the adoption by the Japanese Cabinet of a Program for Promoting Justice System Reform in March 2002, which set out the timetable for introducing legislation to implement Japan's plans for judicial system reform. These plans include introduction of legislation in early 2003 to, among other things, liberalize restrictions on partnership and employment relationships between Japanese and foreign lawyers, reduce by 50 percent the time required to complete court trials and modernize Japan's arbitration law to improve the legal framework for domestic and international commercial arbitration.

In its October 2002 submission, the United States urged Japan to implement wide-ranging measures to liberalize restrictions on the practice of law by foreign lawyers in Japan. These recommendations include eliminating all prohibitions against freedom of association between Japanese and foreign lawyers; allowing foreign lawyers to form professional corporations and to establish branch offices throughout Japan, just as Japanese lawyers are currently permitted to do; and eliminating needless restrictions and requirements, and unnecessary delays, on foreign lawyers desiring to practice in Japan as foreign legal consultants. The United States also urged Japan to act expeditiously in implementing measures to ensure effective judicial oversight of administrative agencies. The United States strongly advocated the adoption of these recommendations during the November 2002 meeting of the Cross-Sectoral Working Group.

Commercial Law: Reform of Japan's commercial law is important for introducing necessary flexibility into the organization, management and capital structure of Japanese companies and to facilitate merger and acquisition activities by both foreign and domestic firms in Japan. The Japanese economy will also benefit from additional measures to improve corporate governance, since good corporate governance systems will encourage increased productivity and economically sound business decisions as management strives to maximize shareholder value.

In 2002, Japan made substantial revisions to its Commercial Code that will introduce greater flexibility to the capital structure of Japanese corporations and strengthen corporate governance mechanisms. Specifically, Japan's Commercial Code was amended to liberalize substantially restrictions on the issuance of stock options; permit companies to issue tracking stock and shares with limited voting rights; eliminate the requirement that foreign companies must set up a branch office in Japan; and provide companies the option of adopting an American-style executive committee (audit, nominating and compensation

committee) system, composed of at least a majority of outside directors, as an alternative to appointing statutory auditors. Japan also undertook to examine the possible introduction of modern merger techniques, such as triangular mergers and cash mergers, into its commercial law.

The United States has commended Japan's broad-ranging reforms of its commercial law. In its October 2002 Regulatory Reform submission, the United States encouraged Japan to build on these reforms by taking further measures to improve commercial law and corporate governance in Japan. Specifically, the United States recommended that, while it is examining the general introduction of modern merger techniques into its commercial law, Japan revise the Industry Revitalization Law to permit firms seeking to restructure to use such merger techniques immediately. The United States also urged Japan to improve corporate governance by requiring pension fund managers to vote proxies for the benefit of fund beneficiaries and by providing for increased disclosure on a more timely basis of information necessary for shareholders to exercise their voting rights in an effective manner. These recommendations were discussed in more detail at a meeting of the Cross-Sectoral Working Group in November 2002.

Distribution: Japan's rigid and inefficient distribution and customs systems restrict market access for imported products and undermine the competitiveness of foreign-made products. With regard to customs, the United States continues to urge Japan to modernize clearance procedures to fully open its market to imported goods. The demand for the rapid delivery of goods and information has produced a number of new industries, including the express carrier industry, that are now seen as vital for the smooth development of the global economy. It is important therefore, to minimize the regulations, procedures, and costs that could inhibit the free exchange of goods and information through the express carrier industry. While more remains to be done, the Japanese government has implemented several measures and provided a number of assurances in the context of the Regulatory Reform Initiative that will enhance the ability of U.S. express carriers to provide an efficient, speedy exchange of goods and information to benefit the Japanese economy.

In the First Report to the Leaders, the Japanese agreed to consult with U.S. express carriers before deciding on measures to be adopted to replace the current temporary fee structure employed by the Nippon Automated Customs Clearance System (NACCS) Center; to undertake to use the Public Comment Procedure whenever the Air-NACCS fee structure is revised in the future; to ensure that the NACCS Center will in the future provide information to the public about its operations in a timely fashion when requested to do so; to implement the Pre-Arrival Examination System for import cargoes (the system that allows the instant issuance of import permits for air cargo upon arrival) and the manifest declaration system for express consignments of a certain value; and to continue to simplify Japan's customs procedures.

Our reform recommendations to the Government of Japan in October 2002 recognized that Japan has implemented, and plans to implement, additional positive measures to simplify and automate customs processing, but contained several further recommendations dealing with customs clearance. The submission again recommended raising the *de minimis* level for customs duties from 10,000 yen to 30,000 yen. To promote financially healthy airline and air-freight industries, the submission recommended that Japan formulate the level of landing fees in an open and transparent manner, using internationally accepted accounting standards, and base those fees on the actual cost of providing services. The U.S. Government continues to monitor progress on customs processing procedures and the fair and uniform implementation of the Large Store Location Law. In November 2002, the Cross-Sectoral Working Group met to discuss these and other issues.

b. Bilateral Consultations

i. Insurance

Under the 1994 and 1996 bilateral insurance agreements, Japan took significant steps to deregulate its insurance market. These steps included sweeping measures that resulted in meaningful improvements in the product approval process, greater use of direct sales of insurance products, and a diversification of allowable product offerings. As a result, U.S. insurance companies continue to visibly and substantially increase their presence in both the life and non-life insurance sectors in Japan. This progress notwithstanding, issues of concern to U.S. insurers remain. Prominent among these in 2002 were the future funding of the Life Insurance Policyholder Protection Corporation (PPC) and competitive concerns related to Kampo, Japan's postal insurance entity.

Bilateral consultations under the two insurance agreements were held in Washington, D.C. in August 2002. As has been customary in past years, the National Association of Insurance Commissioners participated in the talks as part of the long standing effort to promote U.S.-Japan regulator-to-regulator discussions. The talks covered a broad range of issues that had been highlighted by U.S. industry as key areas of concern.

The United States raised the issue of future funding for the Life Insurance Policyholder Protection Corporation (PPC). U.S. life insurers remain concerned that additional industry contributions to the PPC will be imposed following expiration of the Government of Japan's funding commitment to the PPC in March 2003. Private sector insurers, foreign and domestic, already face a mandate to provide 560 billion yen to the PPC. Failures of several Japanese insurers have expended approximately 538 billion yen of this amount. Given the serious financial implications of any additional PPC contributions, the United States urged the Japanese Financial Services Agency (FSA) to deliberate this matter in a transparent manner that afforded interested parties the opportunity to air their views and concerns. While noting the essential role of the PPC in ensuring consumer protection and market stability, the United States expressed the need for a sustainable and equitable funding decision that fairly allocates costs among industry, the government and policyholders. The FSA committed to "consulting" with industry, but did not commit to a formal transparent process in this matter, citing no legal requirement to do so. The FSA subsequently did hold meetings on this issue with private insurers but private sector representatives generally noted that these discussions typically did not include substantive two-way dialogue. Near the end of 2002, it appeared as if progress was being made towards a resolution of this issue. It remained unclear, however, if any such resolution would ultimately receive Diet approval. Until a resolution is reached, the U.S. Government will continue to monitor developments and raise this issue as necessary in bilateral and multilateral meeting and fora.

The United States again raised concerns regarding future plans for the postal financial institutions – the postal insurance system (*Kampo*) and the postal savings system (*Yucho*) – which currently fall under the purview of MPHPT but will be transferred to a Postal Public Corporation in April 2003. There has been longstanding concern over the effect these institutions have on the efficient operation of Japan's financial market. As such, the new Corporation provides an important opportunity for the Government of Japan to take concrete steps to address key transparency and competition issues related to these services. The U.S. Government put forward concrete recommendations regarding the transfer in its October 2002 Regulatory Reform submission to Japan. These recommendations included ensuring transparency throughout the process, requiring the postal financial institutions to operate under the same standards as its private sector competitors, and prohibiting these institutions from underwriting any new insurance products or originating any new non-principal-guaranteed investment products. As the April 2003 creation of the Postal Public Corporation draws near, the United States will closely follow the development of

implementing rules and regulations that will govern this new entity to assess both the extent to which public comment procedures are used and their competitive affects on the financial services sector.

The United States and Japan discussed the FSA's implementation of recommendations to streamline Japan's product approval process and increase needed personnel and technical resources. In addition, the United States emphasized its concerns about the case agent system and restrictions on foreign currency investment assets. The two countries also addressed a number of new issues that have arisen as Japan continues to restructure its financial system, such as the implementation and supervision of Japan's new pension system, the expansion of sales of insurance by banks, and the possible reduction of guaranteed interest rates by insurers.

Over the past year, the Government of Japan has taken some steps to increase transparency in its decision-making processes related to the insurance sector, including use of public comment procedures by the FSA and MPHPT. For example, the United States welcomed efforts made by the FSA to involve interested parties in the development of "know your customer" guidelines. U.S industry representatives have generally commented favorably on the willingness of Japanese officials to meet with them. As noted previously, however, on some key issues, FSA's unwillingness to engage in substantive dialogue has the effect of leaving insurers in the dark on regulatory matters of great importance.

The next annual consultations are scheduled to be held mid-2003, at which time the United States anticipates a full discussion on a wide range of issues.

ii. Autos and Auto Parts

Improving access to the Japanese auto and auto parts markets remains an important objective of the Bush Administration. While there has been a trend toward closer integration as well as important technological advancements in the global automotive industry over the past several years, the effect of these changes on market access and competition in this sector remains unclear. Unfortunately, Japan's lingering economic slump, limited market access, and weak competitive environment have continued to disproportionately hurt foreign vehicle and auto parts manufacturers in Japan. The United States remains disappointed that, after rising steadily in 1995 and 1996, sales of North American made vehicles have fallen for the last six years, with sales in 2002 expected to be substantially less than in 1994. In an effort to contend with these economic conditions and position themselves to better compete in the future, U.S. auto companies have continued to consolidate distribution networks and rethink corporate strategies. The auto parts sector also remains problematic: the U.S. auto parts trade deficit with Japan increased from a record level of $9.5 billion in 1997 to an estimated $11.2 billion in 2002.

In order to address barriers in and improve U.S. companies' access to the domestic Japanese automotive market and Japanese auto plants in the United States, the United States and Japan established a new Automotive Consultative Group (ACG) in October 2001. The ACG will serve as the focal point for addressing lingering as well as new, emerging issues in this key sector of both countries' economies. More specifically, the group will assess trends in the industry based on a series of trade and economic data on autos and automotive parts to be provided by both countries and work to identify areas in which specific action can be taken by Japan to address U.S. concerns. This would include further deregulation (particularly with respect to the automotive parts aftermarket), increased transparency in rules and regulations governing this sector, and more rigorous application of Japanese competition laws. The group will meet at least annually and will be co-chaired by the Department of Commerce and USTR on the U.S. side, and METI and the Ministry of Land, Infrastructure and Transport on the Japanese side. The first meeting took place in January 2003.

In addition to meetings under the ACG, the United States is continuing to address cross-cutting issues impacting the automotive sector under the Partnership, announced by President Bush and Prime Minister Koizumi in June 2001. This includes expanding opportunities for foreign investment, increasing transparency, and promoting corporate restructuring in the Japanese economy.

iii. Government Procurement

Construction/Public Works: The U.S. share of Japan's $210 billion public works market has consistently remained well below one percent – a troubling fact given the competitiveness of U.S. design/consulting and construction firms throughout the rest of the world. Discriminatory practices in Japan's public works sector continue despite the existence of the 1994 U.S.-Japan Public Works Agreement, under which Japan is obligated to use open and competitive procedures for procurements valued at or above the thresholds established in the WTO Agreement on Government Procurement. These problematic practices include failure to address rampant bid-rigging, use of discriminatory qualification and evaluation criteria, unreasonable restrictions on the formation of joint ventures, and the structuring of individual procurements so they fall below thresholds established in international agreements. The United States is very concerned with these practices, which seriously impede U.S. companies' ability to participate in Japan's public works sector.

During the Trade Forum in July 2002, the United States urged Japan to eliminate the obstacles that prevent U.S. companies' full and fair participation in its public works sector. In addition, the United States welcomed Japan's decision to address a long-standing U.S. concern regarding joint ventures for design projects by allowing design firms to conduct "design architect" work as joint venture members. The United States also encouraged Japan to include U.S. firms in Construction Management, Urban Renewal, and Private Finance Initiative projects. In October 2002, Japanese private sector organizations hosted the fourth U.S.-Japan Construction Cooperation Forum (CCF), which focused on facilitating the formation of joint ventures between U.S. and Japanese design/consulting and construction companies for Urban Renewal projects.

iv. Investment

Changing Japanese attitudes toward inward foreign direct investment (FDI), depressed asset values, and improvement in the regulatory environment enabled U.S. and other foreign firms to continue to gain significant new footholds in the Japanese economy, mostly through mergers and acquisitions. As a result, although FDI in Japan remains the lowest among OECD countries, investment has been rising over recent years. The banking/insurance and telecommunications sectors showed particularly high growth rates. FDI in JFY 2000 in banking/insurance increased by more than 100 percent over JFY 1999 levels to approximately $9.2 billion and telecommunications showed healthy growth with FDI inflows of approximately $6.7 billion. U.S. direct investment into Japan mirrored these changes with increases in investment flows up to approximately $9.2 billion in JFY 2000, mostly due to transactions in the financial sector. More recently, however, FDI into Japan has slumped, as a result of continuing economic problems in Japan and a slowing global economy. In JFY 2001 (which ended March 2002), total FDI plunged to $17.3 billion (Yen 2.2 trillion), down 39.5 percent from the level of JFY 2000.
U.S. investment also shrank significantly to $5.1 billion. During the first half of JFY 2002 (April to September 2002) as well, this downward trend continued, as total FDI fell almost 60 percent from the level of the same period a year ago.

Japanese and foreign businesses continue to be significantly affected by the implementation of several recent legal changes. The Securities Exchange Law, for example, now mandates consolidated and

market-value accounting for listed firms and the new bankruptcy law (Civil Reconstruction Law) encourages business reorganization, including spin-offs, rather than forced liquidation of assets. In addition, the concept of corporate governance, such as the role of boards of directors, is changing in ways that bode well for increased investments, mergers and acquisitions. Amendments to the Commercial Law passed by the Diet in May 2002, will allow, starting April 2003, large-scale corporations to choose either Japan's traditional statutory auditor system or executive committee system (i.e., U.S.-style corporate governance). In another promising development, METI plans to submit a bill amending the Industrial Revitalization Law (IRL) to the next ordinary Diet session, scheduled to convene in mid-January 2003. The bill would introduce triangular mergers, which allow the use of foreign parent company stock as merger consideration, for those companies covered by the IRL.

Nevertheless, government and business observers from both countries recognize that much more remains to be done and the U.S. and Japanese Governments have agreed to continue to consult on investment issues. The U.S.-Japan Investment Initiative, under the Economic Partnership for Growth, sets forth a framework for bilateral discussions on investment that highlights and resolves possible impediments. The Initiative meets regularly throughout the year and an annual report is given to the leaders on the year's accomplishments. During the talks, the U.S. private sector is given an opportunity to actively participate and directly present their investment concerns to the Government of Japan.

v. Housing/Wood Products

With just under 1.2 million housing starts in 2001, Japan's home building materials market is second in size to only that of the United States. Estimates of the size of the home building materials markets range upward of $62 billion, not including materials going into the repair and remodeling market. According to the U.S. Department of Commerce, imports of building materials from the United States for use in the residential construction market decreased in 2001, because of continued weakness in the Japanese housing market. The housing market in Japan is expected to remain weak for the foreseeable future given that the number of dwellings exceeds the number of households.

Discussions over the past several years under the auspices of the U.S.-Japan Enhanced Initiative on Deregulation and Competition Policy (EI) have led to a number of significant changes, including amendment of the Building Standard Law to make it performance-based, approval of three-story, multi-family, wood-frame construction in urban areas, recognition of U.S. grademarked lumber, and amendment to the Japanese Agricultural Standards (JAS) Law to allow foreign testing organizations to function on an equal footing with their Japanese counterparts. The Ministry of Agriculture, Forestry and Fisheries announced on March 6, 2002, that it was recognizing the grading systems of certain wood products-related organizations in the United States as being equivalent to those of JAS, a prerequisite for U.S. testing organizations applying to function as registered certification organizations.

Discussions during the last year of the Initiative focused on ways to stimulate sales of existing homes, to expand the residential repair and remodeling market for U.S. building products. Unlike the new construction market, the repair and remodeling market is an area that is expected to experience strong growth (5 percent or more annually) over the remainder of the decade. Sales of existing homes in Japan are currently only a fraction (less than 15 percent) of existing home sales in the United States.

Restrictions on building size and designs, and products continue to constrain the use of some foreign building products and systems that are commonly used in the United States and elsewhere, thereby limiting choice for consumers and artificially inflating housing costs. The United States continues to have serious reservations about the transparency and basis of certain testing methodologies for evaluating fire

resistance; discussions are ongoing. The United States has also notes the need for Japan to ensure that guidelines for volatile organic emission levels be developed through a transparent process and be based upon sound science.

As part of the Fourth Joint Status Report, the United States and Japan agreed that future discussions on wood/building products related issues would be under the auspices of the Wood Products Subcommittee and its two technical committees, the Building Experts Committee and JAS Technical Committee. (These committees were set up under the terms of the 1990 U.S.-Japan Wood Products Agreement). The Wood Products Subcommittee met in Tokyo in April 2002, and the Building Experts Committee and the JAS Technical Committees met in Seattle in September 2002. The discussions were deemed productive.

c. Sectoral Issues

i. Agriculture

Japan remains the United States' largest export market for food and agriculture products. Despite this, Japan maintains many barriers to imports of these products.

Rice: The United States has expressed ongoing concerns over the U.S. market share of Japan's overall rice imports in recent years. Although U.S. market share in Japan's Simultaneous Buy-Sell (SBS) tenders showed some improvement in 2002, the Japanese were slow to fill the entire SBS allocation. At the end of 2002, it was still unclear how the Japanese would allocate 36,000 metric tons of the SBS portion that had gone unallocated. (SBS tenders are conducted by the Japanese Food Agency and are designed to allow Japanese rice wholesalers and retailers to purchase high value, identity-preserved rice from foreign suppliers for retail sale, and as such are desired by the U.S. rice industry). The United States will closely follow the remaining SBS tenders in Japan's fiscal year (April-March) to ensure that Japan fulfills its rice commitments and will continue to press Japan for increased access to its rice market.

The U.S. Government has also been concerned about the increasing percentage of low-quality broken rice in Japanese tenders of U.S. rice in recent years. Recent levels of broken rice imports from U.S. firms (17 percent - 18 percent) exceed what the industry would view as a normal broken percentage of around 11 percent. However, in 2002, the percentage of broken rice purchased from the United States decreased compared to 2001. As with the U.S. market share of imported rice, the United States will also continue to press Japan to lower the percentage of low-value broken rice in Japanese tenders.

Beef Safeguard Measure: The United States is very concerned over indications that Japan will increase tariffs on beef next year through imposition of an emergency beef tariff measure. Japan is the United States' number one beef export market, purchasing over $1.2 billion worth of U.S. beef in 2001. While the U.S. acknowledges the technical trigger for imposing this measure, the United States considers its use under the existing circumstances to be improper. The U.S. position is that such measures were intended to aid domestic producers confronted with import surges; however, this is not the case in Japan where beef imports are merely recovering from severely depressed levels following the 2001 *Bovine Spongiform Encephalopathy* (BSE) scare. Imposition of this safeguard will threaten this recovery and harm not only U.S. beef producers but also a full range of Japanese beef consumers, including the food service, grocery, and restaurant industries.

In August 2002, the United States urged Japan to take the necessary steps to prevent the measure from being imposed. Consequently, the issue was raised in official correspondence and in a series of bilateral and multilateral meetings and fora. A final decision by Japan, through legislation, is expected in early

2003. Regardless of the outcome on this legislation, the United States will continue to urge Japan to suspend this measure for the coming fiscal year.

Sanitary and Phytosanitary Measures: Japan's use of sanitary and phytosanitary measures continues to create many barriers to U.S. food and agricultural goods. The United States is increasingly concerned that these measures are being imposed despite their inconsistency with international standards and in the absence of supportive science.

A prime example of this is Japan's fumigation requirement on U.S. fruits and vegetables for 10 species of cosmopolitan pests. These are pests that are widely distributed in Japan and are not under official control. The fumigation requirement is particularly detrimental to the quality of these products, many of which sometimes do not survive fumigation and must be destroyed. In addition to some forward movement with the United States and Japan entering into discussions on a pre-clearance protocol for lettuce, the United States has raised this issue in the WTO Committee on the Sanitary and Phytosanitary Measures.

Throughout 2002, Japan placed a series of nationwide bans on all U.S. poultry and egg products (cooked and uncooked) because of reports of *low pathogenic avian influenza* (LPAI). LPAI is a globally ubiquitous disease, and the International Office of Epizootics (the international standard setting body for animal health) has determined that it is not a reportable and actionable poultry disease. Following intervention by the United States, Japan lifted its national bans but maintained a series of state-wide, or in some cases, geographic bans. As of the end of 2002, Japan had eliminated all of the LPAI bans.

The United States continues to work with Japan to resolve this and all other SPS concerns in appropriate bilateral and multilateral meetings. In addition, the United States will monitor closely Japan's planned creation of a Food Safety Agency and will take every opportunity to ensure that this agency operates in a manner consistent with Japan's trade commitments and promotes WTO consistent policies that are based on sound science.

Organic Food: In March 2002, the United States reached an equivalence agreement with Japan to facilitate the export of all U.S. organic products to Japan, currently valued at over $100 million. This equivalence agreement became effective April 1, 2002. The equivalence agreement is facilitating the export of U.S. organic product to Japan as a result of Japan's acceptance of the USDA organic standards, accreditation procedures and conformity assessment requirements.

ii. Steel

Steel issues are detailed in Chapter V, "Other Multilateral Activities."

iii. Flat Glass

Barriers to U.S. flat glass sales in Japan persist, in contrast to the high market shares U.S. flat glass manufacturers have gained in other industrialized economies. Japan's three domestic producers constitute an oligopoly that exerts tight control over distribution channels by, for example, maintaining extensive equity and financial ties to distributors. In addition, Japanese flat glass manufacturers adjust prices, capacity and product mix at virtually the same time, contributing to a lack of competition in the market.

The United States has engaged Japan in discussions of these concerns in various bilateral fora over the past decade, most recently in the 2002 Trade Forum under the U.S.-Japan Partnership for Economic Growth. During the Trade Forum discussion, the U.S. Government highlighted the continuing problems that

prevent market entry, including the need for a stronger Japan Fair Trade Commission and tighter enforcement of rules against anticompetitive behavior. The U.S. Government also has highlighted the need to modify regulations that would facilitate use of energy efficient glass in Japan.

The United States continues to urge Japan to take steps to promote competition in and access to its glass market. The United States also continues to work with U.S. industry on ways to improve market access and enhance competition in this sector.

9. Taiwan

Taiwan became a member of the WTO on January 1, 2002. Taiwan's accession to the WTO has increased access over the past year for a broad range of U.S. goods and services, including agricultural exports. Highlights of Taiwan's WTO commitments include:

- Tariffs on industrial goods were reduced to less than 5 percent on average;
- Tariffs on construction and agriculture equipment, wood (except plywood), paper and paper products, furniture, distilled spirits, certain steel products, civil aircraft, dolls, toys and games were reduced to zero (some upon accession, most by 2004);
- Agricultural tariffs fell to 12 percent on average, with most of these reductions taking place upon accession;
- Taiwan's state trading monopoly on tobacco and alcohol was eliminated;
- Taiwan has increased foreign access to a number of service sectors, including professional services (architects, accountants, lawyers), audiovisual services, express delivery services, advertising, computer services, construction, wholesale and retail distribution, franchising, and environmental services; and
- Taiwan has the obligation to adhere to the WTO TRIPS Agreement to protect intellectual property rights.

However, we continued to work with the Taiwan government this past year to address shortcomings in several areas related to its WTO commitments, including increasing market access for agricultural goods, improving intellectual property rights (IPR) protection, further opening Taiwan's telecommunications services market, and ensuring market access for pharmaceuticals.

a. Agriculture

At the beginning of 2002, Taiwan was late in fully implementing the tariff-rate and market access quotas on rice, chicken, pork, fish, and other products specified in their WTO commitments. Tariff-rate quotas on chicken, pork, fish and other products for 2003 were announced as planned in the Fall of 2002.

The Taiwan government's management of its rice import system was particularly troublesome this past year and required several substantive discussions to ensure access for U.S. suppliers. Further, Taiwan agreed as a condition of its accession to the WTO to consult with the United States and other interested WTO members regarding its plans for management of rice imports beyond 2002. Following numerous attempts to hold substantive discussions this past year, the Taiwan government finally agreed to meet in November 2002. As 2002 came to a close, the United States continued efforts to ensure timely and full implementation of Taiwan's commitments on rice imports for 2003.

b. Intellectual Property Rights

The level of intellectual property (IP) piracy in Taiwan remains at a very high level. Minimal progress was made in strengthening its intellectual property rights protection regime during the past year. U.S. concerns were serious enough to warrant continued placement of Taiwan on the Special 301 Priority Watch List for the second year in a row. Although the Taiwan authorities declared 2002 to be the "action year for IPR protection,"continued pirating of optical media, failure to shut down counterfeit and IPR-infringing facilities, and the export of pirated and counterfeit goods overseas led the United States to urge the Taiwan government to further improve its enforcement and legal framework for IPR protection.

Taiwan is in the process of modifying its copyright law in response to U.S. concerns. Proposed amendments, which will require legislative approval, define public transmission and include Internet-related provisions, such as technological protection measures and electronic copyright for the management of information. U.S. Government and industry have expressed concerns that the latest drafts of these amendments may not adequately protect IPR in Taiwan if the authorities exempt some infringements from "public offence" status, thus requiring private complaints before law enforcement can initiate action against violators.

We will continue to monitor Taiwan's progress in combating its high IP piracy rates, focusing in particular on whether the Taiwan government aggressively enforces its laws, takes active measures to crack-down on pirate activities, and makes other efforts to reduce all types of IPR violations. We also look forward to working with the Taiwan government on further amendments to its copyright law to conform with existing international IPR norms.

c. Telecommunications

Taiwan committed as part of its WTO accession to fully open its telecommunications services market, with the exception of certain foreign equity limitations and board membership requirements. To date, the Taiwan government has not implemented the legal regime or licensing criteria to provide new licenses for local, domestic long distance, and international services despite repeated requests from the United States to fulfill these commitments.

The Taiwan government permitted the direct sale of fiber-optic submarine cable capacity to the four existing fixed-line license holders and other telecommunications businesses, including Internet Service Providers, in February 2002. While international submarine cable firms will be permitted to build their own backhaul facilities, or links from the cable landing site to network providers, they are limited to only one gateway.

Taiwan is in the process of developing new criteria regarding the issuance of new fixed-line telecommunications licenses, including those for domestic long-distance and international services, expected to be issued in March 2003. DGT plans to issue licenses not only for long-distance and international services but also for comprehensive networks and city call services. Capital requirements for comprehensive network services, city-call services and long-distance/or international services will be NTD 16 billion, NTD 12 billion and NTD 2 billion, respectively. Comprehensive fixed-line licensees will require a build-up of 400,000 lines but 60,000 lines will be sufficient for initiating basic services. We will continue to monitor whether such requirements are hindering Taiwan's progress toward full market opening of its telecommunications sector in a WTO-consistent manner.

d. Pharmaceuticals

Taiwan's pharmaceutical registration process continues to slow market entry for new drugs that have already been approved in other industrial countries. During 2002, Taiwan's Department of Health implemented a new requirement for firms to submit validation data as part of the registration and approval process for both new drugs and those already on the market. We continued to work closely with the Taiwan governmentas 2002 came to a close to ensure market access for U.S. firms.

10. Hong Kong (Special Administrative Region)

a. Intellectual Property Rights

Hong Kong continued enforcement actions during the past year to address piracy of copyrighted works. Hong Kong people are growing increasingly aware of the importance of IPR to their own industries, notably movies and toys. The unauthorized copying of computer programs, movies, music, television programs, and music remains illegal; but in June 2001, Hong Kong's Legislative Council (LegCo) suspended the criminal provision for unauthorized copying of publications. The Hong Kong government was preparing an amendment at the end of 2002 to refine the "fair use" rules for copyright publications and create new provisions to crack down on illicit copy shops. Another amendment currently being considered by LegCo will liberalize the parallel importation of computer software, while maintaining criminal penalties for such imports of "entertainment" copyrighted products like movies and music. The U.S. industry has expressed some concern about the adequacy of new legislation and continues to push for even stronger enforcement. We will continue to monitor this situation and other anti-piracy efforts closely.

b. Telecommunications

Hong Kong will complete its liberalization of local fixed telecommunications network services (FTNS) on January 1, 2003. Some U.S. companies are considering applying for licenses, but remain concerned about how interaction with the incumbent service provider (PCCW/HKT) will be regulated. Potential new entrants are also concerned that they would be disadvantaged in comparison with the incumbent. We will continue to closely monitor developments in this sector.

G. Africa

1. Overview

The United States enjoys a strong trade and investment relationship with the 48 countries of sub-Saharan Africa. Two-way trade between the United States and sub-Saharan Africa totaled $19.6 billion in the first ten months of 2002, down 21 percent from the same period in 2001, largely as a result of the weakness in the global economy. Sub-Saharan Africa is home to more than one-tenth of the world's population, supplies 14 percent of U.S. crude oil imports, and represents the largest regional bloc of WTO Members (38 countries). African Members of the WTO played an important role in the launch of the Doha Development Agenda in November 2001.

In February 2002, USTR Zoellick traveled to Kenya, South Africa, and Botswana – the first-ever visit to Africa by a sitting U.S. Trade Representative. During the stop in Kenya, he co-chaired the first meeting of the U.S.-COMESA Trade and Investment Council. In South Africa, he met with trade ministers from the sub-region and explored possible negotiations on a free trade agreement with the five member countries of the Southern African Customs Union (SACU). In November 2002, Zoellick notified Congress of the

President's intent to negotiate such an agreement with SACU. This would be the first U.S. free trade agreement with sub-Saharan African countries. Formal negotiations are expected to begin in the second quarter of calendar year 2003.

The African Growth and Opportunity Act (AGOA) is the centerpiece of U.S. trade policy for this important region and is helping to achieve key Administration objectives in sub-Saharan Africa, including promoting economic reform, growth and development; expanding bilateral and regional trade and investment relationships; and facilitating the region's full integration into the multilateral trading system. Meeting these objectives will open new markets for U.S. exports and create healthier economies and improved governance in sub-Saharan Africa. Significant progress was made in each of these areas in 2002 and plans are proceeding to continue this work in 2003. The Trade Act of 2002 contained several notable enhancements of AGOA.

2. Proposed Free Trade Agreement with Southern Africa

In November 2002, U.S. Trade Representative Zoellick notified Congress of the President's intent to initiate a free trade agreement (FTA) with the five member countries of the Southern African Customs Union (SACU): Botswana, Lesotho, Namibia, South Africa and Swaziland. In pursuing this FTA, the Administration is responding to Congress' direction, as expressed in the African Growth and Opportunity Act, to initiate negotiations with interested beneficiary countries to serve as the catalyst for increasing trade and investment between the United States and sub-Saharan Africa. The negotiations -- addressing trade topics such as market access, investment, services and intellectual property rights -- are scheduled to begin in the second quarter of 2003.

U.S. Trade Representative Zoellick first discussed the possibility of a U.S.-SACU FTA in meetings with SACU member country trade ministers during his February 2002 visit to South Africa. In October 2002, SACU Ministers formally communicated to USTR Zoellick their intent to pursue FTA negotiations with the United States. After notifying Congress of the President's intent to negotiate an FTA with SACU, in accordance with the provisions of the Trade Act of 2002, Zoellick requested the International Trade Commission to prepare a report on the probable economic effects of an FTA. USTR consulted with Congress and the private sector and also solicited public comment on the prospective FTA. More than a dozen business associations and NGOs testified at a December 16, 2002 public hearing convened by USTR on the planned negotiations. Several more organizations submitted written comments. These consultations demonstrated broad support for a prospective FTA and helped to identify priorities for the negotiations.

This FTA is a vital part of the Administration's broader effort to drive global trade liberalization, to create new commercial opportunities for U.S. companies, farmers and workers in fast growing regions of the world, and to draw developing countries into the mainstream of the global economy. It offers a chance to craft a groundbreaking agreement that will serve as a model for similar efforts in the developing world. The SACU countries are strong economic reformers and leading AGOA beneficiaries. They have seen the positive role that trade can play in promoting economic growth and development and are now taking an important step toward deeper commercial engagement with the United States.

Through an FTA with SACU, U.S. businesses will gain preferential access to their largest export market in sub-Saharan Africa, worth more than $3.1 billion in 2001. An agreement will also help to address longstanding regulatory barriers in the region and to level the playing field in sectors where U.S. exporters were disadvantaged by the European Union's free trade agreement with South Africa. By building on the success of AGOA, the SACU countries would secure the kind of guaranteed market access that supports

long-term investment and economic prosperity. The FTA would also reinforce ongoing regional economic reforms and lower the perceived risk of doing business in southern Africa.

3. Implementing the African Growth and Opportunity Act

AGOA, which is authorized through September 30, 2008, provides powerful incentives for economic growth in one of the poorest regions of the world by granting quota- and duty-free access to the $10 trillion U.S. market for nearly 6,500 products. The Act also institutionalizes a process for strengthening U.S. trade relations with sub-Saharan African countries by establishing an annual ministerial-level forum with AGOA-eligible countries co-hosted by the U.S. Trade Representative and the Secretaries of State, Treasury and Commerce.

The Trade Act of 2002 included several enhancements to AGOA, including 1) a doubling of the annual quantitative limit on apparel produced in the region from regional fabric; 2) the extension of lesser developed country benefits to Botswana and Namibia, allowing producers there to use third-country fabric in qualifying apparel; 3) the inclusion of knit-to-shape apparel in the list of goods eligible for quota- and duty-free treatment under AGOA; and 4) correction of a technical definition for the use of fine merino wool.

The second U.S.-Sub-Saharan Africa Trade and Economic Cooperation Forum was held in Mauritius on January 15-17, 2003. U.S. Trade Representative Zoellick led the U.S. Government delegation, which included senior-level officials from the Departments of State, Treasury, Commerce, Agriculture, the U.S. Agency for International Development, the National Security Council, and several other agencies. Ministerial delegations from almost all AGOA-eligible countries also participated. The Forum provided an opportunity for participants to discuss strategies for promoting regional economic reforms and strengthening U.S.-sub-Saharan African trade and investment ties. Parallel forums involving the private sector and non-governmental organizations from the United States and sub-Saharan Africa were also held in Mauritius at the same time. The first Trade and Economic Cooperation Forum was held in Washington, DC on October 29-30, 2001.

AGOA requires the President to determine annually whether sub-Saharan African countries are, or should remain, eligible for benefits based on their continued progress in meeting criteria set out in the Act. The Assistant USTR for Africa chairs the interagency AGOA Implementation Subcommittee responsible for advising the USTR on country eligibility. Based on the U.S. Trade Representative's recommendation the President determined in December 2002 that 38 countries[32] meet the Act's requirements for eligibility, including all 36 countries previously eligible and two additional countries, the Democratic Republic of the Congo and The Gambia.[33] In addition, in October 2002, USTR determined that implementation of AGOA benefits could begin for Sierra Leone. Previously, Sierra Leone had been eligible for AGOA, but

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[32] The AGOA-eligible countries are Benin, Botswana, Cameroon, Cape Verde, Central African Republic, Chad, Republic of Congo, Cote d'Ivoire, Democratic Republic of Congo, Djibouti, Eritrea, Ethiopia, Gabon, Ghana, Guinea, Guinea-Bissau, Kenya, Lesotho, Madagascar, Malawi, Mali, Mauritania, Mauritius, Mozambique, Namibia, Niger, Nigeria, Rwanda, São Tomé and Principe, Senegal, Seychelles, Sierra Leone, South Africa, Swaziland, Tanzania, The Gambia, Uganda and Zambia. Cote d'Ivoire became eligible in May 2002 after an interim eligibility review recommended by the AGOA Implementation Committee in December 2001.

[33] The Presidential proclamation formally adding these two new countries to the list of AGOA beneficiaries is expected to be issued in early 2003.

implementation of its benefits was delayed while the country made the transition from civil war, and government authority was re-established throughout the country.

Under AGOA, eligible countries may also receive preferential quota- and duty-free treatment for certain textile and apparel articles if they have instituted customs measures to prevent illegal transshipment. In 2002, USTR approved submissions for AGOA textile and apparel benefits from six additional countries -- Cameroon, Cape Verde, Ghana, Mozambique, Tanzania, and Senegal -- bringing to 18 the number of countries eligible for such benefits.[34] Of these, four countries have been approved for duty and quota-free treatment for handmade, hand-loomed, or folklore articles (Botswana, Lesotho, Kenya, and Malawi).

As part of its ongoing AGOA implementation efforts, USTR has coordinated more than 20 regional and national technical assistance seminars on AGOA across sub-Saharan Africa. These seminars, designed to help ensure that the sub-Saharan African public and private sectors are equipped to fully utilize AGOA benefits, have been organized in conjunction with U.S. Customs, USAID and the Departments of State and Commerce. In 2002, USTR and the Commercial Law Development Program of the Department of Commerce conducted four highly successful regional AGOA seminars in Cameroon, Ghana, Senegal, and Uganda. Over two thousand public and private sector participants from more than 30 African countries participated in these two-day seminars led by government and private sector experts from the United States. USTR also worked closely with the Overseas Private Investment Corporation, the U.S. Export-Import Bank and the U.S. Trade and Development Agency, which continue to provide technical assistance, loans, and guarantees to address regional infrastructure and supply-side constraints.

The Administration recognizes that outreach to the private sector, civil society, and to African governments is critical to the success of AGOA. Accordingly, USTR and other U.S. agencies have made outreach -- on both sides of the Atlantic -- a priority in their efforts to implement AGOA. In the region, outreach efforts have included seminars, speaker programs, media programs, and information dissemination. In the United States, outreach has included extensive briefings and consultations with the African diplomatic corps, the private sector, and leading non-governmental organizations, including an AGOA Business Roundtable hosted by the Department of State on November 7, 2002. AGOA was a major theme of USTR Zoellick's February 2002 visit to Kenya, South Africa, and Botswana, the first ever visit to sub-Saharan Africa by a sitting U.S. Trade Representative. USTR and other members of the interagency AGOA Implementation Subcommittee have also produced a matrix of steps involved in AGOA implementation and a comprehensive *AGOA Implementation Guide*, and continue to maintain a website dedicated to disseminating AGOA information (www.agoa.gov).

4. Promoting Economic Reform, Growth and Development

Since being signed into law in May 2000, AGOA has prompted important economic and social reforms across sub-Saharan Africa and delivered new jobs and opportunities for economic growth and development to the region. AGOA's eligibility requirements create incentives for countries to reform their economies and create an environment conducive to increased trade and investment. To receive benefits, countries must demonstrate the existence of, or progress toward establishing, a market-based economy, the rule of law, reduction or elimination of barriers to trade and investment, policies to reduce poverty, and systems to combat corruption and protection of worker rights. These criteria represent global best

[34] The other 12 countries eligible for textile and apparel benefits are Botswana, Ethiopia, Kenya, Lesotho, Madagascar, Malawi, Mauritius, Namibia, South Africa, Swaziland, Uganda, and Zambia.

practices to attract and maintain trade and investment, are essential for the transfer of technology, and help to promote competition and to increase exports.

In 2002, the United States again consulted extensively with sub-Saharan African countries on AGOA eligibility requirements. As a result of these consultations, many eligible countries are implementing needed reforms, including measures to combat corruption, accelerate privatization, deregulate key industries, promote more open trade, and strengthen intellectual property and labor law protections. Many countries have ratified ILO Convention 182 on the elimination of the worst forms of child labor, and several are working to change, or have changed, laws on child trafficking and/or worker rights. By bringing increased investment to, and creating new jobs in, sub-Saharan African countries, AGOA is also demonstrating how trade can benefit developing countries. For example, in the last two years, Lesotho has seen the opening of eleven new factories and the expansion of eight additional ones, resulting in the creation of at least 15,000 new jobs attributable to AGOA. In Malawi, an estimated 4,350 jobs have been created. A planned $20 million foreign investment in a Ugandan mill will employ 500 people and benefit local agricultural producers. In South Africa, AGOA exports directly and indirectly support approximately 38,000 jobs.

While most U.S. imports continued to be in the energy sector, AGOA has begun to encourage the diversification of the U.S.-African trading relationship. For example, in the first ten months of 2002, the value of non-fuel goods imported under AGOA (not including GSP) increased by 125 percent, to $1.3 billion. During the same period, imports of textile and apparel articles under AGOA increased 164 percent; leather product and hides increased 449 percent; and imports of automobiles and parts grew by more than 123 percent.

5. Expanding Bilateral and Regional Trade and Investment Relationships

AGOA successes are helping to strengthen and expand U.S. bilateral and regional trade and investment ties with sub-Saharan Africa. Growing interest in trade with the United States led to negotiation of a new Trade and Investment Framework Agreement (TIFA) with the eight-member West African Economic and Monetary Union (WAEMU)[35]. The U.S.-WAEMU TIFA was signed in April 2002 and the first TIFA Council meeting was subsequently held in Dakar, Senegal in July 2002. Among the topics discussed at this meeting were implementation of AGOA, obstacles to increased US-WAEMU agricultural trade, issues in the WTO and trade capacity building activities. In June 2002, USTR and USAID convened a seminar in Washington, DC on regional integration in WAEMU. Forty officials from WAEMU and its member countries participated, along with an equal number of U.S. Government officials.

The U.S.-WAEMU TIFA followed the conclusion of a similar agreement with the twenty-country Common Market for Eastern and Southern Africa (COMESA) in October 2001. U.S. Trade Representative Zoellick co-chaired the first meeting of the U.S.-COMESA TIFA Council during his visit to Nairobi in February 2002. Most of the discussion at this meeting revolved around ways to strengthen implementation of AGOA.

Two other TIFA Council meetings were held in 2002: with Nigeria in June and with Ghana in July. Topics discussed at these meetings included AGOA, issues related to the WTO Doha Development Agenda, commercial disputes, challenges related to trade financing, and trade capacity building needs.

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[35]The members of WAEMU are Benin, Burkina Faso, Cote d'Ivoire, Guinea-Bissau, Mali, Niger, Senegal, and Togo.

AGOA successes are also creating new commercial opportunities for U.S. exporters, as African exporters explore new input sources in the United States. Although the global recession contributed to a 17 percent decrease in U.S. exports to sub-Saharan Africa in the first ten months of 2002, the multi-year trend remains positive. U.S. exports to the region increased in 2001 and 2000 and, in the first ten months of 2002, were 7 percent higher than in the comparable period in 1999. Through the third quarter of 2002, South Africa was the largest regional consumer of U.S. exports, followed by Nigeria, Angola, Kenya, Ghana, Cameroon, and Chad.

a. South Africa

The United States and South Africa enjoy a broad and mutually beneficial trade and investment relationship. The weakening of the global economy contributed to a 15 percent decrease in two-way trade, to $5.4 billion in the first ten months of 2002, down from $6.4 billion during the same period in 2001. Nonetheless, during the same period, U.S. imports from South Africa under AGOA and related GSP provisions increased by 41 percent, led by increases in motor vehicles, apparel, and agricultural goods. South Africa is the largest U.S. supplier of non-fuel AGOA-eligible products (including GSP items), with sales worth more than $1 billion in the first ten months of 2002. Other leading imports include platinum group metals, diamonds, machinery, chemicals and apparel. Leading U.S. exports to South Africa include aircraft, computers and components, integrated circuits, television and radio parts, and medical equipment. South Africa is a valued partner in the WTO, and the United States continues to consult closely with the South African government on issues related to the Doha Development Agenda.

As with many diverse and vibrant bilateral trading relationships, certain disputes have arisen between the United States and South Africa. These include concerns related to South Africa's December 2000 antidumping order against imports of certain U.S. poultry products, as well as ongoing problems related to South Africa's basic telecommunications monopoly, Telkom, and its failure to provide facilities necessary for U.S. value-added network services (VANS) providers to operate and expand. USTR held extensive discussions with the South African government in 2002, including during the February visit to South Africa of Ambassador Zoellick, in an effort to resolve both of these disputes. The United States is the largest source of new foreign investment in South Africa since the country's 1994 transition to democracy. More than 900 U.S. companies and more than 400 U.S. subsidiaries and franchises are operating in South Africa.

b. Nigeria

Nigeria is the United States' largest trading partner in sub-Saharan Africa, based primarily on the high level of U.S. petroleum imports from Nigeria. Total two-way trade was valued at $5.7 billion in the first ten months of 2002, a 35 percent decline over the same period in 2001, due to the weakening in the global economy and lower demand for oil imports. Nigeria was the United States' fifth largest supplier of petroleum and the fifth largest purchaser of U.S. wheat in 2001. Nigeria is seeking to utilize AGOA to diversify its export base, especially in the area of manufactured goods. Nigerian exports to the United States under AGOA, including its GSP provisions, were valued at $4.3 billion during the first ten months of 2002, a 13 percent decline over the same period in 2001, largely due to the decrease in the value of oil exports. The United States is the largest foreign investor in Nigeria, with significant oil interests.

The United States is working closely with the Government of Nigeria, through the U.S.-Nigeria TIFA and other initiatives, to promote expanded trade and investment and a more diversified economy. At the June 2002 U.S.-Nigeria TIFA Council meeting, the United States and Nigeria pledged to work together on critical issues such as the Doha Development Agenda, AGOA implementation, and trade capacity

building. The United States is concerned about the government of Nigeria's use of protective import bans on certain products, including sorghum, millet, wheat flour, bulk vegetable oil, and some printed fabrics. The United States is also concerned about significant recent tariff increases on various products, including rice and meats.

c. Ghana

Total two-way trade between Ghana and the United States was valued at $254 million in the first ten months of 2002, a 27 percent decrease over the same period in 2001. Ghana is the sixth largest sub-Saharan African market for U.S. goods. The leading U.S. exports to Ghana are heavy equipment and machinery, building materials, and agricultural products. U.S. imports from Ghana are primarily cocoa, mineral fuel, and timber. Ghana was approved for AGOA's textile and apparel benefits in March 2002, the first country in West Africa to gain this certification. As of September 2002, U.S. imports from Ghana under AGOA, including its GSP provisions, were valued at $32 million, down 21 percent from the same period in 2001.

Ghana and the United States enjoy a long standing commercial relationship despite occasional disputes involving U.S. companies. A number of commercial issues have been resolved or addressed within the U.S.-Ghana TIFA. The July 2002 U.S.-Ghana TIFA Council meeting included discussions on outstanding commercial disputes, WTO issues, AGOA implementation, and trade capacity building.

d. Other Countries and Regions

The Administration plans to continue ongoing efforts to strengthen bilateral trade and investment ties throughout sub-Saharan Africa and to promote regional economic integration through work with the African Union, the Economic Community of West African States, the Economic and Monetary Community of Central Africa, WAEMU, COMESA and SADC.

6. Facilitating Sub-Saharan Africa's Integration Into the Multilateral Trading System

AGOA has also helped to promote sub-Saharan Africa's integration into the multilateral trading system and to encourage support for the new round of global trade negotiations in a region that accounts for more than a quarter of WTO membership. U.S. consultation and collaboration with African Members of the WTO played an important part in the successful launch of the Doha Development Agenda in November 2001. This close working relationship between the United States and African Members continued in 2002 as the negotiations under the Doha Development Agenda began in earnest. In particular, the United States consulted with African countries on topics related to WTO negotiations on agriculture, trade in services, and TRIPS. Many African countries took a special interest in the U.S. proposal on agriculture, particularly the elements calling for the phase-out and eventual elimination of export subsidies and trade-distorting domestic support. African countries are also playing a more active role in the request and offer process in the trade in services negotiations. Finally, African countries played a leading role in the TRIPS Council negotiations on a mechanism to allow Member countries, especially in the developing world, to use compulsory licensing of pharmaceuticals to respond to serious health crises related to HIV/AIDS, malaria, tuberculosis and other epidemics. At the U.S.-Sub-Saharan Africa Trade and Economic Cooperation Forum in January 2003, U.S. Trade Representative Zoellick co-chaired a Roundtable with African trade ministers on WTO issues.

V. Other Multilateral Activities

The United States pursues its trade and trade-related interests in a wide range of other international fora. In addition to opening new trade opportunities, such efforts focus on establishing an infrastructure for international trade that is transparent, predictable and efficient, and prevents corrupt practices and other impediments to expanded trade and sustainable economic growth and prosperity. These efforts also are aimed at ensuring that U.S. strategies and objectives relating to international trade, environment, labor and other trade-related interests are balanced and mutually supportive.

A. Trade and the Environment

The U.S. Government has been very active in promoting a trade policy agenda that pursues economic growth in the broader context of sustainable development, integrating economic, social, and environmental policies. To help ensure that trade and environmental policies are mutually supportive, the Bush Administration announced in April 2001 that it would continue the policy of conducting environmental reviews of trade agreements under Executive Order 13141 (1999) and implementing guidelines. The Order and implementing guidelines require careful assessment and consideration of the environmental impacts of trade agreements, including detailed written reviews of environmentally significant trade agreements. The reviews are the product of rigorous interagency consultations. During 2002, as part of the review policy, USTR continued its work on the environmental reviews of FTAs under negotiation with Chile and Singapore. Draft reviews of both agreements have now been issued. The review process made important contributions to the negotiations and to the content of the final agreements. USTR also continued its work on an environmental review of the WTO Doha Development Agenda negotiations and an environmental review of the Free Trade Area of the Americas (FTAA).

Following the successful conclusion of the fourth WTO Ministerial Conference in Doha, Qatar (November 2001), the U.S. Government took an active role in the WTO Committee on Trade and Environment (CTE) to put into effect the WTO's commitment to sustainable development and to the simultaneous advancement of trade, environment, and development interests.

At the World Summit for Sustainable Development, concluded in Johannesburg, South Africa in September 2002, the United States worked to ensure that the benefits of participation in the global trading system were recognized as important means to achieving sustainable development. The resulting document, the Johannesburg Plan of Implementation, also encourages countries to take positive steps to make trade and environment policies mutually supportive, through actions such as conducting environmental reviews of trade agreements and the reduction of environmentally harmful subsidies.

The U.S. Congress specified certain objectives with respect to trade and environment in the Trade Act of 2002, and USTR took these into account in coordinating interagency development of positions. In addition, USTR has participated both in multilateral and regional economic fora and in international environmental agreements, in conjunction with other U.S. agencies. USTR also has worked bilaterally with U.S. trading partners to avert or minimize potential trade frictions arising from foreign and U.S. environmental regulations.

1. Trade Act of 2002 (TPA) Guidance on Environment

TPA recognizes the important linkages between trade and environmental policies and provides that negotiations pursuant to TPA should ensure that their mutual supportiveness is promoted. TPA addresses trade and environment objectives in three different areas: overall trade negotiating objectives, principal negotiating objectives and promotion of certain priorities.

With respect to overall negotiating objectives, TPA refers to promoting trade and environment policies that are mutually supportive. It also provides that USTR seek provisions in trade agreements in which the Parties will strive to ensure that they do not weaken or reduce the protections afforded in domestic environmental laws as an encouragement for trade.

Principal trade negotiating objectives in TPA cover a broad array of linkages between trade and environmental policies, all of which are related to the overall objective of mutual supportiveness. These objectives include: (1) ensuring that a party does not fail to effectively enforce its environmental laws in a manner affecting trade between the United States and that Party; (2) recognizing that a party to a trade agreement is effectively enforcing its environmental laws if a course of action or inaction reflects a reasonable exercise of discretion or results from a bona fide decision regarding allocation of resources, and that no retaliation may be authorized based on the exercise of these rights or the right to establish domestic levels of environmental protection; (3) strengthening the capacity of U.S. trading partners to protect the environment through the promotion of sustainable development; (4) reducing or eliminating government practices and policies that unduly threaten sustainable development; (5) seeking market access for U.S. environmental technologies, goods, and services; and (6) ensuring that environmental, health, and safety policies and practices of parties to trade agreements do not arbitrarily or unjustifiably discriminate against U.S. exports or serve as disguised barriers to trade.

Finally, TPA specifies several priorities related to the environment and establishes a number of related reporting requirements. These include: (1) seeking to establish consultative mechanisms among parties to trade agreements to strengthen the capacity of U.S. trading partners to develop and implement standards for the protection of the environment and human health based on sound science, and reporting to the House Ways and Means Committee and the Senate Committee on Finance on the control and operation of such mechanisms; (2) conducting environmental reviews of future trade and investment agreements consistent with Executive Order 13141 and its relevant guidelines, and reporting to the two Committees on the results of such reviews; and (3) continuing to promote consideration of multilateral environmental agreements and consulting with parties to such agreements regarding the consistency of any such agreement that includes trade measures with existing exceptions under Article XX of the GATT 1994.

2. Multilateral Fora

As described in more detail in the WTO section of this report, the United States was active on all aspects of the Doha trade and environment agenda. The United States coordinated effectively with other WTO Members in seeking new disciplines on fisheries subsidies through negotiations in the Rules Negotiating Group. In the Committee on Trade and Environment in special session, the United States pressed ahead on new approaches to increase communication and coordination between WTO bodies and secretariats of multilateral environmental agreements (MEAs). The United States also identified increased market access for environmental goods and services as an effective means to enhance access to environmental technologies around the world. With respect to the Doha trade and environment agenda that does not specifically involve negotiations, the United States played an active role, particularly in emphasizing the importance of capacity-building, including with respect to environmental reviews of trade negotiations,

and of the role of the CTE in regular session in discussing the environmental implications of all areas under negotiation in the Doha Development Agenda.

USTR co-chairs U.S. participation in the OECD Joint Working Party on Trade and Environment (JWPTE), which met two times in 2002 to continue its analysis of the effects of environmental policies on trade and the effects of trade policies on the environment. These activities are discussed further in the OECD section of this report (Chapter V, Section C).

USTR participates in U.S. policymaking regarding the implementation of various multilateral environmental agreements to ensure that the activities of these organizations are compatible with both U.S. environmental and trade policy objectives. Examples include the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the Montreal Protocol on Substances that Deplete the Ozone Layer, the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, the United Nations Framework Convention on Climate Change, international fisheries management schemes, and the recently concluded Cartegna Protocol on Biosafety and Stockholm Convention on Persistent Organic Pollutants. USTR also continues to be involved in the trade-related aspects of international forest deliberations, including in the newly-formed permanent United Nations' Forum on Forests – the successor to the Commission on Sustainable Development's *ad hoc* Intergovernmental Forum on Forests – and in the International Tropical Timber Organization. In addition, USTR participates in international negotiations to develop a Framework Convention on Tobacco Control, under the auspices of the World Health Organization, and advises on trade-related tobacco issues.

3. The North American Free Trade Agreement (NAFTA)

USTR continues to work actively with the agencies that lead U.S. participation in the institutions created by the NAFTA environmental side agreements, the North American Agreement on Environmental Cooperation (NAAEC) and the border environmental infrastructure agreement. These institutions were designed to ensure that expanded North American trade does not take place at the expense of the environment. The Border Environment Cooperation Commission and the North American Development Bank develop and finance needed environmental infrastructure projects along the U.S.-Mexico border.

The Commission for Environmental Cooperation (CEC), governed by the trilateral Ministerial-level Council that implements the NAAEC, continues its efforts on numerous fronts and devotes a significant portion of its annual work program to trade and environment issues. The CEC work program encompasses four broad areas: environment, economy, and trade; conservation of biodiversity; pollutants and health; and law and policy. The projects in the annual work program are designed to deepen cooperation among the Parties by furthering environmental sustainability in open markets and stewardship of the North American environment. For example, under the Children's Health and the Environment project, the United States, Mexico and Canada work together to identify the interrelationship between environmental quality and the health of children. At its 2001 meeting, the CEC Council agreed to initiate work in the area of sustainable watershed management, and in 2002, the CEC conducted a series of workshops, with a view developing a long term strategy for the CEC in this area. In 2002, the CEC held a workshop to outline and assess North American experiences in conducting environmental reviews of trade agreements, and released a compilation of papers from a CEC symposium on the environmental effects of the NAFTA. The CEC also decided to conduct a 10-year review of the NAFTA, the NAAEC, and the work of the CEC.

In 2002, USTR also participated in the NAFTA 10(6) group (named after the provision of the NAAEC addressing CEC cooperation with the NAFTA itself). The 10(6) group is composed of senior trade and

environment officials from all three NAFTA governments, and meets to discuss issues of common concern.

In May 2002, the NAFTA Free Trade Commission reviewed the operation of Chapter 11 of the NAFTA and directed investment experts from Canada, Mexico, and the United States to continue their work examining the implementation and operation of Chapter 11. (Chapter 11 sets out each government's obligations with respect to investors from other NAFTA countries and their investments in its territory). The operation of Chapter 11 and the cases that have been brought under its investor-state dispute settlement procedures have given rise to issues that the NAFTA investment experts group has begun to discuss with a view to ensuring the effective and proper implementation of the Chapter. USTR and other executive agencies have worked with their Mexican and Canadian counterparts in this group and will continue to do so over the course of 2003.

4. The Western Hemisphere

To provide direction in striving for mutually supportive trade liberalization and environmental policies, as was agreed at the 1994 Miami Summit of the Americas and the 2002 Quito Trade Ministerial, U.S. negotiators worked over the past year within the framework of the FTAA negotiating groups to identify and pursue relevant trade-related environmental issues. Complementary environmental elements in the overall Summit of the Americas Plans of Action are intended to further regional cooperation.

The United States also has continued to support efforts by the FTAA Civil Society Committee to expand opportunities for two-way communication with members of civil society throughout the Hemisphere, and carefully considered civil society's submissions to that Committee on the full range of issues, including environmental concerns.

5. Bilateral Activities

In the negotiation of FTAs with Chile and Singapore, the United States achieved environment text that fully incorporated Congressional guidance on TPA. The environment chapters in both agreements include core commitments by each Party to effectively enforce environmental laws, provide for high levels of environmental protection, and to not weaken or reduce environmental laws to encourage trade or attract investment. The FTAs also provide a robust consultative process for implementing the environmental provisions, including transparency provisions and opportunities for public involvement, and an agreement to pursue environmental cooperative activities. If either Party fails to implement the obligation to effectively enforce its environmental laws, the other Party can promote compliance through innovative dispute settlement procedures, including the use of either fines or trade remedies.

B. Trade and Labor

Because the trade policy agenda of the U.S. Government includes a strong commitment to improving labor standards and protecting the rights of workers, the Bush Administration welcomed the bipartisan consensus in TPA to help assure that trade and labor policies are mutually supportive and reinforcing. In keeping with TPA guidance, USTR worked cooperatively with other USG agencies in multilateral, regional and bilateral fora to promote respect for core labor standards, including the abolition of the worst forms of child labor.

Expanded trade benefits all Americans through lower prices and greater choices among imports. Many American workers benefit from expanded employment opportunities created by trade liberalization.

However, some American workers in sectors adversely affected by trade flows may experience periods of job displacement. Because such workers should be fairly compensated and given the resources such as training or re-training to adjust to new jobs, the reauthorization of, and significant improvements to, the system of Trade Adjustment Assistance (TAA) was also an integral part of the Administration's international trade agenda during 2002.

1. Trade Act of 2002 (TPA) Guidance on Trade and Labor

The importance of the linkages between trade and labor is underscored by the fact that TPA has labor-related clauses in three sections of the legislation: overall trade negotiating objectives; principal negotiating objectives; and the promotion of certain priorities to address U.S. competitiveness in the global economy.

The labor-related overall U.S. trade negotiating objectives are threefold. First, to promote respect for worker rights and the rights of children consistent with the core labor standards of the International Labor Organization (ILO). TPA defines core labor standards as: (1) the right of association; (2) the right to organize and bargain collectively; (3) a prohibition on the use of forced or compulsory labor; (4) a minimum age for the employment of children; and (5) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health. Secondly, to strive to ensure that parties to trade agreements do not weaken or reduce the protections of domestic labor laws as an encouragement for trade. And finally, to promote the universal ratification and full compliance with ILO Convention 182 – which the United States has ratified – concerning the elimination of the worst forms of child labor.

The principal trade negotiating objectives in TPA include, most importantly for labor, the provision that a party to a trade agreement with the United States should not fail to effectively enforce its labor laws in a manner affecting trade. TPA recognizes that the United States and its trading partners retain the sovereign right to establish domestic labor laws, and to exercise discretion with respect to regulatory and compliance matters, and to make resource allocation decisions with respect to labor law enforcement. To strengthen the capacity of our trading partners to promote respect for core labor standards is an additional principal negotiating objective, as is to ensure that labor, health or safety policies and practices of our trading partners do not arbitrarily or unjustifiably discriminate against American exports or serve as disguised trade barriers. A final principal negotiating objective is to seek commitments by parties to trade agreements to vigorously enforce their laws prohibiting the worst forms of child labor.

In addition to seeking greater cooperation between the WTO and the ILO, other labor-related priorities in TPA include the establishment of consultative mechanisms among parties to trade agreements to strengthen their capacity to promote respect for core labor standards and compliance with ILO Convention 182. The Department of Labor is charged with consulting with any country seeking a trade agreement with the United States concerning that country's labor laws, and providing technical assistance if needed. Finally, TPA mandates a series of labor-related reviews and reports to Congress in connection with the negotiation of new trade agreements. These include an employment impact review of future trade agreements, the procedures for which are to be modeled after the Executive Order establishing environmental impact reviews of trade agreements. A meaningful labor rights report, and a report describing the extent to which there are laws governing exploitative child labor, are also required for each of the countries with whom we are negotiating.

2. Multilateral Efforts

At the WTO Ministerial meetings in Singapore (1996) and Seattle (1999), the United States was among a group of countries supporting the creation of a WTO working party to examine the interrelationships between trade and labor standards. At the 2001 Doha WTO Ministerial, we supported a similar proposal which was put forth by the EU, but a vocal group of developing countries adamantly opposed this proposal. The text of the Doha Ministerial Declaration, adopted by consensus, therefore includes the following: "We affirm our declaration made at the Singapore Ministerial Conference regarding internationally recognized core labor standards. We take note of work underway in the International Labor Organization (ILO) on the social dimensions of globalization."

The work underway at the ILO referenced in the WTO Doha Declaration is that which is being done by the Working Party on the Social Dimensions of Globalization of the ILO's Governing Body. The ILO is unique among international organizations in that it has a tripartite (Government, employer and worker representatives) membership in all of its committees and constituent bodies. Thus the Working Party on the Social Dimensions of Globalization has a representative not only of the U.S. Government, but also the U.S. Council for International Business and the AFL-CIO. As a further extension of this work, the ILO created a "World Commission on the Social Dimension of Globalization." During 2002 the United States Trade Representative met with both the Director-General of the ILO and the President of Finland, who co-chairs the World Commission, to discuss its work and to encourage greater policy coherence and cooperation between the WTO and the ILO.

The United States remains the largest donor to the work of the ILO. The United States has been particularly supportive of two ILO initiatives: the International Program on the Elimination of Child Labor (IPEC), and work to implement the 1998 *ILO Declaration on Fundamental Principles and Rights at Work*. Recognizing that all child labor will never be eliminated until poverty is eliminated, IPEC/ILO efforts have focused on the means to eliminate the worst forms of child labor, including child prostitution and pornography, forced or bonded child labor, and work in hazardous or unhealthy conditions.

3. Regional Activities

The Declaration and Plan of Action of the Third Summit of the Americas, held in Quebec City, Canada, charged the Inter-American Conference of Ministers of Labor (IACML) with addressing the labor dimensions of economic integration and globalization. A USTR official therefore joined the Departments of Labor and State on the U.S. Delegation to a meeting of the IACML working group on the labor dimensions of the Summit of the Americas process, including the Free Trade Area of the Americas (FTAA). A second working group focuses on capacity-building of Labor Ministries, including improving the ability of Ministries to effectively promote the *ILO Declaration on Fundamental Principles and Rights at Work*. Each of these working groups will involve the ILO, the Organization of American States, the Inter-American Development Bank, the UN's Economic Commission for Latin America and the Caribbean and the Trade Union Technical Advisory Committee in their work. The November 2002 FTAA Quito Ministerial Declaration not only renewed the commitment to observe the ILO *Declaration*, but also asked the IACML working group on the Summit of the Americas process for a report on its work regarding globalization related to employment and labor.

Other regional trade and labor activities carried out under NAFTA/NAALC and the OECD are noted in those sections of this report.

4. Bilateral Activities

The most significant bilateral activities involving the interaction of trade and labor policies came in the context of negotiations of FTAs with Chile and Singapore. In each of these negotiations, the United States negotiated labor text that fully incorporated Congressional guidance regarding all of the negotiating objectives for trade and labor contained in TPA. In each of these FTAs the parties reaffirm their obligations as ILO members and commit to strive to ensure that core labor standards, including the *ILO Declaration on Fundamental Principles and Rights at Work* and ILO Convention 182 concerning the worst forms of child labor, are recognized and protected by domestic labor laws. Each Party is also obligated to effectively enforce its labor laws, subject to the discretionary authority spelled out in TPA. Cooperation and consultations are the preferred means to achieve these labor objectives and assure compliance with all obligations. However, if a dispute settlement panel were to find that a party had failed to enforce its labor laws in a manner affecting trade, and the offending party failed to comply, that party could be subject to either fines or, as a last resort, trade remedies designed to promote compliance.

Our bilateral textile agreement with Cambodia has a unique aspect in that import quotas for several of the categories of textiles and apparel covered by the agreement may be increased dependent upon the efforts of the government to effectively enforce its domestic labor laws and protect the fundamental rights of Cambodian workers. With funds provided by the U.S. Department of Labor, the ILO monitors working conditions in Cambodian enterprises and reports on the results of that monitoring. Based upon ILO monitoring reports and two field visits, at the end of 2002 the U.S. Government approved a 12 percent increase in quota levels for next year.

A final aspect of trade and labor bilateral activities relates to the worker rights provisions of U.S. trade preference programs. Near the end of 2002, USTR reveived petitions requesting that GSP trade preferences be withdrawn from several countries for alleged non-compliance with internationally recognized worker rights. It is important to note that the receipt and review of such petitions had been suspended from the expiration of the GSP program in October, 2001, until Congress renewed the GSP program as part of the Trade Act of 2002. As the year ended, these new petitions were being reviewed by an inter-agency committee chaired by USTR.

C. Organization for Economic Cooperation and Development

The Organization for Economic Cooperation and Development (OECD) is a 30-member forum for discussion of economic and social issues. The OECD membership includes the United States, Canada, Mexico, the countries of Western Europe, Japan, Australia, New Zealand, the Czech Republic, Korea, Hungary, Poland and Slovakia. Argentina and Russia have formally applied to join. The OECD conducts wide-ranging outreach activities to non-members and business and civil society, in particular through its series of "Global Forum" events held around the world each year. Non-members may also apply to participate as observers of committees for which they meet "major player" and "mutual benefit" criteria. The OECD carries out a number of regional and bilateral cooperation programs. Its Russia program, for instance, supports Russia's efforts to establish a market economy and eventual membership in the OECD.

The OECD was founded in 1960 as the successor to the Organization for European Economic Cooperation, which oversaw European participation in the Marshall Plan. Its fundamental objective is "to achieve the highest sustainable economic growth and employment and a rising standard of living in member countries while maintaining financial stability and thus to contribute to the world economy." This objective is pursued through in-depth analysis of economic problems confronting the developed market

economies and the development of cooperative solutions to many of these problems. Through a non-binding peer review process and/or the negotiation of recommendations or binding agreements, members work together on issues not adequately addressed in other fora. In the past, analysis of issues in the OECD often has been instrumental in forging a consensus among OECD countries to pursue specific negotiating goals in other international fora such as the World Trade Organization (WTO).

1. Work Program

In 2002, the OECD Trade Committee, through its subsidiary Working Party and its joint working groups on environment, competition and agriculture, continued to address a number of issues of significance to the mulilateral trading system. The Committee and the trade-related work of other OECD bodies have become more diverse, dealing with traditional trade issues as well as those which have been traditionally within the purview of domestic policy discussions. The Trade Homepage on the OECD website (www.oecd.org/trade) contains up-to-date information on published analytical work and other trade-related activities. The major analytical project completed under the Trade Committee during 2002 was a ten-chapter study on "Regional Trade Agreements and the Multilateral Trading System." With an eye on the needs of WTO negotiators in Geneva, additional work addressed GATT Articles VIII and X in the context of WTO discussions on trade facilitation, agriculture policies in OECD countries, and services-related topics such as managing request-offer negotiations under the GATS, quantifying costs to national welfare of barriers to services trade, and labor mobility and the GATS. Other analytical work covered non-automatic import licensing, a survey of non-tariff measures in the information and communication technology sector, the trade policy implications of the new economy, standards-related barriers in the telecommunications sector, transparency in government procurement, and a consultant's report on the impact of the September 11, 2001 terrorist attacks on international trading and transport activities.

2. Competition Policy and Trade

The Joint Group on Trade and Competition (JG) continued work on issues at the intersection of trade and competition policy with the aim of providing an improved analytical foundation for the consideration of this topic in the OECD as well as in other fora, such as the WTO. This forum has helped to promote mutual understanding and interaction between the trade and antitrust "cultures," as well as better clarity and coherence of approaches toward issues of common interest. The JG renewed its mandate for two years and met three times in 2002. The JG reviewed Secretariat papers on the potential application of the principles of transparency, non-discrimination, and procedural fairness to competition law concerns, on the possible use of peer review in a multilateral framework on competition policy, and on competition provisions of various regional trading agreements.

3. The OECD Anti-Bribery Convention: Deterring Bribery of Foreign Public Officials

The OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions entered into force in February 1999. The Convention was adopted by the 29 members of the OECD and five non-members in 1997. The non-members were Argentina, Brazil, Chile, Bulgaria, and Slovakia (now an OECD member). In summer 2001, Slovenia, also a non-member, became the thirty-fifth country to sign the Convention. The Convention requires the parties to criminalize bribery of foreign public officials in executive, legislative, and judicial branches, levy dissuasive penalties on those who bribe, and implement adequate accounting procedures to make it harder to hide illegal payments. Thirty-four of the 35 signatories have adopted legislation to implement the Convention.

Prior to the entry into force of the Convention, the United States was alone in criminalizing the bribery of foreign public officials. As a result, U.S. firms have lost international contracts allegedly worth billions of dollars every year due to bribery payments to corrupt officials. Such payments also distort investment and procurement decisions in developing countries, undermine the rule of law and create an unpredictable environment for business.

The signatories to the Convention commenced the second phase of peer monitoring - the evaluation of enforcement - in November 2001. By the end of 2002, four countries had been reviewed under Phase 2: Finland, the United States, Iceland and Germany. The United States successfully pressed for an accelerated Phase 2 monitoring schedule and OECD budget funds to support it. The Working Group on Bribery will undertake five country reviews in 2003, and seven country reviews in 2004, with the goal of completing the first 35 country cycle in 2007. The OECD Convention Parties also continue to study whether the Convention's coverage should be expanded to include several related issues (bribery of foreign public officials as a predicate offense for money laundering, the role of foreign subsidiaries and offshore financial centers in bribery transactions, and the bribery of foreign political parties and candidates).

4. Dialogue with Non-OECD Members

The OECD has continued its contacts with non-member countries to encourage the integration of developing and transitional economies into the multilateral trade regime, such as the Central and Eastern European Countries, the Newly Independent States of the Former Soviet Union (NIS), and the Dynamic Non-Member Economies or "DNMEs" (leading developing economies in Asia and South America).

At the May 2002 Ministerial Council Meeting, the OECD invited a number of key non-member trading partners to its trade-related discussions, and also initiated a dialogue with the African member countries of NEPAD. Argentina, Brazil, Chile and Hong Kong remain active non-member observers of the Trade Committee and its Working Party. As part of its series of Global Forum on Trade events, the OECD invited non-members to discussions of the "Singapore Issues" in Hong Kong in June 2002 and on "Developing Country Market Access Concerns with Environmental Measures" in New Delhi in November 2002.

Under the ongoing trade policy dialogue with transition economies, the OECD held two informal Working Party meetings in June and November 2002. The first focused on Russia's integration into the global trading system and on services liberalization in the Baltic States. The second built on the ongoing work on the Baltic States' experience to take a look at the economic and regulatory environment for trade in services across a full range of transition economies. Russian Deputy Minister for Economic Development and Trade Medvedkov was invited to participate in a special Trade Committee discussion in October of Russia's current economic situation and the status of its WTO accession.

The Trade Committee's fourth informal consultation with civil society organizations took place in October 2002. Discussion centered on two themes: "The Multilateral Trading System and Sustainable Development: Finding Common ground for Shared Objectives," and "Domestic Regulation in a Multilateral Context: a Right, an Obligation, a Necessity?" A number of U.S. members both of the OECD's Business and Industry Advisory Committee and of the U.S. Government's Technical Advisory Committees participated in the consultation.

5. Environment and Trade

The OECD Joint Working Party on Trade and Environment (JWPTE) met two times in 2002 to continue its analysis of the effects of environmental policies on trade and the effects of trade policies on the environment. During the year, the JWPTE undertook important work on the development dimension of trade and environment, building upon the development initiatives agreed upon at Doha. The work consisted of 24 case studies of how developed country environmental measures may affect developing country exports, followed by a workshop soliciting developing country views that was held in New Delhi, India, in November 2002. The JWPTE will seek to identify lessons learned from the case studies and the workshop early next year, and review existing practices in OECD countries to address developing country concerns. The JWPTE also began work on environmental goods and services to support the Doha negotiating agenda, including work on how changing environmental policy needs in developing countries are affecting trade in this sector.

6. Export Credits

The OECD Arrangement on Guidelines for Officially Supported Export Credits places limitations on the terms and conditions of government supported export credit financing so that competition among exporters is based on the price and quality of the goods and services being exported, rather than on the terms of government-supported financing. It also limits the ability of governments to tie their foreign aid to procurement of goods and services from their own countries (tied aid). The Participants to the Arrangement, a standalone policy-level body of the OECD, are responsible for implementing the 24 year old Arrangement and for negotiating further disciplines to reduce subsidies in official export credit support.

The OECD tied aid rules have dramatically reduced tied aid and redirected aid from capital projects, where it had trade-distorting effects, toward rural and social sector projects. Tied aid levels were nearly $10 billion in 1991 before the rules were adopted, but were reduced to approximately $3.5 billion in 2001. Data for the first half of 2002 indicates that a further decline is expected to less than $3 billion.

In 2002, Participants accepted a U.S. proposal to merge and update two agreements that banned tied aid in Central and Eastern Europe (CEE) and key countries of the former Soviet Union (FSU), respectively, and formally incorporated the new agreement into the Arrangement. The new agreement keeps these newly-opened markets free from the trade-distorting effects of tied aid until such time as per capita income levels increase and render these markets ineligible for tied aid under the tied aid rules. The inclusion of the new agreement in the Arrangement eliminates the temporary nature of the FSU agreement, which had to be renewed annually by consensus. The new agreement will now be a permanent fixture of the tied aid rules, and took effect on January 1, 2003.

Participants also continued their consideration in 2002 of a U.S. proposal to apply the tied aid disciplines to untied aid. Untied aid is a form of aid financing that is not currently subject to multilateral disciplines but which can have trade-distorting effects. Furthermore, because untied aid is not governed in any way, it is a vehicle through which other Participants can circumvent existing anti-trade distortion disciplines by simply declaring their aid to be untied. Japan is the largest provider of untied aid, in addition to tied aid. In 2002, the Trade Promotion Coordinating Committee recommended the use of the tied aid War Chest to combat trade-distorting untied aid and to seek an OECD agreement to discipline untied aid.

The Arrangement is saving U.S. taxpayers about $800 million annually in reduced appropriations because Ex-Im Bank (the U.S. export credit agency) no longer has to offer loans with low interest rates and long

repayment terms in order to compete. In addition, the "level playing field" created by the Arrangement's tied aid disciplines has allowed U.S. exporters to increase their exports by about $1 billion a year. These exports would have cost taxpayers about $300 million in annual appropriations to Ex-Im Bank if the United States had to create its own tied aid program in order to compete.

Participants are addressing a number of other issues, including a review of market window behavior. Market windows are quasi-governmental financial institutions that support national exports and yet are unbound by multilateral rules. In 2002, Congress requested that the Administration negotiate disciplines for market windows and report on the status of those negotiations in 2004.

One of the biggest challenges to face Participants in 2002, and which will continue in 2003, is the attempt by some developing countries to move export credit matters from the OECD to the WTO. However, the subsidy reductions in the Arrangement could not have been negotiated in a consensus forum that included those countries that benefit from subsidies. Therefore, Participants began a concerted effort to assure that the Arrangement rules equitably address the trade finance needs of both least developed countries and OECD members. This includes the task of redrafting the Arrangement to address specific issues and principles that have been identified by the WTO as providing benefits to OECD countries.

In 2002, members of the Working Group on Export Credits and Credit Guarantees (ECG) (except the United States and Turkey) continued to refine their environmental practices and gain experience through *voluntary* implementation of "Common Approaches." Common Approaches is the name of the last draft OECD agreement intended to develop common procedures and practices for export credit agencies (ECAs) to follow when addressing the environmental factors associated with the projects that ECAs consider financing. The United States did not sign onto Common Approaches in 2001, believing it to be inadequate, so the agreement did not formally take effect. However, several ECAs have reported significant improvements in their environmental practices since voluntary implementation began. The Common Approaches agreement will be reviewed in its entirety in late 2003.

7. Investment

The United States places a high priority on international investment issues in the OECD. The Committee on International Investment and Multinational Enterprises (CIME) plays a leading role within the OECD on the OECD Declaration on International Investment and Multinational Enterprises, of which the Guidelines for Multinational Enterprises are a part. The CIME held the second annual meeting in 2002 of National Contact Points (NCPs), the government agencies designated by each OECD Member country to monitor implementation of the Guidelines within their territory. The NCP annual meeting provided an opportunity to review the second year of implementation activity under the revised Guidelines. The meeting confirmed that the visibility and user recognition of the Guidelines have increased, with government, business entities, labor unions, NGOs and other civil society leaders referring to or using the Guidelines as an instrument for the promotion of appropriate business conduct. The NCPs also identified several areas requiring further consideration, including: NCP procedural questions; scope of application of the Guidelines; and the relationship between specific inquiries brought before NCPs; and other legal or administrative processes. The 2002 OECD Roundtable on Corporate Responsibility, held in conjunction with the annual meeting of the NCPs, dealt with the issue of supply chain management and the relationship of the Guidelines to the supply chain.

CIME published a study on the "Benefits and Costs of Foreign Direct Investment for Development" and completed another research project that assessed the usefulness of investment incentives to be used by national policy-makers as they decide on measures of incentives for foreign direct investments. This

project, which was designed to help governments make decisions on the use of investment incentive measures, produced a checklist that can help policymakers assess the costs and benefits of incentives, and which provides operational criteria for their efficient design. The Committee also undertook extensive work relating to the Doha Development Agenda, including preparation of a paper on the relationship between bilateral investment treaties, regional agreements and multilateral investment disciplines, and another paper on transparency.

The United States contributed to a working paper to the CIME describing the U.S. understanding of the meaning of the general treatment and expropriation obligations in international investment agreements. The purpose of the U.S. paper was to help clarify the content of these obligations for arbitrators, investors, and the international community. The OECD expanded its outreach on investment issues to non-members, including on-going work with Russia and China (e.g. follow-up work with Russia on implementation of the OECD Russia Investment Survey policy recommendations; a comprehensive FDI Policy Study on China, and the 2002 Global Forum on International investment on "Attracting FDI for Development," held in Shanghai, China). A 2002 OECD Ministerial Declaration on "Attracting Investment to South East Europe" was signed by all the countries of South East Europe, complimenting and strengthening the monitoring instruments of the Investment Compact. Israel and Slovenia announced that they would adhere to the Declaration on International Investment and Multinational Enterprises.

8. Labor and Trade

In 1996, the OECD released a report on "Trade, Employment, and Labor Standards," which examined the relationship between core labor standards and economic development and trade. These core labor standards are: freedom of association, collective bargaining, elimination of exploitative forms of child labor, prohibition of forced labor, and non-discrimination in employment. The report concluded that a mutually reinforcing relationship exists between core labor standards and trade liberalization. It refuted the long-standing argument that adherence to such standards negatively affects the economic performance of developing countries; indeed, it reinforces long-term development prospects. In May 1999, the OECD Trade Committee asked the Secretariat to prepare an update of the 1996 report, which would review factual developments and summarize relevant economic literature since the report was issued. The 124-page updated report was approved and presented to the International Labor Organization's Working Party on the Social Dimension of Globalization. It can be purchased and downloaded from the OECD's online book store (www.oecd.org).

The Trade Union Advisory Committee (TUAC) to the OECD, which is made up of national trade union organizations from OECD member countries and has played a consultative role to the OECD since 1962, held two informal consultations with the OECD Trade Committee in 2002, in April and October. TUAC provided the Committee with informal notes and supporting documents prepared by the international labor movement on the social dimension of globalization, in particular an ICFTU analysis of the WTO's Doha Declaration. TUAC urged the trade committee to give a clear message to OECD Ministers that there is a need to better address the concerns of trade unions to ensure support for the multilateral trading system. In their final communique following the OECD Ministerial in May 2002, OECD members pledged to continue to consult with non-members, business, labor and civil society, and to seek to contribute constructively to the work of the ILO World Commission on the Social Dimension of Globalization.

9. Regional Economic Integration

At the request of the Trade Committee, its Working Party undertook a ten-chapter study on "Regional Trade Agreements and the Multilateral Trading System." The consolidated report was published at the end of 2002. The study compares rule-making provisions in RTAs with those in the WTO and finds that RTA provisions frequently "go beyond" the WTO, for example in their country coverage, by including novel or more far-reaching provisions, by using a negative list approach, or by mandating adhesion to international accords. The report also concludes that certain consequences of RTA activity in the ten areas studied can be seen as contributing to the case for a strengthened multilateral framework, in light of the negative effect which the patchwork of RTAs can have on non-members of those agreements and on transaction costs for business. At the same time, the report concludes that regional approaches can complement the multilateral system. In fact, there are a number of features of regional agreements which might usefully be drawn upon in seeking a stronger multilateral framework.

10. Regulatory Reform

Since 1998, the OECD Trade Committee has contributed to OECD work on domestic regulatory governance on the basis of country reviews of regulatory reform efforts. The United States has supported this on the grounds that targeted regulatory reforms, e.g. transparency, can benefit domestic and foreign stakeholders alike by improving the quality of regulation and enhancing market openness.

The Trade Committee's work on regulatory reform has two aspects: country reviews and product standards. In conducting country reviews, the Committee evaluates regulatory reform efforts in light of six principles of market openness: transparency and openness of decision-making, non-discrimination, avoidance of unnecessary trade restrictions, use of internationally harmonized measures where available/appropriate, recognition of the equivalence of other countries' procedures for conformity assessment where appropriate, and application of competition principles.

The Trade Committee has reviewed sixteen country studies (for the United States, Japan, Mexico, the Netherlands, Korea, Spain, Denmark, Hungary, Greece, Italy, Ireland, the Czech Republic, the United Kingdom, Poland, Canada and Turkey). In 2002 it reviewed a paper synthesizing findings of these studies and studies of two additional countries (Finland and Norway).

In June 2002, the Trade Committee Working Party reviewed a paper on "regulation of services traded electronically". In addition, in September 2002, the OECD released a study entitled "Non-tariff measures in the Information and Communications Technology Sector: a Survey".

11. Services

Work in the OECD on trade in services has continued to provide analysis and background relevant to the WTO negotiations, with emphasis on issues of importance to developing countries in the negotiations. The Secretariat has produced an effective guide for governments to expand their domestic consultations on services trade issues, both within the government (e.g., through increased inter-ministerial discussions) and with non-governmental constituencies. The guide, "Managing request-offer negotiations under the GATS," was published in June 2002.

The Secretariat also has been working on reports analyzing the role of individuals as service suppliers (called "mode four" in the GATS) in trade in services and their treatment in trade agreements.

A third "services experts" meeting, at which OECD and developing-country services negotiators participated, was held in 2002, with regulatory issues a focus of discussion.

12. Steel

Pursuant to the President's Initiative on Steel announced on June 5, 2001, the United States has been engaged in efforts over the past year within the framework of the OECD High Level Process on Steel to address overcapacity in the global steel sector and the market-distorting practices that have contributed to excess, inefficient steel capacity. High Level delegates have convened on five occasions since the inception of the process in September 2001, and two subsidiary committees were created last year and tasked with assessing on a more probing basis the respective issues of overcapacity and market-distorting practices. These bodies, known as the Disciplines Study Group and the Capacity Working Group, held two meetings each in 2002.

At the most recent High Level meeting, in December 2002, participating delegations took stock of the work completed by the subsidiary bodies and agreed on a series of follow-on steps. With respect to disciplining market-distorting practices, participants decided to begin work immediately to develop the elements of an agreement for reducing or eliminating trade-distorting subsidies in steel. In addition, they agreed to explore undertaking a voluntary commitment to refrain from introducing new subsidy programs that may maintain or enhance steel capacity. Moreover, where practicable and without compromising the priority work on subsidies, they indicated that they might pursue efforts at a later stage to address other distortions in the global steel market. It was determined that the work on subsidies should proceed on an expedited basis in the Disciplines Study Group, and be concluded in 2003, with consideration to be given to how the results of this work might be fed into the WTO framework.

With regards to efforts to evaluate progress in reducing excess capacity, the High Level Process initiated in 2002 a rigorous semi-annual peer review system in which participants submit and subsequently review data on the current status of their respective steel industries, including information on the closure of steel capacity. The High Level Group has identified 140 million tons of capacity that could be closed during the period 1998 through 2005 based on present market conditions. In addition to adopting improvements in reporting and review procedures that should enable participants to obtain a better understanding of current conditions in the global steel market, the Capacity Working Group will also evaluate the feasibility of options for assisting steel plant closures. While the feasibility study of options to facilitate plant closure is intended to be completed this year, the peer review process for tracking industry restructuring will continue beyond 2003 so long as participants consider it useful.

13. Developing Countries

In 2002, the Trade Committee worked with the OECD Development Assistance Committee to bring all recent OECD work together in a way which can help trade negotiators, particularly from developing countries. The end product is a CD-Rom "Tool Kit" for wide global distribution, including through member governments, that addresses the broad range of issues under the Doha Development Agenda (DDA). It currently contains more than 40 analytical OECD publications and reports on DDA-relevant trade policy issues and video presentations from the June 2002 OECD Global Forum in Hong Kong on "The Development Dimensions of the Singapore Issues." Free updates are available through a link on the OECD Trade Homepage.

With support from the United States, the OECD also established a joint trade capacity building database with the WTO in 2002. The database identifies trade-related technical assistance and capacity building

efforts of multilateral agencies and national governments within the context of the DDA. This information is critical to documenting assistance and assessing responsiveness to developing country needs. All multilateral and bilateral donors contributed to the compilation of information. The database indicates that the United States is the largest bilateral donor, accounting for 57 percent of bilateral trade capacity building and 37 percent of both bilateral and multilateral support reported to the WTO/OECD. The information from the database is being widely distributed among donors and developing country trade officials to coordinate more effectively trade-related technical assistance activities worldwide.

D. Semiconductor Agreement

On June 10, 1999, the United States, Japan, Korea and the European Commission announced a multilateral Joint Statement on Semiconductors designed to ensure fair and open global trade in semiconductors. Chinese Taipei subsequently endorsed the objectives of the Joint Statement and became the fifth party. The 1999 Joint Statement on Semiconductors reflects over a decade of progress under three previous semiconductor agreements toward opening up the Japanese market to foreign semiconductors, improving cooperation between Japanese users and foreign semiconductor suppliers, and eliminating tariffs in the top five semiconductor producers (the United States, Japan, Korea, the European Union, and Chinese Taipei).

The 1999 Joint Statement includes the essential elements of the 1996 accord such as regular meetings among governments and between governments and industry representatives.

In May 2002, industry CEOs representing all five parties held their third World Semiconductor Council (WSC) meeting under the 1999 Joint Statement. The WSC was created under the 1996 Joint Statement to provide a forum for industry representatives to discuss and engage in cooperation concerning global issues such as standardization, environmental concerns, worker health and safety, intellectual property rights, trade and investment liberalization, and worldwide market development. Membership in the WSC requires governments of national/regional industry associations to have eliminated semiconductor tariffs, or committed to eliminate these tariffs expeditiously.

The 1999 Joint Statement also requires that governments and other authorities meet at least once a year to receive and discuss the recommendations of the WSC regarding policies that may affect the future outlook and competitive conditions within the global semiconductor industry. The third such meeting was held in September 2002, and was hosted by Japan. At that meeting, the WSC recommended that government authorities pursue the following policies: promotion of open and competitive markets around the world; protection of intellectual property rights; non-discrimination for foreign products in all markets; improved rules on investment and an end to investment restrictions tied to technology transfer requirements; expanded participation in the Information Technology Agreement (ITA); revitalization of efforts to conclude ITA II; adoption of a growth-promoting, transparent, technology-neutral, non-discriminatory and market-oriented approach to electronic commerce; a permanent customs duty moratorium on electronic commerce transactions; elimination of tariffs and non-tariff measures applied to information technology products and services, and a pledge not to impose new non-tariff measures (such as excessively restrictive standards or licensing); restraint from imposing local establishment requirements or placing special tariffs or local taxes on electronic commerce, including levies; and adoption of environmental regulations that are both the least trade restrictive possible and based on scientific assessments of the risks posed by the targeted materials and their likely substitutes. The WSC remains fully engaged in a multi-billion dollar effort to find safe alternatives to replace, wherever possible, the very small amounts of lead found in semiconductors. The WSC has also invited China to become a party to the Joint Statement. China is expected to become the second-largest market for

semiconductors within a decade. The United States will host the next meeting of governments and other authorities in November 2003.

Foreign market share in the Japanese market has averaged over 30 percent for the five years ending with the fourth quarter 2001 – a major achievement for U.S. trade policy.

E. Steel Trade Policy

In 2002, the Administration continued to implement the President's comprehensive strategy to respond to the challenges facing the United States steel industry. This strategy, announced on June 5, 2001, is designed to restore market forces to world steel markets and to eliminate practices that harm the U.S. steel industry and its workers.

The Administration's initiative contains three elements. First, the President directed the United States Trade Representative to request the initiation of an investigation of injury to the steel industry by the International Trade Commission under Section 201 of the Trade Act of 1974. Second, the President directed the United States Trade Representative, in cooperation with the Secretaries of Commerce and Treasury, to initiate negotiations with our trading partners to eliminate inefficient excess capacity in the steel industry worldwide. Finally, the President directed the United States Trade Representative, together with the Secretaries of Commerce and Treasury, to initiate negotiations on the rules that will govern steel trade in the future, so as to eliminate the underlying market-distorting subsidies that led to current conditions.

On March 5, 2002, in response to a unanimous finding by the U.S. International Trade Commission (USITC) that imports were a substantial cause of serious injury to the U.S. steel industry, the President announced his decision to impose additional tariffs of between 8 percent and 30 percent on imports of certain steel products.

The steel safeguard measures are the most comprehensive remedies ever imposed under Section 201. The President's decision to temporarily impose tariffs on imports will provide appropriate relief to those parts of the U.S. steel industry that have been most damaged by import surges.

The Section 201 action on steel is temporary. Tariffs will be phased out over a three year period, during which time U.S. steelmakers are expected to further restructure, reduce excess capacity and increase productivity -- a process that the USTR and the Department of Commerce are monitoring closely.

In formulating the safeguard measures, the Administration has taken steps to minimize the impact of steel safeguards on steel consumers and our trading partners. For example, the Section 201 remedy exempts steel imports from our North American Free Trade Agreement and FTA partners. Most steel imports from developing countries were also excluded from the increased tariffs.

In recognition of the needs of American consumers who rely on certain types of steel that are not sufficiently available domestically, the President instructed the USTR to determine whether specific types of steel could be excluded from the tariffs without undermining the effectiveness of the safeguard measure. During the summer of 2002, the USTR and the Department of Commerce reviewed several thousand product exclusion requests filed by steel consumers and importers, and excluded over 700 specific steel products from the Section 201 remedy. In December 2002, the USTR and the Department of Commerce began reviewing a second round of exclusion requests that will be concluded in March 2003.

Regarding the other elements of the Administration's steel strategy, significant progress was made in the discussions at the OECD regarding inefficient excess capacity and establishing greater disciplines on subsidies and other market distorting practices affecting the global steel trade. *(See steel discussion in the preceding section of activities of the OECD).*

VI. Trade Enforcement Activities

A. Enforcing U.S. Trade Agreements

1. Overview

USTR coordinates the Administration's active monitoring of foreign government compliance with trade agreements and pursues enforcement actions, using dispute settlement procedures and applying the full range of U.S. trade laws when necessary. Vigorous enforcement efforts by relevant agencies, including the Department of Commerce, help ensure that these agreements yield the maximum advantage in terms of ensuring market access for Americans, advancing the rule of law internationally, and creating a fair, open, and predictable trading environment. In the broad sense, ensuring full implementation of U.S. trade agreements is one of the Administration's strategic priorities. We seek to achieve this goal through a variety of means, including:

- Asserting U.S. rights through the mechanisms in the World Trade Organization (WTO), including the stronger dispute settlement mechanism created in the Uruguay Round, and the WTO Bodies and Committees charged with monitoring implementation and with surveillance of agreements and disciplines;
- Vigorously monitoring and enforcing bilateral agreements;
- Invoking U.S. trade laws in conjunction with bilateral and WTO mechanisms to promote compliance;
- Providing technical assistance to trading partners, especially in developing countries, to ensure that key agreements like the Agreement on Basic Telecommunications and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) are implemented on schedule; and
- Promoting U.S. interests under the NAFTA through NAFTA's trilateral work program, tariff acceleration, and use, or threat of use, of NAFTA's dispute settlement mechanism, including using its labor and environmental side agreements to promote fairness for workers and effective environmental protection.

Through vigorous application of U.S. trade laws and active use of WTO dispute settlement procedures, the United States has effectively opened foreign markets to U.S. goods and services. The United States also has used the incentive of preferential access to the U.S. market to encourage improvements in workers' rights and reform of intellectual property laws and practices in other countries. These enforcement efforts have resulted in major benefits for U.S. firms, farmers, and workers.

To ensure the enforcement of WTO agreements, the United States has been one of the world's most frequent users of WTO dispute settlement procedures. Since the establishment of the WTO, the United States has filed 610 complaints at the WTO, thus far successfully concluding 35 of them by settling 19 cases favorably and prevailing on 16 others through litigation in WTO panels and the Appellate Body.

The United States has obtained favorable settlements and favorable panel rulings in virtually all sectors, including manufacturing, intellectual property, agriculture, and services. These cases cover a number of WTO agreements – involving rules on trade in goods, trade in services, and intellectual property protection – and affect a wide range of sectors of the U.S. economy.

Satisfactory settlements. Our hope in filing cases, of course, is to secure U.S. benefits rather than to engage in prolonged litigation. Therefore, whenever possible we have sought to reach favorable settlements that eliminate the foreign violation without having to resort to panel proceedings. We have been able to achieve this preferred result in 19 of the 38 cases concluded so far, involving: Australia's ban on salmon imports; Belgium's duties on rice imports; Brazil's auto investment measures; Brazil's patent law; Denmark's civil procedures for intellectual property enforcement; the EU's market access for grains; an EU import surcharge on corn gluten feed; Greece's protection of copyrighted motion pictures and television programs; Hungary's agricultural export subsidies; Ireland's protection of copyrights; Japan's protection of sound recordings; Korea's shelf-life standards for beef and pork; Pakistan's protection of patents; the Philippines' market access for pork and poultry; the Philippines' auto regime; Portugal's protection of patents; Romania's customs valuation regime; Sweden's enforcement of intellectual property rights; and Turkey's box-office taxes on motion pictures.

Litigation successes. When our trading partners have not been willing to negotiate settlements, we have pursued our cases to conclusion, prevailing in 16 cases so far, involving: Argentina's tax and duties on textiles, apparel, and footwear; Australia's export subsidies on automotive leather; Canada's barriers to the sale and distribution of magazines; Canada's export subsidies and an import barrier on dairy products; Canada's law protecting patents; the EU's import barriers on bananas; the EU's ban on imports of beef; India's import bans and other restrictions on 2,700 items; India's protection of patents on pharmaceuticals and agricultural chemicals; India's and Indonesia's measures that discriminated against imports of U.S. automobiles; Japan's restrictions affecting imports of apples, cherries, and other fruits; Japan's and Korea's discriminatory taxes on distilled spirits; Korea's beef imports; and Mexico's antidumping duties on high-fructose corn syrup.

USTR also works to ensure the most effective use of U.S. trade laws to complement its litigation strategy and to address problems that are outside the scope of the WTO and NAFTA. USTR has effectively applied Section 301 of the Trade Act of 1974 to address unfair foreign government measures, "Special 301" for intellectual property rights enforcement, "Super 301" for dealing with barriers that affect U.S. exports with the greatest potential for growth, Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 for telecommunications trade problems, and Title VII of the 1988 Act to address problems in foreign government procurement. The application of these trade law tools is described further below.

2. WTO Dispute Settlement

2002 Activities

In 2002, the United States filed four new complaints under WTO dispute settlement procedures involving Japan's phytosanitary restrictions on imports of apples, the European Communities' provisional safeguard on steel, Venezuela's import licensing practices and Canada's Wheat Board. The United States also initiated panel proceedings on a case begun earlier involving Mexico's telecommunications regime.

The United States also received favorable WTO dispute panel rulings in 2002 in cases involving U.S. exports of dairy products to Canada and U.S. exports of auto assemblies to India, and also reached an agreement with Argentina resolving many of the issues raised in our dispute over aspects of its

intellectual property regime. These cases, which are described in Chapter II, further demonstrate the importance of the dispute settlement process in opening foreign markets and securing other countries' compliance with their WTO obligations. Further information on WTO disputes to which the United States is a party is available on the USTR website (www.ustr.gov/enforcement/index.shtml).

3. Other Monitoring and Enforcement Activities

a. Subsidies Enforcement

The WTO Agreement on Subsidies and Countervailing Measures (Subsidies Agreement) establishes multilateral disciplines on subsidies. Among its various disciplines, the Subsidies Agreement provides remedies for subsidies affecting competition not only domestically, but also in the subsidizing government's market and in third country markets. Previously, the U.S. countervailing duty law was the only practical mechanism for U.S. companies to address subsidized foreign competition. However, the countervailing duty law focuses exclusively on the effects of foreign subsidized competition in the United States. Although the procedures and remedies are different, the multilateral remedies of the Subsidies Agreement provide an alternative tool to address distortive foreign subsidies that affect U.S. businesses in an increasingly global market place.

Section 281 of the Uruguay Round Agreements Act of 1994 (URAA) sets out the responsibilities of USTR and the Department of Commerce (Commerce) in enforcing the United States' rights in the WTO under the Subsidies Agreement. USTR coordinates the development and implementation of overall U.S. trade policy with respect to subsidy matters, represents the United States in the WTO, including the WTO Committee on Subsidies and Countervailing Measures, and leads the interagency team on matters of policy. The role of Commerce's Import Administration (IA) is to enforce the countervailing duty law and, in accordance with responsibilities assigned by the Congress in the URAA, to spearhead the subsidies enforcement activities of the United States with respect to the disciplines embodied in the Subsidies Agreement. The Import Administration's Subsidies Enforcement Office (SEO) is the specific office charged with carrying out these duties.

The primary mandate of the SEO is to examine subsidy complaints and concerns raised by U.S. exporting companies and to monitor foreign subsidy practices to determine whether they are impeding U.S. exports to foreign markets and are inconsistent with the Subsidies Agreement. Once sufficient information about a subsidy practice has been gathered to permit the matter to be reliably evaluated, USTR and Commerce will confer with an interagency team to determine the most effective way to proceed. It is frequently advantageous to pursue resolution of these problems through a combination of informal and formal contacts, including, where warranted, dispute settlement action in the WTO. Remedies for violations of the Subsidies Agreement may, under certain circumstances, involve the withdrawal of a subsidy program or the elimination of the adverse effects of the program.

During this past year, SEO staff have handled numerous inquiries and met with representatives of U.S. industries concerned about the subsidization of foreign competitors. They have also deepened their interaction and coordination with Import Administration's Trade Remedy Compliance Staff (TRCS) to identify, track and, where appropriate, address various foreign government policies, business practices and trade trends that may contribute to the development of subsidy and other unfair trade problems. These efforts have been facilitated by the stationing of several TRCS officers overseas (*e.g.*, China and Korea), who help gather and verify the accuracy of information concerning foreign subsidy practices, and can play a pivotal role in clarifying or resolving problems that otherwise might lead to harm to U.S. commercial interests and unnecessary frictions with our trading partners.

Meanwhile, the SEO's electronic subsidies database continues to fulfill the goal of providing the U.S. trading community a centralized location to obtain information about the remedies available under the Subsidies Agreement and much of the information that is needed to develop a countervailing duty case or a WTO subsidies complaint. The website (http://ia.ita.doc.gov/esel/index.html) includes information on all the foreign subsidy programs that have been investigated in U.S. countervailing duty cases since 1980, covering more than 50 countries and over 2,000 government practices. This database is updated monthly making information on subsidy programs investigated or reviewed quickly available to the public.

b. Monitoring Foreign Antidumping and Countervailing Duty Actions

The WTO Agreement on Implementation of Article VI (Antidumping Agreement) and the WTO Agreement on Subsidies and Countervailing Measures (Subsidies Agreement) permit WTO Members to impose antidumping or countervailing duties to offset injurious dumping or subsidization of products exported from one Member country to another. The United States carefully monitors antidumping and countervailing duty proceedings initiated against U.S. exporters to ensure that foreign antidumping and countervailing duty actions are administered fairly and in full compliance with the WTO Agreements.

To this end, the Department of Commerce tracks foreign antidumping and countervailing duty actions involving U.S. exporters and gathers information collected from U.S. embassies worldwide, enabling U.S. companies and U.S. Government agencies to watch other Members' administration of antidumping and countervailing duty actions involving U.S. companies. Information about foreign antidumping and countervailing duty actions affecting U.S. exports is accessible to the public via the Department of Commerce's Import Administration website (http://ia.ita.doc.gov/foradcvd/index.html). The deployment of IA officers to certain overseas locations, as noted above, has contributed importantly to the Administration's efforts to monitor the application of foreign trade remedy laws with respect to U.S. exports.

Based in part on this monitoring activity, senior U.S. officials have met and raised concerns on several occasions with Mexican officials over the past year concerning certain aspects of Mexico's antidumping measures affecting U.S. exports of beef, rice and apples. We continue to monitor the status of those proceedings closely, and are considering whether further steps to clarify or resolve our concerns in those cases may be appropriate. Among other antidumping investigations of U.S. goods that were closely monitored in the past year are Canada's investigation of tomatoes (suspended in June 2002 on the basis of an undertaking reached with the U.S. exporters), the European Union's investigation of acetate yarn (terminated in December 2002 on the basis of a no injury finding), and China's ongoing investigations of art paper and toluene diisocyanate.

Members must notify on an ongoing basis without delay their preliminary and final determinations to the WTO. Twice a year, WTO Members must also notify the WTO of all antidumping and countervailing duty actions they have taken during the preceding six-month period. The actions are identified in semi-annual reports submitted for discussion in meetings of the relevant WTO committees. Finally, Members are required to notify the WTO of changes in their antidumping and countervailing duty laws and regulations. These notifications are accessible through the USTR and Import Administration website "links" to the WTO's website.

B. U.S. Trade Laws

1. Section 301

Section 301 of the Trade Act of 1974, as amended (the Trade Act), is the principal U.S. statute for addressing foreign unfair practices affecting U.S. exports of goods or services. Section 301 may be used to enforce U.S. rights under bilateral and multilateral trade agreements and also may be used to respond to unreasonable, unjustifiable, or discriminatory foreign government practices that burden or restrict U.S. commerce. For example, Section 301 may be used to obtain increased market access for U.S. goods and services, to provide more equitable conditions for U.S. investment abroad, and to obtain more effective protection worldwide for U.S. intellectual property.

The USTR has initiated 121 investigations pursuant to Section 301 since the statute was first enacted in 1974.

a. Operation of the Statute

The Section 301 provisions of the Trade Act provide a domestic procedure whereby interested persons may petition the USTR to investigate a foreign government policy or practice and take appropriate action. The USTR also may self-initiate an investigation. In each investigation the USTR must seek consultations with the foreign government whose acts, policies, or practices are under investigation. If the consultations do not result in a settlement and the investigation involves a trade agreement, Section 303 of the Trade Act requires the USTR to use the dispute settlement procedures that are available under that agreement.

If the matter is not resolved by the conclusion of the investigation, Section 304 of the Trade Act requires the USTR to determine whether the practices in question deny U.S. rights under a trade agreement or whether they are unjustifiable, unreasonable, or discriminatory and burden or restrict U.S. commerce. If the practices are determined to violate a trade agreement or to be unjustifiable, the USTR must take action. If the practices are determined to be unreasonable or discriminatory and to burden or restrict U.S. commerce, the USTR must determine whether action is appropriate and, if so, what action to take. The time period for making these determinations varies according to the type of practices alleged. Investigations of alleged violations of trade agreements with dispute settlement procedures must be concluded within the earlier of 18 months after initiation or 30 days after the conclusion of dispute settlement proceedings, whereas investigations of alleged unreasonable, discriminatory, or unjustifiable practices (other than the failure to provide adequate and effective protection of intellectual property rights) must be decided within 12 months.

The range of actions that may be taken under Section 301 is broad and encompasses any action that is within the power of the President with respect to trade in goods or services or with respect to any other area of pertinent relations with a foreign country. Specifically, the USTR may: (1) suspend trade agreement concessions; (2) impose duties or other import restrictions; (3) impose fees or restrictions on services; (4) enter into agreements with the subject country to eliminate the offending practice or to provide compensatory benefits for the United States; and/or (5) restrict service sector authorizations.

After a Section 301 investigation is concluded, the USTR is required to monitor a foreign country's implementation of any agreements entered into, or measures undertaken, to resolve a matter that was the subject of the investigation. If the foreign country fails to comply with an agreement or the USTR

considers that the country fails to implement a WTO dispute panel recommendation, the USTR must determine what further action to take under Section 301.

During 2002, there were new or ongoing actions or other major developments in the following Section 301 investigations. (For a description of WTO dispute settlement procedures related to Section 301 investigations, see Chapter II).

b. Intellectual Property Laws and Practices of the Government of Ukraine (301-121)

On March 12, 2001, the Trade Representative identified Ukraine as a priority foreign country under section 182 of the Trade Act (known as Special 301 – see below), and simultaneously initiated a Section 301 investigation of the intellectual property laws and practices of the Government of Ukraine. The priority foreign country identification was based on: (1) deficiencies in Ukraine's acts, policies and practices regarding the protection of intellectual property rights, including the lack of effective action enforcing intellectual property rights, as evidenced by high levels of compact disc piracy; and (2) the failure of the Government of Ukraine to enact adequate and effective intellectual property legislation addressing optical media piracy.

The United States consulted repeatedly with the Government of Ukraine regarding the matters under investigation. However, the Government of Ukraine made very little progress in addressing two key issues: its failure to use existing law enforcement tools to stop optical media piracy, and its failure to adopt an optical media licensing regime. On August 2, 2001, the USTR determined that the acts, policies and practices of Ukraine with respect to the protection of intellectual property rights were unreasonable and burdened or restricted U.S. commerce, and were thus actionable under Section 301(b). The USTR determined that appropriate and feasible action in response included the suspension of duty-free treatment accorded to the products of Ukraine under the GSP program, effective with respect to goods entered on or after August 24, 2001. The USTR also announced that further action could include the imposition of prohibitive duties on certain Ukrainian products, and the office of the USTR sought public comment on a preliminary product list. On December 11, 2001, the USTR determined that appropriate additional action included the imposition of 100 percent duties on a list of 23 Ukrainian products with an annual trade value of approximately $75 million. The increased duties went into effect on January 23, 2002.

Consultations with the Government of Ukraine continued, but Ukraine failed to take the steps needed to stop high levels of optical media piracy. Accordingly, the suspension of GSP benefits and increased duties on certain Ukrainian products remained in effect throughout 2002.

c. Wheat Trading Practices of the Canadian Wheat Board (301-120)

On October 23, 2000, the USTR initiated an investigation in response to a petition filed by the North Dakota Wheat Commission (NDWC) to determine whether certain acts, policies, or practices of the Government of Canada and the Canadian Wheat Board (CWB) with respect to wheat trading are unreasonable and burden or restrict U.S. commerce. The CWB is a state-trading enterprise with sole control over the purchase and export of western Canadian wheat for human consumption. According to the petition, certain elements of the wheat trading system established by the Government of Canada provide the CWB with pricing flexibility not available to private wheat traders, and the CWB exploits this flexibility by engaging in certain allegedly unreasonable wheat trading practices. The petition asserted that such practices have harmed U.S. wheat farmers by causing U.S. wheat to lose market share in the

United States and particular third-country markets by reducing the sales prices obtained by U.S. wheat farmers, and by causing unsold wheat stocks in the United States to increase.

On March 30, 2001, the USTR requested that the International Trade Commission (ITC) conduct an investigation, pursuant to section 332 of the Tariff Act of 1930, in order to obtain information and analysis pertinent to the Section 301 investigation of the CWB. On September 24, 2001, the petitioner requested that the USTR delay a decision on the actionability of CWB practices until January 22, 2002. The USTR granted the request.

The ITC issued a confidential version of its Section 332 report on November 1, 2001, and a public version on December 21, 2001. On December 21, 2001, the Office of the USTR issued a notice in the Federal Register inviting public comment on Canadian wheat marketing practices, as well as on any other issues raised in the petition, the ITC report, or in other submissions to USTR. The USTR extended the investigation until February 15, 2002 to allow adequate time to review and consider the additional comments received in response to the notice.

On February 15, 2002, the USTR announced his findings that the acts, policies and practices of the Government of Canada and the CWB with regard to wheat trading are unreasonable and burden or restrict U.S. commerce. The USTR further announced that the Administration would pursue multiple avenues to seek relief for U.S. wheat farmers from the wheat trading practices of the Government of Canada and the CWB: (1) USTR would examine taking a possible WTO dispute settlement case against Canada with regard to the wheat trading practices of the Government of Canada and the CWB; (2) the Administration would work with the North Dakota Wheat Commission and the U.S. wheat industry to examine the possibility of filing U.S. countervailing duty and antidumping petitions; (3) USTR would work with U.S. farmers to identify specific impediments to U.S. wheat entering Canada and would present these to the Canadians so as to ensure the possibility of fair, two-way trade; and (4) the Administration would vigorously pursue comprehensive and meaningful reform of monopoly state trading enterprises in the WTO agriculture negotiations.

The Administration actively pursued these initiatives throughout the remainder of 2002. In WTO negotiations, the United States continued to place a priority on the reform of agricultural state-trading enterprises. For example, the United States succeeded in making this issue the first agenda item in the June 2002 meeting of the WTO agricultural talks, and has obtained the support of other important delegations. On market access, the United States held bilateral consultations with Canadian officials on reducing the Canadian trade barriers that restrict exports of U.S. wheat to Canada, and has identified specific Canadian transportation and distribution policies that serve as market access barriers. With respect to potential countervailing duty and antidumping duty investigations, wheat industry representatives consulted with Department of Commerce officials, and on September 13, 2002, industry representatives filed antidumping and countervailing duty petitions. Finally, with respect to the possible WTO challenge, USTR developed a legal challenge to Canadian marketing practices and market access barriers, and filed a consultation request in the WTO on December 17, 2002.

d. EC - Measures Concerning Meat and Meat Products (Hormones) (301-62a)

An EC directive prohibits the import of animals, and meat from animals, to which certain hormones had been administered (the "hormone ban"). This measure has the effect of banning nearly all imports of beef and beef products from the United States. A WTO panel and the Appellate Body found that the hormone ban was inconsistent with the EC's WTO obligations because the ban was not based on scientific evidence, a risk assessment, or relevant international standards. Under WTO procedures, the EC was to

have come into compliance with its obligations by May 13, 1999, but failed to do so. Accordingly, in May 1999 the United States requested authorization from the DSB to suspend the application to the EC, and Member States thereof, of tariff concessions and related obligations under the GATT. The EC did not contest that it had failed to comply with its WTO obligations but objected to the level of suspension proposed by the United States.

On July 12, 1999, WTO arbitrators determined that the level of nullification or impairment suffered by the United States as a result of the EC's WTO-inconsistent hormone ban was $116.8 million per year. Accordingly, on July 26, 1999, the DSB authorized the United States to suspend the application to the European Communities and its Member States of tariff concessions and related obligations under the GATT covering trade up to $116.8 million per year. In a notice published in July 1999, the USTR announced that the United States was exercising this authorization by imposing 100 percent *ad valorem* duties on certain products of certain EC Member States. The increased duties remained in place throughout 2002. While talks have continued with the aim of reaching a mutually satisfactory solution to the dispute, no resolution has been reached.

2. Special 301

During the past year, the United States continued to implement vigorously the Special 301 program, resulting in continued substantial improvement in the global intellectual property environment. Publication of the Special 301 lists indicates those trading partners whose intellectual property protection regimes most concern the United States, and alerts those considering trade or investment relationships with such countries that their intellectual property rights may not be adequately protected.

Pursuant to Section 182 of the Trade Act of 1974, as amended by the Omnibus Trade and Competitiveness Act of 1988 and the Uruguay Round Agreements Act of 1994, under Special 301 provisions, USTR must identify those countries that deny adequate and effective protection for intellectual property rights (IPR) or deny fair and equitable market access for persons that rely on intellectual property protection. Countries that have the most onerous or egregious acts, policies or practices and whose acts, policies or practices have the greatest adverse impact (actual or potential) on the relevant U.S. products must be designated as "Priority Foreign Countries."

Priority Foreign Countries are potentially subject to an investigation under the Section 301 provisions of the Trade Act of 1974. USTR may not designate a country as a Priority Foreign Country if it is entering into good faith negotiations or making significant progress in bilateral or multilateral negotiations to provide adequate and effective protection of IPR.

USTR must decide whether to identify countries each year within 30 days after issuance of the National Trade Estimate Report. In addition, USTR may identify a trading partner as a Priority Foreign Country or remove such identification whenever warranted.

USTR has created a "Priority Watch List" and "Watch List" under Special 301 provisions. Placement of a trading partner on the Priority Watch List or Watch List indicates that particular problems exist in that country with respect to IPR protection, enforcement or market access for persons relying on intellectual property. Countries placed on the Priority Watch List are the focus of increased bilateral attention concerning the problem areas.

a. 2002 Special 301 Review Announcements

On April 30, 2002, the United States Trade Representative announced the results of the 2002 "Special 301" annual review which examined in detail the adequacy and effectiveness of intellectual property protection in more than 70 countries. Under the Special 301 provisions of the Trade Act of 1974, as amended, USTR identified 51 trading partners that deny adequate and effective protection of intellectual property or deny fair and equitable market access to United States artists and industries that rely upon intellectual property protection.

Because of its persistent failure to take effective action against significant levels of optical media piracy and its failure to implement intellectual property laws that provide adequate and effective protection to right holders, on January 23, 2002, the United States imposed $75 million in sanctions on Ukrainian products. Ukraine's continuing status as a Priority Foreign Country could jeopardize Ukraine's efforts to join the WTO and seriously undermine its efforts to attract trade and investment. The United States continues to encourage Ukraine to combat piracy and to enact the necessary intellectual property rights legislation and regulations.

Paraguay and China were designated for "Section 306 monitoring" to ensure both countries comply with the commitments made to the United States under bilateral intellectual property agreements. Special concern was expressed that Paraguay's efforts have not been sufficient in recent months, and further consultations will be scheduled.

In 2002, USTR placed 15 trading partners on the "Priority Watch List": Argentina, Brazil, Colombia, the Dominican Republic, Egypt, the European Union, Hungary, India, Indonesia, Israel, Lebanon, the Philippines, Russia, Taiwan and Uruguay. Thirty-three trading partners were placed on the "Watch List." At the same time, USTR announced "out-of-cycle" reviews (OCR) for "Priority Watch List" countries Indonesia, Israel, and the Philippines, and for "Watch List" countries the Bahamas, Costa Rica, Poland, and Thailand. An OCR was also scheduled for Mexico.

b. Intellectual Property and Health Policy

In announcing the results of the 2002 Special 301 review, Ambassador Zoellick reiterated that USTR would not change the present approach to health-related intellectual property issues. That is to say, consistent with the United States' protection of intellectual property, we remain committed to working with countries to develop workable programs to prevent and treat HIV/AIDS, malaria, tuberculosis and other epidemics.

We have informed countries that, as they take steps to address a major health crisis, like the HIV/AIDS crisis in sub-Saharan Africa, they should be able to avail themselves of the flexibilities afforded by the TRIPS Agreement, provided that any steps they take comply with the provisions of the Agreement. The Declaration on the TRIPS Agreement and Public Health agreed upon at the WTO Doha Ministerial in November 2001 and the Administration's December 20, 2002 announcement of a moratorium on dispute settlement are a reflection of this commitment. A more detailed discussion of the moratorium is in Section G of Chapter II relating to the Council on Trade-Related Aspects of Intellectual Property Rights.

The U. S. Government also remains committed to a policy of promoting intellectual property protection, including for pharmaceutical patents, because of intellectual property rights' critical role in the rapid innovation, development, and commercialization of effective and safe drug therapies. Financial incentives are needed to develop new medications. No one benefits if research on such products is discouraged.

c. Implementation of Special 301

While piracy and counterfeiting problems persist in many countries, progress has occurred in other countries. Significant positive developments are highlighted below:

- On January 1, 2002, Taiwan became a member of the WTO and obligated itself to comply fully with the TRIPS Agreement on that date, and amended its patent law to provide the TRIPS Agreement term of protection for patents granted before January 21, 1994;
- In January 2002, the Philippine Supreme Court issued new rules giving courts the authority to order the seizure of pirated material without notice to the suspected infringer, as required by TRIPS Article 50;
- The Czech government adopted a comprehensive new regulation, effective January 1, 2002, on the use of software in government offices;
- In January 2002, amendments to Moldova's Customs Code came into force, providing *ex officio* authority for customs officials to seize material at the border as required by the TRIPS Agreement;
- The Government of Paraguay impounded 12.6 million blank CDs in early February 2002 and charged the importers with tax evasion;
- On February 7, 2002, Costa Rica's Public Ministry appointed 12 specialized "Link Prosecutors" to provide priority handling of intellectual property cases in Costa Rica;
- The Costa Rican government signed a government software decree on February 21, 2002, which requires all ministries to conduct inventories and audits by December 15, 2002, and to come into full compliance no later than July 15, 2003;
- Jamaica formed a new Intellectual Property Office (JIPO) in February 2002, consolidating the administration of Jamaican copyright, trademark and patent laws;
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- Peru signed and published the WIPO Performances and Phonograms Treaty on March 2, 2002;
- On March 27, 2002, the UAE made written commitments to provide comprehensive protection for U.S. pharmaceuticals including extending data exclusivity protection, providing joint review by Heath-Finance Ministry officials, and allowing USG review of a draft patent law for TRIPS compliance;
- In March 2002, Japan announced that it will interpret temporary copying as violating copyright laws;
- Poland and Slovenia reinstated data exclusivity protection in April 2002;
- In May 2002, India enacted a second set of amendments to its 1970 Patent Act to address a number of TRIPS issues;

- The United States and Argentina notified the partial settlement of WTO dispute settlement procedure on May 31, 2002;
- In June 2002, Egypt passed an intellectual property law to implement its TRIPS obligations in a number of areas;
- During the summer, Thailand passed a trade secrets act, and in November 2002 the Thai Senate passed a geographical indications bill;
- In September 2002, Colombia issued a decree concerning data exclusivity protection;
- By October 2002, Qatar had passed copyright, trademark, and industrial design laws to implement its TRIPs obligations;
- On November 19, 2002, the United States and Singapore reached agreement in substance on a Free Trade Agreement that requires enhanced intellectual property rights protection in Singapore; and
- On December 11, 2002, the United States and Chile announced that they had reached agreement on the substance of a Free Trade Agreement that includes stronger provisions on the protection and enforcement of intellectual property rights than any previous Free Trade Agreement.

d. Ongoing Initiatives

i. Internet Piracy and the WIPO Copyright Treaties

Despite the promise that the Internet holds for innovative and creative industries, it is also creates significant challenges, as it serves as an extremely efficient global distribution network for pirated products. An important first step in the fight against Internet piracy was achieved at the World Intellectual Property Organization (WIPO), when it concluded two copyright treaties in 1996: the WIPO Copyright Treaty (WCT), and the WIPO Performances and Phonograms Treaty (WPPT), referred to as the WIPO Internet Treaties. These Treaties represent the consensus view of the world community that the vital framework of protection under existing treaties, including the TRIPS Agreement, should be supplemented to eliminate any remaining gaps in copyright protection on the Internet that could impede the development of electronic commerce. These treaties clarify exclusive rights in the on-line environment and specifically prohibit devices and services intended to circumvent technological protection measures for copyrighted works. As such, they represent the current state of international copyright law and provide the critical foundation needed to enable electronic commerce to flourish and to combat Internet piracy.

Because of their importance, the United States has been encouraging countries to ratify and implement the WIPO Internet Treaties, both in informal consultations and in the context of the negotiation of free trade agreements. Both Treaties came into effect in early 2002, the WCT on March 6 and the WPPT on May 20, when the required number of ratifications were deposited in Geneva with WIPO. We continue to work internationally to promote ratification of these Treaties by other trading partners.

The United States notes improvements in Japan's protection of copyright and related rights through its recognition of the need to protect temporary copies of works and phonograms. Unfortunately, Japan has also enacted an Internet service provider liability law that fails to provide the necessary protections to rights holders. The United States has urged Japan to improve this situation by adopting implementing

regulations that provide the necessary incentives for service providers to work with rights holders to remove infringing material expeditiously, and to provide rights holders the ability to learn the identity of accused online infringers.

ii. Other Initiatives Regarding Internet Piracy

The United States is seeking to incorporate the highest standards of protection for intellectual property into appropriate bilateral and regional trade agreements that are negotiated. The United States has already had its first success in this effort by incorporating the standards of the WIPO Internet Treaties as substantive obligations in our FTA with Jordan. The Jordan FTA laid the foundation for pursuing this goal in the free trade agreements with Chile and Singapore as well as the Free Trade Area of the Americas (FTAA), and other FTAs in which negotiations have just begun. Moreover, U.S. proposals in these negotiations will further update copyright and enforcement obligations to reflect the technological challenges faced today as well as those that may exist at the time negotiations are concluded several years from now.

iii. Implementation of the WTO TRIPS Agreement

One of the most significant achievements of the Uruguay Round was the negotiation of the TRIPS Agreement, which requires all WTO Members to provide certain minimum standards of protection for patents, copyrights, trademarks, trade secrets, geographical indications and other forms of intellectual property. The Agreement also requires countries to provide effective enforcement of these rights. The TRIPS Agreement is the first broadly-subscribed multilateral intellectual property agreement that is enforceable between governments, allowing them to resolve disputes through the WTO's dispute settlement mechanism.

Developed countries were required to fully implement TRIPS as of January 1, 1996, while developing countries were given a transition period – until January 1, 2000 – to implement the Agreement's provisions. Ensuring that developing countries are in full compliance with the Agreement now that this transition period has come to an end is one of this Administration's highest priorities with respect to intellectual property rights. With respect to least developed countries, and with respect to the protection of pharmaceuticals and agriculture chemicals in certain developing countries, even longer transitions are provided.

Progress continues to be made by developing countries toward full implementation of their TRIPS obligations. Nevertheless, certain countries are still in the process of finalizing implementing legislation and establishing adequate enforcement mechanisms. Every year the U.S. Government provides extensive technical assistance and training on the implementation of the TRIPS Agreement, as well as other international intellectual property agreements, to a large number of U.S. trading partners. Technical assistance involves review of, and drafting assistance on, laws concerning intellectual property and enforcement. Training programs usually cover the substantive provisions of the TRIPS Agreement, as well as enforcement. The United States will continue to work with these countries and expects further progress in the near term to complete the TRIPS implementation process. Absent such progress, the United States will consider other options to ensure implementation, including through WTO dispute settlement proceedings.

iv. Controlling Optical Media Production

To address existing and prevent future piratical activity, over the past year some U.S. trading partners, such as Malaysia and Taiwan, have taken important steps toward implementing, or have committed to adopt, much needed controls on optical media production. The United States awaits news of aggressive enforcement of these laws. Other trading partners that are in urgent need of such controls, however, including Ukraine, Thailand, Indonesia, Pakistan, the Philippines, and Russia, have not made sufficient progress in this regard.

Governments such as those of China, Hong Kong and Macau that implemented optical media controls in previous years have clearly demonstrated their commitment to continue to enforce these measures. The effectiveness of such measures is underscored by the direct experience of these governments in successfully reducing pirate production of optical media. The United States continues to urge its trading partners facing the challenge of pirate optical media production within their borders, or the threat of such production developing, to adopt similar controls, or aggressively enforce existing regulations, in the coming year. USTR is concerned, however, about recent reports of increased piracy and counterfeiting in Bulgaria, which had been a model in its region for taking the necessary steps to tackle optical media piracy, including the enactment of optical media controls. Particularly troubling are reports that the CD plant licensing laws might be revised in such a manner so as to undermine, not improve, their effectiveness. USTR will closely monitor the situation and look to the Government of Bulgaria to maintain strong optical disk (OD) regulations.

v. Government Use of Software

In October 1998, the United States announced a new Executive Order directing U.S. Government agencies to maintain appropriate, effective procedures to ensure legitimate use of software. In addition, USTR was directed to undertake an initiative to work with other governments, particularly those in need of modernizing their software management systems or about which concerns have been expressed, regarding inappropriate government use of illegal software.

The United States has achieved considerable progress under this initiative. Countries that have issued decrees mandating the use of only authorized software by government ministries include Bolivia, China, Chile, Colombia, Costa Rica, the Czech Republic, Ireland, Israel, Jordan, Paraguay, Thailand, France, the U.K., Spain, Greece, Turkey, Hungary, Korea, Hong Kong, Macau, Lebanon, Taiwan and the Philippines. USTR has noted its pleasure that these governments have recognized the importance of setting an example in this area and its expectation that these decrees will be fully implemented. The United States looks forward to the adoption of similar decrees, with effective and transparent procedures that ensure legitimate use of software, by additional governments prior to the conclusion of the Special 301 review in April 2003.

3. Telecommunications - Section 1377 Reviews

Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 requires USTR to review, by March 31 of each year, the operation and effectiveness of U.S. telecommunications trade agreements. The purpose of the Section 1377 review is to determine whether any act, policy, or practice of a foreign country that has entered into a telecommunications-related agreement with the United States (1) is not in compliance with the terms of the agreement or (2) otherwise denies, within the context of the agreement, mutually advantageous market opportunities to telecommunications products and services of U.S. firms in that country.

The 2002 Section 1377 review focused on the following practices as a matter of priority: (1) mobile wireless interconnection rates in the European Union (EU) Member States and Japan; (2) provisioning and pricing of leased telecom lines in EU Member States and Switzerland; and (3) interconnection and other competitive concerns in Mexico. USTR also announced that it would monitor other telecommunications trade practices in Australia, Brazil, China, Colombia, India, Japan, Peru, and South Africa. While these represented broad market access concerns that were vigorously addressed, Mexico was the only case where a record of violating trade commitments was considered strong enough to initiate a formal trade complaint.

On mobile wireless interconnection, USTR identified growing evidence that wireless operators in the EU and Japan were charging wireline telecommunications carriers wholesale rates to "interconnect" their calls at rates that were significantly above cost. Reductions of such rates in Japan in 2002 and recent efforts by some European regulators to investigate these rates is encouraging, and USTR will continue to monitor these actions.

On the provisioning and pricing of leased lines, USTR noted that U.S. companies face serious difficulties throughout the EU in obtaining leased lines from former monopolies on a timely basis and at reasonable and non-discriminatory rates. The EU and Switzerland have commitments in the WTO to ensure basic telecom providers have access to and use of leased lines on reasonable and non-discriminatory terms and conditions. In Germany, the regulator instituted provisioning guidelines that have helped alleviate this problem. However, the regulator's action was stayed by the German courts pending judicial review. On the whole, this issue continues to plague a number of EU Member States and Switzerland, and USTR will continue to monitor regulatory actions that these countries may take to remedy allegedly anticompetitive practices by the incumbent.

Other issues identified this year include: complaints that Australia's regulator has not acted impartially toward competitors to Telstra, Australia's 50.1 percent government-owned telecom operator; China's lagging efforts to establish an independent regulator; Colombia's failure to permit licensing of additional international operators; India's weak enforcement powers granted to the telecom regulator, and the conflicts of interest arising out of the Government of India's ownership interest in India's telecom operators; Japan's unjustified hike of key wireline interconnection rates and its continued failure to ensure the independence of the regulator; and transparency of regulatory processes and independence of the regulator in Peru. Finally, South Africa continues to be plagued by an uncertain regulatory environment, and one that appears to favor the state-owned monopoly supplier of basic telecommunications services.

Mexico

USTR requested the establishment of a WTO dispute settlement panel to examine claims that Mexico has failed to ensure that: (1) Telmex (Mexico's major supplier of telecommunications) provides U.S. telecom companies interconnection for international calls at "cost-oriented" rates and reasonable terms and conditions; and (2) U.S. companies can send their calls into and out of Mexico over leased lines. Failure to address these issues has kept rates for completing calls into Mexico at monopoly levels which are over double actual cost, restricting bilateral telecommunications traffic and imposing an undue burden on businesses and consumers in both the United States and Mexico. The WTO dispute settlement panel was established and held its first hearing in the case in December 2002, and is expected to rule on the U.S. complaint by mid-2003.

4. Government Procurement

As noted in Chapter IV, the United States is a signatory of the Agreement on Government Procurement. The NAFTA , as well as the recently negotiated Free Trade Agreements with Singapore and Chile also include provisions on government procurement. The United States monitors our trading partners' compliance with these agreements and can enforce its rights under these agreements through dispute settlement. We can also pursue issues related to government procurement in proceedings under section 301.

5. Antidumping Actions

Under the antidumping law, duties are imposed on imported merchandise when the Department of Commerce determines that the merchandise is being dumped (sold at "less than fair value" (LTFV)) and the U.S. International Trade Commission determines that there is material injury or threat of material injury to the domestic industry, or material retardation of the establishment of an industry, "by reason of" those imports. The antidumping law's provisions are incorporated in Title VII of the Tariff Act of 1930 and have been substantially amended by the 1979, 1984, and 1988 trade acts as well as by the 1994 Uruguay Round Agreements Act.

An antidumping investigation starts when a U.S. industry, or an entity filing on its behalf, submits a petition alleging with respect to certain imports the dumping and injury elements described above. If the petition meets the minimum requirements for filing, Commerce initiates an antidumping investigation. Commerce also may initiate an investigation on its own motion.

After initiation, the USITC decides, generally within 45 days of the filing of the petition, whether there is a "reasonable indication" of material injury or threat of material injury to a domestic industry, or material retardation of an industry's establishment, "by reason of" the LTFV imports. If this preliminary determination by the USITC is negative, the investigation is terminated; if it is affirmative, the case shifts back to Commerce for preliminary and final inquiries into the alleged LTFV sales into the U.S. market. If Commerce's preliminary determination is affirmative, Commerce will direct U.S. Customs to suspend liquidation of entries and require importers to post a bond equal to the estimated weighted average dumping margin.

If Commerce's final determination of LTFV sales is negative, the investigation is terminated. If affirmative, the USITC makes a final injury determination. If the USITC determines that there is material injury or threat of material injury, or material retardation of an industry's establishment, by reason of the LTFV imports, an antidumping order is issued. If the USITC's final injury determination is negative, the investigation is terminated and the Customs bonds released.

Upon request of an interested party, Commerce conducts annual reviews of dumping margins pursuant to Section 751 of the Tariff Act of 1930. Section 751 also provides for Commerce and USITC review in cases of changed circumstances and periodic review in conformity with the five-year "sunset" provisions of the U.S. antidumping law and the WTO antidumping agreement.

Most antidumping determinations may be appealed to the U.S. Court of International Trade, with further judicial review possible in the U.S. Court of Appeals for the Federal Circuit. For certain investigations involving Canadian or Mexican merchandise, appeals may be made to a binational panel established under the NAFTA.

The numbers of antidumping investigations initiated in and since 1986 are as follows: 83 in 1986; 16 in 1987; 42 in 1988; 24 in 1989; 35 in 1990; 66 in 1991; 84 in 1992; 37 in 1993; 51 in 1994; 14 in 1995; 21 in 1996; 15 in 1997; 36 in 1998; 46 in 1999; 45 in 2000; 57 in 2001; and 35 in 2002. The numbers of antidumping orders (not including suspension agreements) imposed in and since 1986 are: 26 in 1986; 53 in 1987; 12 in 1988; 24 in 1989; 14 in 1990; 19 in 1991; 16 in 1992; 42 in 1993; 16 in 1994; 24 in 1995; 9 in 1996; 7 in 1997; 9 in 1998; 19 in 1999; 20 in 2000; 30 in 2001; and 36 in 2002. Under its sunset review procedures, Commerce revoked 120 antidumping duty orders and continued 13 orders in 2000; revoked 4 antidumping duty orders and continued 3 orders in 2001; and revoked 6 antidumping duty orders and continued 2 orders in 2002.

6. Countervailing Duty Actions

The U.S. countervailing duty (CVD) law dates back to late 19th century legislation authorizing the imposition of CVDs on subsidized sugar imports. The current CVD provisions are contained in Title VII of the Tariff Act of 1930. As with the antidumping law, the USITC and the Department of Commerce jointly administer the CVD law.

The CVD law's purpose is to offset certain foreign government subsidies benefitting imports into the United States. CVD procedures under Title VII are very similar to antidumping procedures, and CVD determinations by Commerce and the USITC are subject to the same system of judicial review as are antidumping determinations. Commerce normally initiates investigations based upon a petition submitted by a representative of the interested party(ies). The USITC is responsible for investigating material injury issues. The USITC must make a preliminary finding of a reasonable indication of material injury or threat of material injury, or material retardation of an industry's establishment, by reason of the imports subject to investigation. If the USITC's preliminary determination is negative, the investigation terminates; otherwise, Commerce issues preliminary and final determinations on subsidization. If Commerce's final determination of subsidization is affirmative, the USITC proceeds with its final injury determination.

The number of CVD investigations initiated in and since 1986 are: twenty-eight in 1986; eight in 1987; seventeen in 1988; seven in 1989; seven in 1990; eleven in 1991; twenty-two in 1992; five in 1993; seven in 1994; two in 1995; one in 1996; six in 1997; eleven in 1998; ten in 1999; seven in 2000; and eighteen in 2001. The number of CVD orders imposed in and since 1986 are: thirteen in 1986; fourteen in 1987; seven in 1988; six in 1989; two in 1990; two in 1991; four in 1992; sixteen in 1993; one in 1994; two in 1995; two in 1996; none in 1997; one in 1998; six in 1999; six in 2000, and six in 2001. In 2001, Commerce conducted sunset reviews of five of its outstanding countervailing measures, all five measures were continued as a result of the review. In the first six months of 2002, from January 1 to June 30, 1 CVD investigation was initiated and no sunset reviews were initiated.

7. Unfair Import Practices (Section 337)

Section 337 of the Tariff Act of 1930 makes it unlawful to engage in unfair acts or unfair methods of competition in the importation or sale of imported goods. Most Section 337 investigations concern alleged infringement of intellectual property rights, usually involving U.S. patents.

The USITC conducts Section 337 investigations through adjudicatory proceedings under the Administrative Procedure Act. The proceedings normally involve an evidentiary hearing before a USITC administrative law judge who issues an Initial Determination that is subject to review by the Commission. If the USITC finds a violation, it can order that imported infringing goods be excluded from the United States and/or issue cease and desist orders requiring firms to stop unlawful conduct in the United States,

such as the sale or other distribution of imported goods in the United States. Many Section 337 investigations are terminated after the parties reach settlement agreements or agree to the entry of consent orders.

In cases in which the USITC finds a violation of Section 337, it must decide whether certain public interest factors nevertheless preclude the issuance of a remedial order. Such public interest considerations include an order's effect on the public health and welfare, U.S. consumers, and the production of similar U.S. products.

If the USITC issues a remedial order, it transmits the order, determination, and supporting documentation to the President for policy review. Importation of the subject goods may continue during this review process, if the importer pays a bond set by the USITC. If the President does not disapprove the USITC's action within 60 days, the USITC's order becomes final. Section 337 determinations are subject to judicial review in the U.S. Court of Appeals for the Federal Circuit with possible appeal to the U.S. Supreme Court.

The USITC also is authorized to issue temporary exclusion or cease and desist orders prior to completion of an investigation if the USITC determines that there is reason to believe a violation of Section 337 exists.

In 2002, the USITC instituted 17 new Section 337 investigations and two ancillary proceedings (one of which concerned the enforcement of a section 337 order and the other concerned a bond forfeiture). During the year, the USITC issued five limited exclusion orders and four cease and desist orders covering imports from foreign firms, as follows: Inv. No. 337-TA-473, *Certain Video Game Systems, Accessories, and Components Thereof* (limited exclusion order and cease and desist order); Inv. No. 337-TA-450, *Certain Integrated Circuits, Processes for Making Same and Products Containing Same* (limited exclusion order); Inv. No. 337-TA-449, *Abrasive Products Made Using a Process for Making Powder Preforms and Products Containing Same* (limited exclusion order and cease and desist order); Inv. No. 337-TA-448, *Certain Oscillating Sprinklers, Sprinkler Components, and Nozzles* (limited exclusion order); and Inv. No. 337-TA-446, *Certain Ink Jet Print Cartridges and Components Thereof* (limited exclusion order and two cease and desist orders). A limited exclusion order covers only certain imports from particular named sources (as contrasted with a general exclusion order, which covers certain products from all sources). The President permitted all but one limited exclusion order and one cease and desist order to go into effect during 2002; those two remaining orders were before the President for review as of December 31, 2002.

a. Section 201

Section 201 of the Trade Act of 1974 provides a procedure whereby the President may grant temporary import relief if increased imports are a substantial cause of serious injury or the threat of serious injury. Relief may be granted for an initial period of up to four years, with the possibility of extending the relief to a maximum of eight years. Import relief is designed to redress the injury and to facilitate positive adjustment by the domestic industry and may consist of increased tariffs, quantitative restrictions, or other forms of relief. Section 201 also authorizes the President to grant provisional relief in cases involving "critical circumstances" or certain perishable agricultural products.

For an industry to obtain relief under Section 201, the United States International Trade Commission (USITC) must first determine that a product is being imported into the United States in such increased quantities as to be a substantial cause (a cause which is important and not less than any other cause) of

serious injury, or the threat thereof, to the U.S. industry producing a like or directly competitive product. If the USITC makes an affirmative injury determination (or is equally divided on injury) and recommends a remedy to the President, the President may provide relief either in the amount recommended by the USITC or in such other amount as he finds appropriate. The criteria for import relief in Section 201 are based on Article XIX of the GATT 1994 – the so-called "escape clause" – and the WTO Agreement on Safeguards.

As of January 1, 2003, the United States had three safeguard measures in place on imported steel products: (1) certain steel wire rod (wire rod); (2) circular welded carbon quality line pipe (line pipe); (3) certain carbon flat-rolled steel, including carbon and alloy steel slabs (slabs), plate (including cut-to-length plate and clad plate), hot-rolled steel (including plate in coils), cold-rolled steel (other than grain-oriented electrical steel), corrosion-resistant and other coated steel (collectively, certain flat steel); (4) carbon and alloy hot-rolled bar and light shapes (hot-rolled bar); (5) carbon and alloy cold-finished bar (cold-finished bar); (6) carbon and alloy rebar (rebar); (7) carbon and alloy welded tubular products (other than oil country tubular goods) (certain tubular products); (8) carbon and alloy flanges, fittings, and tool joints (carbon and alloy fittings); (9) stainless steel bar and light shapes (stainless steel bar); and (10) stainless steel rod, carbon and alloy tin mill products (tin mill products) and stainless steel wire.

Effective March 1, 2000, the President imposed a tariff-rate quota (TRQ) on imports of wire rod from all countries except Canada and Mexico. Absent an extension, the measure will expire on March 1, 2003. Effective November 24, 2001, the President revised the wire rod safeguard measure to allot the TRQ among four categories of supplier countries. The allotments were based on import shares for a representative historic period.

Also effective March 1, 2000, the President imposed a duty increase on imports of line pipe from all countries except Canada and Mexico. The first 9,000 short tons of line pipe imported into the United States annually from each country is exempted from this increase in duty. Absent an extension, the measure will expire on March 1, 2003. Pursuant to an agreement reached with Korea, the 9,000 ton exclusion applicable to Korea was replaced with a tariff-rate quota, effective September 1, 2002.

Effective March 20, 2002, the President imposed a safeguard measure on certain flat steel in the form of a TRQ on slabs and a tariff on other certain flat steel. At the same time, the President imposed tariffs on hot-rolled bar, cold-finished bar, rebar, certain tubular products, carbon and alloy fittings, stainless steel bar, stainless steel rod, tin mill products, and stainless steel wire (collectively, the "steel safeguard measures"). Absent an extension, the measures will expire on March 21, 2005. Subsequent to the effective date of the measure, USTR granted requests made by U.S. consumers, U.S. importers, and foreign producers that certain products be excluded from these safeguard measures.

On February 15, 2002, the WTO Appellate Body issued a report finding that the safeguard measure on line pipe was inconsistent with the Safeguards Agreement and GATT 1994 in that it was based on a finding of serious injury that did not comply with the Safeguards Agreement prohibition on attributing to imports injury caused by other factors. This report, and an earlier panel report finding that the line pipe safeguard measure was a TRQ inconsistent with Article XIII of GATT 1994, were adopted on March 8, 2002.

In July, 2002, the WTO formed a dispute settlement panel to consider claims brought by the European Communities, Japan, Korea, China, Switzerland, Norway, New Zealand, and Brazil that the steel safeguard measures taken on March 20, 2002 were inconsistent with WTO rules. The panel should issue its report sometime in the second quarter of 2003.

b. Section 421

The terms of China's accession to the WTO include a unique, China-specific safeguard mechanism. The mechanism allows a WTO member to limit increasing imports from China that disrupt or threaten to disrupt its market, if China does not agree to take action to remedy or prevent the disruption. The mechanism applies to all industrial and agricultural goods and will be available until December 11, 2013.

Section 421 of the Trade Act of 1974, as amended by the U.S.-China Relations Act of 2000, implements this safeguard mechanism in U.S. law. For an industry to obtain relief under Section 421, the United States International Trade Commission (ITC) must first make a determination that products of China are being imported into the United States in such increased quantities or under such conditions as to cause or threaten to cause market disruption to the domestic producers of like or directly competitive products. The statute directs that if the ITC makes an affirmative determination, the President shall provide import relief, unless the President determines that provision of relief is not in the national economic interest of the United States or, in extraordinary cases, that the taking of action would cause serious harm to the national security of the United States.

China's terms of accession also permit a WTO Member to limit imports where a China-specific safeguard measure imposed by another Member causes or threatens to cause significant diversions of trade into its market. The trade diversion provision is implemented in U.S. law by Section 421a of the Trade Act of 1974.

On August 19, 2002, based on a Section 421 petition filed by Motion Systems Corporation, the ITC instituted an investigation to determine whether imports of pedestal actuators from China are causing or threatening to cause market disruption. The ITC made an affirmative determination on October 18, 2002, and transmitted a report on its determination, as well as its remedy proposals, to the President and USTR on November 7, 2002. Under the statute, the President effectively has 70 days from receipt of the ITC report to take action, if any.

On November 27, 2002, three U.S. companies filed a Section 421 petition and the ITC instituted an investigation to determine whether imports of certain steel wire garment hangers from China are causing or threatening to cause market disruption. The ITC is required to make a determination no later than 60 days after the date on which the petition was filed.

c. China Textile Safeguard

The terms for China's accession to the WTO also include a special textiles safeguard, which is available for WTO members to use until December 31, 2008. This safeguard covers all products subject to the WTO Agreement on Textiles and Clothing as of January 1, 1995. On August 30, 2002, the Chairman of the interagency Committee for the Implementation of Textile Agreements (CITA) received a letter from the American Textile Manufacturers Institute (ATMI) requesting that CITA invoke this special textile safeguard with respect to certain product categories. USTR, as a member of CITA, is monitoring import data related to these products, and is working to develop procedures consistent with U.S. safeguards laws to implement this special textiles safeguard.

8. Trade Adjustment Assistance

a. Assistance for Workers

The Trade Adjustment Assistance (TAA) program for workers, established under Title II, chapter 2, of the Trade Act of 1974, as amended, provides assistance for workers affected by foreign trade. Available assistance includes job retraining, trade readjustment allowances (TRA), job search, relocation, a health insurance tax credit, and other re-employment services. The program was most recently amended by the Trade Adjustment Assistance Reform Act of 2002 (TAA Reform Act) enacted on August 6, 2002.

The TAA Reform Act expanded the TAA program and repealed the North American Free Trade Agreement Transitional Adjustment Assistance (NAFTA-TAA) program. The TAA Reform Act also raised the statutory cap on funds that may be allocated to the States for training from $110 million to $220 million per year. Workers covered under certifications issued pursuant to NAFTA-TAA petitions filed on or before November 3, 2002, will continue to be covered under the provisions of the NAFTA-TAA program that were in effect on September 30, 2001. Amendments to the TAA program apply to petitions for adjustment assistance that are filed on or after November 4, 2002.

The TAA Reform Act expanded eligibility for the TAA program. For workers to be eligible to apply for TAA, the Secretary of Labor must certify that: (1) increased imports contributed importantly to a decline in sales or production and to a layoff or threat of a layoff; or (2) there has been a shift in production to a country with a free or preferential trade agreement with the United States; or (3) there has been a shift in production outside the United States and there has been or is likely to be an increase in imports of like or directly competitive articles; or (4) loss of business as a supplier or downstream producer for a TAA certified firm contributed importantly to worker layoffs. The latter is to cover certain secondarily-affected workers.

The U.S. Department of Labor administers the TAA program through the Employment and Training Administration (ETA). Workers certified as eligible to apply for adjustment assistance may apply for TAA benefits and services at the nearest state One Stop Career Center or office of the State Workforce Agency. In order to be eligible for TRA, workers must be enrolled in approved training within eight weeks of the issuance of the DOL certification or within 16 weeks of the worker's most recent qualifying separation (whichever is later) or must have successfully completed approved training. A State may waive this requirement under six specific conditions.

The TAA Reform Act created a program of health coverage tax credits (HCTC) for certain trade-impacted workers and others. Covered individuals may be eligible to receive a tax credit equal to 65percent of the amount they paid for qualifying coverage under qualified health insurance. The tax credit may be claimed at the end of the year, or, beginning in August 2003, a qualified individual may receive the credit in the form of monthly advance payments to the health insurance provider.

Fact-finding investigations were instituted for 2,375 TAA petitions in fiscal year (FY) 2002. In FY 2002, 1,614 certifications were issued covering an estimated 232,898 workers, whereas 993 petitions covering an estimated 96,197 workers resulted in denials of eligibility to apply. Fact-finding investigations were instituted for 2,339 NAFTA-TAA petitions in FY 2002. In FY 2002, 745 NAFTA-TAA certifications were issued covering an estimated 112,093 workers whereas 696 NAFTA-TAA petitions covering an estimated 76,231 workers resulted in denials of eligibility to apply.

b. Assistance for Firms and Industries

The Planning and Development Assistance Division of the Department of Commerce's Economic Development Administration (EDA) administers the TAA program for firms and industries. This program is authorized by Title II, Chapter 3, of the Trade Act of 1974, as amended, and was extended by the Trade Act of 2002 through September 30, 2007.

Under the firms and industries TAA program, EDA funds a network of 12 Trade Adjustment Assistance Centers (TAACs). These TAACs are sponsored by nonprofit organizations, institutions of higher education, and a state agency. In FY 2002, EDA provided $ 10.5 million in funding to the TAACs.

TAACs assist firms in completing petitions for certification of eligibility. To be certified as eligible to apply for TAA, a firm must show that increased imports of articles like or directly competitive with those produced by the firm contributed importantly to declines in its sales, production, or both, and to the separation or threat of separation of a significant portion of the firm's workers.

In FY 2002, EDA certified 170 firms under the TAA program. Once EDA has certified a firm, the TAAC assists the firm in assessing its competitive situation and in developing an adjustment proposal. The adjustment proposal must show that the firm is aware of its strengths and weaknesses and must present a clear and rational strategy for achieving economic recovery. EDA's Adjustment Proposal Review Committee (APRC) must approve the firm's adjustment proposal. During FY 2002, the APRC approved 141 adjustment proposals from certified firms.

After the adjustment proposal is approved by the APRC, the firm may request technical assistance from the TAAC to implement its strategy. Using funds provided by the TAA program, the TAAC contracts with consultants to provide the technical assistance identified in the firm's proposal. The firm must typically pay 50 percent of the cost of each consultant contract, and the maximum amount of technical assistance available to a firm under the TAA program is $75,000. Common types of technical assistance that firms request include the development of marketing materials, the identification of new products for the firm to produce, and the identification of appropriate management information systems.

The legislation authorizes EDA to provide funding to trade associations and other organizations representing trade-injured industries to undertake technical assistance activities, which will generally benefit all firms in that industry. Since FY 1996, however, EDA has used the available program resources to support the TAAC network, which provides technical assistance to individual trade-injured firms.

The Emergency Steel Loan Guarantee Act of 1999 created the Emergency Steel Loan Guarantee Board. The board is authorized to provide loan guarantees to steel companies in amounts for up to 95 percent of the loan principal. The program has been structured to fulfill the two objectives of the legislation: to assist steel firms injured by the import crises and to protect government funds by guaranteeing only sound loans. In December 2001, the Emergency Steel Loan Guarantee Board approved a $42 million loan guarantee.

9. Generalized System of Preferences

The Generalized System of Preferences (GSP) is a program that grants duty-free treatment to specified products that are imported from more than 140 designated developing countries and territories. The program began in 1976, when the United States joined 19 other industrialized in granting tariff preferences to promote the economic growth of developing countries through trade expansion. Currently,

more than 4,000 products or product categories (defined at the eight-digit level in the Harmonized Tariff Schedule of the United States) are eligible for duty-free entry from countries designated as beneficiaries under GSP. In 1997, an additional 1,783 products were made duty-free under GSP for countries designated as least developed beneficiary developing countries (LDBDCs).

The premise of GSP is that the creation of trade opportunities for developing countries is an effective, cost-efficient way of encouraging broad-based economic development and a key means of sustaining the momentum behind economic reform and liberalization. In its current form, GSP is designed to integrate developing countries into the international trading system in a manner commensurate with their development. The program achieves these ends by making it easier for exporters from developing economies to compete in the U.S. market with exporters from industrialized nations while at the same time excluding from duty-free treatment under GSP those products determined by the President to be "import-sensitive." The value of duty-free imports in 2001 was approximately $15.7 billion.

In addition, the GSP program works to encourage beneficiaries to eliminate or reduce significant barriers to trade in goods, services, and investment, to afford all workers internationally recognized worker rights, and to provide adequate and effective means for foreign nationals to secure, exercise, and enforce property rights, including intellectual property rights.

An important attribute of the GSP program is its ability to adapt, product by product, to changing market conditions and the changing needs of producers, workers, exporters, importers and consumers. Modifications can be made in the list of articles eligible for duty-free treatment by means of an annual review. The process begins with a Federal Register Notice requesting the submission of petitions for modifications in the list of eligible articles. For those petitions that are accepted, public hearings are held, a U.S. International Trade Commission study of the "probable economic impact" of granting the petition is prepared, and all relevant materials are reviewed by the GSP interagency committee. Following completion of the review, the President announces his decision on which petitions are granted.

The program was originally authorized for ten years and subsequently reauthorized for eight years. For several years thereafter, Congress renewed the program for only brief periods of one or two years. The GSP program has lapsed temporarily several times – September 30, 1994; July 31, 1995; May 31, 1997; June 30, 1998; July 1, 1999; and September 30, 2001. Each time it was reauthorized after a delay and applied retroactively to the previous expiration date, thus maintaining the continuity of the program benefits. The program was most recently reauthorized on August 6, 2002; it will expire again on December 31, 2006.

Due to the GSP program's expiration on September 30, 2001, the 2001 annual review was postponed, and the 2002 annual review was never initiated. To restart the annual review process, the President issued a proclamation in August, 2002, restoring GSP benefits to Argentina for certain products for which Argentina had lost eligibility in prior years because it exceeded the competitive need limitations; in 2001, trade fell below the competitive need limitations. Also in August 2002, a notice published in the Federal Register announced a special review of other product petitions filed by Argentina in 2001, as well as product petitions from the Philippines and Turkey that were filed in 2001. In November 2002, a second notice in the Federal Register announced a schedule of dates for conducting the 2002 annual review, and announced that the remaining petitions filed for the postponed 2001 annual review would be decided on the same schedule as the petitions filed for the 2002 annual review. Because the GSP benefits for beneficiaries of the African Growth and Opportunity Act (AGOA) did not expire, a review for two product petitions was held. On January 10, 2003, the President granted a petition to add a product to the

list of products eligible for duty-free treatment under the GSP when imported from AGOA beneficiary countries; a second petition is pending further review.

VII. Trade Policy Development

A. Trade Capacity Building

The United States is a world leader in helping developing countries benefit from trade liberalization and a growing volume of global trade opportunities. President Bush's 2001 International Trade Agenda emphasized the priority to "help developing countries and emerging markets begin the process of integrating themselves into the world trading system." Trade capacity building activities implemented by a broad range of U.S. Government agencies assist developing and transition economies to participate in and benefit from expanding global trade. USTR seeks to bring together other agencies – U.S. Agency for International Development, Department of Labor, Trade and Development Agency, Environmental Protection Agency, Department of Commerce, Department of Agriculture, and Department of Transportation, among others – in our efforts to ensure comprehensive and coordinated trade capacity building assistance. USTR created the Office for Trade Capacity Building in April 2002 to coordinate such efforts associated with trade negotiations, the implementation of trade agreements and improving the capability of countries to better participate in the international trading system.

This section reviews trade capacity building efforts with respect to the FTAA, Central America, and Africa. Capacity building with respect to the WTO is discussed under the activities of the WTO Committee on Trade and Development in Chapter II of this report.

1. FTAA-Hemispheric Cooperation Program

The United States won endorsement at the Quito FTAA Meeting of Trade Ministers on November 1, 2002 for a comprehensive trade capacity building program to help small and developing countries in the Western Hemisphere to fully benefit from the FTAA. Countries seeking trade-related technical assistance will prepare, with the help of USAID and the Inter-American Development Bank (IDB), strategies identifying needs in three areas: participation in negotiations, implementation of FTAA commitments, and economic adjustment relating to the FTAA. Technical assistance could include:

- Training for government officials, such as customs officers, environmental analysts, bank regulators, patent and copyright officials, food safety inspectors, and trade policy analysts;
- Programs that foster trade policy coordination among government agencies and that identify ways to make such trade agencies more effective and transparent;
- Programs to establish or improve statistical and analytical institutions, similar to the U.S. International Trade Commission. Such agencies or institutions would provide impartial and transparent information to governments and civil society on trade policy issues;
- Programs for business development, such as identifying new market opportunities for small and medium size companies; and
- Programs to assist governments with regulatory reform in areas such as revenue systems, environmental protection, or competition policy.

These strategies will also help integrate trade into countries' overall development efforts and into their development programs with the IDB and the World Bank.

Working with other agencies, USTR intends to work actively with the private sector and foundations to bring additional resources and creativity to the Hemispheric Cooperation Program. For example, proposed roundtable sessions will bring together public and private donors to identify the best possible programs, from both private and public sources, to meet the needs identified in each country's trade capacity building strategy.

2. Central America

USTR has been working with Central American countries to develop their own National Trade Capacity Building Strategies. Through these strategies, nations would identify their trade capacity building needs, to which the U.S. Government, international institutions, corporations, and non-governmental organizations are now mobilized to respond. By the launch of the negotiations for an FTA on January 8, 2003, over 50 projects had been identified to assist participating Central American nations, including funds for computers and travel, projects to help increase citizen input into trade negotiations, assistance to strengthen science-based food safety inspection systems, and programs to promote cleaner production methods. The President's 2003 budget request includes $47 million in U.S. capacity building assistance for the region - a 74 percent increase. USTR has established a trade capacity building group that will meet in parallel with the five negotiating groups to continue this important work throughout 2003. Each country's National Strategy may be found on the USTR website (http://www.ustr.gov).

3. Africa

a. African Growth and Opportunity Act (AGOA)

The United States continues to work with sub-Saharan African countries to ensure that governments from the region have the capacity to participate effectively in WTO negotiations and to implement the results. The Administration has developed a comprehensive strategy for delivering WTO-related technical assistance to the region based on needs identified by African governments, and is cooperating with other bilateral and multilateral donors on implementation.

In 2002, USAID inaugurated a new, multi-year trade capacity building initiative entitled Trade for African Development and Enterprise (TRADE). A central element of TRADE is the establishment of Regional Hubs for Global Competitiveness in Botswana, Kenya, and Ghana. Each hub will be staffed with a cadre of technical experts that will provide technical support on WTO issues, AGOA implementation, private sector development, and other trade topics. The Botswana Hub was launched in June 2002; the Kenya Hub began operations in October 2002; and the Ghana Hub is to open in early 2003. USTR and USAID also worked with the WTO on a U.S.-sponsored regional workshop on agriculture and services held in Accra, Ghana in August 2002, which was attended by representatives of 13 West and Central African countries. A similar workshop for Southern and Eastern African countries will be held in Johannesburg, South Africa in February 2003. These efforts build on a solid track record of delivering trade capacity assistance to developing countries in sub-Saharan Africa and beyond. In FY 2002, the United States invested $105 million to trade capacity building programs in sub-Saharan Africa, a 65 percent increase over FY 2001. From FY 1999 through FY 2002, the United States provided a total of $345 million in trade capacity building programs in the region.

b. FTA Negotiations

Trade capacity building technical assistance will be a fundamental element of bilateral cooperation in support of an FTA with SACU. Through the U.S. Agency for International Development, the United

States has identified initial funding to help the SACU countries prepare for and participate in the negotiations, implement commitments, and take advantage of trade opportunities. This effort will build on the longstanding U.S. commitment to trade capacity building in southern Africa and across the developing world.

B. Congressional Affairs

In 2002, the Administration worked closely with the 107th Congress to complete action on critical trade legislation.

In May, the Senate considered and passed legislation to provide Trade Promotion Authority, thereby enabling the President to effectively negotiate trade agreements that best serve America's farmers, workers, businesses and consumers. In July, the House and Senate passed the conference report accompanying the Trade Act of 2002 which included Trade Promotion Authority. The legislation was sent to the President and signed into law in August.

The Trade Act of 2002 included other important legislative items in addition to Trade Promotion Authority:

- The Andean Trade Preference Act was expanded and reauthorized through 2008;
- The Africa Growth and Opportunity Act was amended to extend benefits to certain apparel products; and,
- The Generalized System of Preferences was reauthorized through 2006.

USTR consulted closely with Congress as final agreements were reached regarding the US-Chile Free Trade Agreement and the US-Singapore Free Trade Agreement.

USTR consulted closely with Congress on the Administration's intent to initiate negotiations regarding three new Free Trade Agreements: US-Central America Free Trade Agreement, US-Southern Africa Customs Union (SACU) Free Trade Agreement, and US-Australia Free Trade Agreement.

USTR also consulted closely with Congress regarding ongoing negotiations regarding the WTO Doha Agenda and the Free Trade Area of the Americas.

USTR consulted closely with Congress regarding a number of trade-related issues, including Steel 201 investigation, Canadian softwood lumber, Foreign Sales Corporation, conflict diamonds, China WTO accession and compliance with WTO rulings regarding the 1916 Act and Irish Music Licensing.

USTR also developed guidelines to assure the timely exchange of information with the newly created Congressional Oversight Group.

C. Private Sector Advisory System and Intergovernmental Affairs

USTR's Office of Intergovernmental Affairs and Public Liaison (IAPL) administers the federal trade advisory committee system and provides outreach to, and facilitates dialogue with, state and local governments, the business and agricultural communities, labor, environmental, consumer, and other domestic groups on trade policy issues.

First, the advisory committee system, established by the U.S. Congress in 1974, falls under the auspices of IAPL. The advisory committee system was created to ensure that U.S. trade policy and trade negotiating objectives adequately reflect U.S. public and private sector interests. The advisory committee system consists of 33 advisory committees, with a total membership of up to 1,000 advisors. It is managed by IAPL, often in cooperation with other agencies including the Departments of Agriculture, Commerce, Defense, and Labor, and the Environmental Protection Agency.

Second, IAPL also has been designated as the NAFTA and WTO State Coordinator. As such, the office serves as the liaison to all state and local governments on the implementation of the NAFTA and the WTO, and other trade issues of interest.

Finally, IAPL also coordinates USTR's outreach to the public and private sector through notification of USTR Federal Register Notices soliciting written comments from the public, consulting with and briefing interested constituencies, holding public hearings, and meeting frequently with a broad spectrum of groups at their request.

1. The Advisory Committee System

The advisory committees provide information and advice with respect to U.S. negotiating objectives and bargaining positions before entering into trade agreements, on the operation of any trade agreement once entered into, and on other matters arising in connection with the development, implementation, and administration of U.S. trade policy.

The system consists of 33 advisory committees, with a total membership of up to 1,000 advisors. (Currently, there are approximately 700 advisors). Recommendations for candidates for committee membership are collected from a number of sources including Members of Congress, associations and organizations, publications, other federal agencies, and individuals who have demonstrated an interest or expertise in U.S. trade policy. Membership selection is based on qualifications, geography, and the needs of the specific committee. Members pay for their own travel and other related expenses.

The system is arranged in three tiers: the President's Advisory Committee for Trade Policy and Negotiations (ACTPN); six policy advisory committees; and 26 technical, sectoral, and functional advisory committees. Additional information can be found on the USTR website (http://www.ustr.gov/outreach/advise.shtml).

Private sector advice is both a critical and integral part of the trade policy process. USTR already maintains an ongoing dialogue with interested private sector parties on trade agenda issues. The advisory committee system is unique, however, since the committees meet on a regular basis, and receive sensitive information about ongoing trade negotiations and other trade policy issues and developments. Committee members are required to have a security clearance.

a. President's Advisory Committee on Trade Policy and Negotiations

The President's Advisory Committee for Trade Policy and Negotiations (ACTPN) consists of no more than 45 members broadly representative of key economic sectors affected by trade. The President appoints ACTPN members for two-year renewable terms. The 1974 Trade Act requires that membership broadly represent key economic sectors affected by trade. The ACTPN is the highest tier committee in the system that examines U.S. trade policy and agreements from the broad context of the overall national interest.

b. Policy Advisory Committees

At the second tier, the members of the six policy advisory committees are appointed by the USTR alone or in conjunction with other Cabinet officers. Those managed solely by USTR are the Intergovernmental Policy Advisory Committee (IGPAC) and the Trade Advisory Committee on Africa (TACA). Those policy advisory committees managed jointly with the Departments of Agriculture, Labor, and the Environmental Protection Agency are, respectively, the Agricultural Policy Advisory Committee (APAC), Labor Policy Advisory Committee (LAC), and Trade and Environment Policy Advisory Committee (TEPAC). Members serve two-year renewable terms or until the committee's charter expires. Each committee provides advice based upon the perspective of its specific area.

c. Sectoral, Functional and Technical Committees

At the third tier, the 26 sectoral, functional, and technical advisory committees are organized in two areas: industry and agriculture. Representatives are appointed jointly by the USTR and the Secretaries of Commerce and Agriculture, respectively. Each sectoral or technical committee represents a specific sector or commodity group (such as textiles, or grains and oilseeds) and provides specific technical advice concerning the effect that trade policy decisions may have on its sector. Presently, there are five agricultural technical committees co-chaired by USTR and Agriculture. There are 17 industry sector committees co-chaired by USTR and Commerce. The four functional advisory committees, co-chaired by USTR and Commerce, provide cross-sectoral advice on customs, standards, intellectual property issues, and electronic commerce.

2. State and Local Government Relations

With the passage of the NAFTA in 1993, and the Uruguay Round Agreements Act in 1994, which implements WTO obligations in the United States, the United States created expanded consultative procedures between federal trade officials and state and local governments. Under both agreements, USTR's Office of IAPL is designated as the "Coordinator for State Matters." IAPL carries out the functions of informing the states on an ongoing basis of trade-related matters that directly relate to or that may have a direct effect on them. IAPL also serves as a liaison point in the Executive Branch for state and local governments and federal agencies to transmit information to interested state and local governments, and relay advice and information from the states on trade-related matters. This is accomplished through a number of mechanisms:

a. State Point of Contact System

For day-to-day communications, USTR created a State Single Point of Contact (SPOC) system. The Governor's office in each State designates a single contact point to disseminate information received from USTR to relevant state and local offices, and assist in relaying specific information and advice from the states to USTR on trade-related matters. The SPOC network ensures that state governments are promptly informed of Administration trade initiatives so their companies and workers may take full advantage of increased foreign market access and reduced trade barriers. It also enables USTR to consult with states and localities directly on trade matters which affect them. SPOCs regularly receive USTR press releases, Federal Register notices, and other pertinent information.

b. Intergovernmental Policy Advisory Committee

For advice from states and localities on trade policy matters, USTR has established an Intergovernmental Policy Advisory Committee on Trade (IGPAC). It is one of the six policy advisory committees discussed above. The IGPAC is comprised entirely of state and local officials. Appointed on a bipartisan basis, the committee makes recommendations to the Trade Representative and the Administration on trade policy matters. IGPAC's membership includes governors, mayors, state legislators, attorneys general, and county officials. The IGPAC also meets at the staff liaisons level, and includes representatives from the National Governors' Association (NGA), National Conference of State Legislatures (NCSL), National Association of Attorneys General (NAAG), Council of State Governments (CSG), National Association of Counties (NACo), and National League of Cities (NLC). In 2002, IGPAC was briefed and consulted on trade priorities of interest to states and localities, including Trade Promotion Authority; government procurement, services, and investment issues in the WTO, FTAA, Chile FTA, and Singapore FTA negotiations.

c. Meetings of State and Local Associations

USTR officials participate frequently in meetings of state and local government associations to apprise them of relevant trade policy issues and solicit their views. Associations include the National Governors' Association (NGA), Western Governors' Association (WGA), National Conference of State Legislatures (NCSL), Council of State Governments (CSG), National Association of Counties (NACo), U.S. Conference of Mayors (USCM), National League of Cities (NLC), and other associations.

d. Consultations Regarding Specific Trade Issues

USTR initiates consultations with particular states and localities on issues arising under the WTO and NAFTA agreements, and frequently responds to requests for information from state and local governments. Topics of interest included the WTO Government Procurement Agreement; WTO services issues; Free Trade Area of the Americas, Chile FTA and Singapore FTA negotiations; NAFTA investment issues, NAFTA transportation issues, and agricultural trade with Canada, Mexico, and others.

3. Public and Private Sector Outreach

It is important to recognize that the advisory committee system is but one of a variety of mechanisms through which the Administration obtains advice from interested groups and organizations on the development of U.S. trade policy. In formulating specific U.S. objectives in major trade negotiations, USTR also routinely solicits written comments from the public via Federal Register notices, consults with and briefs interested constituencies, holds public hearings, and meets with a broad spectrum of private sector and non-governmental groups.

a. 2002 Outreach Efforts

The 2002 trade agenda provided many opportunities for USTR to conduct outreach to, and consultations with, diverse trade policy stakeholders including the advisory committees, state and local governments, private sector and non-governmental groups.

i. Trade Promotion Authority

In 2002, USTR conducted outreach to advisory committees, business and agricultural communities, environmental, consumer, and labor organizations, Hispanic groups, and state and local associations and representatives regarding Trade Promotion Authority. IAPL assisted in the preparation of fact sheets and materials on TPA for broad dissemination to the public, highlighting the economic impact and benefits of TPA and increased trade for individual states and economic sectors.

ii. World Trade Organization

Throughout 2002, IAPL worked on public outreach related to multilateral trade negotiations launched in 2001 at the WTO Ministerial in Doha, Qatar. This included the solicitation of comments from the public on important WTO issues such as services, agriculture, and market access negotiations.

iii. Free Trade Area of the Americas

USTR briefed and facilitated consultations with advisory committees and other stakeholders on the FTAA agenda leading up to the FTAA Ministerial in Quito, and subsequent meetings of the Trade Negotiations Committee. USTR organized public briefings in advance of the Ministerial, and conducted several taped webcasts with daily updates from the negotiating site in Quito. In addition, USTR officials met with representatives of business and civil society groups in Quito, and participated in discussions with them on issues under review at the Ministerial. USTR facilitated the public dissemination of the draft text of the FTAA on its website on the same day the Ministerial concluded, continuing a precedent set by Ministers at the FTAA meeting in Buenos Aires in 2001. USTR also participated in a first-ever civil society forum on the FTAA in Merida, Mexico, took note of recommendations made by the Americas Business Forum in Quito, met with and received recommendations from civil society groups in Quito, issued invitations for public comment from the FTAA civil society committee, and briefed advisors and the public regarding the ongoing negotiations.

iv. China Accession to the WTO

USTR briefed and facilitated consultations with advisory committees and other stakeholders on issues related to China's implementation of its WTO obligations.

v. Bilateral Trade Agreements

USTR briefed and facilitated consultations with advisory committees and other stakeholders on Congressional approval of the U.S.-Jordan FTA, the U.S.-Vietnam bilateral trade agreement, and on the negotiations to conclude free trade agreements with Singapore and Chile. This included daily teleconference briefings on the progress of bilateral negotiations with Chile, issuing public fact sheets on the agreements with Chile and Singapore, and making materials widely available on the USTR website.

vi. Monitoring and Compliance Activities

USTR briefed and facilitated consultations with advisors and other stakeholders on disputes including the European Community beef hormones import restrictions; the case brought by the EU against the U.S. Foreign Sales Corporation; and other items. Other issues of interest to advisors and domestic groups included the protection of U.S. intellectual property rights; agriculture and biotechnology issues.

vii. Sectoral Initiatives

USTR, in coordination with other federal agencies, facilitated briefings and consultations with advisors and other stakeholders on the Bush Administration's Multilateral Steel Initiative.

viii. Public Trade Education

USTR continues its efforts to promote and educate the public on trade issues. USTR has participated in education efforts regarding the range of trade activities and benefits through speeches, publications, and briefings. In 2002, USTR launched a new e-mail service, called Trade Facts, to update interested parties on important U.S. trade initiatives. This service provides USTR press releases, fact sheets and background information to advisors and to the general public. USTR's Internet homepage serves as a vehicle to communicate to the public. USTR continued to use recorded webcasts to update the public from the FTAA Ministerial in Quito, Ecuador, and used teleconference briefings for updates on other negotiations. During 2002, IAPL assisted in efforts to extensively revise the USTR website, including improving the organization of the website and adding buttons and links to make the site more user-friendly. The USTR internet address is http://www.ustr.gov.

b. Improving the Advisory Committee System

In 2002, the General Accounting Office completed a review of the trade advisory committee system. The report found that the system makes important contributions to U.S. trade policy formulation, and that advisors had a high level of satisfaction with the system. The report did include a number of recommendations to make this system more effective. In response, USTR convened an inter-agency working group to make a number of improvements to the system, which will be implemented in 2003. These include:

- New procedures and guidelines to ensure that advisory committee input is sought on a continual and timely basis;
- Taking steps to make consultations with advisory committees more meaningful;
- Additional steps to make sure that committee advice is considered and that committees receive substantive feedback on how agencies respond to their advice;
- Specific steps to increase outreach efforts to fill gaps in committee composition and membership;
- Streamlining the appointment and nomination process;
- Providing sufficient technological resources, and using new technologies, to improve outreach to advisors; and
- Launching an assessment to update the committee system to make it more relevant to the current structure of the U.S. economy.

D. Policy Coordination

USTR leads the Executive Branch in the development of policy on trade and trade-related investment. Under the Trade Expansion Act of 1962, the Congress established an interagency trade policy mechanism

to assist with the implementation of these responsibilities. This organization, as it has evolved, consists of three tiers of committees that constitute the principal mechanism for developing and coordinating U.S. Government positions on international trade and trade-related investment issues.

The Trade Policy Review Group (TPRG) and the Trade Policy Staff Committee (TPSC), administered and chaired by USTR, are the subcabinet interagency trade policy coordination groups that are central to this process. The TPSC is the first line operating group, with representation at the senior civil servant level. Supporting the TPSC are more than 80 subcommittees responsible for specialized areas. The TPSC regularly seeks advice from the public on its policy decisions and negotiations through Federal Register notices and public hearings. In the past year, the TPSC held nine public hearings on the following proposals: U.S.-Singapore Free Trade Agreement (April 1,2002); Free Trade Area of the Americas (September 9-10, 2002); China's Compliance with WTO Commitments (September 18, 2002); WTO Market Access offers including industrial goods (October 21, 2002), Agriculture (October 24, 2002) and Services (November 6, 2002); U.S.- Central America Free Trade Agreement (November 19, 2002); U.S.-Morocco Free Trade Agreement (November 21, 2002); and a Free Trade Agreement between the United States and the Southern African Customs Union (December 16, 2002). The transcripts of these hearings are available on www.ustr.gov/outreach/transcripts/index.htm

Through the interagency process, USTR assigns responsibility for issue analysis to members of the appropriate TPSC subcommittee or task force. Conclusions and recommendations of this group are then presented to the full TPSC and serve as the basis for reaching interagency consensus. If agreement is not reached in the TPSC, or if particularly significant policy questions are being considered, issues are referred by the TPRG (Deputy USTR/Under Secretary level).

Member agencies of the TPSC and the TPRG consist of the Departments of Commerce, Agriculture, State, Treasury, Labor, Justice, Defense, Interior, Transportation, Energy, and Health and Human Services, the Environmental Protection Agency, the Office of Management and Budget, the Council of Economic Advisers, the Council on Environmental Quality, the International Development Cooperation Agency, the National Economic Council, and the National Security Council. The United States International Trade Commission is a non-voting member of the TPSC and an observer at TPRG meetings. Representatives of other agencies also may be invited to attend meetings depending on the specific issues discussed.

The final tier of the interagency trade policy mechanism is the joint National Security/National Economic Council, composed of members of the Cabinet. The NSC/NEC Deputies Committee considers decision memoranda from the TPRG, usually in preparation for Cabinet-level deliberation.

During the interagency review stage, advice is sought from the private sector advisory committees, the public and from Congress. Also, while virtually all issues are developed and formulated through the interagency process, USTR advice, in some cases, may differ from that of the interagency committees.

Once policy decisions are made, USTR assumes responsibility for directing the implementation of those decisions. Where desirable or appropriate, USTR may delegate the responsibility for implementation to other agencies.

ANNEX I

U.S. Trade in 2002

I. 2002 Overview

U.S. trade (exports and imports of goods and services, and the receipt and payment of earnings on foreign investment)[1] declined by 4 percent in 2002 to a value of approximately $2.9 trillion.[2] This was the second consecutive annual decline in trade (down 8.5 percent in 2001). Prior to 2001, 1982 marked the last year where trade declined (down 3 percent). The decline in trade in 2002 largely reflected the slower growth of the U.S. economy and a slowdown in a number of trade partners' economies. U.S. trade of goods and services and U.S. trade of goods alone exhibited similar declines, down 1 percent and 3 percent respectively. U.S. trade in services, however, increased, up 5 percent in the past year. Exports of goods and services, and earnings on investment declined by 7 percent, and imports of goods and services, and payments on investment declined by 1 percent in 2002.

Despite the trade decline in 2002, the United States remained the largest trading nation in the world for both exports and imports of goods and services. The United States accounts for roughly 20 percent of world goods trade and for roughly 16 percent of world services trade.[3] The value of trade has increased 22-fold since 1970, and 54 percent since 1994, the year before the start of the Uruguay Round implementation (*figure 1*).[4] U.S. trade expansion was more rapid in the 1970-2002 period than the growth of the overall U.S. economy, in both nominal and real terms. In nominal terms, trade has grown at an annual average rate of 10.1 percent per year since 1970, compared to U.S. gross domestic product (GDP) whose average annual growth over the same period was 7.4 percent. In real terms, the average annual growth in trade was double the pace of GDP growth, 6.2 percent versus 3.1 percent.

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[1] Earnings on foreign investment are considered trade because they are conceptually the payment made to foreign residents for the service rendered by the use of foreign capital. Beyond the overview section, however, this chapter deals with goods and services trade, excluding foreign investment earnings. All trade values are nominal unless otherwise indicated.

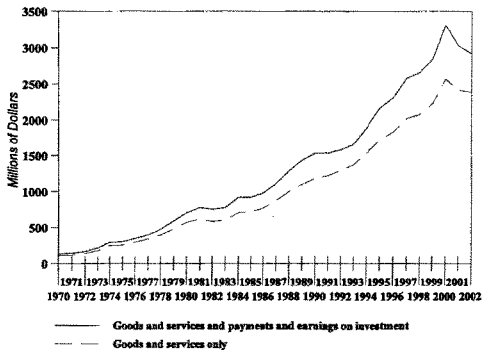
[2] In this Chapter, 2002 is estimated based on partial year data (January-November).

[3] Goods trade excluding intra-EU trade.

[4] Trade in goods and services alone has increased 21-fold since 1970 and 55 percent since 1994.

Figure 1:

U.S. Trade Growth



Total exports + imports
Source: U.S. Department of Commerce.

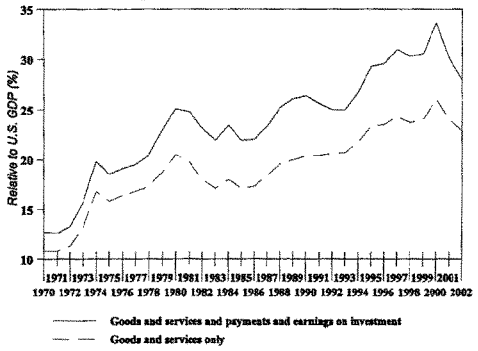
The value of trade in goods and services, including earnings and payments on investment, was 28 percent of the value of U.S. GDP in 2002 (*figure 2*). This represented a decline from the corresponding figure in 2001 (30 percent) and from its high point in 2000 (34 percent) but was still above the ratio in 1994 (27 percent), and 1970 (13 percent). For goods and services, excluding investment earnings and payments, U.S. trade represented 22.9 percent of the value of GDP in 2002, down from 24 percent in 2001 and from its high of 26 percent in 2000, but still up from 22 percent in 1994, and 11 percent in 1970.

This growth in trade has occurred in both U.S. exports and imports. U.S. exports of goods and services (including investment earnings) in 2002 are 18-fold greater than 1970 and 38 percent greater than 1994. U.S. imports of goods and services are 27-fold greater than 1970 and 70 percent greater than 1994.

With the value of U.S. exports declining more than imports, the total deficit on goods and services trade (excluding earnings and payments on foreign investment) increased by approximately $65 billion from $358 billion in 2001 (3.6 percent of GDP) to $423 billion in 2002 (4.1 percent of GDP). The U.S. deficit in goods trade alone increased by $43 billion from $427 billion in 2001 (4.2 percent of GDP) to $470 billion in 2002 (4.5% of GDP). The services trade surplus declined from $69 billion in 2001 (0.7 percent of GDP) to $47 billion in 2002 (0.5 percent of GDP).

Figure 2:

Growing Importance of Trade in the U.S. Economy



Total exports + imports as a percentage of the value of U.S. GDP
Source: U.S. Department of Commerce.

II. Goods Trade

A. Export Growth

U.S. goods exports decreased by 5 percent in 2002, as compared to the 7 percent decrease in the preceding year. Manufacturing exports accounted for 88 percent of total goods exports, high technology exports, a subset of manufacturing exports, accounted for 26 percent. Agriculture exports accounted for 8 percent of total goods exports *(table 1)*.

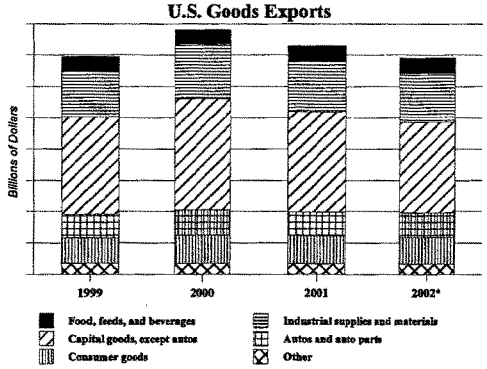
Except for autos and auto parts, the value of each major end-use category for goods exports declined in 2002, with the largest decline in capital goods, down 10 percent. Since 1994, exports of capital goods and consumer goods have each risen roughly 40 percent, and autos and auto parts have increased 36 percent. Manufacturing exports, of which capital goods and high technology products are subcomponents, increased 40 percent since 1994 and this growth was more pronounced in advanced technology products, which increased 47 percent over the period.

Table 1: U.S. Goods Exports						
Exports:	**1999**	**2000**	**2001**	**2002***	**01-02***	**94-02***
	Billions of Dollars				*Percent Change*	
Total (BOP basis)	684.0	772.0	718.8	680.1	-5.4	35.2
Food, feeds, and beverages	46.0	47.9	49.4	49.2	-0.5	17.2
Industrial supplies and materials	147.5	172.6	160.1	155.4	-2.9	28.0
Capital goods, except autos	310.8	356.9	321.7	290.4	-9.7	41.7
Autos and auto parts	75.3	80.4	75.4	78.4	3.9	35.7
Consumer goods	80.9	89.4	88.3	84.4	-4.4	40.8
Other	35.3	34.8	34.1	33.3	-2.4	25.7
Addendum: Agriculture	48.2	52.0	55.2	54.3	-1.6	17.3
Addendum: Manufacturing	611.8	689.5	640.2	604.0	-5.7	40.1
Addendum: High technology	200.3	227.4	199.6	177.9	-10.9	47.3

*** Annualized based on January-November 2002 data.**

Source: U.S. Department of Commerce, Balance of Payments Basis for Total, Census Basis for Sectors.

Figure 3:
U.S. Goods Exports



* Annualized based on January-November 2002 data

Source: U.S. Department of Commerce, Census Basis.

Table 2:
U.S. Goods Exports to Selected Countries/Regions

Exports to:	1999	2000	2001	2002*	01-02*	94-02*
	Billions of Dollars				*Percent Change*	
Canada	166.6	178.9	163.4	159.7	-2.3	39.6
European Union	151.8	165.1	158.8	143.5	-9.6	33.1
Japan	57.5	64.9	57.5	51.2	-11.0	-4.4
Mexico	86.9	111.3	101.3	97.2	-4.1	91.1
China	13.1	16.2	19.2	22.2	15.5	138.6
Pacific Rim, except Japan and China	103.2	121.5	104.8	104.7	-0.1	23.1
Latin America, except Mexico	55.2	59.3	58.2	51.3	-11.7	23.1
Addendum: High Income Countries	406.3	442.9	411.6	384.6	-6.6	28.4

Addendum: Low to Middle Income Countries	289.1	338.7	317.3	305.2	-3.8	43.4
*** Annualized based on January-November 2002 data.**						
Source: U.S. Department of Commerce, Census Basis.						

Exports of agricultural products have increased 17 percent since 1994. Of the $177 billion increase in goods exports since 1994, capital goods accounted for 48 percent of the increase, industrial materials and supplies accounted for 19 percent and consumer goods accounted for 14 percent.

U.S. goods exports declined to nearly all major markets in 2002 (table 2). Of the top 25 country export markets, exports to six markets increased: Australia (up 19 percent), Malaysia (up 14 percent), China (up 15 percent), Taiwan (up 1 percent), South Korea (up 0.6 percent), and Italy (up 0.5 percent). U.S. exports declined 7 percent to high income countries and 4 percent to middle and low income countries. Since 1994, U.S. goods exports to low and middle income countries exhibited higher growth than that to high income countries, 43 percent compared to 28 percent. However, excluding Mexico and China, U.S. goods exports to middle and low income countries grew by just 22 percent.

Goods exports to China continued to increase in 2002, up 16 percent, or $3 billion. Most of the U.S. export growth to China was in capital goods, which were up 15 percent. Exports of capital goods and industrial supplies accounted for 86 percent of U.S. exports to China. U.S. exports to China have more than doubled since 1994.

U.S. exports to Latin America (excluding Mexico) were down 12 percent in 2002 or nearly $7 billion. U.S. exports to Latin America have increased by 23 percent since 1994.

Exports to our NAFTA partners declined 3 percent in 2002, but have increased 81 percent since 1993, the year before NAFTA was implemented. Over 37 percent of aggregate U.S. goods exports went to NAFTA countries in 2002, up from nearly 33 percent in 1993.

U.S. exports to Canada declined by 2 percent in 2002. Canada is the largest U.S. export market, accounting for 23 percent of U.S. exports. Growth areas of U.S. exports to Canada include autos and auto parts (up 10 percent), food and beverages (up 7 percent), and consumer goods (up 2 percent), while capital goods and industrial supplies exports decreased 13 percent and 3 percent, respectively. Overall, U.S. exports to Canada are up by nearly 40 percent since 1994.

U.S. exports to Mexico, the second largest single country export market, declined by roughly 5 percent in 2002. Mexico accounted for 14 percent of U.S. exports. The decline in U.S. exports to Mexico marked the second straight year of declining exports (down 9 percent in 2001). This decline was present throughout all major categories, most notably capital goods, which declined by 7 percent. Since 1994, however, U.S. exports to Mexico have increased 91 percent.

Export sales to Japan declined 11 percent in 2002. U.S. exports to Japan have declined in five of the past six years. Japan continues to be mired in economic stagnation, and GDP for 2002 is estimated to decline by 0.3 percent after an increase of 0.3 percent in 2001. Accordingly, U.S. exports to Japan are down in

all major categories except for autos and auto parts which were up 4 percent. Exports of consumer goods and capital goods were down 18 percent and 16 percent, respectively. Since 1994, U.S. exports to Japan are down 4 percent.

Goods exports from the United States to the Asian Pacific Rim countries (excluding Japan and China) were relatively flat, declining by 0.1 percent in 2002. Since 1994, U.S. exports to this region increased 23 percent.

U.S. exports to the European Union were down nearly 10 percent in 2002. Exports grew in autos and auto parts (up 5 percent) and foods and beverages (up 2 percent), but declined in capital goods (down 16 percent), industrial supplies (down 6 percent), and consumer goods (down 2 percent). In 2002, the EU accounted for 21 percent of aggregate U.S. exports. Since 1994, U.S. exports to the EU have increased by 33 percent.

B. Import Growth

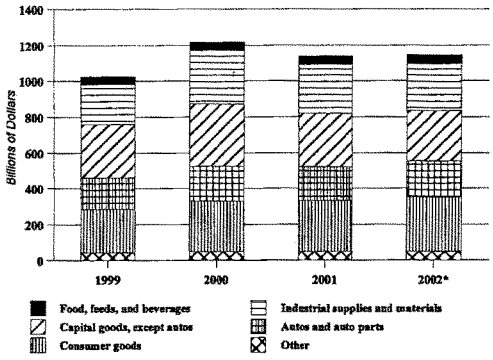
U.S. goods imports increased 0.4 percent in 2002, after declining 6 percent in 2001 *(table 3 and figure 4)*. Manufacturing imports, accounting for 84 percent of total goods imports, increased

Table 3: U.S. Goods Imports						
Imports:	**1999**	**2000**	**2001**	**2002***	**01-02***	**94-02***
	Billions of Dollars				*Percent Change*	
Total (BOP Basis)	1,030.0	1,224.4	1,145.9	1,150.4	0.4	72.0
Food, feeds, and beverages	43.6	46.0	46.6	49.2	5.6	59.0
Industrial supplies and materials	221.4	299.0	273.9	262.3	-4.2	61.8
Capital goods, except autos	295.7	347.0	298.0	280.5	-5.9	52.1
Autos and auto parts	179.0	195.9	189.8	202.8	6.9	71.5
Consumer goods	241.9	281.8	284.3	303.3	6.7	107.3
Other	43.0	48.3	48.4	49.3	1.9	131.9
Addendum: Agriculture	36.7	39.2	39.5	41.6	5.1	60.2
Addendum: Manufacturing	882.7	1,013.5	950.7	963.3	1.3	72.9
Addendum: High technology	181.2	222.1	195.2	193.6	-0.8	97.3

*** Annualized based on January-November 2002 data.**

Source: U.S. Department of Commerce, Balance of Payments Basis for Total, Census Basis for Sectors.

Figure 4:
U.S. Goods Imports



* Annualized based on January-November 2002 data.

Source: U.S. Department of Commerce, Census Basis.

Table 4:
U.S. Goods Imports from Selected Countries/Regions

Imports from:	1999	2000	2001	2002*	01-02*	94-02*
	Billions of Dollars				*Percent Change*	
Canada	198.7	230.8	216.3	208.5	-3.6	62.4
European Union	195.2	220.0	220.1	222.1	0.9	85.9
Japan	130.9	146.5	126.5	119.0	-5.9	-0.2
Mexico	109.7	135.9	131.3	134.1	2.1	171.0
China	81.8	100.0	102.3	122.4	19.7	215.5
Pacific Rim, except Japan and China	147.1	171.5	147.3	145.2	-1.4	40.7
Latin America, except Mexico	58.5	73.3	67.4	68.4	1.5	77.8
Addendum: High Income Countries	552.8	630.7	595.3	581.7	-2.3	51.1

Addendum: Low to Middle Income Countries	471.9	587.3	545.7	563.9	3.3	102.6
*** Annualized based on January-November 2002 data.**						
Source: U.S. Department of Commerce, Census Basis.						

slightly (1 percent) in 2002. High technology imports, a subset of manufacturing imports, declined by 1 percent in 2002. However, agriculture imports, accounting for 4 percent of total goods imports, increased by 5 percent in 2002.

Considering goods imports in terms of major end use categories, capital goods and industrial supplies imports were down roughly 6 percent and 4 percent, respectively, in 2002. Imports from the remaining categories increased, including foods, feeds and beverages (up 6 percent), autos and auto parts (up 7 percent), consumer goods (up 7 percent) and other goods (up 2 percent). Consumer goods, capital goods and industrial supplies accounted for 74 percent of U.S. imports in 2002.

Since 1994, U.S. imports of consumer goods have more than doubled, while imports of autos and auto parts, industrial supplies and materials, and capital goods have increased 72 percent, 62 percent, and 52 percent, respectively. In terms of high technology, overall manufacturing, and agriculture, imports have increased by 97 percent, 73 percent, and 60 percent, respectively. Increases in manufacturing imports accounted for a large share (84 percent) of the $482 billion increase in goods imports since 1994, with 32 percent of the increase attributed to consumer goods.

On a regional basis, U.S. goods imports increased from China, Mexico, Latin America (excluding Mexico) and the European Union, and declined from Canada, Japan, and Pacific Rim (excluding Japan and China) (*table 4)*. The larger changes in U.S. imports were from Japan (down 6 percent) and from China (up 20 percent). Since 1994, the share of U.S. imports from low and middle income countries has increased from 42 percent to 49 percent. These figures largely reflect imports from Mexico and China, and excluding these countries, the share of U.S. imports from low and middle income countries actually fell slightly from 29 percent to 27 percent.

U.S. goods imports from the European Union, accounting for 19 percent of total U.S. imports, increased by 1 percent in 2002. Increasing import categories included foods, feed and beverages (up 10 percent), consumer goods (up 9 percent), and autos and auto parts (up 11 percent). Imports of capital goods declined 10 percent. Imports from the EU have increased 86 percent since 1994.

Imports from our NAFTA partners declined 1 percent in 2002, but are up 127 percent since 1993, the year prior to the implementation of NAFTA. NAFTA imports accounted for 30 percent of aggregate U.S. goods imports in 2002, up from 27 percent in 1994.

U.S. imports from Canada, the largest single country supplier of goods to the United States, accounting for 18 percent of U.S. imports, declined by 4 percent in 2002 (the second consecutive annual decline after a 6 percent decline in 2001). This decline was driven by a decrease in U.S. imports of capital goods and industrial supplies, down 14 percent and 9 percent, respectively. However, imports of foods, feeds,

and beverages, and autos and auto parts were up 4 percent, and consumer goods imports were up 2 percent. U.S. imports from Canada have grown by 62 percent since 1994.

U.S. imports from Mexico, the second largest single country supplier of goods to the United States, accounting for nearly 12 percent of U.S. imports, increased by 2 percent in 2002. U.S. imports of capital goods declined by 3 percent in 2002, while imports of industrial supplies and autos and auto parts increased 12 percent and 4 percent, respectively. Since 1994, U.S. imports from Mexico have grown 171 percent.

Imports from Japan declined 6 percent in 2002, and by 0.2 percent since 1994. Overall, Japan accounted for a smaller share of U.S. goods imports in 2002 compared to 1994 (10 percent compared to 18 percent). U.S. imports from Japan declined in nearly all of the major end use categories in 2002: down 18 percent in capital goods, 7 percent in industrial supplies, and 6 percent in consumer goods. The two categories that exhibited growth in imports included autos and auto parts and food and beverages, up 8 percent and 3 percent, respectively.

U.S. imports from China increased by 20 percent in 2002 and 216 percent since 1994. Eleven percent of U.S. imports were sourced from China in 2002, up from 6 percent in 1994. U.S. imports from China are primarily low value-added consumer goods, such as toys, footwear, apparel and some areas of consumer electronics. Consumer goods made up 64 percent of U.S. imports from China in 2002.

Imports from Latin America (excluding Mexico) remained relatively flat in 2002 (up 1.5 percent) and increased 78 percent since 1994. Imports from the Pacific Rim (excluding Japan and China) also remained relatively flat in 2002 (down 1 percent), but increased 41 percent since 1994.

III. Services Trade

A. Export Growth

U.S. exports of services grew by 3 percent in 2002, and are up 43 percent since 1994. U.S. services exports accounted for 30 percent of the level of U.S. goods and services exports in 2002, compared to 29 percent in 1994.

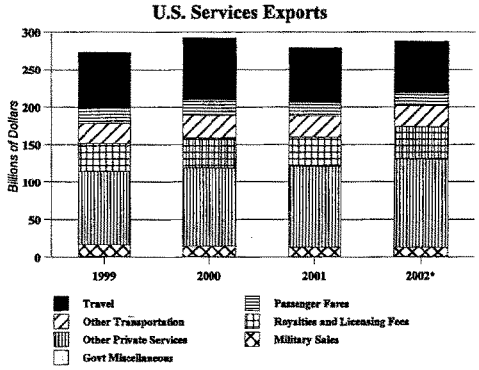
The growth in U.S. services exports in 2002 was driven by the other private services category and royalties and licensing fees, up $9.7 billion and $4.4 billion. Other private services and royalties and licensing fees accounted for 41 percent and 15 percent, respectively, of total U.S. services exports, and increased 9 percent and 11 percent, respectively, from the previous year. All other major services categories exports declined.

Table 5: U.S. Services Exports						
Exports:	**1999**	**2000**	**2001**	**2002***	**01-02***	**94-02***
	Billions of Dollars				*Percent Change*	
Total (BOP basis)	273.2	292.2	279.3	287.7	3.0	43.1
Travel	74.7	82.3	73.1	69.0	-5.6	18.1
Passenger Fares	19.8	20.8	18.0	17.1	-5.2	0.4
Other Transportation	26.9	30.1	28.3	28.0	-1.2	17.7
Royalties and Licensing Fees	36.9	39.6	38.7	43.1	11.4	61.2
Other Private Services	98.2	104.7	108.1	117.8	9.0	91.7
Transfers under U.S. Military Sales Contracts	15.8	14.0	12.2	12.1	-1.0	-5.4
U.S. Government Miscellaneous Services	0.9	0.8	0.8	0.8	-5.5	-11.4

*** Annualized based on January-November 2002 data.**

Source: U.S. Department of Commerce, Balance of Payments Basis.

Figure 5:
U.S. Services Exports



* Annualized based on January-November 2000 data

Source: U.S. Department of Commerce, Balance of Payments Basis.

Since 1994, nearly all of the major services export categories have grown. Export growth has been led by the other private services category (up 92 percent) and the royalties and licensing fees category (up 61 percent). The travel and other transportation categories each were up 18 percent. Of the $86.7 billion increase in U.S. services exports between 1994 and 2002, the other private services category accounted for 65 percent of the increase, the royalties and licensing fees category accounted for 19 percent of the increase, and the travel services category accounted for 12 percent of the increase.

Detailed sectoral breakdowns for exports of the other private services category are available only through 2001. In 2001, other private services exports totaled $108 billion. Of this, U.S. exports to business related parties (to a foreign parent or affiliate) accounted for $36 billion, or 34 percent of total other private services exports. For the remaining exports of other private services to unaffiliated parties, the values of exports in 2001 were: business, professional and technical services, $26 billion; financial services, $15 billion; education, $11 billion; insurance premiums, $9 billion; and telecommunications, $5 billion.

Japan was the largest purchaser of U.S. private services exports in 2001, accounting for 12 percent of total U.S. private services exports. The top 5 purchasers of U.S. services exports in 2001 were: Japan ($31 billion), the United Kingdom ($29 billion), Canada ($24 billion), Germany ($15 billion), and Mexico ($15 billion).

Regionally, in 2001, the United States exported $73 billion to the Asia/Pacific Region ($43 billion excluding Japan), $86 billion to the EU, $39 billion to NAFTA countries, and $26 billion to Latin America (excluding Mexico).

B. Import Growth

Services imports by the United States increased in 2002 by 14 percent to $240 billion *(table 6, figure 6)*. While services import growth was greater than export growth in 2002 (14 percent compared to 3 percent) the United States remained a net exporter of services. Growth in U.S. imports of services in 2002 was led by the other private services category (up 49 percent). The increase in this category accounted for nearly 90 percent of the growth in services imports in 2002.

The three of the six major services import categories that declined in 2002 were travel (down 3 percent), passenger fares (down 8 percent), and other transportation (down 2 percent). Services imports grew 82 percent or $109 billion, since 1994. Since 1994, import of royalties and licensing fees were up 246 percent and other private services were up 167 percent. The other private services category accounted for 48 percent of the increase, and the travel and royalties and licensing fees categories each accounted for roughly 13 percent of the increase.

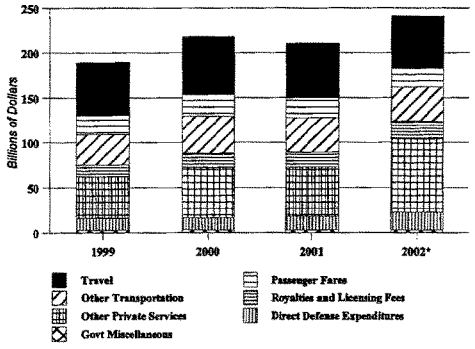
Table 6:
U.S. Services Imports

Imports:	1999	2000	2001	2002*	01-02*	94-02*
	Billions of Dollars				*Percent Change*	
Total (BOP basis)	189.4	218.5	210.4	240.4	14.3	82.3
Travel	58.9	64.8	60.1	58.6	-2.5	33.8
Passenger Fares	21.3	24.3	22.4	20.6	-8.3	57.4
Other Transportation	34.1	41.6	38.8	38.0	-2.1	46.1
Royalties and Licensing Fees	12.6	16.1	16.4	20.3	23.9	246.4
Other Private Services	46.3	55.3	54.6	81.2	48.7	167.1
Direct Defense Expenditures	13.3	13.6	15.2	19.6	28.7	91.4
U.S. Government Miscellaneous Services	2.8	2.9	2.9	2.9	1.0	13.7

*** Annualized based on January-November 2002 data.**

Source: U.S. Department of Commerce, Balance of Payments Basis.

Figure 6:
U.S. Services Imports



*Annualized based on January-November 2002 data

Source: U.S. Department of Commerce, Balance of Payments Basis.

As with exports, detailed sectoral breakdowns for imports of other private services are available only through 2001. In 2001, other private services imports totaled $55 billion. Of this, U.S. imports from business related parties (from a foreign parent or affiliate) accounted for $28 billion or 52 percent of total other private service imports. For the remaining imports of other private services from unaffiliated parties, the value of imports in 2001 were: insurance premiums, $40 billion; business professional and technical services, $10 billion; telecommunications, $4 billion; financial services, $4 billion; and education, $2 billion.

In the import sector, the United Kingdom remained our largest supplier of private services, providing $23 billion to the United States in 2001. This accounted for 12% of total U.S. imports of private services in 2001. The United States imported $18 billion from Canada, our second largest supplier, and $17 billion from Japan, our third largest supplier. Mexico and Bermuda were our fourth and fifth largest import suppliers, each exporting $11 billion worth of services to the U.S., respectively, in 2001.

Regionally, the U.S. imported $66 billion of services from the EU, $49 billion from the Asia/Pacific region ($32 billion excluding Japan), $29 billion from NAFTA, and $10 billion from Latin America (excluding Mexico).

IV. The U.S. Trade Deficit

The U.S. goods and services deficit increased by $65 billion in 2002 to a level of $423 billion (*table 7*). The U.S. goods trade deficit alone increased by $43 billion to $470 billion in 2002. The services trade surplus dropped from $69 billion in 2001 to $47 billion in 2002.

As a share of U.S. GDP, the goods and services trade deficit was 4.1 percent of GDP in 2002, an increase of 0.5 percentage points from the 3.6 percent level in 2001 (*table 8*). The goods trade deficit was 4.5 percent of GDP in 2002, up from 4.2 percent in 2001. The services trade surplus was 0.5 percent of GDP in 2002, down from 0.7 percent in 2001.

The regional distribution of the goods trade deficit for the past 4 years is shown in table 9.

Table 7 U.S. Trade Balances with the World				
Balance:	**1999**	**2000**	**2001**	**2002***
	Billions of Dollars			
Goods and Services (BOP Basis)	-262.2	-378.7	-358.3	-423.0
Goods (BOP Basis)	-346.0	-452.4	-427.2	-470.3
Services (BOP Basis)	83.8	73.7	68.9	47.3
*** Annualized based on January-November 2002 data.** **Source: U.S. Department of Commerce, Balance of Payments Basis for World.**				

Table 8 U.S. Trade Balances as a share of GDP				
Share of GDP:	**1999**	**2000**	**2001**	**2002***
	Percent			
Goods and Services (BOP Basis)	-2.8	-3.9	-3.6	-4.1
Goods (BOP Basis)	-3.7	-4.6	-4.2	-4.5
Services (BOP Basis)	0.9	0.8	0.7	0.5
*** Annualized based on January-November 2002 data.** **Source: U.S. Department of Commerce.**				

Table 9 U.S. Goods Trade Balances with Selected Countries/Regions				
Balance:	**1999**	**2000**	**2001**	**2002***
	Billions of Dollars			
Canada	-32.1	-51.9	-52.8	-48.8
European Union	-43.4	-55.0	-61.3	-78.7
Japan	-73.4	-81.6	-69.0	-67.8
Mexico	-22.8	-24.6	-30.0	-36.9
China	-68.7	-83.8	-83.1	-100.2
Pacific Rim, except Japan and China	-43.9	-50.0	-42.6	-40.6
Latin America, except Mexico	-3.3	-14.1	-9.2	-17.1
Addendum: High Income Countries	-146.4	-187.8	-183.7	-197.1
Addendum: Low to Middle Income Countries	-182.8	-248.6	-228.5	-258.7

*** Annualized based on January-November 2002 data.**

Source: U.S. Department of Commerce, Census Basis.

ANNEX II

Background Information on the WTO

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WORLD TRADE ORGANIZATION

WT/MIN(01)/DEC/1
20 November 2001
(01-5859)

MINISTERIAL CONFERENCE
Fourth Session
Doha, 9 - 14 November 2001

MINISTERIAL DECLARATION

Adopted on 14 November 2001

1. The multilateral trading system embodied in the World Trade Organization has contributed significantly to economic growth, development and employment throughout the past fifty years. We are determined, particularly in the light of the global economic slowdown, to maintain the process of reform and liberalization of trade policies, thus ensuring that the system plays its full part in promoting recovery, growth and development. We therefore strongly reaffirm the principles and objectives set out in the Marrakesh Agreement Establishing the World Trade Organization, and pledge to reject the use of protectionism.

2. International trade can play a major role in the promotion of economic development and the alleviation of poverty. We recognize the need for all our peoples to benefit from the increased opportunities and welfare gains that the multilateral trading system generates. The majority of WTO Members are developing countries. We seek to place their needs and interests at the heart of the Work Programme adopted in this Declaration. Recalling the Preamble to the Marrakesh Agreement, we shall continue to make positive efforts designed to ensure that developing countries, and especially the least-developed among them, secure a share in the growth of world trade commensurate with the needs of their economic development. In this context, enhanced market access, balanced rules, and well targeted, sustainably financed technical assistance and capacity-building programmes have important roles to play.

3. We recognize the particular vulnerability of the least-developed countries and the special structural difficulties they face in the global economy. We are committed to addressing the marginalization of least-developed countries in international trade and to improving their effective participation in the multilateral trading system. We recall the commitments made by Ministers at our meetings in Marrakesh, Singapore and Geneva, and by the international community at the Third UN Conference on Least-Developed Countries in Brussels, to help least-developed countries secure beneficial and meaningful integration into the multilateral trading system and the global economy. We are determined that the WTO will play its part in building effectively on these commitments under the Work Programme we are establishing.

4. We stress our commitment to the WTO as the unique forum for global trade rule-making and liberalization, while also recognizing that regional trade agreements can play an important role in promoting the liberalization and expansion of trade and in fostering development.

5. We are aware that the challenges Members face in a rapidly changing international environment cannot be addressed through measures taken in the trade field alone. We shall continue to work with the Bretton Woods institutions for greater coherence in global economic policy-making.

6. We strongly reaffirm our commitment to the objective of sustainable development, as stated in the Preamble to the Marrakesh Agreement. We are convinced that the aims of upholding and safeguarding an open and non-discriminatory multilateral trading system, and acting for the protection of the environment and the promotion of sustainable development can and must be mutually supportive. We take note of the efforts by Members to conduct national environmental assessments of trade policies on a voluntary basis. We recognize that under WTO rules no country should be prevented from taking measures for the protection of human, animal or plant life or health, or of the environment at the levels it considers appropriate, subject to the requirement that they are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, and are otherwise in accordance with the provisions of the WTO Agreements. We welcome the WTO's continued cooperation with UNEP and other inter-governmental environmental organizations. We encourage efforts to promote cooperation between the WTO and relevant international environmental and developmental organizations, especially in the lead-up to the World Summit on Sustainable Development to be held in Johannesburg, South Africa, in September 2002.

7. We reaffirm the right of Members under the General Agreement on Trade in Services to regulate, and to introduce new regulations on, the supply of services.

8. We reaffirm our declaration made at the Singapore Ministerial Conference regarding internationally recognized core labour standards. We take note of work under way in the International Labour Organization (ILO) on the social dimension of globalization.

9. We note with particular satisfaction that this Conference has completed the WTO accession procedures for China and Chinese Taipei. We also welcome the accession as new Members, since our last Session, of Albania, Croatia, Georgia, Jordan, Lithuania, Moldova and Oman, and note the extensive market-access commitments already made by these countries on accession. These accessions will greatly strengthen the multilateral trading system, as will those of the 28 countries now negotiating their accession. We therefore attach great importance to concluding accession proceedings as quickly as possible. In particular, we are committed to accelerating the accession of least-developed countries.

10. Recognizing the challenges posed by an expanding WTO membership, we confirm our collective responsibility to ensure internal transparency and the effective participation of all Members. While emphasizing the intergovernmental character of the organization, we are committed to making the WTO's operations more transparent, including through more effective and prompt dissemination of information, and to improve dialogue with the public. We shall therefore at the national and multilateral levels continue to promote a better public understanding of the WTO and to communicate the benefits of a liberal, rules-based multilateral trading system.

11. In view of these considerations, we hereby agree to undertake the broad and balanced Work Programme set out below. This incorporates both an expanded negotiating agenda and other important decisions and activities necessary to address the challenges facing the multilateral trading system.

WORK PROGRAMME

IMPLEMENTATION-RELATED ISSUES AND CONCERNS

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

AGRICULTURE

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

14. Modalities for the further commitments, including provisions for special and differential treatment, shall be established no later than 31 March 2003. Participants shall submit their comprehensive draft Schedules based on these modalities no later than the date of the Fifth Session of the Ministerial Conference. The negotiations, including with respect to rules and disciplines and related legal texts, shall be concluded as part and at the date of conclusion of the negotiating agenda as a whole.

SERVICES

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

MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTS

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

TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS

17. We stress the importance we attach to implementation and interpretation of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) in a manner supportive of public health, by promoting both access to existing medicines and research and development into new medicines and, in this connection, are adopting a separate Declaration.

18. With a view to completing the work started in the Council for Trade-Related Aspects of Intellectual Property Rights (Council for TRIPS) on the implementation of Article 23.4, we agree to negotiate the establishment of a multilateral system of notification and registration of geographical indications for wines and spirits by the Fifth Session of the Ministerial Conference. We note that issues related to the extension of the protection of geographical indications provided for in Article 23 to products other than wines and spirits will be addressed in the Council for TRIPS pursuant to paragraph 12 of this Declaration.

19. We instruct the Council for TRIPS, in pursuing its work programme including under the review of Article 27.3(b), the review of the implementation of the TRIPS Agreement under Article 71.1 and the work foreseen pursuant to paragraph 12 of this Declaration, to examine, *inter alia*, the relationship between the TRIPS Agreement and the Convention on Biological Diversity, the protection of traditional knowledge and folklore, and other relevant new developments raised by Members pursuant to Article 71.1. In undertaking this work, the TRIPS Council shall be guided by the objectives and principles set out in Articles 7 and 8 of the TRIPS Agreement and shall take fully into account the development dimension.

RELATIONSHIP BETWEEN TRADE AND INVESTMENT

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

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

22. In the period until the Fifth Session, further work in the Working Group on the Relationship Between Trade and Investment will focus on the clarification of: scope and definition; transparency; non-discrimination; modalities for pre-establishment commitments based on a GATS-type, positive list approach; development provisions; exceptions and balance-of-payments safeguards; consultation and the settlement of disputes between Members. Any framework should reflect in a balanced manner the interests of home and host countries, and take due account of the development policies and objectives of host governments as well as their right to regulate in the public interest. The special development, trade and financial needs of developing and least-developed countries should be taken into account as an integral part of any framework, which should enable Members to undertake obligations and commitments commensurate with their individual needs and circumstances. Due regard should be paid to other relevant WTO provisions. Account should be taken, as appropriate, of existing bilateral and regional arrangements on investment.

INTERACTION BETWEEN TRADE AND COMPETITION POLICY

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

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

25. In the period until the Fifth Session, further work in the Working Group on the Interaction between Trade and Competition Policy will focus on the clarification of: core principles, including transparency, non-discrimination and procedural fairness, and provisions on hardcore cartels; modalities for voluntary

cooperation; and support for progressive reinforcement of competition institutions in developing countries through capacity building. Full account shall be taken of the needs of developing and least-developed country participants and appropriate flexibility provided to address them.

TRANSPARENCY IN GOVERNMENT PROCUREMENT

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

TRADE FACILITATION

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

WTO RULES

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

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

DISPUTE SETTLEMENT UNDERSTANDING

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

TRADE AND ENVIRONMENT

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

(i) the relationship between existing WTO rules and specific trade obligations set out in multilateral environmental agreements (MEAs). The negotiations shall be limited in scope to the applicability of such existing WTO rules as among parties to the MEA in question. The negotiations shall not prejudice the WTO rights of any Member that is not a party to the MEA in question;

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

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

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

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

(i) the effect of environmental measures on market access, especially in relation to developing countries, in particular the least-developed among them, and those situations in which the elimination or reduction of trade restrictions and distortions would benefit trade, the environment and development;

(ii) the relevant provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights; and

(iii) labelling requirements for environmental purposes.

Work on these issues should include the identification of any need to clarify relevant WTO rules. The Committee shall report to the Fifth Session of the Ministerial Conference, and make recommendations, where appropriate, with respect to future action, including the desirability of negotiations. The outcome of this work as well as the negotiations carried out under paragraph 31(i) and (ii) shall be compatible with the open and non-discriminatory nature of the multilateral trading system, shall not add to or diminish the rights and obligations of Members under existing WTO agreements, in particular the Agreement on the Application of

Sanitary and Phytosanitary Measures, nor alter the balance of these rights and obligations, and will take into account the needs of developing and least-developed countries.

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

ELECTRONIC COMMERCE

34. We take note of the work which has been done in the General Council and other relevant bodies since the Ministerial Declaration of 20 May 1998 and agree to continue the Work Programme on Electronic Commerce. The work to date demonstrates that electronic commerce creates new challenges and opportunities for trade for Members at all stages of development, and we recognize the importance of creating and maintaining an environment which is favourable to the future development of electronic commerce. We instruct the General Council to consider the most appropriate institutional arrangements for handling the Work Programme, and to report on further progress to the Fifth Session of the Ministerial Conference. We declare that Members will maintain their current practice of not imposing customs duties on electronic transmissions until the Fifth Session.

SMALL ECONOMIES

35. We agree to a work programme, under the auspices of the General Council, to examine issues relating to the trade of small economies. The objective of this work is to frame responses to the trade-related issues identified for the fuller integration of small, vulnerable economies into the multilateral trading system, and not to create a sub-category of WTO Members. The General Council shall review the work programme and make recommendations for action to the Fifth Session of the Ministerial Conference.

TRADE, DEBT AND FINANCE

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

TRADE AND TRANSFER OF TECHNOLOGY

37. We agree to an examination, in a Working Group under the auspices of the General Council, of the relationship between trade and transfer of technology, and of any possible recommendations on steps that might be taken within the mandate of the WTO to increase flows of technology to developing countries. The

General Council shall report to the Fifth Session of the Ministerial Conference on progress in the examination.

TECHNICAL COOPERATION AND CAPACITY BUILDING

38. We confirm that technical cooperation and capacity building are core elements of the development dimension of the multilateral trading system, and we welcome and endorse the New Strategy for WTO Technical Cooperation for Capacity Building, Growth and Integration. We instruct the Secretariat, in coordination with other relevant agencies, to support domestic efforts for mainstreaming trade into national plans for economic development and strategies for poverty reduction. The delivery of WTO technical assistance shall be designed to assist developing and least-developed countries and low-income countries in transition to adjust to WTO rules and disciplines, implement obligations and exercise the rights of membership, including drawing on the benefits of an open, rules-based multilateral trading system. Priority shall also be accorded to small, vulnerable, and transition economies, as well as to Members and Observers without representation in Geneva. We reaffirm our support for the valuable work of the International Trade Centre, which should be enhanced.

39. We underscore the urgent necessity for the effective coordinated delivery of technical assistance with bilateral donors, in the OECD Development Assistance Committee and relevant international and regional intergovernmental institutions, within a coherent policy framework and timetable. In the coordinated delivery of technical assistance, we instruct the Director-General to consult with the relevant agencies, bilateral donors and beneficiaries, to identify ways of enhancing and rationalizing the Integrated Framework for Trade-Related Technical Assistance to Least-Developed Countries and the Joint Integrated Technical Assistance Programme (JITAP).

40. We agree that there is a need for technical assistance to benefit from secure and predictable funding. We therefore instruct the Committee on Budget, Finance and Administration to develop a plan for adoption by the General Council in December 2001 that will ensure long-term funding for WTO technical assistance at an overall level no lower than that of the current year and commensurate with the activities outlined above.

41. We have established firm commitments on technical cooperation and capacity building in various paragraphs in this Ministerial Declaration. We reaffirm these specific commitments contained in paragraphs 16, 21, 24, 26, 27, 33, 38-40, 42 and 43, and also reaffirm the understanding in paragraph 2 on the important role of sustainably financed technical assistance and capacity-building programmes. We instruct the Director-General to report to the Fifth Session of the Ministerial Conference, with an interim report to the General Council in December 2002 on the implementation and adequacy of these commitments in the identified paragraphs.

LEAST-DEVELOPED COUNTRIES

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

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

SPECIAL AND DIFFERENTIAL TREATMENT

44. We reaffirm that provisions for special and differential treatment are an integral part of the WTO Agreements. We note the concerns expressed regarding their operation in addressing specific constraints faced by developing countries, particularly least-developed countries. In that connection, we also note that some Members have proposed a Framework Agreement on Special and Differential Treatment (WT/GC/W/442). We therefore agree that all special and differential treatment provisions shall be reviewed with a view to strengthening them and making them more precise, effective and operational. In this connection, we endorse the work programme on special and differential treatment set out in the Decision on Implementation-Related Issues and Concerns.

ORGANIZATION AND MANAGEMENT OF THE WORK PROGRAMME

45. The negotiations to be pursued under the terms of this Declaration shall be concluded not later than 1 January 2005. The Fifth Session of the Ministerial Conference will take stock of progress in the negotiations, provide any necessary political guidance, and take decisions as necessary. When the results of the negotiations in all areas have been established, a Special Session of the Ministerial Conference will be held to take decisions regarding the adoption and implementation of those results.

46. The overall conduct of the negotiations shall be supervised by a Trade Negotiations Committee under the authority of the General Council. The Trade Negotiations Committee shall hold its first meeting not later than 31 January 2002. It shall establish appropriate negotiating mechanisms as required and supervise the progress of the negotiations.

47. With the exception of the improvements and clarifications of the Dispute Settlement Understanding, the conduct, conclusion and entry into force of the outcome of the negotiations shall be treated as parts of a single undertaking. However, agreements reached at an early stage may be implemented on a provisional or a definitive basis. Early agreements shall be taken into account in assessing the overall balance of the negotiations.

48. Negotiations shall be open to:

(i) all Members of the WTO; and

(ii) States and separate customs territories currently in the process of accession and those that inform Members, at a regular meeting of the General Council, of their intention to negotiate the terms of their membership and for whom an accession working party is established.

Decisions on the outcomes of the negotiations shall be taken only by WTO Members.

49. The negotiations shall be conducted in a transparent manner among participants, in order to facilitate the effective participation of all. They shall be conducted with a view to ensuring benefits to all participants and to achieving an overall balance in the outcome of the negotiations.

50. The negotiations and the other aspects of the Work Programme shall take fully into account the principle of special and differential treatment for developing and least-developed countries embodied in: Part IV of the GATT 1994; the Decision of 28 November 1979 on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries; the Uruguay Round Decision on Measures in Favour of Least-Developed Countries; and all other relevant WTO provisions.

51. The Committee on Trade and Development and the Committee on Trade and Environment shall, within their respective mandates, each act as a forum to identify and debate developmental and environmental aspects of the negotiations, in order to help achieve the objective of having sustainable development appropriately reflected.

52. Those elements of the Work Programme which do not involve negotiations are also accorded a high priority. They shall be pursued under the overall supervision of the General Council, which shall report on progress to the Fifth Session of the Ministerial Conference.

WORLD TRADE ORGANIZATION

WT/MIN(01)/DEC/2
20 November 2001
(01-5860)

MINISTERIAL CONFERENCE
Fourth Session
Doha, 9 - 14 November 2001

DECLARATION ON THE TRIPS AGREEMENT AND PUBLIC HEALTH

Adopted on 14 November 2001

1. We recognize the gravity of the public health problems afflicting many developing and least-developed countries, especially those resulting from HIV/AIDS, tuberculosis, malaria and other epidemics.

2. We stress the need for the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) to be part of the wider national and international action to address these problems.

3. We recognize that intellectual property protection is important for the development of new medicines. We also recognize the concerns about its effects on prices.

4. We agree that the TRIPS Agreement does not and should not prevent Members from taking measures to protect public health. Accordingly, while reiterating our commitment to the TRIPS Agreement, we affirm that the Agreement can and should be interpreted and implemented in a manner supportive of WTO Members' right to protect public health and, in particular, to promote access to medicines for all.

In this connection, we reaffirm the right of WTO Members to use, to the full, the provisions in the TRIPS Agreement, which provide flexibility for this purpose.

5. Accordingly and in the light of paragraph 4 above, while maintaining our commitments in the TRIPS Agreement, we recognize that these flexibilities include:

(a) In applying the customary rules of interpretation of public international law, each provision of the TRIPS Agreement shall be read in the light of the object and purpose of the Agreement as expressed, in particular, in its objectives and principles.

(b) Each Member has the right to grant compulsory licences and the freedom to determine the grounds upon which such licences are granted.

(c) Each Member has the right to determine what constitutes a national emergency or other circumstances of extreme urgency, it being understood that public health crises, including those relating to HIV/AIDS, tuberculosis, malaria and other epidemics, can represent a national emergency or other circumstances of extreme urgency.

(d) The effect of the provisions in the TRIPS Agreement that are relevant to the exhaustion of intellectual property rights is to leave each Member free to establish its own regime for such exhaustion without challenge, subject to the MFN and national treatment provisions of Articles 3 and 4.

6. We recognize that WTO Members with insufficient or no manufacturing capacities in the pharmaceutical sector could face difficulties in making effective use of compulsory licensing under the TRIPS Agreement. We instruct the Council for TRIPS to find an expeditious solution to this problem and to report to the General Council before the end of 2002.

7. We reaffirm the commitment of developed-country Members to provide incentives to their enterprises and institutions to promote and encourage technology transfer to least-developed country Members pursuant to Article 66.2. We also agree that the least-developed country Members will not be obliged, with respect to pharmaceutical products, to implement or apply Sections 5 and 7 of Part II of the TRIPS Agreement or to enforce rights provided for under these Sections until 1 January 2016, without prejudice to the right of least-developed country Members to seek other extensions of the transition periods as provided for in Article 66.1 of the TRIPS Agreement. We instruct the Council for TRIPS to take the necessary action to give effect to this pursuant to Article 66.1 of the TRIPS Agreement.

WORLD TRADE ORGANIZATION

WT/MIN(01)/17
20 November 2001
(01-5858)

MINISTERIAL CONFERENCE
Fourth Session
Doha, 9 - 14 November 2001

IMPLEMENTATION-RELATED ISSUES AND CONCERNS

Decision of 14 November 2001

The Ministerial Conference,

Having regard to Articles IV.1, IV.5 and IX of the Marrakesh Agreement Establishing the World Trade Organization (WTO);

Mindful of the importance that Members attach to the increased participation of developing countries in the multilateral trading system, and of the need to ensure that the system responds fully to the needs and interests of all participants;

Determined to take concrete action to address issues and concerns that have been raised by many developing-country Members regarding the implementation of some WTO Agreements and Decisions, including the difficulties and resource constraints that have been encountered in the implementation of obligations in various areas;

Recalling the 3 May 2000 Decision of the General Council to meet in special sessions to address outstanding implementation issues, and to assess the existing difficulties, identify ways needed to resolve them, and take decisions for appropriate action not later than the Fourth Session of the Ministerial Conference;

Noting the actions taken by the General Council in pursuance of this mandate at its Special Sessions in October and December 2000 (WT/L/384), as well as the review and further discussion undertaken at the Special Sessions held in April, July and October 2001, including the referral of additional issues to relevant WTO bodies or their chairpersons for further work;

Noting also the reports on the issues referred to the General Council from subsidiary bodies and their chairpersons and from the Director-General, and the discussions as well as the clarifications provided and

understandings reached on implementation issues in the intensive informal and formal meetings held under this process since May 2000;

Decides as follows:

1. General Agreement on Tariffs and Trade 1994 (GATT 1994)

1.1 Reaffirms that Article XVIII of the GATT 1994 is a special and differential treatment provision for developing countries and that recourse to it should be less onerous than to Article XII of the GATT 1994.

1.2 Noting the issues raised in the report of the Chairperson of the Committee on Market Access (WT/GC/50) concerning the meaning to be given to the phrase "substantial interest" in paragraph 2(d) of Article XIII of the GATT 1994, the Market Access Committee is directed to give further consideration to the issue and make recommendations to the General Council as expeditiously as possible but in any event not later than the end of 2002.

2. Agreement on Agriculture

2.1 Urges Members to exercise restraint in challenging measures notified under the green box by developing countries to promote rural development and adequately address food security concerns.

2.2 Takes note of the report of the Committee on Agriculture (G/AG/11) regarding the implementation of the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries, and approves the recommendations contained therein regarding (i) food aid; (ii) technical and financial assistance in the context of aid programmes to improve agricultural productivity and infrastructure; (iii) financing normal levels of commercial imports of basic foodstuffs; and (iv) review of follow-up.

2.3 Takes note of the report of the Committee on Agriculture (G/AG/11) regarding the implementation of Article 10.2 of the Agreement on Agriculture, and approves the recommendations and reporting requirements contained therein.

2.4 Takes note of the report of the Committee on Agriculture (G/AG/11) regarding the administration of tariff rate quotas and the submission by Members of addenda to their notifications, and endorses the decision by the Committee to keep this matter under review.

3. Agreement on the Application of Sanitary and Phytosanitary Measures

3.1 Where the appropriate level of sanitary and phytosanitary protection allows scope for the phased introduction of new sanitary and phytosanitary measures, the phrase "longer time-frame for compliance" referred to in Article 10.2 of the Agreement on the Application of

Sanitary and Phytosanitary Measures, shall be understood to mean normally a period of not less than 6 months. Where the appropriate level of sanitary and phytosanitary protection does not allow scope for the phased introduction of a new measure, but specific problems are identified by a Member, the Member applying the measure shall upon request enter into consultations with the country with a view to finding a mutually satisfactory solution to the problem while continuing to achieve the importing Member's appropriate level of protection.

3.2 Subject to the conditions specified in paragraph 2 of Annex B to the Agreement on the Application of Sanitary and Phytosanitary Measures, the phrase "reasonable interval" shall be understood to mean normally a period of not less than 6 months. It is understood that timeframes for specific measures have to be considered in the context of the particular circumstances of the measure and actions necessary to implement it. The entry into force of measures which contribute to the liberalization of trade should not be unnecessarily delayed.

3.3 Takes note of the Decision of the Committee on Sanitary and Phytosanitary Measures (G/SPS/19) regarding equivalence, and instructs the Committee to develop expeditiously the specific programme to further the implementation of Article 4 of the Agreement on the Application of Sanitary and Phytosanitary Measures.

3.4 Pursuant to the provisions of Article 12.7 of the Agreement on the Application of Sanitary and Phytosanitary Measures, the Committee on Sanitary and Phytosanitary Measures is instructed to review the operation and implementation of the Agreement on Sanitary and Phytosanitary Measures at least once every four years.

3.5 (i) Takes note of the actions taken to date by the Director-General to facilitate the increased participation of Members at different levels of development in the work of the relevant international standard setting organizations as well as his efforts to coordinate with these organizations and financial institutions in identifying SPS-related technical assistance needs and how best to address them; and

(ii) urges the Director-General to continue his cooperative efforts with these organizations and institutions in this regard, including with a view to according priority to the effective participation of least-developed countries and facilitating the provision of technical and financial assistance for this purpose.

3.6 (i) Urges Members to provide, to the extent possible, the financial and technical assistance necessary to enable least-developed countries to respond adequately to the introduction of any new SPS measures which may have significant negative effects on their trade; and

(ii) urges Members to ensure that technical assistance is provided to least-developed countries with a view to responding to the special problems faced by them in implementing the Agreement on the Application of Sanitary and Phytosanitary Measures.

4. Agreement on Textiles and Clothing

Reaffirms the commitment to full and faithful implementation of the Agreement on Textiles and Clothing, and agrees:

4.1 that the provisions of the Agreement relating to the early integration of products and the elimination of quota restrictions should be effectively utilised.

4.2 that Members will exercise particular consideration before initiating investigations in the context of antidumping remedies on textile and clothing exports from developing countries previously subject to quantitative restrictions under the Agreement for a period of two years following full integration of this Agreement into the WTO.

4.3 that without prejudice to their rights and obligations, Members shall notify any changes in their rules of origin concerning products falling under the coverage of the Agreement to the Committee on Rules of Origin which may decide to examine them.

Requests the Council for Trade in Goods to examine the following proposals:

4.4 that when calculating the quota levels for small suppliers for the remaining years of the Agreement, Members will apply the most favourable methodology available in respect of those Members under the growth-on-growth provisions from the beginning of the implementation period; extend the same treatment to least-developed countries; and, where possible, eliminate quota restrictions on imports of such Members;

4.5 that Members will calculate the quota levels for the remaining years of the Agreement with respect to other restrained Members as if implementation of the growth-on-growth provision for stage 3 had been advanced to 1 January 2000;

and make recommendations to the General Council by 31 July 2002 for appropriate action.

5. Agreement on Technical Barriers to Trade

5.1 Confirms the approach to technical assistance being developed by the Committee on Technical Barriers to Trade, reflecting the results of the triennial review work in this area, and mandates this work to continue.

5.2 Subject to the conditions specified in paragraph 12 of Article 2 of the Agreement on Technical Barriers to Trade, the phrase "reasonable interval" shall be understood to mean normally a period of not less than 6 months, except when this would be ineffective in fulfilling the legitimate objectives pursued.

5.3 (i) Takes note of the actions taken to date by the Director-General to facilitate the increased participation of Members at different levels of development in the work of the relevant international standard setting organizations as well as his efforts to coordinate with these organizations and financial institutions in identifying TBT-related technical assistance needs and how best to address them; and

(ii) urges the Director-General to continue his cooperative efforts with these organizations and institutions, including with a view to according priority to the effective participation of least-developed countries and facilitating the provision of technical and financial assistance for this purpose.

5.4 (i) Urges Members to provide, to the extent possible, the financial and technical assistance necessary to enable least-developed countries to respond adequately to the introduction of any new TBT measures which may have significant negative effects on their trade; and

(ii) urges Members to ensure that technical assistance is provided to least-developed countries with a view to responding to the special problems faced by them in implementing the Agreement on Technical Barriers to Trade.

6. Agreement on Trade-Related Investment Measures

6.1 Takes note of the actions taken by the Council for Trade in Goods in regard to requests from some developing-country Members for the extension of the five-year transitional period provided for in Article 5.2 of Agreement on Trade-Related Investment Measures.

6.2 Urges the Council for Trade in Goods to consider positively requests that may be made by least-developed countries under Article 5.3 of the TRIMs Agreement or Article IX.3 of the

WTO Agreement, as well as to take into consideration the particular circumstances of least-developed countries when setting the terms and conditions including time-frames.

7. Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994

7.1 Agrees that investigating authorities shall examine with special care any application for the initiation of an anti-dumping investigation where an investigation of the same product from the same Member resulted in a negative finding within the 365 days prior to the filing of the application and that, unless this pre-initiation examination indicates that circumstances have changed, the investigation shall not proceed.

7.2 Recognizes that, while Article 15 of the Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 is a mandatory provision, the modalities for its application would benefit from clarification. Accordingly, the Committee on Anti-Dumping Practices is instructed, through its working group on Implementation, to examine this issue and to draw up appropriate recommendations within twelve months on how to operationalize this provision.

7.3 Takes note that Article 5.8 of the Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 does not specify the time-frame to be used in determining the volume of dumped imports, and that this lack of specificity creates uncertainties in the implementation of the provision. The Committee on Anti-Dumping Practices is instructed, through its working group on Implementation, to study this issue and draw up recommendations within 12 months, with a view to ensuring the maximum possible predictability and objectivity in the application of time frames.

7.4 Takes note that Article 18.6 of the Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 requires the Committee on Anti-Dumping Practices to review annually the implementation and operation of the Agreement taking into account the objectives thereof. The Committee on Anti-dumping Practices is instructed to draw up guidelines for the improvement of annual reviews and to report its views and recommendations to the General Council for subsequent decision within 12 months.

8. Agreement on the Implementation of Article VII of the General Agreement on Tariffs and Trade 1994

8.1 Takes note of the actions taken by the Committee on Customs Valuation in regard to the requests from a number of developing-country Members for the extension of the five-year transitional period provided for in Article 20.1 of Agreement on the Implementation of Article VII of the General Agreement on Tariffs and Trade 1994.

8.2 Urges the Council for Trade in Goods to give positive consideration to requests that may be made by least-developed country Members under paragraphs 1 and 2 of Annex III of the Customs Valuation Agreement or under Article IX.3 of the WTO Agreement, as well as to take into consideration the particular circumstances of least-developed countries when setting the terms and conditions including time-frames.

8.3 Underlines the importance of strengthening cooperation between the customs administrations of Members in the prevention of customs fraud. In this regard, it is agreed that, further to the 1994 Ministerial Decision Regarding Cases Where Customs Administrations Have Reasons to Doubt the Truth or Accuracy of the Declared Value, when the customs administration of an importing Member has reasonable grounds to doubt the truth or accuracy of the declared value, it may seek assistance from the customs administration of an exporting Member on the value of the good concerned. In such cases, the exporting Member shall offer cooperation and assistance, consistent with its domestic laws and procedures, including furnishing information on the export value of the good concerned. Any information provided in this context shall be treated in accordance with Article 10 of the

Customs Valuation Agreement. Furthermore, recognizing the legitimate concerns expressed by the customs administrations of several importing Members on the accuracy of the declared value, the Committee on Customs Valuation is directed to identify and assess practical means to address such concerns, including the exchange of information on export values and to report to the General Council by the end of 2002 at the latest.

9. Agreement on Rules of Origin

9.1 Takes note of the report of the Committee on Rules of Origin (G/RO/48) regarding progress on the harmonization work programme, and urges the Committee to complete its work by the end of 2001.

9.2 Agrees that any interim arrangements on rules of origin implemented by Members in the transitional period before the entry into force of the results of the harmonisation work programme shall be consistent with the Agreement on Rules of Origin, particularly Articles 2 and 5 thereof. Without prejudice to Members' rights and obligations, such arrangements may be examined by the Committee on Rules of Origin.

10. Agreement on Subsidies and Countervailing Measures

10.1 Agrees that Annex VII(b) to the Agreement on Subsidies and Countervailing Measures includes the Members that are listed therein until their GNP per capita reaches US $1,000 in constant 1990 dollars for three consecutive years. This decision will enter into effect upon the adoption by the Committee on Subsidies and Countervailing Measures of an appropriate methodology for calculating constant 1990 dollars. If, however, the Committee on Subsidies and Countervailing Measures does not reach a consensus agreement on an appropriate methodology by 1 January 2003, the methodology proposed by the Chairman of the Committee set forth in G/SCM/38, Appendix 2 shall be applied. A Member shall not leave Annex VII(b) so long as its GNP per capita in current dollars has not reached US $1000 based upon the most recent data from the World Bank.

10.2 Takes note of the proposal to treat measures implemented by developing countries with a view to achieving legitimate development goals, such as regional growth, technology research and development funding, production diversification and development and implementation of environmentally sound methods of production as non-actionable subsidies, and agrees that this issue be addressed in accordance with paragraph 13 below. During the course of the negotiations, Members are urged to exercise due restraint with respect to challenging such measures.

10.3 Agrees that the Committee on Subsidies and Countervailing Measures shall continue its review of the provisions of the Agreement on Subsidies and Countervailing Measures regarding countervailing duty investigations and report to the General Council by 31 July 2002.

10.4 Agrees that if a Member has been excluded from the list in paragraph (b) of Annex VII to the Agreement on Subsidies and Countervailing Measures, it shall be re-included in it when its GNP per capita falls back below US$ 1,000.

10.5 Subject to the provisions of Articles 27.5 and 27.6, it is reaffirmed that least-developed country Members are exempt from the prohibition on export subsidies set forth in Article 3.1(a) of the Agreement on Subsidies and Countervailing Measures, and thus have flexibility to finance their exporters, consistent with their development needs. It is understood that the eight-year period in Article 27.5 within which a least-developed country Member must phase out its export subsidies in respect of a product in which it is export-competitive begins from the date export competitiveness exists within the meaning of Article 27.6.

10.6 Having regard to the particular situation of certain developing-country Members, directs the Committee on Subsidies and Countervailing Measures to extend the transition period, under the rubric of Article 27.4 of the Agreement on Subsidies and Countervailing Measures, for certain export subsidies provided by such Members, pursuant to the procedures set forth in document G/SCM/39. Furthermore, when considering a request for an extension of the transition period under the rubric of Article 27.4 of the Agreement on Subsidies and Countervailing Measures, and in order to avoid that Members at similar stages of development and having a similar order of magnitude of share in world trade are treated differently in terms of receiving such extensions for the same eligible programmes and the length of such extensions, directs the Committee to extend the transition period for those developing countries, after taking into account the relative competitiveness in relation to other developing-country Members who have requested extension of the transition period following the procedures set forth in document G/SCM/39.

11. Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)

11.1 The TRIPS Council is directed to continue its examination of the scope and modalities for complaints of the types provided for under subparagraphs 1(b) and 1(c) of Article XXIII of GATT 1994 and make recommendations to the Fifth Session of the Ministerial Conference. It is agreed that, in the meantime, Members will not initiate such complaints under the TRIPS Agreement.

11.2 Reaffirming that the provisions of Article 66.2 of the TRIPS Agreement are mandatory, it is agreed that the TRIPS Council shall put in place a mechanism for ensuring the monitoring and full implementation of the obligations in question. To this end, developed-country Members shall submit prior to the end of 2002 detailed reports on the functioning in practice of the incentives provided to their enterprises for the transfer of technology in pursuance of their commitments under Article 66.2. These submissions shall be subject to a review in the TRIPS Council and information shall be updated by Members annually.

12. Cross-cutting Issues

12.1 The Committee on Trade and Development is instructed:

(i) *to identify those special and differential treatment provisions that are already mandatory in nature and those that are non-binding in character, to consider the legal and practical implications for developed and developing Members of converting special and differential treatment measures into mandatory provisions, to identify those that Members consider should be made mandatory, and to report to the General Council with clear recommendations for a decision by July 2002;*

(ii) to examine additional ways in which special and differential treatment provisions can be made more effective, to consider ways, including improved information flows, in which developing countries, in particular the least-developed countries, may be assisted to make best use of special and differential treatment provisions, and to report to the General Council with clear recommendations for a decision by July 2002; and

(iii) to consider, in the context of the work programme adopted at the Fourth Session of the Ministerial Conference, how special and differential treatment may be incorporated into the architecture of WTO rules.

The work of the Committee on Trade and Development in this regard shall take fully into consideration previous work undertaken as noted in WT/COMTD/W/77/Rev.1. It will also be without prejudice to work in respect of implementation of WTO Agreements in the General Council and in other Councils and Committees.

12.2 Reaffirms that preferences granted to developing countries pursuant to the Decision of the Contracting Parties of 28 November 1979 ("Enabling Clause")[1] should be generalised, non-reciprocal and non-discriminatory.

13. Outstanding Implementation Issues[2]

Agrees that outstanding implementation issues be addressed in accordance with paragraph 12 of the Ministerial Declaration (WT/MIN(01)/DEC/1).

14. Final Provisions

Requests the Director-General, consistent with paragraphs 38 to 43 of the Ministerial Declaration (WT/MIN(01)/DEC/1), to ensure that WTO technical assistance focuses, on a priority basis, on assisting developing countries to implement existing WTO obligations as well as on increasing their capacity to participate more effectively in future multilateral trade negotiations. In carrying out this mandate, the WTO Secretariat should cooperate more closely with international and regional intergovernmental organisations so as to increase efficiency and synergies and avoid duplication of programmes.

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[1] BISD 26S/203.

[2] A list of these issues is compiled in document Job(01)/152/Rev.1.

MEMBERSHIP OF THE WORLD TRADE ORGANIZATION
as of January 1, 2003 (144 Members)

Government	Entry into Force/ Membership	Government	Entry into Force/ Membership
Albania	September 8, 2000	Dominican Republic	March 9, 1995
Angola	November 23, 1996	Ecuador	January 21, 1996
Antigua and Barbuda	January 1, 1995	Egypt	June 30, 1995
Argentina	January 1, 1995	El Salvador	May 7, 1995
Australia	January 1, 1995	Estonia	November 13, 1999
Austria	January 1, 1995	European Union	January 1, 1995
Bahrain	January 1, 1995	Fiji	January 14, 1996
Bangladesh	January 1, 1995	Finland	January 1, 1995
Barbados	January 1, 1995	France	January 1, 1995
Belgium	January 1, 1995	Gabon	January 1, 1995
Belize	January 1, 1995	Georgia	June 14, 2000
Benin	February 22, 1996	Germany	January 1, 1995
Bolivia	September 12, 1995	Ghana	January 1, 1995
Botswana	May 31, 1995	Greece	January 1, 1995
Brazil	January 1, 1995	Grenada	February 22, 1996
Brunei Darussalam	January 1, 1995	Guatemala	July 21, 1995
Bulgaria	December 1, 1996	Guinea	October 25, 1995
Burkina Faso	June 3, 1995	Guinea Bissau	May 31, 1995
Burundi	July 23, 1995	Guyana	January 1, 1995
Cameroon	December 13, 1995	Haiti	January 30, 1996
Canada	January 1, 1995	Honduras	January 1, 1995
Central African Republic	May 31, 1995	Hong Kong, China	January 1, 1995
Chad	October 19, 1996	Hungary	January 1, 1995
Chile	January 1, 1995	Iceland	January 1, 1995
China	December 11, 2001	India	January 1, 1995
Colombia	April 30, 1995	Indonesia	January 1, 1995
Congo	March 27, 1997	Ireland	January 1, 1995
Costa Rica	January 1, 1995	Israel	April 21, 1995
Côte d'Ivoire	January 1, 1995	Italy	January 1, 1995
Croatia	November 30, 2000	Jamaica	March 9, 1995
Cuba	April 20, 1995	Japan	January 1, 1995
Cyprus	July 30, 1995	Jordan	April 11, 2000
Czech Republic	January 1, 1995	Kenya	January 1, 1995
Democratic Republic of the Congo	January 1, 1997	Korea, Republic of	January 1, 1995
Denmark	January 1, 1995	Kuwait	January 1, 1995
Djibouti	May 31, 1995	Kyrgyz Republic	December 20, 1998
Dominica	January 1, 1995	Latvia	February 10, 1999

Government	Entry into Force/ Membership	Government	Entry into Force/ Membership
Lesotho	May 31, 1995	Rwanda	May 22, 1996
Liechtenstein	September 1, 1995	Saint Kitts and Nevis	February 21, 1996
Lithuania	May 31, 2001	Saint Lucia	January 1, 1995
Luxembourg	January 1, 1995	Saint Vincent and the Grenadines	January 1, 1995
Macao, China	January 1, 1995	Senegal	January 1, 1995
Madagascar	November 17, 1995	Sierra Leone	July 23, 1995
Malawi	May 31, 1995	Singapore	January 1, 1995
Malaysia	January 1, 1995	Slovak Republic	January 1, 1995
Maldives	May 31, 1995	Slovenia	July 30, 1995
Mali	May 31, 1995	Solomon Islands	July 26, 1996
Malta	January 1, 1995	South Africa	January 1, 1995
Mauritania	May 31, 1995	Spain	January 1, 1995
Mauritius	January 1, 1995	Sri Lanka	January 1, 1995
Moldova	July 26, 2001	Suriname	January 1, 1995
Mongolia	January 29, 1997	Swaziland	January 1, 1995
Morocco	January 1, 1995	Sweden	January 1, 1995
Mozambique	August 26, 1995	Switzerland	July 1, 1995
Myanmar	January 1, 1995	Taiwan (referred to in the WTO as Chinese Taipei)	January 1, 2002
Namibia	January 1, 1995	Tanzania	January 1, 1995
Netherlands - For the Kingdom in Europe and Netherlands Antilles	January 1, 1995	Thailand	January 1, 1995
New Zealand	January 1, 1995	The Gambia	October 23, 1996
Nicaragua	September 3, 1995	Togo	May 31, 1995
Niger	December 13, 1996	Trinidad and Tobago	March 1, 1995
Nigeria	January 1, 1995	Mexico	January 1, 1995
Norway	January 1, 1995	Tunisia	March 9, 1995
Oman	November 9, 2000	Turkey	March 26, 1995
Pakistan	January 1, 1995	Uganda	January 1, 1995
Panama	September 6, 1997	United Arab Emirates	April 10, 1996
Papua New Guinea	June 9, 1996	United Kingdom	January 1, 1995
Paraguay	January 1, 1995	United States	January 1, 1995
Peru	January 1, 1995	Uruguay	January 1, 1995
Philippines	January 1, 1995	Venezuela	January 1, 1995
Poland	July 1, 1995	Zambia	January 1, 1995
Portugal	January 1, 1995	Zimbabwe	March 5, 1995
Qatar	January 13, 1996		
Romania	January 1, 1995		

SCALE OF CONTRIBUTIONS FOR 2003
(Minimum contribution of 0.015 per cent)

MEMBERS	2002 CONTRIBUTION CHF	2003 CONTRIBUTION %	2003 CONTRIBUTION CHF	INTEREST EARNED [1] CHF	2003 NET CONTRIBUTION CHF
Albania	21,315	0.015	23,070	165	22,905
Angola	80,997	0.069	106,122	323	105,799
Antigua and Barbuda	21,315	0.015	23,070		23,070
Argentina	724,710	0.464	713,632	244	713,388
Australia	1,730,778	1.143	1,757,934	18,200	1,739,734
Austria	2,043,398	1.373	2,111,674	20,830	2,090,844
Bahrain	96,628	0.069	106,122	987	105,135
Bangladesh	149,205	0.106	163,028		163,028
Barbados	28,420	0.020	30,760	190	30,570
Belgium	3,812,543	2.671	4,107,998	34,283	4,073,715
Belize	21,315	0.015	23,070	218	22,852
Benin	21,315	0.015	23,070	91	22,979
Bolivia	36,946	0.025	38,450	216	38,234
Botswana	58,261	0.038	58,444	362	58,082
Brazil	1,403,948	0.926	1,424,188	10,981	1,413,207
Brunei Darussalam	62,524	0.041	63,058	552	62,506
Bulgaria	133,574	0.094	144,572	591	143,981
Burkina Faso	21,315	0.015	23,070		23,070
Burundi	21,315	0.015	23,070		23,070
Cameroon	38,367	0.025	38,450	426	38,024
Canada	5,561,794	3.945	6,067,410	49,028	6,018,382
Central African Republic	21,315	0.015	23,070		23,070
Chad	21,315	0.015	23,070		23,070
Chile	441,931	0.290	446,020	368	445,652
China, People's Republic of	4,224,633	3.155	4,852,390		4,852,390
Colombia	331,093	0.211	324,518	385	324,133
Congo	34,104	0.023	35,374		35,374
Costa Rica	147,784	0.097	149,186	1,303	147,883
Côte d'Ivoire	96,628	0.063	96,894		96,894
Croatia	208,887	0.133	204,554	1,824	202,730
Cuba	90,944	0.070	107,660	620	107,040
Cyprus	90,944	0.061	93,818	575	93,243
Czech Republic	726,131	0.499	767,462	7,817	759,645
Democratic Republic of the Congo	34,104	0.016	24,608		24,608
Denmark	1,347,108	0.951	1,462,638	13,013	1,449,625
Djibouti	21,315	0.015	23,070		23,070
Dominica	21,315	0.015	23,070		23,070
Dominican Republic	177,625	0.128	196,864		196,864
Ecuador	120,785	0.077	118,426	382	118,044
Egypt	377,986	0.259	398,342	3,873	394,469
El Salvador	82,418	0.059	90,742	390	90,352
Estonia	89,523	0.064	98,432	888	97,544

[1] - Interest earned in 2001 under the Early Payment Encouragement Scheme (L/6384) and to be deducted from the 2003 contribution.

	CHF	%	CHF	CHF	CHF
European Communities	0		0		0
Fiji	22,736	0.015	23,070	256	22,814
Finland	954,912	0.642	987,396	8,730	978,666
France	7,873,761	5.272	8,108,336	49,907	8,058,429
Gabon	48,314	0.034	52,292		52,292
Gambia	21,315	0.015	23,070		23,070
Georgia	21,315	0.015	23,070	130	22,940
Germany	13,202,511	8.920	13,718,960	81,533	13,637,427
Ghana	59,682	0.043	66,134		66,134
Greece	441,931	0.411	632,118	1,685	630,433
Grenada	21,315	0.015	23,070	175	22,895
Guatemala	89,523	0.063	96,894	795	96,099
Guinea	21,315	0.015	23,070		23,070
Guinea-Bissau	21,315	0.015	23,070		23,070
Guyana	21,315	0.015	23,070		23,070
Haiti	21,315	0.015	23,070	142	22,928
Honduras	55,419	0.039	59,982	139	59,843
Hong Kong, China	4,753,245	3.166	4,869,308	52,655	4,816,653
Hungary	586,873	0.417	641,346	5,487	635,859
Iceland	63,945	0.045	69,210	643	68,567
India	1,179,430	0.850	1,307,300	2,975	1,304,325
Indonesia	1,180,851	0.774	1,190,412		1,190,412
Ireland	1,621,361	1.201	1,847,138	13,993	1,833,145
Israel	778,708	0.568	873,584	6,900	866,684
Italy	6,262,347	4.136	6,361,168	47,290	6,313,878
Jamaica	80,997	0.054	83,052	659	82,393
Japan	9,419,809	6.359	9,780,142	72,459	9,707,683
Jordan	93,786	0.061	93,818	823	92,995
Kenya	66,787	0.044	67,672	507	67,165
Korea, Republic of	3,383,401	2.367	3,640,446	32,981	3,607,465
Kuwait	275,674	0.190	292,220	1,634	290,586
Kyrgyz Republic	21,315	0.015	23,070		23,070
Latvia	72,471	0.049	75,362	621	74,741
Lesotho	21,315	0.015	23,070	173	22,897
Liechtenstein	38,367	0.025	38,450	409	38,041
Lithuania	117,943	0.076	116,888	224	116,664
Luxembourg	422,037	0.345	530,610	2,598	528,012
Macao, China	88,102	0.062	95,356	843	94,513
Madagascar	21,315	0.015	23,070	202	22,868
Malawi	21,315	0.015	23,070		23,070
Malaysia	1,865,773	1.267	1,948,646	17,601	1,931,045
Maldives	21,315	0.015	23,070	163	22,907
Mali	21,315	0.015	23,070		23,070
Malta	68,208	0.049	75,362	644	74,718
Mauritania	21,315	0.015	23,070		23,070
Mauritius	58,261	0.038	58,444	604	57,840
Mexico	2,992,626	2.267	3,486,646	5,066	3,481,580
Moldova	21,315	0.015	23,070	37	23,033
Mongolia	21,315	0.015	23,070	147	22,923
Morocco	227,360	0.156	239,928	1,504	238,424
Mozambique	21,315	0.015	23,070	9	23,061

	CHF	%	CHF	CHF	CHF
Myanmar, Union of	45,472	0.032	49,216	383	48,833
Namibia	41,209	0.027	41,526	250	41,276
Netherlands, Kingdom of the	5,151,125	3.481	5,353,778	44,608	5,309,170
New Zealand	377,986	0.243	373,734	3,677	370,057
Nicaragua	28,420	0.020	30,760	265	30,495
Niger	21,315	0.015	23,070		23,070
Nigeria	289,884	0.190	292,220	279	291,941
Norway	1,220,639	0.820	1,261,160	12,014	1,249,146
Oman	140,679	0.105	161,490	1,089	160,401
Pakistan	262,885	0.153	235,314	285	235,029
Panama	176,204	0.114	175,332	1,674	173,658
Papua New Guinea	46,893	0.031	47,678	503	47,175
Paraguay	90,944	0.052	79,976	265	79,711
Peru	194,677	0.126	193,788	29	193,759
Philippines	892,388	0.553	850,514		850,514
Poland	998,963	0.695	1,068,910	10,194	1,058,716
Portugal	865,389	0.572	879,736	5,762	873,974
Qatar	107,996	0.083	127,654	569	127,085
Romania	241,570	0.167	256,846	1,730	255,116
Rwanda	21,315	0.015	23,070		23,070
Saint Lucia	21,315	0.015	23,070	36	23,034
Senegal	32,683	0.022	33,836	352	33,484
Sierra Leone	21,315	0.015	23,070		23,070
Singapore	2,955,680	1.973	3,034,474	20,030	3,014,444
Slovak Republic	291,305	0.198	304,524	3,112	301,412
Slovenia	240,149	0.160	246,080	1,482	244,598
Solomon Islands	21,315	0.015	23,070		23,070
South Africa	740,341	0.481	739,778	8,288	731,490
Spain	3,507,028	2.432	3,740,416	23,153	3,717,263
Sri Lanka	134,995	0.094	144,572	832	143,740
St. Kitts and Nevis	21,315	0.015	23,070	205	22,865
St. Vincent and the Grenadines	21,315	0.015	23,070		23,070
Suriname	21,315	0.015	23,070		23,070
Swaziland	25,578	0.016	24,608	237	24,371
Sweden	2,127,237	1.436	2,208,568	21,671	2,186,897
Switzerland	2,182,656	1.464	2,251,632	22,906	2,228,726
Chinese Taipei		2.031	3,123,678		3,123,678
Tanzania	35,525	0.024	36,912		36,912
Thailand	1,419,579	0.950	1,461,100	14,204	1,446,896
Togo	21,315	0.015	23,070		23,070
Trinidad and Tobago	63,945	0.041	63,058	487	62,571
Tunisia	190,414	0.127	195,326	1,306	194,020
Turkey	1,125,432	0.748	1,150,424		1,150,424
Uganda	28,420	0.018	27,684	224	27,460
United Arab Emirates	737,499	0.556	855,128	6,291	848,837
United Kingdom of Great Britain and Northern Ireland	8,329,902	5.722	8,800,436	80.330	8,720,106
United States of America	22,342,383	15.899	24,452,662	31,786	24,420,876
Uruguay	90,944	0.058	89,204	5	89,199
Venezuela	447,615	0.316	486,008	135	485,873

	CHF	%	CHF	CHF	CHF
Zambia	29,841	0.015	23,070		23,070
Zimbabwe	48,314	0.045	69,210		69,210
TOTAL	142,100,000	100.000	153,800,000	903,116	152,896,884

2003 REVISED BUDGET FOR THE WTO SECRETARIAT

PART		SECTION	Original 2003 Estimates	Proposed reductions		Revised 2003 Estimates
				New Posts	Other	
A	1	Staff (Work/years)				
		(a) Salary	70,336,600	(381,600)	(2,881,600)	67,073,400
		(b) Pensions	13,978,600	(76,200)	(571,800)	13,330,600
		(c) Other Common Staff costs	13,272,000	(375,600)		12,896,400
	2	Temporary Assistance	17,477,400		(972,820)	16,504,580
B	3	Communications				
		(a) Telecommunications	788,000		(40,000)	748,000
		(b) Postage charges	1,617,000		(30,000)	1,587,000
	4	Building Facilities				
		(a) Rental	312,400		(20,000)	292,400
		(b) Utilities	1,669,500		(50,000)	1,619,500
		(c) Maintenance and Insurance	1,333,000		(270,000)	1,063,000
	5	Permanent Equipment	4,807,000	(54,000)	(1,099,400)	3,653,600
	6	Expendable Equipment	1,467,800		(73,130)	1,394,670
	7	Contractual Services				
		(a) Reproduction	1,440,000		(9,200)	1,430,800
		(b) Office Automation / Informatics	1,960,900	(6,000)	290,900	2,245,800
		(c) Other	331,000		(10,000)	321,000
C	8	Staff Overhead Costs				
		(a) Training	685,000		(205,000)	480,000
		(b) Insurance	1,206,900	(1,200)		1,205,700
		(c) Joint Services	567,000		(25,000)	542,000
		(d) Miscellaneous	106,500	(30,000)		76,500
	9	Missions				
		(a) Official	1,278,100		(97,000)	1,181,100
		(b) Technical Co-operation	1,419,200		(36,000)	1,383,200
	10	Trade Policy Training Courses	5,149,000		(851,500)	4,297,500
	11	Contribution to ITC	15,374,000			15,374,000
	12	Various				
		(a) Representation and Hospitality	283,000			283,000
		(b) Dispute Settlement Panels	1,337,000		(50,000)	1,287,000
		(c) Permanent Group of Experts/ Arbitration under GATS	30,000		(30,000)	
		(d) Appellate Body Members				
		(e) Library	623,500		(41,600)	581,900
		(f) Publications	215,000		(22,000)	193,000
		Priced Publications	177,000		(140,000)	37,000
		(g) Public Information Activities	225,000		(15,000)	210,000
		(h) External Auditors	50,000			50,000
		(i) Ministerial Meeting	750,000		(350,000)	400,000
		(j) ISO	57,500			57,500
		(k) Other	83,000			83,000
		(l) Appellate Body Operating Fund				
		(m) NGO Symposium	481,400		(481,400)	
	13	Unforeseen Expenditure	100,000			100,000
		TOTAL	160,989,300	(924,600)	(8,081,550)	151,983,150

2003 BUDGET FOR THE APPELLATE BODY AND ITS SECRETARIAT

PART			SECTION	Original 2003 Estimates	Proposed reductions		Revised 2003 Estimates
					New Posts	Other	
A	1		Staff (Work/years)				
		(a)	Salary	1,644,500		(65,400)	1,579,100
		(b)	Pensions	328,900		(14,200)	314,700
		(c)	Other Common Staff costs	299,000			299,000
	2		Temporary Assistance	36,000			36,000
B	3		Communications				
		(a)	Telecommunications	6,500			6,500
		(b)	Postage charges				
	4		Building Facilities				
		(a)	Rental				
		(b)	Utilities	13,000			13,000
		(c)	Maintenance and Insurance	5,000			5,000
	5		Permanent Equipment	44,000			44,000
	6		Expendable Equipment	17,700			17,700
	7		Contractual Services				
		(a)	Reproduction	15,000			15,000
		(b)	Office Automation / Informatics				
		(c)	Other				
C	8		Staff Overhead Costs				
		(a)	Training				
		(b)	Insurance	5,000			5,000
		(c)	Joint Services				
		(d)	Miscellaneous	2,000			2,000
	9		Missions				
		(a)	Official	10,000			10,000
		(b)	Technical Co-operation				
	10		Trade Policy Training Courses				
	11		Contribution to ITC				
	12		Various				
		(a)	Representation and Hospitality	1,000			1,000
		(b)	Dispute Settlement Panels				
		(c)	Permanent Group of Experts/ Arbitration under GATS				
		(d)	Appellate Body Members	618,200			618,200
		(e)	Library	5,000			5,000
		(f)	Publications				
			Priced Publications				
		(g)	Public Information Activities				
		(h)	External Auditors				
		(i)	Ministerial Meeting				
		(j)	ISO				
		(k)	Other				
		(l)	Appellate Body Operating Fund	1,700,000		(1,700,000)	
		(m)	NGO Symposium				
	13		Unforeseen Expenditure				
			TOTAL	4,750,800		(1,779,600)	2,971,200

Waivers Currently in Force

The following waivers, granted under Article IX: 3 of the Agreement Establishing the World Trade Organization, are currently in effect. Waivers granted for a period exceeding one year are reviewed annually by the General Council. The General Council may extend, modify, or terminate a waiver as part of the annual review process. The last review of multi-year waivers took place on December 20, 2001.

WTO Member/Waiver	Valid Through	Date Granted
Cote d'Ivoire - Customs Valuation: To allow minimum values for the valuation for customs purposes of the goods listed in Annex I.	January 1, 2003	July 8, 2002
Haiti - Customs Valuation: To allow a 3-year extension for the application of the Customs Valuation Agreement.	January 30, 2003	December 20, 2001
El Salvador - Customs Valuation: Waiver was granted for the Agreement on the Implementation of Article VII of GATT 1994 for goods listed in Annex 1 and Annex 2.	March 7, 2003 (Annex 1) March 7, 2005 (Annex 2)	July 7, 2002
Harmonized System (HS) 1996 changes: Malaysia, Pakistan, Panama, and Paraguay were granted individual waivers for the introduction of HS 1996 changes to WTO Schedules of Tariff Concessions.	April 30, 2003	May 13, 2002
Dominican Republic - Customs Valuation: To allow the continued use of minimum values for certain specified products.	July, 1 2003	December 20, 2001
Madagascar - Customs Valuation: To allow the continued use of minimum values for certain specified products.	November 17, 2003	July 18, 2001
HS 2002 changes: A collective waiver was granted to Argentina, Australia, Bulgaria, Canada, China, Croatia, Czech Republic, Estonia, European Communities, Hungary, Iceland, India, Korea, Latvia, Lithuania, Mexico, Nicaragua, Norway, Romania, Singapore, Slovak Republic, Slovenia, Switzerland, Thailand, United States, Uruguay and Hong Kong, and Macao, China for the introduction of HS 2002 changes to WTO Schedules of Tariff Concessions.	December 31, 2003	December 11, 2002
Colombia - TRIMS: To allow continued use of certain trade related investment measures.	December 31, 2003	December 20, 2001
Thailand - TRIMS: To allow continued use of certain trade related investment measures.	December 31, 2003	July 31, 2001
Switzerland - Preferential Treatment for Albania and Bosnia-Herzegovina: To allow Switzerland to provide trade preferences.	March 31, 2004	July 18, 2001
EC Transitional Regime: for the EC Autonomous Tariff Rate Quotas on Imports of Bananas.	December 31, 2005	November 14, 2001

US - Caribbean Basin Economic Recovery Act: To allow the United States to extend tariff preferences to eligible Caribbean countries under CBERA.	December 31, 2005	November 15, 1995

WTO Member / Waiver	*Valid Through*	*Date Granted*
Canada - CARIBCAN: To allow Canada to extend tariff preferences to CARIBCAN nations.	December 31, 2006	October 14, 1996
Cuba - Article XV:6: To allow Cuba not to have a special exchange arrangement, which is required for those WTO Members that are not IMF members.	December 31, 2006	December 20, 2001
European Community - Western Balkans: To allow the EC to extend tariff preferences to Albania, Bosnia-Herzegovina, Croatia, the Federal Republic of Yugoslavia and the former Republic of Macedonia.	December 31, 2006	December 8, 2000
Turkey -Bosnia: To allow Turkey to provide tariff preferences to Bosnia-Herzegovina.	December 31, 2006	December 8, 2000
US - Former Trust Territory of the Pacific Islands: To allow the United States to extend historical tariff preferences to the Mariana Islands, Palau, the Marshall Islands and Micronesia.	December 31, 2006	October 14, 1996
ACP-EC Partnership Agreement: To allow waivers to Article I for the maintenance of preferential trade between the EC and ACP countries.	December 31, 2007	November 14, 2001
Preferential Tariff Treatment for Least Developed Countries: To allow developing countries to extend unilateral tariff preferences to least developed countries.	June 30, 2009	June 15, 1999
LDC - Article 70.9 of the TRIPS Agreement with respect to pharmaceutical products.	January 1, 2016	July 8, 2002

WTO SECRETARIAT PERSONNEL STATISTICS

Number of Staff Members by Job Category				
Country	**Senior**	**Professional**	**Support**	**Total**
Argentina		5	3	8
Australia		8	3	11
Austria		3	2	5
Bangladesh		1		1
Barbados		1		1
Belgium		3		3
Benin		1		1
Bolivia		2	1	3
Brazil	1	3	2	6
Canada		25	3	28
Chile		2	4	6
China		3		3
Colombia		5	2	7
Congo		1		1
Costa Rica		1		1
Cote d'Ivoire			1	1
Cuba			1	1
Denmark		1	1	2
Ecuador		1		1
Egypt		5		5
Estonia		1		1
Finland		2	2	4
France		43	108	151
Germany		12	3	15
Ghana		3		3
Greece		4		4
Honduras			1	1
Hong Kong		1		1
Hungary	1	2		3
India		9	4	13
Ireland		3	8	11
Italy		11	4	15
Japan		2		2
Kenya	1			1
Korea, Republic of		2		2
Malawi		1		1
Malaysia		1	1	2
Mauritius			1	1
Mexico		5		5
Morocco		2		2
Netherlands		6	1	7
New Zealand		4	1	5
Nicaragua		1		1

Country	Senior	Professional	Support	Total
Nigeria		1		1
Norway		3	1	4
Pakistan		1		1
Paraguay			1	1
Peru		1	7	8
Philippines		8		8
Poland		3	2	5
Portugal		1	1	2
Romania		2	1	3
Senegal			1	1
South Africa		1		1
Spain		23	18	41
Sri Lanka		2	2	4
Sweden		3	2	5
Switzerland		20	15	35
Thailand	1	4		5
Tunisia		3	1	4
Turkey		3		3
United Kingdom	1	24	52	77
United States	1	20	3	24
Uruguay		5	4	9
Venezuela		3		3
Zambia		1		1
Zimbabwe			1	1
Total	**6**	**318**	**269**	**593**

Notes : Senior Management includes the Director General and Deputies Director General

Annual Average Salary

Senior Management	**224,886 CHF**
Professional Staff	**129,006 CHF**
Support	**85,959 CHF**

Source : WTO Secretariat as of January 1, 2003

WTO ACCESSION APPLICATIONS AND STATUS (as of 1-1-03)[1]

Applicant	Status of Multilateral and Bilateral Work
Algeria (1987)	GATT 1947 accession process never activated. Three Working Parties held during 2002 to review documentation. Initial goods and services market access offers circulated. Next meeting to be scheduled after WP receives responses to questions and comments from 2002 meetings and revised goods and services offers.
Andorra (1997)	WP meeting on October 13, 1999 reviewed legislative implementation schedule and goods and services market access offers. Awaiting information on legislative implementation and circulation of revised market access offers.
Armenia (1993)	Accession negotiations completed and accession package approved by December 2002 General Council. Awaiting parliamentary ratification.
Azerbaijan (1997)	First WP meeting held June 2002 to review initial documentation. No market access offers to date.
Bahamas (2001)	Application accepted at July 2001 General Council; has not yet submitted initial documentation to activate the accession negotiations.
Belarus (1993)	Second WP meeting scheduled for January 24 to review outstanding issues from March 2001 meeting and status of bilateral negotiations on goods and services market access.
Bosnia Herzegovina (1999)	Initial documentation submitted in October 2002. No market access offers to date. First WP meeting anticipated in first half of 2003, after circulation of written responses to initial questions and comments.
Bhutan * (1999)	Application accepted at October 1999 General Council; has not yet submitted initial documentation to activate the accession negotiations.
Cambodia * (1995)	WP meeting on November 7, 2002. Next meeting in first quarter 2003 to review actions plans for legislative implementation of WTO and status of market access negotiations. U.S. has submitted detailed requests.
Cape Verde * (2000)	Application accepted at July 2000 General Council; has not yet submitted initial documentation to activate the accession negotiations. First WP meeting possible in 2003.
Iran	Application for accession to the WTO circulated in September 1996; under consideration in the General Council since July 2001.
Kazakhstan (1996)	WP meeting held December 13, 2002. Legislative implementation remains incomplete, and Kazakhstan has requested extensive transitions for implementation in key areas, e.g., customs fees, taxation, SPS, TRIMS, etc. Revised goods and services offers and updated agenda for enactment of WTO legislation to be circulated prior to next WP meeting.
Laos * (1998)	Initial documentation submitted in March 2001. No working party meetings or market access offers to date.
Lebanon (1999)	First WP meeting held October 14, 2002 to review initial documentation. No market access offers to date.
Libya	Application for accession to the WTO circulated in December 2001. No Council review to date.
Former Yugoslav Republic of Macedonia (1995)	Accession negotiations completed and accession package approved by October 2002 General Council. Awaiting parliamentary ratification.

[1] "Applicant"column includes date the Working Party was formed. Pre-1995 dates indicate that the original WP was formed under the GATT 1947, but was reformed as a WTO Working Party in 1995.

* Designates "least developed country" applicant.

Applicant	Status of Multilateral and Bilateral Work
Nepal * (1989)	Second WP meeting on September 11, 2002 reviewed status of legislative implementation and sought additional information on WTO-inconsistent measures. Informal consultation scheduled for February 2003 to discuss actions plans for implementation and status of market access negotiations. U.S. has submitted detailed requests.
Russia (1993)	WP meetings held January 23-24, April 24-25, June 19-20, November 1, and December 15-17, 2002. Initial draft Working Party text circulated in March 2002. Intensive bilateral and multilateral work on protocol, agriculture, and goods and services market access during 2002 will continue during 2003 at WP meetings scheduled for January, March and April 2003, and at other bilateral opportunities. Legislative implementation ongoing.
Samoa * (1998)	First WP meeting held March 12, 2002 to review initial documentation and initial market access offers on goods and services. Further meetings likely during first half of 2003 to consider action plans for WTO implementation and revised market access offers.
Saudi Arabia (1993)	Last WP meeting and bilateral negotiations held in October 2000. Next WP meeting will assess the status of legislative implementation and progress in market access negotiations and review the draft WP report. Work on protocol issues and development of legislative implementation schedule continues.
Seychelles (1995)	WP meeting held in March 1998 continued review of the foreign trade regime. Next WP meeting to review status of legislative implementation. Further negotiations on goods and services market access awaiting revised offers.
Sudan * (1995)	Initial documentation circulated in January 1999 with additional information provided in November 2000. No working party meetings or market access offers to date.
Syria	Application for accession to the WTO first circulated in October 2001. No Council review to date.
Taiwan (Chinese Taipei) (1992)	Taiwan became the 144th Member of the WTO on January 1, 2002.
Tajikistan (2001)	Application accepted at July 2001 General Council; has not yet submitted initial documentation to activate the accession negotiations.
Tonga (1995)	First WP meeting held April 26, 2001 to review initial documentation and initial market access offers on goods and services. Further meetings likely during first half of 2003 to consider action plans for WTO implementation and revised market access offers.
Ukraine (1993)	WP meeting held June 25-26, 2002. Next meeting in February 2003 will review checklist of issues and consider development of a draft WP report. Comprehensive revised goods and services offers circulated in December 2001. Progress in market access impeded by existence of persistent non-tariff barriers, e.g., in SPS, and lack of IPR protection. Bilateral discussions in March, June, and December 2002 focused on outstanding issues in services and need for elimination of nontariff barriers to trade in goods.
Uzbekistan (1995)	First WP meeting held July 17, 2002 to review initial documentation. No market access offers to date.
Vanuatu * (1995)	Formal WP meeting October 29, 2001 adopted the protocol package. General Council approval delayed pending reconsideration of status by ni-Vanuatu Government.
Vietnam (1995)	WP meeting on April 10, 2002 reviewed progress made by Vietnam since the last meeting, in November 2000, in eliminating WTO inconsistent measures in place and plans for legislative implementing of WTO provisions. Revised goods and services market access offers expected prior to next WP meeting, expected in spring 2003.
Yemen * (2000)	Initial documentation submitted in November 2002. No market access offers to date. First WP meeting to be scheduled after circulation of written responses to initial questions and comments.

Applicant	Status of Multilateral and Bilateral Work
Yugoslavia (2001)	Initial documentation submitted in June 2002. No market access offers to date. First WP meeting anticipated in first half of 2003, after circulation of written responses to initial questions and comments.

WORLD TRADE ORGANIZATION

WT/DSB/19
29 March 2000
(00-1284)

INDICATIVE LIST OF GOVERNMENTAL AND NON-GOVERNMENTAL PANELISTS

1. To assist in the selection of panelists, the DSU provides in Article 8.4 that the Secretariat shall maintain an indicative list of governmental and non-governmental individuals.

2. In accordance with the proposals for the administration of the indicative list of panelists approved by the DSB on 31 May 1995, the list should be completely updated every two years. For practical purposes, the proposals for the administration of the indicative list approved by the DSB on 31 May 1995 are reproduced as an Annex to this document.

3. The attached is an updated consolidated list of governmental and non-governmental panelists.[1] The list contains the names included in the previous indicative list (WT/DSB/17) circulated by the Secretariat on 3 November 1999 and takes into account all the modifications made to that list by Members in accordance with the requirement that the list should be updated every two years. The new names approved by the DSB in the period between 28 October 1999 and 20 March 2000 are also included in the attached list.

[1] Curricula vitae containing more detailed information are available on request from the WTO Secretariat (Council Division – Room 2025). The curricula vitae which have been submitted on diskette are also available on the Document Dissemination Facility.

COUNTRY	NAME	SECTORAL EXPERIENCE
AUSTRALIA	ARNOTT, Mr. R.J.	Trade in Goods
	CHESTER, Mr. D.O.	TRIPS
	CHURCHE, Mr. M.	Trade in Goods
	GASCOINE, Mr. D.F.	Trade in Goods
	HAWES, Mr. D.C.	Trade in Goods and Services
	HIRD, Miss J.M.	Trade in Goods
	HUSSIN, Mr. P.A.	Trade in Goods
	MAY, Mr. P.H.	Trade in Goods
	O'CONNOR, Mr. P.R.	Trade in Goods
	SMITH, Mr. P.A.	TRIPS
	THOMSON, Mr. G.A.	Trade in Goods and Services
	WAINCYMER, Mr. J.	Trade in Goods
	YOUNG, Ms. E.	Trade in Goods
CANADA	BERNIER, Mr. I.	Trade in Goods and Services
	BRADFORD, Mr. M.V.M.	Trade in Goods and Services
	BROWN, Ms. C.A.	Trade in Goods and Services; TRIPS
	CLARK, Mr. P.J.	Trade in Goods and Services
	CLOSE, Ms. P.	Trade in Goods
	DE MESTRAL, Mr. A.	Trade in Goods
	EYTON, Mr. A.T.	Trade in Goods
	GHERSON, Mr. R.	Trade in Goods
	GOODWIN, Ms. K.M.	Trade in Goods and Services; TRIPS
	HALLIDAY, Mr. A.L.	Trade in Goods and Services
	HERMAN, Mr. L.L.	Trade in Goods
	HINES, Mr. W.R.	Trade in Goods
	MACMILLAN, Ms. K.E.	Trade in Goods
	MCRAE, Mr. D.	Trade in Goods
	OSTRY, Ms. S.	Trade in Goods
	RICHIE, Mr. G.	Trade in Goods
	THOMAS, Mr. J.C.	Trade in Goods and Services
	WINHAM, Mr. M.M.	Trade in Goods

CHILE	BIGGS, Mr. G.	Trade in Goods
	JARA, Mr. A.	Trade in Goods and Services
	MATUS, Mr. M.	Trade in Goods
	PEÑA, Ms. G.	Trade in Goods
	SAEZ, Mr. S.	Trade in Goods and Services
	SATELER, Mr. R.	TRIPS
	TIRONI, Mr. E.	Trade in Goods
COLOMBIA	CÁRDENAS, Mr. M.J.	Trade in Goods and Services; TRIPS
	IBARRA PARDO, Mr. G.	Trade in Goods
	JARAMILLO, Mr. F.	Trade in Goods and Services
	LEAL ANGARITA, Mr. M.	Trade in Goods and Services
	OROZCO JARAMILLO, Ms. C.Y.	Trade in Goods
CUBA	CABALLERO RODRÍGUEZ, Mr. E.	Trade in Goods and Services
CZECH REP.	JUNG, Mr. Z.	Trade in Goods and Services
	PALEČKA, Mr. P.	Trade in Goods and Services
	PRAVDA, Mr. M.	Trade in Goods
	ŠRONĚK, Mr. I.	TRIPS
EGYPT	ABOUL-ENEIN, Mr. M.I.M.	Trade in Goods and Services
	HATEM, Mr. S.A.	Trade in Goods and Services
	SHAHIN, Ms. M.	Trade in Goods and Services; TRIPS
	SHARAFELDIN, Mr. A.	Trade in Goods; TRIPS
	ZAHRAN, Mr. M.M.	Trade in Goods and Services; TRIPS
EUROPEAN COMMUNITIES		
AUSTRIA	BENEDEK, Mr. W.	Trade in Goods
	MARTINS, Mr. R.	Trade in Goods
	REITERER, Mr. M.G.K.	Trade in Goods and Services; TRIPS
	WEISS, Mr. J.F.	Trade in Goods and Services; TRIPS
	ZEHETNER, Mr. F.	Trade in Goods

EUROPEAN COMMUNITIES (cont'd)		
BELGIUM	DASSESSE, Mr. M.P.A.	Trade in Goods and Services
	DIDIER, Mr. P.	Trade in Goods
	VANDER SCHUEREN, Ms. P.	Trade in Goods and Services
DENMARK	BOESGAARD, Mr. H.	Trade in Goods
FINLAND	BERGHOLM, Mr. K.A.	Trade in Goods
	JULIN, Mr. J.K.J.	Trade in Goods and Services
	LUOTONEN, Mr. Y.K.D.	Trade in Goods
	PULLINEN, Mr. M.Y.	Trade in Goods
	RANTANEN, Mr. P.I.	Trade in Goods
FRANCE	ARMAIGNAC, Ms. M.-C.	Trade in Services; TRIPS
	BEAURAIN, Mr. C.	Trade in Services
	COMBALDIEU, Mr. J.C.	TRIPS
	DELLEUR, Mr. P.	Trade in Services
	JENNY, Mr. F.Y.	Trade in Goods and Services; TRIPS
	METZGER, Mr. J-M.	Trade in Goods
GERMANY	BARTH, Mr. D.	Trade in Services
	BARTKOWSKI, Mr. D.H.H.	Trade in Services
	DELBRÜCK, Mr. K.	Trade in Goods
	HILF, Mr. M.	Trade in Goods and Services
	MENG, Mr. W.	Trade in Goods, TRIPS
	MÖHLER, Mr. R.	Trade in Goods
	von MÜHLENDAHL, Mr. A.	TRIPS
	OPPERMANN, Mr. T.	Trade in Goods; TRIPS
	PETERSMANN, Mr. E-U	Trade in Goods and Services; TRIPS
	TANGERMANN, Mr. S.	Trade in Goods
	WITT, Mr. P.J.	Trade in Goods
GREECE	MYROGIANNIS, Mr. G.	Trade in Goods
	STANGOS, Mr. P.N.	Trade in Goods and Services; TRIPS
EUROPEAN COMMUNITIES (cont'd)		
IRELAND	LONG, Mr. R.	Trade in Goods; TRIPS
	MATTHEWS, Mr. A.H.	Trade in Goods
	MOCKLER, Mr. T.F.	Trade in Goods
ITALY	GERBINO, Mr. M.	Trade in Goods
	GIARDINA, Mr. A.	Trade in Goods and Services
	SACERDOTI, Mr. G.	Trade in Goods and Services

	SCHIRATTI, Mr. G.	Trade in Goods
NETHERLANDS	BLOKKER, Mr. N.M.	Trade in Goods
	HOEKMAN, Mr. B.M.	Trade in Goods and Services; TRIPS
	van de LOCHT, Mr. P.	Trade in Goods and Services
SPAIN	CASTILLO URRUTIA, Mr. J.A.	Trade in Goods
SWEDEN	ANDERSSON, Mr. T.M.	Trade in Goods
	ANELL, Mr. L.	Trade in Goods; TRIPS
	FALLENIUS, Mr. C.H.	Trade in Goods
	HÅKANSSON, Mr. G.P.-O.	Trade in Services
	HOLGERSSON, Mr. J.	Trade in Goods and Services
	KLEEN, Mr. P.	Trade in Goods
	LINDSTRÖM, Mr. J.M.	Trade in Goods
	MANHUSEN, Mr. C.	Trade in Goods and Services
	RISINGGÅRD, Mr. A.B.	Trade in Goods
	RODIN, Mr. A.	Trade in Goods; TRIPS
	STÅLBERG, Mr. L.A.	Trade in Goods
UNITED KINGDOM	ARKELL, Mr. J.	Trade in Services
	CROFT, Mr. R.H.F.	Trade in Services
	HINDLEY, Mr. B.V.	Trade in Goods and Services
	JOHNSON, Mr. M.D.C.	Trade in Goods
	MUIR, Mr. T.	Trade in Goods and Services; TRIPS
	PLENDER, Mr. R.	Trade in Goods
EUROPEAN COMMUNITIES (cont'd)		
UNITED KINGDOM (cont'd)	ROBERTS, Mr. C.W.	Trade in Goods and Services
	TOULMIN, Mr. J.K.	Trade in Services
HONG KONG, CHINA	CARTLAND, Mr. M.D.	Trade in Goods and Services
	FOOTMAN, Mr. R.	Trade in Goods and Services
	LO, Mr. P.Y.F.	Trade in Goods
	MILLER, Mr. J.A.	Trade in Goods and Services
	SZE, Mr. M.C.C.	Trade in Goods
HUNGARY	FURULYÁS, Mr. F.	Trade in Goods
	LAKATOS, Mr. A.	Trade in Goods and Services
ICELAND	BJÖRGVINSSON, Mr. D.T.	Trade in Goods and Services
	JÓHANNSSON, Mr. E.M.	Trade in Goods
	SANDHOLT, Mr. B.	Trade in Goods

INDIA	AGARWAL, Mr. V.K.	Trade in Goods; TRIPS
	BHATTACHARYA, Mr. G.C.	Trade in Goods
	CHANDRASEKHAR, Mr. K.M	Trade in Goods and Services; TRIPS
	DAS, Mr. B.L.	Trade in Goods
	DASGUPTA, Mr. J.	Trade in Goods
	GANESAN, Mr. A.V.	Trade in Goods, Services; TRIPS
	GOYAL, Mr. A.	Trade in Services
	KUMAR, Mr. M.	Trade in Goods and Services
	MOHANTY, Mr. P.K.	Trade in Goods
	MUKERJI, Mr. A.	Trade in Goods and Services; TRIPS
	PRASAD, Ms. A.	Trade in Goods and Services; TRIPS
	RAI, Mr. P.	TRIPS
	RAMAKRISHNAN, Mr. N.	Trade in Goods
	RAO, Mr. P.S.	Trade in Goods
	REGE, Mr. N.V.	Trade in Goods
	SAJJANHAR, Mr. A.	Trade in Goods
	SHARMA, Mr. L.	Trade in Goods and Services; TRIPS
INDIA (cont'd)	VENUGOPAL, Mr. K.	Trade in Goods; TRIPS
	WATAL, Mrs. J.	TRIPS
	ZUTSHI, Mr. B.K.	Trade in Goods and Services; TRIPS
ISRAEL	ALTUVIA, Mr. M.	Trade in Goods
	GABAY, Mr. M.	TRIPS
	HARAN, Mr. E.F.	Trade in Services
	SEMADAR, Mr. M.	Trade in Goods
	SHATON, Mr. M.	Trade in Goods and Services
	TALBAR, Mr. M.A.	Trade in Goods
	WEILER, Mr. J.	Trade in Goods
JAPAN	ARAKI. Mr. I	Trade in Goods and Services; TRIPS
	ASAKURA, Mr. H.	Trade in Goods
	ISHIGURO, Mr. K.	Trade in Goods and Services; TRIPS
	IWASAWA, Mr. Y.	Trade in Goods
	KANDA, Mr. H.	Trade in Services
	KEMMOCHI, Mr. N.	Trade in Goods and Services
	KOTERA, Mr. A.	Trade in Goods and Services
	OHARA, Mr. Y.	Trade in Goods; TRIPS
	SHIMIZU, Mr. A.	Trade in Goods
	TAKASE, Mr. T.	Trade in Goods and Services
	TSURUOKA, Mr. K.	Trade in Services
KOREA	CHANG, Mr. S.W.	Trade in Goods
	CHO, Mr. D.Y.	Trade in Goods and Services
	CHO, Mr. T-U	Trade in Goods
	CHOI, Mr. B.I.	Trade in Services

	KIM, Mr. J.B.	Trade in Goods
	LEE, Mr. J.	Trade in Goods
	PARK, Mr. N.	Trade in Goods
	YUN, Mr. Y. G.	Trade in Goods
MADAGASCAR	ANDRIANARIVONY, Mr. M.	Trade in Goods and Services; TRIPS
MAURITIUS	BHUGLAH, Mr. A.	Trade in Goods and Services
NEW ZEALAND	ARMSTRONG, Mr. W.M.V.	Trade in Goods; TRIPS
	CARSON, Mr. C.B.	Trade in Goods
	FALCONER, Mr. C.D.	Trade in Goods
	FALCONER, Mr. W.J.	Trade in Goods and Services; TRIPS
	GROSER, Mr. T.	Trade in Goods
	HAMILTON, Mr. P.W	Trade in Goods
	HARVEY, Mr. M.W.	Trade in Goods
	HIGGIE, Ms. D.C.	Trade in Goods
	KENNEDY, Mr. P.D.	Trade in Goods
	MACEY, Mr. A.	Trade in Goods; TRIPS
	MCPHAIL, Mr. A.H.	Trade in Goods
	NOTTAGE, Mr. M.J.	Trade in Goods
	SLADE, Ms. M.	Trade in Goods and Services; TRIPS
	TRAINOR, Mr. M.J.	Trade in Goods; TRIPS
	WALKER, Mr. D.J.	Trade in Goods and Services
	WOODFIELD, Mr. E.A.	Trade in Goods
NORWAY	LILLERUD, Mr. K.	Trade in Goods
	LUNDBY, Mr. O.	Trade in Goods and Services; TRIPS
	SELAND, Mr. H.A.	Trade in Goods and Services; TRIPS
	TØNSETH, Mr. D.	Trade in Goods and Services; TRIPS
PANAMA	GONZALEZ, Mr. C.E.	Trade in Goods and Services
POLAND	PIETRAS, Mr. J.	Trade in Services
QATAR	MAKKI, Mr. F.	Trade in Goods and Services
SRI LANKA	JAYASEKERA, Mr. D.	Trade in Goods; TRIPS
SWITZERLAND	BALDI, Mr. M.	Trade in Services
	BLATTNER, Mr. N.	Trade in Services
	CHAMBOVEY, Mr. D.	Trade in Goods
	COTTIER, Mr. Th.	Trade in Goods and Services; TRIPS
	GETAZ, Mr. H.A.	Trade in Services
SWITZERLAND (cont'd)	HÄBERLI, Mr. C	Trade in Goods
	INEICHEN-FLEISCH, Ms. M.-G.	Trade in Goods and Services

	KRAFFT, Mr. —C.	Trade in Goods
	TRAN, Ms. T.T.-L.	TRIPS
	WASESCHA, Mr. L.	Trade in Goods and Services; TRIPS
	WEBER, Mr. R.	Trade in Services
UNITED STATES	BIRENBAUM, Mr. D.E.	Trade in Goods
	GORDON, Mr. M.W.	Trade in Goods
	GREENWALD, Mr. J.A.	Trade in Goods; TRIPS
	HUDEC, Mr. R.E.	Trade in Goods and Services
	KASSINGER, Mr. T.W.	Trade in Goods and Services
	KIRK, Mr. M.K.	TRIPS
	LICHTENSTEIN, Ms. C.C.	Trade in Services
	PARTAN, Mr. D.G.	Trade in Goods
	REYNA, Mr. J.V.	Trade in Goods and Services
	VERRILL, Jr. Mr. C.O.	Trade in Goods
URUGUAY	AMORÍN, Mr. C.	Trade in Goods; TRIPS
	ROSSELLI, Mr. A.O.	Trade in Goods
	VANERIO, Mr. G.	Trade in Goods and Services
VENEZUELA	ESCOBAR, Mr. J.B.	Trade in Services
	MARQUEZ, Mr. G.	Trade in Services

ANNEX

Administration of the Indicative List

4. To assist in the selection of panelists, the DSU provides in Article 8.4 that the Secretariat shall maintain an indicative list of qualified governmental and non-governmental individuals. Accordingly, the Chairman of the DSB proposed at the 10 February meeting that WTO Members review the roster of non-governmental panelists established on 30 November 1984 (BISD 31S/9) (hereinafter referred to as the "1984 GATT Roster") and submit nominations for the indicative list by mid-June 1995. On 14 March, The United States delegation submitted an informal paper discussing, amongst other issues, what information should accompany the nomination of individuals, and how names might be removed from the list. The DSB further discussed the matter in informal consultations on 15 and 24 March, and at the DSB meeting on 29 March. This note puts forward some proposals for the administration of the indicative list, based on the previous discussions in the DSB.

General DSU requirements

2. The DSU requires that the indicative list initially include "the roster of governmental and non-governmental panelists established on 30 November 1984 (BISD 31S/9) and other rosters and indicative lists established under any of the covered agreements, and shall retain names of persons on those rosters and indicative lists at the time of entry into force of the WTO Agreement" (DSU 8.4). Additions to the indicative list are to be made by Members who may "periodically suggest names of governmental and non-governmental individuals for inclusion on the indicative list, providing relevant information on their knowledge of international trade and of the sectors or subject matter of the covered agreements." The names "shall be added to the list upon approval by the DSB" (DSU 8.4).

Submission of information

3. As a minimum, the information to be submitted regarding each nomination should clearly reflect the requirements of the DSU. These provide that the list "shall indicate specific areas of experience or expertise of the individuals in the sectors or subject matter of the covered agreements" (DSU 8.4). The DSU also requires that panelists be "well-qualified governmental and/or non-governmental individuals, including persons who have served on or presented a case to a panel, served as a representative of a Member or of a contracting party to GATT 1947 or as a representative to the Council or Committee of any covered agreement or its predecessor agreement, or in the Secretariat, taught or published on international trade law or policy, or served as a senior trade policy official of a Member" (DSU 8.1).

4. The basic information required for the indicative list could best be collected by use of a standardized form. Such a form, which could be called a Summary Curriculum Vitae, would be filled out by all nominees to ensure that relevant information is obtained. This would also permit information on the indicative list to be stored in an electronic database, making the list easily updateable and readily available to Members and the Secretariat. As well as supplying a completed Summary Curriculum Vitae form, persons proposed for inclusion on the indicative list could also, if they wished, supply a full Curriculum Vitae. This would not, however, be entered into the electronic part of the database.

Updating of indicative list

5. The DSU does not specifically provide for the regular updating of the indicative list. In order to maintain the credibility of the list, it should however be completely updated every two years. Within the first month of each two-year period, Members would forward updated Curricula Vitae of persons appearing on the indicative list. At any time, Members would be free to modify the indicative list by proposing new names for inclusion, or specifically requesting removal of names of persons proposed by the Member who were no longer in a position to serve, or by updating the summary Curriculum Vitae.

6. Names on the 1984 GATT Roster that are not specifically resubmitted, together with up-to-date summary, Curriculum Vitae, by a Member before 31 July 1995 would not appear after that date on the indicative list.

Other rosters

7. The Decision on Certain Dispute Settlement Procedures for the GATS (S/L/2 of 4 April 1995), adopted by the Council for Trade in Services on 1 March 1995, provides for a special roster of panelists with sectoral expertise. It states that "panels for disputes regarding sectoral matters shall have the necessary expertise relevant to the specific services sectors which the dispute concerns." It directs the Secretariat to maintain the roster and "develop procedures for its administration in consultation with the Chairman of the Council." A working document (S/C/W/1 of 15 February 1995) noted by the Council for Trade in Services states that "the roster to be established under the GATS pursuant to this Decision would form part of the indicative list referred to in the DSU." The specialized roster of panelists under the GATS should therefore be integrated into the indicative list, taking care that the latter provides for a mention of any service sectoral expertise of persons on the list.

8. A suggested format for the Summary Curriculum Vitae form for the purposes of maintaining the Indicative List is attached as an Annex.

Summary Curriculum Vitae
for Persons Proposed for the Indicative List

1.	**Name:**	full name
2.	**Sectoral Experience**	
	List here any particular sectors of expertise: (e.g. technical barriers, dumping, financial services, intellectual property, etc.)	
3.	**Nationality(ies)**	all citizenships
4.	**Nominating Member:**	the nominating Member
5.	**Date of birth:**	full date of birth
6.	**Current occupations:**	year beginning, employer, title, responsibilities
7.	**Post-secondary education**	year, degree, name of institution
8.	**Professional qualifications**	year, title
9.	**Trade-related experience in Geneva in the WTO/GATT system**	
	a. Served as a panelist	year, dispute name, role as chairperson/member
	b. Presented a case to a panel	year, dispute name, representing which party
	c. Served as a representative of a contracting party or member to a WTO or GATT body, or as an officer thereof	year, body, role
	d. Worked for the WTO or GATT Secretariat	year, title, activity
10.	**Other trade-related experience**	
	a. Government trade work	year, employer, activity
	b. Private sector trade work	year, employer, activity
11.	**Teaching and publications**	
	a. Teaching in trade law and policy	year, institution, course title
	b. Publications in trade law and policy	year, title, name of periodical/book, author/editor (if book)

WORLD TRADE ORGANIZATION

WT/DSB/19/Add.1
26 June 2001
(01-3178)

INDICATIVE LIST OF GOVERNMENTAL AND NON-GOVERNMENTAL PANELISTS

Addendum

5. At its meetings on 18 May, 26 September, 23 October, 12 December 2000 and 1 February, 16 May and 20 June 2001, the Dispute Settlement Body approved the following names for inclusion on the Indicative List of Governmental and Non-Governmental Panelists.[1]

COUNTRY	NAME	SECTORAL EXPERIENCE
CÔTE D'IVOIRE	GOSSET, Mme. M.	Trade in Goods; TRIPS
EGYPT	RIAD, Mr. T.F.	Trade in Goods and Services; TRIPS
EUROPEAN COMMUNITIES		
AUSTRIA	WAAS, Mr. G.	Trade in Goods and Services; TRIPS
BELGIUM	VAN DER BORGHT, Mr. K.	Trade in Goods
FRANCE	PHAN VAN PHI, Mr. R.	Trade in Goods
NETHERLANDS	BRONCKERS, Mr. M.	Trade in Goods and Services; TRIPS
	ENGERING, Mr. F.A.	Trade in Goods and Services
INDIA	CHAUDHURI, Mr. S.	Trade in Goods and Services
	KAUSHIK, Mr. A.	Trade in Goods; TRIPS
	PRABHU, Mr. P.P.	Trade in Goods; TRIPS
MAURITIUS	BEEKARRY, Mr. N.	Trade in Goods and Services
PERU	DIEZ LIZARDO, Mr. J.	Trade in Goods
TURKEY	KAÇAR, Mr. B.	Trade in Goods

[1] WT/DSB/19.

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Note: The Permanent Mission of Chile has informed the Secretariat that the name of Ms. C.L. Guarda should be removed from the Indicative List of Governmental and Non-Governmental Panelists due to the fact that she joined the WTO Secretariat as Director of the Market Access Division. Also, the Permanent Mission of India has informed the Secretariat that the name of Mr. A. V. Ganesan should be removed from the Indicative List of Governmental and Non-Governmental Panelists due to the fact that he was appointed as a member of the Appellate Body.

ORGANIZATION

WT/DSB/W/187
26 February 2002
(02-0967)

Dispute Settlement Body
8 March 2002

PROPOSED NOMINATIONS FOR THE INDICATIVE LIST OF GOVERNMENTAL AND NON-GOVERNMENTAL PANELISTS

The following additional names have been proposed for inclusion on the Indicative List of Governmental and Non-Governmental Panelists in accordance with Article 8.4 of the DSU.

COUNTRY	NAME	SECTORAL EXPERIENCE
BRAZIL	ABREU, Mr. M.	Trade in Goods and Services
	ARAUJO, Mr. J.T.	Trade in Goods
	BARRAL, Mr. W.O.	Trade in Goods
	BASSO, Ms. M.	Trade in Goods; TRIPS
	LEMME, Ms. M.C.	Trade in Goods
	MAGALHÃES, Mr. J.C.	Trade in Goods
	MARCONINI, Mr. M.	Trade in Services
	MOTTA VEIGA, Mr. P.L.C.	Trade in Goods and Services
	MOURA ROCHA, Mr. B.	Trade in Services
	NAIDIN, Ms. L.C.	Trade in Goods
	OLIVEIRA FILHO, Mr. G.J.	Trade in Goods
	RIOS, Ms. S.M.	Trade in Goods
	SOARES, Mr. G.F.	TRIPS
	THORSTENSEN, Ms. V.H.	Trade in Goods
EUROPEAN COMMUNITIES		
SPAIN	DÍAZ MIER, Mr. M.Á.	Trade in Services
	LÓPEZ DE SILANES MARTÍNEZ Mr. J.P.	Trade in Goods and Services
INDIA	AGRAWAL, Mr. R.P.	Trade in Goods and Services; TRIPS

WORLD TRADE ORGANIZATION

WT/DSB/W/191
8 May 2002
(02-2610)

Dispute Settlement Body
22 May 2002

PROPOSED NOMINATIONS FOR THE INDICATIVE LIST OF GOVERNMENTAL AND NON-GOVERNMENTAL PANELISTS

The following additional names have been proposed for inclusion on the Indicative List of Governmental and Non-Governmental Panelists in accordance with Article 8.4 of the DSU.[1]

COUNTRY	NAME	SECTORAL EXPERIENCE
ARGENTINA	NISCOVOLOS, Mr. L.P.	Trade in Services
CUBA	HERNÁNDEZ, Mr. A.	Trade in Goods and Services
	MARZIOTA DELGADO, Mr. E.A.	Trade in Goods and Services
PAKISTAN	NAYYAR, Mr. S.I.M.	Trade in Goods and TRIPS

[1]Curricula Vitae containing more detailed information are available on request from the WTO Secretariat (Council and TNC Division – Room 3105).

WORLD TRADE ORGANIZATION

WT/DSB/W/196
14 June 2002
(02-3329)

Dispute Settlement Body
24 June 2002

PROPOSED NOMINATIONS FOR THE INDICATIVE LIST OF GOVERNMENTAL AND NON-GOVERNMENTAL PANELISTS

The following additional names have been proposed for inclusion on the Indicative List of Governmental and Non-Governmental Panelists in accordance with Article 8.4 of the DSU.[1]

COUNTRY	NAME	SECTORAL EXPERIENCE
PANAMA	FRANCIS LANUZA, Ms Y.	Trade in Goods and Services
	HARRIS ROTKIN, Mr N.	Trade in Goods and Services
	SALAZAR FONG, Ms D.	Trade in Goods
UNITED STATES	BROWN-WEISS, Ms E.	Trade in Goods and Services
	GANTZ, Mr D.	Trade in Goods
	HELFER, Ms R.T.	Trade in Services
	LAYTON, Mr D.	Trade in Goods
	McGINNIS, Mr J.	Trade in Goods; TRIPS
	SHERMAN, Mr S.	Trade in Goods

[1]Curricula Vitae containing more detailed information are available on request from the WTO Secretariat (Council and TNC Division – Room 3105).

WORLD TRADE ORGANIZATION

WT/DSB/W/208
1 November 2002
(02-5999)

Dispute Settlement Body
11 November 2002

PROPOSED NOMINATIONS FOR THE INDICATIVE LIST OF GOVERNMENTAL AND NON-GOVERNMENTAL PANELISTS

The following additional names have been proposed for inclusion on the Indicative List of Governmental and Non-Governmental Panelists in accordance with Article 8.4 of the DSU.[1]

COUNTRY	NAME	SECTORAL EXPERIENCE
CROATIA	ŠARČEVIĆ, Mr. P	Trade in Goods and Services
EUROPEAN COMMUNITIES		
BELGIUM	ZONNEKEYN, Mr. G.A.	Trade in Goods
UNITED KINGDOM	QURESHI, Mr. A.H.	Trade in Goods
HONG KONG, CHINA	CHEUNG, Mr. P.K.F.	TRIPS
	LEUNG, Ms. A.K.L.	TRIPS
	LITTLE, Mr. D.	Trade in Goods and Services
	SELBY, Mr. S.R.	TRIPS

[1]Curricula Vitae containing more detailed information are available on request from the WTO Secretariat (Council and Trade Negotiations Division – Room 3105).

WORLD TRADE ORGANIZATION

WT/DSB/W/211
18 November 2002
(02-6380)

Dispute Settlement Body
28 November 2002

PROPOSED NOMINATION FOR THE INDICATIVE LIST OF GOVERNMENTAL AND NON-GOVERNMENTAL PANELISTS

The following name has been proposed for inclusion on the Indicative List of Governmental and Non-Governmental Panelists in accordance with Article 8.4 of the DSU.[1]

COUNTRY	NAME	SECTORAL EXPERIENCE
URUGUAY	WHITELAW, Mr. J.A.	Trade in Goods

[1]Curriculum Vitae containing more detailed information is available on request from the WTO Secretariat (Council and Trade Negotiations Division – Room 3105).

WORLD TRADE ORGANIZATION

WT/DSB/W/215
9 December 2002
(02-6789)

Dispute Settlement Body
19 December 2002

PROPOSED NOMINATIONS FOR THE INDICATIVE LIST OF GOVERNMENTAL AND NON-GOVERNMENTAL PANELISTS

The following additional names have been proposed for inclusion on the Indicative List of Governmental and Non-Governmental Panelists in accordance with Article 8.4 of the DSU.[1]

COUNTRY	NAME	SECTORAL EXPERIENCE
COLOMBIA	OROZCO, Ms. A.M.	Trade in Goods
	BARBERI, Mr. F.	Trade in Goods
ECUADOR	CEVALLOS, Mr. A.P.	Trade in Goods
NEW ZEALAND	FARRELL, Mr. R.	Trade in Goods

[1]Curricula Vitae containing more detailed information are available on request from the WTO Secretariat (Council and Trade Negotiations Division – Room 3105).

WORLD TRADE ORGANIZATION
ORGANISATION MONDIALE DU COMMERCE
ORGANIZACIÓN MUNDIAL DEL COMERCIO

WT/DSB/W/215/Corr.1
12 December 2002
(02-6878)

Dispute Settlement Body
19 December 2002

PROPOSED NOMINATIONS FOR THE INDICATIVE LIST OF GOVERNMENTAL AND NON-GOVERNMENTAL PANELISTS

Corrigendum

In the proposed nominations for the Indicative List of Governmental and Non-Governmental Panelists (WT/DSB/W/215), the name under Ecuador should read as follows:

COUNTRY	NAME	SECTORAL EXPERIENCE
ECUADOR	PINOARGOTE CEVALLOS, Mr. A.	Trade in Goods

Organe de règlement des différends
19 décembre 2002

LISTE INDICATIVE DE PERSONNES AYANT OU NON DES ATTACHES AVEC DES ADMINISTRATIONS NATIONALES APPELÉES À FAIRE PARTIE DE GROUPES SPÉCIAUX - DÉSIGNATIONS PROPOSÉES

Corrigendum

Dans les désignations proposées pour la liste indicative de personnes ayant ou non des attaches avec des administrations nationales appelées à faire partie de groupes spéciaux (WT/DSB/W/215), le nom indiqué pour l'Équateur doit se lire comme suit:

PAYS	NOM	EXPÉRIENCE SECTORIELLE
ÉQUATEUR	M. A. PINOARGOTE CEVALLOS	Commerce des marchandises

Órgano de Solución de Diferencias
19 de diciembre de 2002

CANDIDATURAS PROPUESTAS PARA SU INCLUSIÓN EN LA LISTA INDICATIVA DE EXPERTOS GUBERNAMENTALES Y NO GUBERNAMENTALES QUE PUEDEN SER INTEGRANTES DE GRUPOS ESPECIALES

Corrigendum

En las candidaturas propuestas para su inclusión en la lista indicativa de expertos gubernamentales y no gubernamentales que pueden ser integrantes de grupos especiales (WT/DSB/W/215), el nombre correspondiente al epígrafe "Ecuador" debe ser el siguiente:

PAÍS	NOMBRE	EXPERIENCIA SECTORIAL
ECUADOR	PINOARGOTE CEVALLOS, Sr. A.	Comercio de Mercancías

MEMBERSHIP OF THE WTO APPELLATE BODY

The membership of the WTO Appellate Body is as follows:

Mr. G M Abi-Saab (Egypt),
Mr. A V Ganesan (India),
Professor Luiz Olavo Baptisa,
Professor Giorgio Sacerdoti.
Mr. James Bacchus (United States),
Mr. Yasuhei Taniguchi (Japan),
Mr. John S. Lockhart,

BIOGRAPHICAL NOTES:

Georges Michel Abi-Saab

Born in Egypt on 3 June 1933, Georges Michel Abi-Saab is Professor of International Law at the Graduate Institute of International Studies in Geneva, Honorary Professor at Cairo University's Faculty of Law, and a Member of the Institute of International Law.

Mr Abi-Saab served as consultant to the Secretary-General of the United Nations for the preparation of two reports on "Respect of Human Rights in Armed Conflicts" (1969 and 1970), and for the report on "Progressive Development of Principles and Norms of International Law relating to the New International Economic Order" (1984). He has also served as a Judge on the Appeals Chamber of the International Criminal Tribunals for the former Yugoslavia and for Rwanda, and as a Member of the Administrative Tribunal of the International Monetary Fund and of various international arbitral tribunals.

Mr Abi-Saab is the author of two courses at the Hague Academy of International Law, and of several books and articles, including "International Crises and the Role of Law: The United Nations Operation in the Congo 1960-1964" (Oxford University Press 1978).

James Bacchus

James Bacchus of the United States, born 1949, is an attorney who has been closely involved with international trade matters in both his public and professional careers for more than twenty years.

During his tenure in the US Congress, where he served two terms of office in the House of Representatives from 1991-1994, he was appointed to the ad hoc Trade Policy Coordinating Committee. From 1979-1981, he had served as Special Assistant to the United States Trade Representative Reubin Askew. Since leaving Congress in January 1995, Mr. Bacchus has returned to the Florida-based private law firm of Greenberg Traurig where he began his legal career before he joined the USTR in 1979. He has practiced widely in the areas of corporate banking and international law.

Mr. Bacchus' educational distinctions include Bachelor of Arts with High Honours in History, Vanderbilt University, 1971; Master of Arts in History, Yale University, 1973 and Woodrow Wilson Fellow; and Juris Doctor, Florida State University College of Law, 1978. He has been the Thomas P. Johnson Distinguished Visiting Scholar at Rollins College in Florida, and remains an Adjunct Professor in the Department of Politics at Rollins, where he teaches political philosophy and public policy on a variety of issues including international trade.

Arumugamangalam Venkatachalam Ganesan

Born in India on 7 June 1935, Arumugamangalam Venkatachalam Ganesan served in the Government of India for 34 years until his retirement on 30 June 1993. During his long career, he held various positions in his Government and at the United Nations Headquarters in New York, including: Commerce Secretary (1991-1993) in charge of India's foreign trade policy and chief negotiator of India in the Uruguay Round;

Civil Aviation Secretary (1990-1991); Additional Secretary at the Ministry of Industry (1988-1989) in charge of industrial policies, foreign investment in India, administration of India's laws on patents, designs and trade marks, closely associated with the TRIPS agenda in the Uruguay Round; and Inter-Regional Adviser (1980-1985) at the United Nations Centre on Transnational Corporations in New York.

Since his retirement from government service, Mr Ganesan has been active as a consultant for the UNDP and for the private and public sectors in India. He was, until recently, a member of the Permanent Group of Experts under the WTO Agreement on Subsidies and Countervailing Measures; a member of the Indian Government's Trade Advisory Committee on multilateral trade negotiations; and a member of a WTO dispute settlement panel examining the European Communities' complaint against Section 110(5) of the US Copyright Act.

Mr Ganesan has written numerous newspaper articles and monographs dealing with the Uruguay Round, the WTO and the Seattle Ministerial Conference. He is the author of several papers on trade and investment issues published by various UN agencies such as UNCTAD and UNIDO, and has contributed to many books published in India concerning the Uruguay Round and intellectual property rights.

Yasuhei Taniguchi

Born in Japan on 26 December 1934, Yasuhei Taniguchi is Professor of Law at Tokyo Keizai University, and an Attorney at Law in Tokyo. He has been a Visiting Professor at several universities, including: University of Hong Kong; Georgetown University Law Center, Washington DC; Stanford Law School, University of California; Murdoch University, Perth; University of Melbourne; Harvard Law School; University of Paris XII; and New York University School of Law.

Mr Taniguchi is affiliated to several legal institutions including the Japan Commercial Arbitration Association; International Council for Commercial Arbitration; the American Law Institute; and the Chartered Institute of Arbitrators. He has handled many international arbitration cases and is listed in the arbitrators' panel of the Japan Commercial Arbitration Association; the American Arbitration Association; the Hong Kong International Arbitration Centre; the China International Economic and Trade Arbitration Commission; and the Cairo Regional Centre of Commercial Arbitration.

He has written numerous books and articles in the fields of civil procedure, arbitration, judicial system/legal profession, and comparative/international law. His publications have appeared in Japanese, Chinese, English, French, Italian and German.

Luiz Olavo Baptista

Born in Brazil on 24 July 1938, Luiz Olavo Baptista is Professor of Law at the Department of International Law, University of Sao Paulo Law School. He has been practising law for more than thirty years as lawyer, counsel and arbitrator in Brazil and abroad, advising corporations, governments and individuals.

Professor Baptista obtained Full Professorship of International Law in Sao Paulo University Law School in 1993, and has written many books and articles concerning new and complex legal issues, particularly those related to international business, trade and foreign investments.

Professor Baptista was one of the pioneers in studying international arbitration in Brazil, and has a long experience in arbitration procedures in different jurisdictions. He participates as a member of the arbitral corps of several associations, and has acted as advisor for Brazilian and international organizations. He also has extensive experience in the issuance of legal opinions, structuring and preparation of merger and acquisition and joint ventures agreements.

Born in Australia on 2 October 1935, John S Lockhart has been Executive Director at the Asian Development Bank in the Philippines since July 1999, working closely with developing member countries on the development of programmes directed at poverty alleviation through the promotion of economic growth. His other duties at the ADB include the development of law reform programmes and provision of advice on legal questions, notably the interpretation of the ADB's Charter, international treaties and UN instruments.

Prior to joining the ADB, Mr Lockhart served as Judicial Reform Specialist at the World Bank focusing on strengthening legal and judicial institutions and working closely with developing countries and economies in transition in their projects of judicial and legal reform.

Since graduating in law from the University of Sydney in 1958, Mr Lockhart's professional experience has included: Judge, Federal Court of Australia (1978-1999); President of the Australian Competition Tribunal (1982-1999); Deputy President of the Australian Copyright Tribunal (1981-1997); and Queen's Counsel, Australia and the United Kingdom Privy Council (1973-1978).

Giorgio Sacerdoti

Born in France on 2 March 1943, Giorgio Sacerdoti has been Professor of International Law and European Law at Bocconi University, Milan, Italy, since 1986.

Professor Sacerdoti has held various posts in the public sector including: Vice-Chairman of the OECD Working Group on Bribery in International Business Transactions (since 1999); Panellist at the International Centre for Settlement of Investment Disputes (since 1981); and Consultant to the Council of Europe (1996), UNCTAD (1998-2000), World Bank (1999-2000) in matters related to international investments, trade, bribery, development and good governance. In the private sector, he has often served as arbitrator and chairman of arbitration tribunals and in *ad hoc* arbitration proceedings for the settlement of international commercial disputes.

After graduating from the University of Milan with a law degree *summa cum laude* in 1965, Professor Sacerdoti gained a Master in Comparative Law from Columbia University Law School as a Fulbright Fellow in 1967. He was admitted to the Milan bar in 1969, and to the Supreme Court of Italy in 1979. He is a Member of the Committee on International Trade Law of the International Law Association.

Source: WTO Secretariat

Where to Find More Information on the WTO

Information about the WTO and trends in international trade is available to the public at the following Internet sites:

The USTR home page: http://www.ustr.gov

The WTO home page: http://www.wto.org

U.S. submissions are available electronically on the WTO website using the Document Dissemination Facility (DDF), which can retrieve an electronic copy by the "document symbol". Electronic copies of U.S. submissions are also available at the USTR website.

Examples of information available on the WTO home page include:

Descriptions of the Structure and Operations of the WTO, such as:

- **WTO Organizational Chart**
- **Biographic backgrounds**
- **Membership**
- **General Council activities**

WTO News, such as:

- **Status of dispute settlement cases**
- **Press Releases on Appointments to WTO Bodies, Appellate Body Reports and Panel Reports, and others**
- **Schedules of future WTO meetings**
- **Summaries of Trade Policy Review Mechanism reports on individual Members' trade practices**

Resources including Official Documents, such as:

- **Notifications required by the Uruguay Round Agreements**
- **Working Procedures for Appellate Review**
- **Special Studies on key WTO issues**
- **On-line document database where one can find and download official documents**
- **Legal Texts of the WTO agreements**
- **WTO Annual Reports**

Community/Forums, such as:

- **Media**
- **NGO's**
- **General public news and chat rooms**

Trade Topics, such as:

- **Briefing Papers on WTO activities in individual sectors, including goods, services, intellectual property, and other topics**
- **Disputes and Dispute Reports**

WTO publications may be ordered directly from the following sources:

The World Trade Organization
Publications Services
Centre William Rappard
Rue de Lausanne 154

CH - 1211 Geneva 21
Switzerland

tel:
(41 22) 739-5208
fax:
(41 22) 739-5792
e-mail: publications@wto.org

Berman Associates
4611-F Assembly Drive
Lanham, Md. 20706-4391

tel:
800/274-4888
301/459-7666
fax:
301/459-0056

ANNEX III

LIST OF TRADE AGREEMENTS

I. Agreements That Have Entered Into Force

Following is a list of trade agreements entered into by the United States since 1984 and monitored by the Office of the United States Trade Representative for compliance.

Multilateral Agreements

- Marrakesh Agreement Establishing the World Trade Organization (signed April 15, 1994) and the Ministerial Decisions and Declarations adopted by the Uruguay Round Trade Negotiations Committee on December 15, 1993

  a. Multilateral Agreements on Trade in Goods

     i. General Agreement on Tariffs and Trade 1994
     ii. Agreement on Agriculture
     iii. Agreement on the Application of Sanitary and Phytosanitary Measures
     iv. Agreement on Textiles and Clothing[1]
     v. Agreement on Technical Barriers to Trade
     vi. Agreement on Trade-Related Investment Measures
     vii. Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994
     viii. Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994
     ix. Agreement on Preshipment Inspection
     x. Agreement on Rules of Origin
     xi. Agreement on Import Licensing Procedures
     xii. Agreement on Subsidies and Countervailing Measures
     xiii. Agreement on Safeguards
     xiv. Information Technology Agreement (ITA) (March 26, 1997)

  b. General Agreement on Trade in Services

     i. Basic Telecommunications Services Agreement (February 15, 1997)
     ii. Financial Services Agreement (March 1, 1999)

  c. Agreement on Trade-Related Aspects of Intellectual Property Rights

  d. Plurilateral Trade Agreements

[1] Members with whom the United States maintains bilateral quota arrangements under the provisions of the Agreement on Textiles and Clothing are: Bahrain, Bangladesh, Brazil, Bulgaria, Burma/Myanmar, Colombia, Costa Rica, Czech Republic, Dominican Republic, Egypt, El Salvador, Fiji, Guatemala, Hong Kong/China, Hungary, India, Indonesia, Jamaica, Kenya, Kuwait, Macau, Malaysia, Mauritius, Pakistan, Philippines, Poland, Qatar, Romania, Singapore, Slovak Republic, Sri Lanka, Thailand, Turkey, United Arab Emirates and Uruguay.

i. Agreement on Trade in Civil Aircraft (April 12, 1979; amended by protocol in 1986)
ii. Agreement on Government Procurement (April 15, 1994)

- International Tropical Timber Agreement (successor to the 1983 International Tropical Timber Agreement; signed January 26, 1994; entered into force January 1, 1997)
- North American Free Trade Agreement (signed December 17, 1992; implementing legislation signed December 8, 1993)
  - i. Agreement with Mexico and Canada to a first round of NAFTA Accelerated Tariff Elimination (March 26, 1997)
  - ii Agreement with Mexico and Canada to a second round of NAFTA Accelerated Tariff Elimination (July 27, 1998)
  - Agreement with Mexico to a third round of NAFTA Accelerated Tariff Elimination (November 29, 2000)
  - Agreement with Mexico to a fourth round of NAFTA Accelerated Tariff Elimination (December 5, 2001)
- Joint Statement Concerning Semiconductors by the European Commission and the Governments of the United States, Japan, and Korea. (June 10, 1999)
- Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunication Agreement (June 5, 1998)
- Agreement on Mutual Acceptance of Oenological Practices (December 18, 2001)

Bilateral Agreements

Albania

- Agreement on Bilateral Trade Relations (May 14, 1992)
- Bilateral Investment Treaty (January 4, 1998)

Argentina

- Private Courier Mail Agreement (May 25, 1989)
- Bilateral Investment Treaty (October 20, 1994)

Armenia

- Agreement on Bilateral Trade Relations (April 7, 1992)
- Bilateral Investment Treaty (March 29, 1996)

Australia

- Settlement on Leather Products Trade (November 25, 1996)
- Understanding on Automotive Leather Subsidies (June 20, 2000)

Azerbaijan

- Agreement on Bilateral Trade Relations (April 21, 1995)
- Bilateral Investment Treaty (August 2, 2001)

Bahrain

- Bilateral Investment Treaty (May 30, 2001)

Bangladesh

- Bilateral Investment Treaty (July 25, 1989)

Belarus

- Agreement on Bilateral Trade Relations (February 16, 1993)
- Agreement regarding Imports of Certain Fiberglass Fabric (February 17, 2000)

Bolivia

- Bilateral Investment Treaty (June 6, 2001)

Brazil

- Memorandum of Understanding between the Government of Brazil and the Government of the United States Concerning Trade Measures in the Automotive Sector (March 16, 1998)

Bulgaria

- Agreement on Trade Relations (November 22, 1991)
- Bilateral Investment Treaty (June 2, 1994)
- Agreement Concerning Intellectual Property Rights (July 6, 1994)

Cambodia

- Agreement Between the United States of America and the Kingdom of Cambodia on Trade Relations and Intellectual Property Rights Protection (October 8, 1996)
- Agreement on Trade in Textiles and Textile Products (1999)

- Agreement on Trade in Textiles and Textile Products (January 1, 2002)

Cameroon

- Bilateral Investment Treaty (April 6, 1989)

Canada

- Agreement on Salmon & Herring (May 11, 1993)
- Agreement Regarding Tires (May 25, 1993)
- Memorandum of Understanding on Provincial Beer Marketing Practices (August 5, 1993)
- Agreement on Ultra-High Temperature Milk (September 1993)
- Agreement on Beer Market Access in Quebec and British Columbia Beer Antidumping Cases (April 4, 1994)
- Agreement on Salmon & Herring (April 1994)
- Agreement on Barley Tariff-Rate Quota (September 8, 1997)
- Record of Understanding on Agriculture (December 1998)
- Agreement on Magazines (Periodicals) (May 1999)
- Agreement on Implementation of the WTO Decision on Canada's Dairy Support Programs (December 1999)

China

- Accord on Industrial and Technological Cooperation (January 12, 1984)
- Memorandum of Understanding on the Protection of Intellectual Property Rights (January 17, 1992)
- Memorandum of Understanding on Prohibiting Import and Export in Prison Labor Products (June 18, 1992)
- Memorandum of Understanding Concerning Market Access (October 10, 1992)
- Agreement on Trade Relations Between the United States of America and the People's Republic of China (signed July 7, 1979; entered into force February 1, 1980; renewed February 1, 2001)
- Agreement on Providing Intellectual Property Rights Protection (February 26, 1995)
- Report on China's Measures to Enforce Intellectual Property Protections and Other Measures (June 17, 1996)

- Interim Agreement on Market Access for Foreign Financial Information Companies (Xinhua) (October 24, 1997)
- Agreement to Strengthen Space Launch Trade Terms (October 27, 1997)
- Bilateral Agriculture Agreement (April 10, 1999)

Colombia

- Memorandum of Understanding on Trade in Bananas (January 9, 1996)

Congo, Democratic Republic of the (formerly Zaire)

- Bilateral Investment Treaty (July 28, 1989)

Congo, Republic of the

- Bilateral Investment Treaty (August 13, 1994)

Costa Rica

- Memorandum of Understanding on Trade in Bananas (January 9, 1996)

Croatia

- Memorandum of Understanding on Intellectual Property Rights (May 26, 1998)
- Bilateral Investment Treaty (June 20, 2001)

Czech Republic

- Agreement on Bilateral Trade Relations (April 12, 1990)
- Bilateral Investment Treaty (December 19, 1992)

Ecuador

- Agreement on Intellectual Property Rights Protection (October 15, 1993)
- Bilateral Investment Treaty (May 11, 1997)

Egypt

- Bilateral Investment Treaty (June 27, 1992)

Estonia

- Bilateral Investment Treaty (February 16, 1997)

European Union

- Wine Accord (July 1983)
- Agreement for the Conclusion of Negotiations Between the United States and the European Community under GATT Article XXIV:6 (January 30, 1987)
- Agreement on Exports of Pasta with Settlement, Annex and Related Letter (September 15, 1987)
- Agreement on Canned Fruit (updated) (April 14, 1992)
- Agreement Concerning the Application of the GATT Agreement on Trade in Civil Aircraft (July 17, 1992)
- Agreement on Meat Inspection Standards (November 13, 1992)
- Corn Gluten Feed Exchange of Letters (December 4 and 8, 1992)
- Malt-Barley Sprouts Exchange of Letters (December 4 and 8, 1992)
- Oilseeds Agreement (December 4 and 8, 1992)
- Agreement on Recognition of Bourbon Whiskey and Tennessee Whisky as Distinctive U.S. Products (March 28, 1994)
- Memorandum of Understanding on Government Procurement (April 15, 1994)
- Letter on Financial Services Confirming Assurances to Provide Full MFN and National Treatment (July 14, 1995)
- Agreement on EU Grains Margin of Preference (signed July 22, 1996; retroactively effective December 30, 1995)
- Exchange of Letters Concerning Implementation of the Marrakesh Agreement Establishing the World Trade Organization and Related Matters (June 26, 1996)
- Exchange of Letters between the United States of America and the European Community on a Settlement for Cereals and Rice, and Accompanying Exchange of Letters on Rice Prices (July 22, 1996)
- Agreement for the Conclusion of Negotiations between the United States of America and the European Community under GATT Article XXIV:6, and Accompanying Exchange of Letters (signed July 22, 1996; retroactively effective December 30, 1995)
- Tariff Initiative on Distilled Spirits (February 28, 1997)
- Agreement on Global Electronic Commerce (December 9, 1997)
- Agreed Minute on Humane Trapping Standards (December 18, 1997)

- Agreement on Mutual Recognition Between the United States of America and the European Community (signed May 18, 1997; entered into force December 1, 1998)
- Agreement between the United States and the European Community on Sanitary Measure to Protect Public and Animal Health in Trade in Live Animals and Animal Products (July 20, 1999)
- Understanding on Bananas (April 11, 2001)
- Agreement on the Mutual Acceptance of Oenological Practices (December 18, 2001)

Georgia

- Agreement on Bilateral Trade Relations (August 13, 1993)
- Bilateral Investment Treaty (August 17, 1997)

Grenada

- Bilateral Investment Treaty (March 3, 1989)

Honduras

- Memorandum of Understanding on Worker Rights (November 15, 1995)
- Bilateral Investment Treaty (July 11, 2001)

Hungary

- Agreement on Trade Relations (July 7, 1978)
- Agreement on Intellectual Property Rights Protection (September 29, 1993)
- Agreement on Comprehensive Trade Package on Tariff Reduction (April, 2002)

India

- Agreement Regarding Indian Import Policy for Motion Pictures (February 5, 1992)
- Reduction of Tariffs on In-Shell Almonds (May 27, 1992)
- Agreement on Intellectual Property Rights Protection (March 1993)
- Agreement on Import Restrictions (December 28, 1999)
- Agreement on Textile Tariff Bindings (September 15, 2000)

Indonesia

- Conditions for Market Access for Films and Videos into Indonesia (April 1992)

Israel

- U.S.-Israel Free Trade Agreement (August 19, 1985)
- U.S.-Israel Agreement on Trade in Agriculture (December 4, 1996)
- U.S.-Israel Agreement on Almonds and Certain Other Agricultural Trade Issues (November 30, 1997)

Jamaica

- Agreement on Intellectual Property (February 1994)
- Bilateral Investment Treaty (March 7, 1997)

Japan

- Market-Oriented Sector-Selective (MOSS) Agreement on Medical Equipment and Pharmaceuticals (January 9, 1986)
- Exchange of Letters Regarding Tobacco (October 6, 1986)
- Science and Technology Agreement (June 20, 1988; extended June 16, 1993)
- Measures Concerning Cellular Telephone and Third Party Radio System Telecommunications Issues (June 28, 1989)
- Procedures to Introduce Supercomputers (June 15, 1990)
- Measures Relating to Wood Products (June 15, 1990)
- Policies and Procedures Regarding Satellite Research and Development/Procurement (June 15, 1990)
- Policies and Procedures Regarding International Value-Added Network Services and Network Channel Terminating Equipment (July 31, 1990)
- Joint Announcement on Amorphous Metals (September 21, 1990)
- Measures Further to 1990 Policies and Procedures regarding International Value-Added Network Services (April 27, 1991)
- Measures Regarding International Value-Added Network Services Investigation Mechanisms (June 25, 1991)
- U.S.-Japan Major Projects Arrangement (July 31, 1991; originally negotiated 1988)
- Measures Related to Japanese Public Sector Procurement of Computer Products and Services

(January 22, 1992)

- U.S.-Japan Framework for a New Economic Partnership (July 10, 1993)
- Exchange of Letters Regarding Apples (September 13, 1993)
- U.S.-Japan Public Works Agreement (January 18, 1994)
- Mutual Understanding on Intellectual Property Rights between the Japanese Patent Office and the U.S. Patent and Trademark Office (January 20, 1994)
- Exchange of Letters Regarding Implementation of the Measures Regarding Cellular Telephone and Third-Party Radio Systems (March 12, 1994)
- Rice (April 15, 1994)
- Harmonized Chemical Tariffs (April 15, 1994)
- Copper (April 15, 1994)
- Market Access (April 15, 1994)
- Actions to be Taken by the Japanese Patent Office and the U.S. Patents and Trademark Office pursuant to the January 20, 1994, Mutual Understanding on Intellectual Property Rights (August 16, 1994)
- Measures by the Government of the United States and the Government of Japan Regarding Insurance (October 11, 1994)
- Measures on Japanese Public Sector Procurement of Telecommunications Products and Services (November 1, 1994)
- Measures Related to Japanese Public Sector Procurement of Medical Technology Products and Services (November 1, 1994)
- Measures Regarding Financial Services (February 13, 1995)
- Policies and Measures Regarding Inward Direct Investment and Buyer-Supplier Relationships (June 20, 1995)
- Exchange of Letters on Financial Services (July 26 and 27, 1995)
- Interim Understanding for the Continuation of Japan-U.S. Insurance Talks (September 30, 1996)
- U.S.-Japan Insurance Agreement (December 24, 1996)
- Japan's Recognition of U.S.-Grademarked Lumber (January 13, 1997)
- Resolution of WTO dispute with Japan on Sound Recordings (January 13, 1997)

- National Policy Agency Procurement of VHF Radio Communications System (March 31, 1997)
- U.S.-Japan Enhanced Initiative on Deregulation and Competition Policy (June 19, 1997)
- U.S.-Japan Agreement on Distilled Spirits (December 17, 1997)
- First Joint Status Report on Deregulation and Competition Policy (May 29, 1998)
- U.S.-Japan Joint Report on Investment (April 28, 1999)
- Second Joint Status Report on Deregulation and Competition Policy (May 3, 1999)
- U.S.-Japan Agreement on NTT Procurement Procedures (July 1, 1999)
- Third Joint Status Report on Deregulation and Competition Policy (July 19, 2000)
- Fourth Joint Status Report on Deregulation and Competition Policy (June 30, 2001)
- U.S.-Japan Economic Partnership for Growth (June 30, 2001)
- First Report to the Leaders on the U.S.-Japan Regulatory Reform and Competition Policy Initiative (June 25, 2002)

Jordan

- Agreement Between U.S. and Hashemite Kingdom of Jordan on the Establishment of a Free Trade Area (December 17, 2001)

Kazakstan

- Agreement on Bilateral Trade Relations (February 18, 1993)
- Bilateral Investment Treaty (January 12, 1994)

Korea

- Record of Understanding on Intellectual Property Rights (August 28, 1986)
- Agreement on Access of U.S. Firms to Korea's Insurance Markets (August 28, 1986)
- Record of Understanding Concerning Market Access for Cigarettes (May 27, 1988; amended October 16, 1989)
- Agreement Concerning the Korean Capital Market Promotion Law (September 1, 1988)
- Agreement on the Importation and Distribution of Foreign Motion Pictures (December 30, 1988)
- Agreement on Market Access for Wine and Wine Products (January 18, 1989)

- Investment Agreement (May 19, 1989)
- Agreement on Liberalization of Agricultural Imports (May 25, 1989)
- Record of Understanding on Telecommunications (January 23, 1990)
- Record of Understanding on Telecommunications (February 15, 1990)
- Exchange of Letters Regarding the 1986 Intellectual Property Rights Agreement: Product Pipeline Protection (February 22, 1990)
- Record of Understanding on Beef (March 21, 1990)
- Exchange of Letters on Beef (April 26 and 27, 1990)
- Agreement on Wine Access (December 19, 1990)
- Record of Understanding on Telecommunications (February 7, 1991)
- Agreement on International Value-Added Services (June 20, 1991)
- Understanding on Telecommunications (February 17, 1992)
- Exchange of Letters Relating to Korea Telecom Company's Procurement of AT&T Switches (March 31, 1993)
- Beef Agreements (June 26, 1993; December 29, 1993)
- Record of Understanding on Agricultural Market Access in the Uruguay Round (December 13, 1993)
- Exchange of Letters on Telecommunications Issues Relating to Equipment Authorization and Korea Telecom Company's Procurement (March 29, 1995)
- Agreement on Steel (July 14, 1995)
- Shelf-Life Agreement (July 20, 1995)
- Revised Cigarette Agreement (August 25, 1995)
- Memorandum of Understanding to Increase Market Access for Foreign Passenger Vehicles in Korea (September 28, 1995)
- Exchange of Letters on Implementation of the 1992 Telecommunications Agreement (April 12, 1996)
- Korean Commitments on Trade in Telecommunications Goods and Services (July 23, 1997)
- Agreement on Korean Motor Vehicle Market (October 20, 1998)

- Exchange of Letters Regarding Tobacco Sector Related Issues (June 14, 2001)
- Exchange of Letters on Data Protection (March 12, 2002)

Kyrgyzstan

- Agreement on Bilateral Trade Relations (August 21, 1992)
- Bilateral Investment Treaty (January 12, 1994)

Laos

- Exchange of notes extending bilateral agreement on Trade in Textiles and Textile Products (August 4, 2000)

Latvia

- Agreement on Trade & Intellectual Property Rights Protection (January 20, 1995)
- Bilateral Investment Treaty (December 26, 1996)

Lithuania

- Bilateral Investment Treaty (November 22, 2001)

Macedonia

- Exchange of notes extending bilateral agreement on Trade in Textiles and Textile Products (June 2, 2000)
- Memorandum of Understanding Establishing Outward Processing Program (September 1999)

Mexico

- Agreement with Mexico on Tire Certification (March 8, 1996)
- Memorandum of Understanding Between the United States and Mexico Regarding Areas of Fo and Agriculture Trade (April 4, 2002)

Moldova

- Agreement on Bilateral Trade Relations (July 2, 1992)
- Bilateral Investment Treaty (November 25, 1994)

Mongolia

- Agreement on Bilateral Trade Relations (January 23, 1991)
- Bilateral Investment Treaty (January 1, 1997)

Morocco

- Bilateral Investment Treaty (May 29, 1991)

Nepal

- Exchange of notes extending bilateral agreement on Trade in Textiles and Textile Products (July 13, 2000)

Nicaragua

- Bilateral Intellectual Property Rights Agreement with Nicaragua (December 22, 1997)

Norway

- Agreement on Procurement of Toll Equipment (April 26, 1990)

Panama

- Bilateral Investment Treaty (May 30, 1991)
- Agreement on Bilateral Trade Relations (1994)

Paraguay

- Memorandum of Understanding on Intellectual Property Rights (November 17, 1998)

Peru

- Memorandum of Understanding on Intellectual Property Rights (May 23, 1997)

Philippines

- Protection and Enforcement of Intellectual Property Rights (April 6, 1993)
- Agreement regarding Pork and Poultry Meat (February 13, 1998)

Poland

- Business and Economic Treaty (August 6, 1994)
- Bilateral Investment Treaty (August 6, 1994)
- Agreement on Comprehensive Trade Package on Tariff Reduction (September, 2002)

Romania

- Agreement on Bilateral Trade Relations (April 3, 1992)

- Bilateral Investment Treaty (January 15, 1994)
- Memorandum of Understanding Establishing Outward Processing Program (September 1999)

Russia

- Trade Agreement Concerning Most Favored Nation and Nondiscriminatory Treatment (June 17 1992)
- Joint Memorandum of Understanding on Market Access for Aircraft (January 30, 1996)
- Agreed Minutes regarding exports of poultry products from the United States to Russia (March 15, March 25, and March 29, 1996)
- Protocol of the Negotiations between the Experts of Russia and the United States of America or the Issue of U.S. Poultry Meat Imports into the Russian Federation (March 31, 2002)
- Agreement on Russian Firearms & Ammunition (April 3, 1996)
- Exchange of notes extending bilateral agreement on Trade in Textiles and Textile Products (December 15, 2000)

Senegal

- Bilateral Investment Treaty (October 25, 1990)

Singapore

- Agreement on Intellectual Property Rights Protection (April 27, 1987)

Slovakia

- Agreement on Bilateral Trade Relations (April 12, 1990)
- Bilateral Investment Treaty (December 19, 1992)

Sri Lanka

- Agreement on the Protection and Enforcement of Intellectual Property Rights (September 20, 1991)
- Bilateral Investment Treaty (May 1, 1993)

Suriname

- Agreement on Bilateral Trade Relations (1993)

Switzerland

- Exchange of Letters on Financial Services (November 9 and 27, 1995)

Taiwan

- Agreement on Customs Valuation (August 22, 1986)
- Agreement on Export Performance Requirements (August 1986)
- Agreement Concerning Beer, Wine, and Cigarettes (1987)
- Agreement on Turkeys and Turkey Parts (March 16, 1989)
- Agreement on Beef (June 18, 1990)
- Agreement on Intellectual Property Protection (June 5, 1992)
- Agreement on Intellectual Property Protection (Trademark) (April 1993)
- Agreement on Intellectual Property Protection (Copyright) (July 16, 1993)
- Agreement on Market Access (April 27, 1994)
- Telecommunications Liberalization by Taiwan (July 19, 1996)
- U.S.-Taiwan Medical Device Issue: List of Principles (September 30, 1996)
- Agreement on Market Access (February 20, 1998)
- Understanding on Government Procurement (August 23, 2001)

Tajikistan

- Agreement on Bilateral Trade Relations (November 24, 1993)

Thailand

- Agreement on Cigarette Imports (November 23, 1990)
- Agreement on Intellectual Property Protection and Enforcement (December 19, 1991)
- Agreement on Trade in Textiles and Textile Products (1997)

Trinidad and Tobago

- Agreement on Intellectual Property Protection and Enforcement (September 26, 1994)
- Bilateral Investment Treaty (December 26, 1996)

Tunisia

- Bilateral Investment Treaty (February 7, 1993)

Turkey

- Bilateral Investment Treaty (May 18, 1990)
- WTO Settlement Concerning Taxation of Foreign Film Revenues (July 14, 1997)

Turkmenistan

- Agreement on Bilateral Trade Relations (October 25, 1993)

Ukraine

- Agreement on Bilateral Trade Relations (June 23, 1992)
- Bilateral Investment Treaty (November 16, 1996)
- Agreement on Trade in Textiles and Textile Products (1997)

Uzbekistan

- Agreement on Bilateral Trade Relations (January 13, 1994)

Vietnam

- Agreement between the United States and Vietnam on Trade Relations (December 10, 2001)
- Copyright Agreement (June 27, 1997)

II. Agreements That Have Been Negotiated But Have Not Yet Entered Into Force

Following is a list of trade agreements concluded by the United States since 1984 that have not yet entered into force.

Multilateral Agreements

- OECD Agreement on Shipbuilding (December 21, 1994; interested parties evaluating implementing legislation)
- Inter-American Mutual Recognition Agreement for Conformity Assessment of Telecommunications Equipment (October 29, 1999)

Bilateral Agreements

Belarus

- Bilateral Investment Treaty (signed January 15, 1994; pending exchange of instruments)

El Salvador

- Bilateral Investment Treaty (signed March 10, 1999; pending exchange of instruments)

Estonia

- Trade and Intellectual Property Rights Agreement (April 19, 1994; requires approval by Estonian legislature)

Jordan

- Bilateral Investment Treaty (signed July 2, 1997; pending exchange of instruments)

Laos

- Bilateral Trade Agreement (initialed August 13, 1997)

Lithuania

- Trade and Intellectual Property Rights Agreement (April 26, 1994; requires approval by Lithuanian legislature)

Nicaragua

- Bilateral Investment Treaty (signed July 1, 1995; pending ratification by both parties and exchange of instruments of ratification.)

Russia

- Bilaterall Investment Treaty (signed June 17, 1992; pending approval by Russian Parliament an exchange of instruments of ratification)

Uzbekistan

- Bilateral Investment Treaty (signed December 16, 1994; pending exchange of instruments)

III. Other Trade-Related Agreements and Declarations

Following is a list of other trade-related agreements and declarations negotiated by the Office of the United States Trade Representative from January 1993 through February 2002. These documents provide the framework for negotiations leading to future trade agreements or establish mechanisms for structured dialogue in order to develop specific steps and strategies for addressing and resolving trade, investment, intellectual property and other issues among the signatories.

Multilateral Agreements and Declarations

- Second Ministerial of the World Trade Organization, Ministerial Declaration on Global Electronic Commerce (May 20, 1998)
- WTO Guidelines for the Negotiation of Mutual Recognition Agreements on Accountancy (May 29, 1997)
- Free Trade Area of the Americas
  - Summit of the Americas Declaration and Action Plan (December 11, 1994)
  - Joint Declaration of the Trade Ministers (June 30, 1995)
  - Joint Declaration of the Trade Ministers (March 21, 1996)
  - Joint Ministerial Declaration of Belo Horizonte (May 16, 1997)
  - Joint Ministerial Declaration of San Jose (March 19, 1998)
  - Summit of the Americas Declaration and Action Plan (April 19, 1998)
  - Joint Declaration of Toronto (November 4, 1999)
  - Joint Ministerial Declaration of Buenos Aires (April 7, 2001)
- Asia Pacific Economic Cooperation
  - Declaration of Common Resolve (November 15, 1994)
  - Declaration for Action (November 19, 1995)
  - Declaration on an APEC Framework for Strengthening Economic Cooperation and Development (November 22-23, 1996)
  - Declaration on Connecting the APEC Community (November 25, 1997)
  - Declaration on Strengthening the Foundations for Growth (November 18, 1998)
  - Declaration: the Auckland Challenge (September 13, 1999)

- U.S.-Andean Community Trade and Investment Council Agreement (October 30, 1998)
- United States-Central American Regional Trade and Investment Framework Agreement (March 20, 1998)

Bilateral Agreements and Declarations

Algeria

- U.S.-Algeria Trade and Investment Framework Agreement (July 13, 2001)

Bahrain

- Trade and Investment Framework Agreement (July 18, 2002)

Brunei Darussalam

- Trade and Investment Framework Agreement (December 16, 2002)

Chile

- U.S.-Chile Joint Commission on Trade and Investment (May 19, 1998)

Common Market for Eastern and Southern Africa

- Trade and Investment Framework Agreement (October, 2001)

Egypt

- U.S.-Egypt Trade and Investment Framework Agreement (July 1, 1999)

European Union

- U.S.-EU Transatlantic Economic Partnership (May 18, 1998)
- U.S.-EU Joint Action Plan for the Transatlantic Economic Partnership (November 9, 1998)

Ghana

- U.S.-Ghana Trade and Investment Framework Agreement (February 26, 1999)

Indonesia

- U.S.-Indonesia Understanding on a Trade and Investment Council (1996)

Japan

- U.S.-Japan Joint Statement on the Bilateral Steel Dialogue (September 24, 1999)

Morocco

- U.S.-Morocco Trade and Investment Framework Agreement (March 16, 1995)

Nigeria

- U.S.-Nigeria Trade and Investment Framework Agreement (February 16, 2000)

Philippines

- Trade and Investment Framework Agreement (1989)

South Africa

- U.S.-South Africa Trade and Investment Framework Agreement (February 18, 1999)

Sri Lanka

- Trade and Investment Framework Agreement (July 25, 2002)

Taiwan

- Trade and Investment Framework Agreement (September 19, 1994)

Thailand

- Trade and Investment Framework Agreement (October 23, 2002)

Tunisia

- U.S.-Tunisia Trade and Investment Framework Agreement (October 2, 2002)

Turkey

- U.S.-Turkey Trade and Investment Framework Agreement (September 29, 1999)

Uruguay

- U.S.-Uruguay Bilateral and Commercial Trade Review (May 20, 1999)

West African Economic and Monetary Union

- Trade and Investment Framework Agreement (April 24, 2002)