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2002 TRADE POLICY AGENDA AND 2001 ANNUAL REPORT

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

THE 2002 TRADE POLICY AGENDA AND 2001 ANNUAL REPORT ON THE TRADE AGREEMENTS PROGRAM, PURSUANT TO 19 U.S.C. 2213(a)

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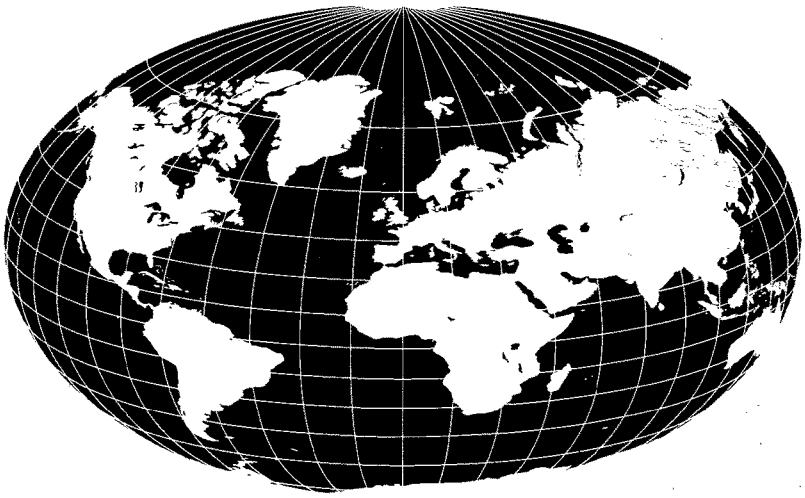
To the Congress of the United States:

As required by section 163 of the Trade Act of 1974, as amended (19 U.S.C. 2213), I transmit herewith the 2002 Trade Policy Agenda and 2001 Annual Report on the Trade Agreements Program, as prepared by my Administration as of March 1, 2002.

GEORGE W. BUSH.

THE WHITE HOUSE, *March 19, 2002.*

2002 TRADE POLICY AGENDA AND 2001 ANNUAL REPORT



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

UNITED STATES TRADE REPRESENTATIVE

2002 Trade Policy Agenda
and
2001 Annual Report

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

Foreword

The 2002 Trade Policy Agenda and 2001 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 as required by 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 2002

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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
BIA	Built-In Agenda
BIT	Bilateral Investment Treaty
BOP	Balance of Payments
CACM	Central American Common Market
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 2002 Agenda

At the start of last year, the global trading system was under stress. The nations of the world had failed to launch new global trade negotiations in Seattle in 1999, the effort to bring China and Taiwan into the World Trade Organization (WTO) had stalled, and Congress had not granted the President trade negotiating authority since it lapsed in 1994. Numerous contentious trade disputes loomed large and the benefits of trade had been diminished in the public debate. The momentum for trade liberalization had lost energy.

Against this backdrop, and with the help of the Congress, President Bush pressed an activist strategy to regain momentum on trade. As he explained: "Our goal is to ignite a new era of global economic growth through a world trading system that is dramatically more open and more free." By doing so, we can improve the job opportunities, incomes, productivity, purchasing choices, and family budgets of America's workers, farmers, ranchers, small businesspersons, and entrepreneurs.

The President has promoted the agenda for trade liberalization on multiple fronts: globally, regionally, and with individual nations. This strategy creates a competition in liberalization with the United States as the central driving force. It enhances America's leadership by strengthening our economic ties, leverage, and influence around the world.

The Executive-Congressional Partnership: Trade Promotion Authority

The Constitution vests the Congress with the authority "To regulate commerce with foreign nations." It also extends the powers to the President to conduct relations with other countries. These two grants need to be reconciled effectively.

After 150 years of contentious Congressional trade debates over tariffs, culminating in the disastrous experience of the Smoot-Hawley bill, the Congress tried a different approach in 1934: The Reciprocal Trade Agreements Act, which created a new partnership between the Congress and the Executive Branch to lower barriers to trade.

This partnership has been the foundation of America's economic and trade leadership ever since. In 2001, the Bush Administration honored this rich tradition by working hand-in-hand with the Congress to open markets; we will build on this relationship in the year ahead. Frequent, substantive consultation is the hallmark of an effective trade policy. It helps to ensure that the Executive Branch and the Congress work together to achieve America's trade objectives.

A Congressional grant of Trade Promotion Authority (TPA) would strengthen and guide the Executive-Congressional partnership, as it creates and formalizes new consultative mechanisms throughout the trade negotiation process. In 2001, the House of Representatives passed TPA legislation and the Senate Finance Committee gave a strong bipartisan endorsement to a similar

bill, 18-3.

We are pressing for prompt completion of Congressional action on TPA in 2002. By enacting TPA after a seven-year lapse of authority, Congress can promote America's global leadership and give the President the tools he needs to strike the best trade agreements for America's farmers, ranchers, workers, families, and consumers. The revival of this trade authority – which prior Congresses granted to the previous five Presidents – will also contribute to our economic recovery by enhancing our ability to open the world's markets for U.S. exports and lowering the costs of supplies for American families and businesses.

For all of its benefits, trade can also lead to adjustment challenges. For this reason, the Bush Administration strongly supports reauthorization of Trade Adjustment Assistance (TAA) programs, which provide assistance for workers who lose their jobs because of trade. The Administration wants to work with Congress to improve the programs to make them more effective.

In particular, the Administration would like to consolidate TAA and NAFTA-TAA; ensure more rapid processing of petitions and delivery of services; and better coordinate federal agencies and local authorities to improve delivery of all federal assistance to communities and individuals affected by trade. Our primary objective is getting people back to work as quickly as possible, and we will work with Congress to help create better incentives for reemployment. We also want to address concerns over limitations on the "shift-in-production" benefits provided by current programs. And we would like to work with Congress to address other areas that may not be adequately addressed at present.

We look forward to working closely with Congress in 2002 to create new opportunities for our workers, farmers, and businesses, and to create a more stable, prosperous world economy through increased trade.

Seizing the Global Initiative

A. Launching New Global Trade Negotiations

In 2001, the United States played a leading role in the launch of new global trade negotiations at Doha in November, overcoming the obstacles that plagued the prior effort in Seattle. We benefited greatly from the Congressional consultations and guidance we received in advance of the Doha meeting. I am particularly appreciative of the personal involvement, before and after Doha, of Chairman Thomas and Representative Rangel and Chairman Baucus and Senator Grassley, as well as Representative Levin's extra effort to join us in Doha and discuss events on the scene.

The new WTO negotiating mandate lays the groundwork for an ambitious trade liberalization agenda in key sectors, particularly agriculture, manufacturing, and services, targeted for completion by 2005.

In agriculture, to achieve a program of fundamental reform, we committed 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.

In manufacturing, we secured a negotiating mandate to reduce or eliminate tariff and non-tariff barriers on industrial products, ensuring that the United States can pursue a variety of tariff liberalization initiatives, such as landmark agreements like the Information Technology Agreement (ITA). The mandate is comprehensive – no sectors or products are excluded from the outset for any WTO Member.

And in services, the Doha Declaration sets a rigorous timetable for the pursuit of open markets in a number of key sectors for the United States, including telecommunications, financial services, audio-visual, express delivery, and other distribution services.

Many U.S. groups assisted us in the preparation of these negotiating mandates, and we are delighted by their strong statements of support after Doha. They have emphasized the interconnection of this work with economic recovery in America and around the globe.

At Doha, we also made significant progress in a number of other areas, some of which are discussed later:

- The review of WTO rules 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, enabling us to pursue an affirmative agenda against the increasing use of these laws against U.S. exporters while also addressing the underlying trade-distorting practices.

- WTO Members adopted a political declaration that highlights provisions in the TRIPs agreement that provide Members with the flexibility to address public health emergencies, such as epidemics of HIV/AIDS, tuberculosis and malaria.

- The Doha Declaration includes a mandate to launch negotiations aimed at eliminating environmentally harmful fish subsidies and increasing market access for environmental goods and services. The agreement also includes an important new mandate to enhance the mutual supportiveness of multilateral environmental agreements (MEAs) and the WTO rules by strengthening the relationship between the two, institutionally and substantively.

- In the area of electronic commerce, the declaration ensures that the WTO will remain active in this important and dynamic area through the continuation of its work program, while extending the ongoing moratorium on imposing customs duties on electronic transmissions. This work program will provide an opportunity for the United States to continue its efforts to press other countries to avoid unnecessary measures that would impede the growth of electronic commerce.

- The declaration includes an agreement providing for developing enhanced transparency in WTO Member government procurement procedures. This program should lead to improved disciplines in government purchases, making an important contribution to combating corruption and more efficient use of taxpayers' money.

- The declaration calls for negotiations on new WTO rules to facilitate trade by making procedures at international borders more transparent and efficient.

- The declaration states a commitment to enhance cooperation between the WTO and the International Labor Organization (ILO).

To help maintain the momentum after the Doha agreement, the WTO economies agreed that Mexico will chair the WTO ministerial in 2003. As the incoming chair, Mexico can assist in promoting the pace of the new negotiations.

One of the important WTO entities in the months ahead will be the Trade Negotiations Committee (TNC). That committee took a number of useful steps at its initial meeting on February 1. It appointed the WTO Director-General to chair the committee's work (in an ex-officio capacity) until the January 2005 deadline set for the completion of the negotiations. This helps ensure the committee will receive the necessary attention at the WTO's highest level. And the TNC adopted a structure for the negotiations that will help the negotiating process move forward in an orderly fashion.

As we move forward, the United States will place special emphasis on our 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. We will work with the WTO and others to provide the tools and training needed to help these nations participate more actively in the global trading system. In particular, we will encourage developed nations, multilateral development banks, and other international institutions – such as UNCTAD and the World Intellectual Property Organization – to supply technical assistance to build the capacity of poorer countries to engage effectively in the negotiation and implementation of trade agreements. By providing such support, we will be helping these nations to integrate with the global economy – a key part of the strategy for economic development – while also strengthening the rules-based trading system.

B. Completing the Accession of China and Taiwan to the WTO

Last year, the United States also played a key role in breaking through logjams to complete the historic accessions of China (after a 15-year effort) and Taiwan (after a 9-year effort) to the WTO. This achievement built on the work of four U.S. Administrations. Throughout 2001, we solved the multilateral issues concerning 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.

These agreements integrate two of the world's largest economies into the rules of the WTO trading system and provide U.S. exporters with expanded access in growing markets ranging from automobiles and telecommunications to agriculture and chemicals. As a result, the President certified the requirements set by Congress through the leadership of Chairman Baucus and Senator Grassley as well as Chairmen Thomas and Representatives Crane, Rangel, and Levin in the passage of the legislation extending Permanent Normal Trade Relations to China.

In 2002, the Bush Administration will work closely with other countries, as well as a private sector network we are interconnecting, to monitor China's and Taiwan's compliance. 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 with our businesses and with China and Taiwan to address problems and take action if necessary.

C. 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 contribute to this new relationship, in 2002 we will continue our intensified effort to assist Russia's preparations to join the WTO. President Putin has made WTO membership and integration into the global trading system a top priority; we will support Russia as it promotes reforms, further establishes the rule of law in the economy, and adheres to WTO commitments for a more open economy. This effort needs to include action by the Duma to establish a fully effective legal infrastructure for a market economy.

It is our expectation that the WTO will prepare a first draft Working Party report on Russia's accession in the first quarter of this year. We will work with Minister Gref – in cooperation with the EU and our other WTO counterparts – to address any gaps. Throughout this process, we look forward to consulting closely with the Congress.

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 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 U.S. Government will continue consulting closely with various groups on the protection of freedom of religion and other human rights in conjunction with this action.

While some are inclined to keep the Jackson-Vanik law in reserve as we negotiate Russia's accession to the WTO, this course would continue to place Russia's trade relations with us in a different category, and would work against U.S. commercial and foreign policy interests. The Russians acknowledge they must abide by the WTO's rules, and we and 143 other economies will insist on that course as their WTO negotiations proceed. Working closely with the Congress, we will stress the need for Russia to offer fair market access – for example in agriculture – but we should do so according to the rules to which we maintain Russia should adhere. Congress exercises substantial oversight in these negotiations through existing consultation provisions.

Pressing Regional Initiatives: The Free Trade Area of the Americas

In April 2001, at the Quebec City Summit, the President inaugurated a reinvigorated push for free trade throughout the Americas. A number of Members of Congress joined him to express their support and represent important perspectives.

At Quebec City, the leaders of 34 democracies of the Western Hemisphere agreed to proceed with detailed draft negotiating texts and to complete work no later than January 2005. Once implemented, the FTAA will be the largest free trade zone in the world.

The United States and its FTAA partners are working commitedly toward this goal. By May of this year, we will launch market access negotiations on agriculture, industrial goods, services, investment, and government procurement. In October, trade ministers will meet in Quito to review the revised negotiating texts and to determine next steps. Upon the close of the Quito meeting, the United States and Brazil will begin a co-chairmanship of the FTAA process, providing an opportunity for cooperation with a key partner and economic power as the pace of negotiations accelerates.

Throughout the year ahead, we will also persist in our efforts to make the public case for NAFTA's 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, by demonstrating how free trade between developed and developing countries can boost prosperity, economic stability, productive integration, and the development of civil society.

Moving Forward: Bilateral Trade Agreements

In 2001, the Congress approved the U.S.-Jordan Free Trade Agreement with broad support, establishing America's third free trade zone, and our first with an Arab country. The Congress also passed the Bilateral Trade Agreement with Vietnam, achieving a principal goal of America's decade-long agenda to normalize relations with our former foe. Many Members of Congress, such as Senator Kerry, played key roles in the development of these agreements, and then shepherded the final packages to successful passage.

In 2002, we intend to complete free trade agreements with Chile and Singapore. Each of these agreements offer increased opportunities for U.S. businesses, farmers, and workers and will send a message to the world that the United States will press ahead with those that are committed to open markets – whether in the Western Hemisphere, across the Pacific, or beyond the Atlantic. As we move these FTA negotiations toward completion in the months ahead, we want to work closely with the Congress, and the Senate Finance and House Ways & Means Committees in particular, so we can determine how best to

address the concerns and interests of the Congress and the American people.

In 2002, working with the Congress, we also hope to initiate talks on new bilateral free trade agreements. These agreements can open up a new front for free trade. They can create models of success that help reformers, break new ground for liberalization in changing or emerging sectors (e.g. biotech, high tech – including IPR-related sectors – and services), build friendly coalitions to promote trade objectives in other contexts (e.g. biotech, SPS topics), add to America's trade leverage globally, underpin links with other nations, and energize and expand the support for trade. New trade agreements also present fresh opportunities to find common ground at home, and with our trading partners, on the nexus among trade, growth, and improved environmental and working conditions.

Our aim is to achieve free trade agreements with a mix of developed and developing nations in all regions of the world. As the President announced in January, and as Congress urged in the Caribbean Basin Trade Partnership Act, we want to explore a free trade agreement with the countries of Central America. Many Members of Congress have expressed strong support for an FTA with Australia. We have begun discussions with Australia to determine how best to move forward towards this goal, recognizing the need in particular to work on agricultural issues. The Africa Growth and Opportunity Act (AGOA) also urges us to advance the negotiations of FTAs with sub-Saharan Africa. We have begun preliminary discussions with the Southern African Customs Union toward this end.

We are weighing these and other possibilities to extend free trade. We look forward to discussing these matters with the Congress, and the Senate Finance and House Ways & Means Committees in particular, and seek continued input on these or other possible FTAs. It is our intent to press the goals in the Trade Promotion bills passed by the House and the Finance Committee.

Working with Developing Nations: Preferential Trade Agreements 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."

We urge the Congress to reauthorize and expand the Andean Trade Preference Act (ATPA) – a vital program for the four Andean developing country democracies on the front lines of the fight against narcotics production and trafficking. ATPA was enacted in 1991, and its expiration after ten years has caused real hardship for friendly countries with little margin to spare.

We also urge Congress to reauthorize the expired Generalized System of Preferences (GSP), a 26-year old U.S. program to promote economic growth in 123 developing nations and 19 territories by providing duty-free treatment for certain exports to the United States. The expiration of GSP access on September 30 – shortly after September 11 – raised hardship and anxieties among developing nations that are seeking to alleviate conditions that serve as breeding grounds for those whose purpose is destruction, not construction and production.

Last year, we began the important implementation of the far-sighted African Growth and Opportunity Act, which Congress enacted in May 2000. AGOA extends duty-free and quota-free access to the U.S. market for nearly all goods produced in the 35 eligible beneficiary nations of sub-Saharan Africa. In 2001, the United States lifted all duties on eligible apparel products exported from 12 AGOA nations to the United States. The Administration is fully committed to AGOA's use and expansion. It 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. Indeed, we support prompt Congressional action on legislation that will clarify and strengthen current provisions in the AGOA. In mid-February, I traveled to Kenya, South Africa, and Botswana to listen and learn more about Africa's needs, while conveying America's support for Africa's economic and political reforms and our interest in greater trade.

Through AGOA and other preferential trading ties, such as the Caribbean Basin Trade Partnership Act, we will support efforts to build the capacity of developing countries to take part in trade negotiations, implement complex trade agreements, and use trade as an engine of economic growth. The United States devoted more than $555 million in trade-related capacity-building assistance to developing countries during fiscal 2001 – more than any other single country. We will continue to work with other agencies of the U.S. Government, such as AID, and with multilateral and regional institutions, such as the World Bank, the Inter-American Development Bank, the African Development Bank, and the WTO to help developing nations to board the ship of trade so as to reach the shore of prosperity, opportunity, jobs, better health, the rule of law, and political reform. 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 are benefitting American producers, exporters, and consumers. Sectors which have been affected include entertainment (motion picture and television programming), high-technology (software and telecommunications) and agriculture (bananas, soybeans, lamb, rice, pork, beef, dried beans, stone fruit, fresh fruits and vegetables, processed foods, citrus, nuts, stuffed molasses, and wheat gluten).

In 2002, we will seek to resolve favorably other trade disputes in a way that best serves America's interests. Among the most prominent cases are: softwood lumber with Canada; beef with the European Union; the Foreign Sales Corporation WTO case brought by the EU; and sweeteners with Mexico. In the FSC case, the executive branch will need to consult and work closely with the Congress to determine an approach that will help avoid large trade retaliation against U.S. exporters and the risks of spiraling conflict.

We plan a special effort around the world to address technology regulations and science and health measures that impede farm exports and the productive development of agriculture. Biotechnology holds out tremendous potential for the developing world. It can increase food security and food production through higher yields and the reduction of fertilizer and insecticide inputs. New discoveries will add vitamins to foods, and counter malnutrition and disease.

Trade Laws Against Unfair Practices

Given America's relative openness, strong, effective laws against unfair practices are crucial toward maintaining domestic support for trade. This Administration has used and continues to back the use of these laws.

In Doha, working closely with the Commerce Department, we stressed and pressed this point vigorously. We then advanced an affirmative U.S. agenda, targeting the increasing misuse of these laws, particularly by developing countries, to block U.S. exports. During 1995-2000, there were 81 investigations by 17 countries of U.S.

exporters. Chemical, steel, and other metal producers are the most frequently hit U.S. industries, although U.S. farm products are increasingly targeted. At present, there are over 60 orders against American companies in effect. The new negotiations launched at Doha will help us address significant shortcomings in foreign anti-dumping and countervailing duty procedures by improving transparency and due process.

Finally, the Doha Declaration makes clear that trade remedy laws are essential tools and should not be undermined. We won agreement that the new negotiations will preserve the concepts, principles, and effectiveness of the international provisions on which we rely, as well as the instruments we use. Moreover, the United States 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.

The Importance of Safeguards

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.

The Bush Administration has pursued innovative approaches with safeguards. For example, while ending the safeguards for our wheat gluten and lamb industries last year, we also provided them with additional financial assistance over a period of 2-3 years. The effect has been to assist them in their transitions to competitiveness, while also helping to insulate our exporters from trade retaliation. The European Union agreed to lift its duties on U.S. corn gluten imports as part of our action on wheat gluten.

In June, the Administration requested a safeguards investigation by the U.S. International Trade Commission into whether increased imports were causing serious injury to the U.S. steel industry. The President's request was one part of a larger U.S. global steel initiative that also included the launch of new negotiations with our trading partners to eliminate inefficient excess capacity in the world's steel industry and to enhance international discipline over subsidies and other measures that distort markets.

On December 19, the International Trade Commission issued a report containing its recommendations. A plurality of the commissioners recommended various remedies for many of the steel product categories. The Administration has been reviewing the ITC's recommendations, as well as the views of a diverse collection of steel companies, labor unions, steel consumers, port authorities, and exporters. We recently received supplementary information from the ITC pursuant to an Administration request. We welcome continued input from the Congress as the President decides on a course of action.

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.

The trade system also needs to be alert to other challenges. Poor countries cannot succeed with economic reform and growth if they are eviscerated by pandemics. From its first days, this Administration recognized this economic, health, and social reality. We stressed that the international WTO Agreement on Intellectual Property (the TRIPs accord) contains flexibilities for developing nations to obtain access to critical medicines to help address public health emergencies, such as HIV/AIDS, tuberculosis, and malaria. The Administration played a key

coalition-building role – working closely with African nations and Brazil, as well as pharmaceutical companies – to develop a special political declaration at Doha that affirms these flexibilities.

Flexibility on the implementation of intellectual property protection, and lower-priced medicines, must be part of a larger global response to health pandemics, involving education, prevention, care, training, and treatment. The United States is the largest bilateral donor of funds for HIV/AIDS, tuberculosis, and malaria assistance, providing over $1 billion per year on related research, prevention, care, and treatment programs, much of which helps to address developing country problems. The United States was the first contributor, and remains the largest, at $500 million, toward the international "Global Fund to Fight AIDS, TB and Malaria," which will allocate its first grants in April.

We are also stressing that the promotion of the flexibilities within the TRIPS accord must be compatible with the crucial protection of intellectual property. Effective protection of intellectual property is critical for developing nations, because we need to find and develop cures for diseases that ravage their societies. Furthermore, the local protection of intellectual property rights establishes the foundation for an attractive investment climate for industries of the future. Indeed, as developing countries have implemented the intellectual property protections in TRIPs, they have begun to benefit from increased technology transfer and investment – two key factors in long-term economic growth.

There are other areas where we are working to ensure our trade policies are supportive of related meritorious purposes. USTR has worked closely with Members of Congress on legislation that would support international efforts to stop trade in "conflict diamonds" (diamonds traded by rebel movements to finance conflict aimed at undermining elected governments). The bill approved by the U.S. House of Representatives in late November achieves this objective consistent with our international obligations. We will continue to work with other agencies and the Senate sponsors of the legislation to resolve any remaining issues and to help bring the Kimberley Process (the international negotiations aimed at preventing trade in conflict diamonds) to a successful conclusion.

A Cleaner Environment and Better Working Conditions

Free trade promotes free markets, economic growth, and higher incomes. And as countries grow wealthier their citizens demand higher labor and environmental standards. Furthermore, governments have more resources and incentives to promote and enforce such standards.

In 2001, we charted progress on incorporating labor and environmental concerns into U.S. trade policy. The U.S.-Jordan Free Trade Agreement is the first U.S. free trade accord to include enforceable environmental and labor obligations in the body of the agreement. The Administration also affirmed an executive order, and its implementing guidelines, for conducting environmental reviews of trade agreements. As part of this policy, USTR is conducting environmental reviews of the U.S.-Chile and U.S.-Singapore free trade agreements, the Free Trade Area of the Americas, and the WTO's new negotiating agenda.

The House and Senate Trade Promotion Authority bills contain provisions that will incorporate labor and environmental concerns into U.S. trade negotiations. We are drawing on this guidance – and would welcome additional insights – as we are pursuing these topics in our current trade negotiations. Similarly, we are conducting discussions with NGOs and the business community to ascertain how we can address concerns posed about investment provisions in trade agreements. Working with our NAFTA partners last July, we agreed to increased transparency in investment disputes, and we issued additional binding interpretations for

NAFTA panels that define more precisely the basis for their reviews.

As noted earlier, the United States played a leading role in forging the compromise to incorporate environmental concerns into the new global trade negotiations. We continue to stress to our trading partners the critical importance of proceeding creatively and positively on this Doha agenda. We can take practical steps that demonstrate that good environmental policies and sound economics can be mutually supportive. In addition, we should create a healthy "network" between multilateral environmental agreements (MEAs) and the WTO, enhancing institutional cooperation and fostering compatible, supportive regimes. If we succeed, this precedent may be helpful in interconnecting the WTO with other specialized organizations, such as the ILO on labor policies and the WHO on health issues.

The Bush Administration has a sound track record of using our trade preference programs, and our trade negotiations, to improve working conditions in the context of trade liberalization. In May, the Guatemalan Congress enacted a significant package of reforms to the country's labor law following a U.S. review of the country's labor practices conducted under the Generalized System of Preferences program. In December, the United States and Cambodia extended our Bilateral Textile Agreement, including an increase in the quota for textile exports from Cambodia in recognition of Cambodia's progress in reforming labor conditions in factories over the past three years. And in our negotiations for free trade agreements with Chile and Singapore, in accordance with the objectives in the TPA legislation, we will seek a meaningful set of cooperative provisions that will affirm labor and environmental standards and projects, while promoting open markets.

We know the importance of these topics for many Members of Congress, and we want to work to explore new approaches that break through old stereotypes. Some are concerned about a "race to the bottom," although others point to the benefits of trade and openness in spurring growth, productivity, higher incomes, and enhanced scrutiny of working and environmental conditions. Some stress the need to safeguard America's sovereign rights in setting our own standards, while others want to deploy trade agreements to compel others to negotiate 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 TPA bills Congress has forged to bridge the differences, build a stronger consensus, and make a real, positive difference around the world.

Conclusion: Challenges on the Trade Horizon

The United States has made considerable progress on the trade agenda in the past year, but still must do more to catch up with our trading partners. The European Union now has 29 regional and bilateral free trade or special customs agreements, 22 of which it negotiated in the past decade, and is in the process of negotiating with 12 more countries. Mexico sped past the United States after NAFTA to complete eight free trade agreements with 28 countries. Japan has completed a free trade agreement with Singapore and is exploring options with the ASEAN nations, Canada, Mexico, Korea, and Chile. Even China, just into the WTO, is pursuing an FTA with the ASEAN countries.

Altogether, there are 130 regional free trade and customs agreements in the world; the United States is a party to only three. There are 30 free trade agreements in the Western Hemisphere; the United States is a party to only one. In recent years, when the rules of trade have been set, the United States has frequently not been at the negotiating table.

In addition, there is a constant threat of markets closing and barriers rising. During periods of economic downturn and uncertainty, it is most important to affirm the drive toward free trade. In the past, governments have often resorted to

protectionism in short-sighted attempts to shield their local industries from competition. In the face of these challenges, we must be even more vigilant in order to move ahead.

Opening markets, and liberalizing commerce, injects fresh dynamism and energy into the U.S. economy. Open trade cuts taxes on businesses and consumers. For example, NAFTA and the Uruguay Round agreements have resulted in higher incomes and lower prices for goods, with benefits amounting to $1,300 to $2,000 a year for the average American family of four.

There is even more to be gained. A University of Michigan study has reported that new global trade negotiations focused on tariff reductions on industrial and agricultural products could deliver an additional annual benefit of nearly $2,500 for American families.

We will continue to make this case for the benefits of trade. Expanded trade – imports as well as exports – improves our well being. Exports accounted for 25 percent of U.S. economic growth from 1990-2000 and support an estimated 12 million jobs; these jobs are estimated to pay 13 to 18 percent more than other jobs. Trade also promotes more competitive businesses, as well as more choices of goods and inputs, with lower prices. A free and open trading system is critical to a number of sectors of the U.S. economy. In U.S. agriculture, for example, one in three acres are planted for export and nearly 25 percent of gross cash sales are generated by exports. The value of U.S. exports of agricultural products is expected to be $54.5 billion this year. U.S. farmers and ranchers are 2.5 times more reliant on trade than the rest of the economy.

Last year, the Administration and the Congress together restored America's trade policy leadership all around the globe. There is no doubt the United States is back at the free trade table. In the year ahead, the Bush Administration will work in close consultation with the Congress to build on this leadership through the ongoing implementation of an activist agenda that seeks to vanquish the barriers to free trade and magnify the opportunities for growth and prosperity. By opening new markets, together we will be contributing to the enhancement of democracy, liberty, security, innovation, political coalitions, economic growth, and openness in the United States and throughout the world.

Robert B. Zoellick
United States Trade Representative
March 1, 2002

THE PRESIDENT'S 2001 ANNUAL REPORT ON THE TRADE AGREEMENTS PROGRAM

II. World Trade Organization

Overview[1]

The past year marked an important turning point in the World Trade Organization's (WTO) short history. The highlight was the mid-November agreement reached by WTO Members at their Fourth Ministerial Meeting in Doha, Qatar to launch new negotiations on global trade liberalization. These negotiations, which are to be completed no later than January 2005, will promote economic growth and recovery in the United States, and around the world, while strengthening the rules-based multilateral trading system. The United States also played a key role in the accessions of China and Taiwan to the WTO. Their accession agreements will integrate two of the world's largest economies into the rules-based WTO trading system and provide U.S. exporters and investors with expanded access to their important markets.

This chapter reports the progress made on the work program of the WTO, and most importantly outlines the work ahead for 2002, beginning with the negotiations launched at Doha, the implementation of existing Agreements, and the critical negotiations to expand the WTO's membership to include additional Members such as Russia and other nations seeking to reform their economies and join the WTO.

[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.

A. The WTO's Fourth Ministerial Conference in Doha, Qatar, November 9-14, 2001

Much of the work in 2001 was devoted to the preparations for the ministerial meeting in Doha. Article IV of the Marrakesh Agreement Establishing the WTO requires that the WTO 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, the further liberalization of trade, and the resolution of disputes, the Members believed it would be important for ministers to meet on a regular basis in order to provide the necessary direction and political oversight to the organization's work. This regular cycle of ministerial meetings is one innovative aspect of the WTO.

Substantive preparations for the Doha meeting were the responsibility of the WTO General Council under the skillful leadership of Chairman Stuart Harbinson of Hong Kong, China and WTO Director General Michael Moore. Ministers arrived in Doha seeking to forge a consensus on the agenda for new negotiations. Ambassador Zoellick, working closely with Qatari Minister of Finance, Economy, and Trade Youssif Hussein Kamal and other ministers, arrived at agreements to launch new global trade negotiations, also known as the "Doha Development Agenda." WTO Members also made important decisions related to implementation of WTO Agreements, an issue that had been the subject of great attention since the WTO's Third Ministerial meeting in Seattle, and reached an accord on an important political statement with the

"Declaration on the TRIPS Agreement and Public Health." All three declarations are located in Annex II of this report.

The agreements in Doha open a new chapter for the WTO. Unlike previous 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, from the Cairns Group on Agriculture to our partners in sub-Saharan Africa. As a result, the United States succeeded in obtaining an agenda for the new negotiations which is heavily oriented towards market access issues, with agricultural reform at the heart of the agenda.

Prospects for 2002

Now that negotiations are launched, WTO Members will need to move expeditiously in 2002 to establish a calendar for negotiations. Negotiating proposals and offers must be tabled within the first 12-18 months of the negotiations, followed by a ministerial meeting in mid-2003. Hard bargaining will ensue as nations pursue agreement by the deadline of January 1, 2005. Just as U.S. leadership was essential to the successful launch of negotiations, an aggressive, activist approach by the United States will be critical to guarantee success for America's interests. Key negotiating issues include:

1. ***Agriculture***: To achieve a program of fundamental reform, we are committed 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. By March 2003, negotiators must agree on the "modalities" or the extent to which they will cut barriers to market access and export subsidies; by June 2003, negotiators will table specific requests and offers on reducing support and protection, using these modalities. The WTO negotiations in agriculture are closely related to the FTAA negotiations, where trading partners want to see progress in agriculture that will only be possible in the WTO, where Europe will have to address its export subsidies. Rapid progress in 2002 in agriculture, through substantive, credible proposals, is essential for both the WTO and FTAA negotiations.

2. ***Non-Agricultural Market Access***: Market access for manufacturing must keep pace with the progress on agriculture, and the expansive agenda obtained by U.S. negotiators provides a unique opportunity to pursue America's interests. During 2002, governments will make proposals for negotiating "modalities" with the aim of reaching agreement by March 2003. Modalities cover the general ground rules under which negotiations will be conducted, including the manner or extent to which tariff and non-tariff barriers in manufactured products will be reduced or eliminated. Working together with Congress and industry during 2002, we will develop proposals so that we meet the deadline for reaching consensus on modalities. Past U.S. efforts brought about the Information Technology Agreement, Chemical Harmonization and a host of other initiatives aimed at eliminating barriers to trade.

3. ***Services***: An aggressive agenda for market opening in services sectors such as audio-visual services, financial services (including insurance), express delivery services and telecommunication services is within reach. No later than June 2002, requests of other Members to open their market

must be made, and shortly thereafter, offers are to be submitted. Work in 2002 will concentrate on the development of these requests. The United States is a world leader in services for the 21st century, a sector which now accounts for 80 percent of U.S. employment. Market openings in services are essential to long term growth of the U.S. economy. In particular, it is essential that we ensure that there is no discrimination against services delivered via the Internet.

4. ***Dispute Settlement***: The system of WTO rules is only as strong as our ability to enforce our rights under these Agreements. By May 2003, agreement must be reached on improving this system of enforcement, including making the WTO more transparent in its operation.

5. ***WTO Rules***: As tariffs have declined in the United States, American workers need strong and effective trade rules to combat unfair trade practices. Negotiators obtained a solid mandate that recognizes the importance of existing Agreements and the instruments (*i.e.*, domestic trade laws) for enforcing those Agreements. We also obtained a commitment to strengthen the rules and address the underlying causes of unfair trade practices. America's long-term interests will be harmed unless we reinforce the rule of law. The process envisioned in the WTO should result in strengthened trade rules in antidumping and subsidies, as well as new disciplines on harmful fish subsidies that contribute to overfishing or have other trade-distorting effects. Work in 2002 will focus on these U.S. objectives.

6. ***Trade Facilitation (Customs Procedures):*** Strengthened trade rules governing customs procedures to ensure the free flow of goods and services in the new just-in-time economy are the eventual aim of work in the WTO. American exporters of manufactures and agriculture require strengthened rules aimed at greater transparency and which combat corruption in customs procedures. Improved customs procedures are particularly crucial to the success of the U.S. express delivery industry. U.S. leadership in 2002 to develop proposals and forge consensus, particularly among developing countries, will be the key to success.

7. ***Environment***: By mid-2003, decisions will be taken on how negotiations should proceed on the relationship between existing WTO rules and specific trade obligations in Multilateral Environmental Agreements (MEAs), enhanced communications between MEA Secretariats and specific WTO committees, and reduction or elimination of barriers to environmental goods and services. The United States has played a leading role in incorporating environmental concerns into the WTO negotiations, and believes the negotiations present significant opportunities to take practical steps to enhance institutional cooperation and foster compatible and mutually supportive trade and environment regimes. Work in 2002 will seek to advance this agenda.

8. ***Competition and Investment:*** By mid-2003, decisions will be taken on how negotiations should proceed in these areas vital to long-term U.S. interests. On investment, we have an opportunity to establish the rules of the road where the United States has the greatest stake in ensuring openness and transparency in the regimes of newly emerging market economies. On competition, we will continue ongoing work with regard to clarifying core principles, and

assisting developing-country WTO Members in understanding competition policy and its relationship with trade liberalization and economic growth.

9. ***Transparency in Government Procurement:*** During 2002, the United States will continue to lead efforts in the WTO to forge a consensus on the elements of an agreement that establishes a common set of procedures to ensure that government purchasing decisions are done in an open and transparent fashion. This will be an important contribution and complement to other initiatives to combat corruption and unfair trade practices.

10. ***Trade and Development***: 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. An intensified program of technical assistance and capacity building, in cooperation with the WTO and other international organizations, will be an essential aspect of our work in 2002.

11. ***Implementation***: The Doha Declaration establishes a rigorous work program on questions of implementation, including issues that were discussed in the Doha preparatory process. In some cases, differences may only be bridged 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 2002, and in developing the report that will be provided to the Trade Negotiations Committee at the end of the year.

B. Built-In Agenda Negotiations in Agriculture and Services

The "built-in agenda" negotiations on agriculture and services proceeded in 2001 in advance of the Fourth Ministerial Conference in Doha. The mandates, respectively, are to pursue further agricultural reform and liberalization in services. In 2000, WTO Members established time frames for tabling proposals in both areas and conducted a rigorous program of special sessions of the Committee on Agriculture and the Council for Trade in Services. In March 2001, following stocktaking sessions, both bodies agreed on a further one-year work program.

Agriculture: 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 other large agricultural producing and consuming nations. For example, absent a WTO agreement on agriculture, there would be no limits on EU subsidization or firm commitments for access to the Japanese market. Through negotiations in the WTO, America has the best hope to open important markets for U.S. farm products and reduce subsidized competition. At 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."

Developing countries, particularly Members of the Cairns Group[2] look to the agriculture negotiations as the means for achieving more

[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.

significant and meaningful trade performance in the global economy. Developing countries' growth in exports and world market share increased following the Uruguay Round. Nonetheless, most developing countries feel they have not yet been able to implement new disciplines established in the Uruguay Round, and hence are not yet obtaining full benefits. Their concerns can not be overlooked during these negotiations.

The Uruguay Round Agreement on Agriculture provided the framework for further negotiations and mandated negotiations on agriculture to begin in the year 2000. Early in 2000, Members established time frames for the tabling of proposals and conducted a rigorous program of special sessions of the Committee on Agriculture throughout 2000. In March 2001, Members agreed to a work plan for the second phase of negotiations, in-depth discussion of all the topics addressed in initial negotiating proposals. With two years of negotiations nearly complete, including the tabling of some 45 proposals on behalf of 121 Members, the next phase of negotiations will focus on developing reform modalities – general approaches to reducing protection and support, and formulating new disciplines on trade-related agricultural policies. The three main areas for improvement in trade disciplines are export subsidies, market access and domestic support. The Doha Ministerial Declaration established ambitious negotiating time lines with modalities to be decided no later than March 31, 2003 and submission of draft schedules of specific commitments by the next WTO Ministerial Conference. This will require an intense work program in 2002.

Export Subsidies. The Agriculture Agreement 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 has been capped and reduced. Currently, the European Union accounts for over 90 percent of global annual spending on agricultural export subsidies. Many Members, including the United States and a number of developing countries, have called for the elimination of export subsidies to be an outcome of the new negotiations. A number of countries have also called for stricter disciplines on other export-related government programs, including export credits, food aid, and privileges enjoyed by state trading enterprises.

Market Access. The Agriculture Agreement sets agricultural trade on a more predictable basis by requiring the conversion of non-tariff barriers, such as quotas and import bans, into simple tariffs. Today, tariffs represent the primary WTO-consistent restriction for 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 continue to impede international trade in food and fiber products. Substantial tariff reductions and reform of administrative systems are a key feature of a number of the negotiating proposals submitted in 2000. The U.S. proposal, submitted in June 2000, focuses on reducing high tariffs, an outcome that would benefit U.S. producers who generally have less tariff protection than producers in other countries.

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 some developing countries have also focused their proposals on

the need for substantial tariff reductions in developed country markets.

Domestic Support. Governments have the right to support farmers if they so choose. However, the Agriculture Agreement encourages that support be provided in a manner that causes 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 U.S. proposal submitted in June 2000 calls for a reduction in the level of trade-distorting support and the establishment of a ceiling on trade-distorting support that applies equally to all countries proportionate to the size of their agricultural economy. This proposal will reduce unfair competition in world markets and eliminate 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 and a cap on the green box non-trade-distorting support.

Negotiating Proposals. Forty-five proposals were submitted during the first year of negotiations (all of these papers can be accessed by the public from the WTO web site at http://www.wto.org.) The United States tabled the first comprehensive proposal in June 2000 and later a proposal on tariff-rate quota reform in November 2000. The Cairns Group of exporting countries tabled four proposals, one each on export competition, domestic support, market access, and export restrictions. The European Union submitted a comprehensive proposal and four narrower proposals on animal welfare, domestic support, food quality, and export competition. Japan submitted a comprehensive negotiating proposal. Switzerland, Mauritius, Norway, Korea, India, Turkey, Egypt, Nigeria, Democratic Republic of Congo, Kenya, Senegal, Mexico, Jordan, Croatia, the WTO Africa Group, Poland and Namibia also submitted comprehensive proposals. A number of other Members, including a number of groups of developing countries, submitted proposals on specific negotiating topics. In the second year (2001) of negotiations, numerous informal discussion papers were submitted by a wide range of Members detailing views on particular reform proposals. These discussions allowed some Members to provide background explanations to justify their country's position and elaborate further on proposals submitted in the first year (2000).

Key Elements of U.S. Proposals for Agricultural Reform

Tariffs and TRQs. Comprehensive reductions in tariffs and tariff disparities and increases 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 based on a fixed proportion of the value of national agriculture production.

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

New Technologies. Flags the importance of addressing trade barriers to products of new technology, including biotechnology, but does not suggest specific disciplines.

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

Special and Differential Treatment. Provides special consideration to the concerns of the poorer WTO Members to ensure the agreement is appropriate for their circumstances.

Services: Pursuant to the mandate provided in the Uruguay Round, in 2000, Members embarked upon new, multi-sectoral services negotiations under Article XIX of the General Agreement on Trade in Services (GATS). The Council for Trade in Services (CTS), meeting in special session, serves as the negotiating body.

The services negotiations are critically important to the U.S. economy. Providing services are what most Americans do for a living. Service industries account for nearly 80 percent of U.S. employment and private sector GDP. U.S. exports of commercial services (*i.e.*, excluding military and government) were $279 billion in 2000, supporting over four million services and manufacturing jobs in the United States. Cross-border trade in services accounts for more than 25 percent of world trade, or about $1.4 trillion annually. U.S. services exports have more than doubled over the last 10 years, from $137 billion in 1990. U.S. services compete successfully worldwide. Major markets for U.S. services include the European Union ($90 billion in private sector 2000 exports), Japan ($34 billion), and Canada ($23 billion). At $14 billion, Mexico is presently the largest emerging market for services exports. And, these export industries are spread throughout the country – for example, every state in the union has companies engaged in exports of information and data processing services, and all states but one have companies engaged in export of software services.

Services are important to an efficient economy. They include essential infrastructure systems like telecommunications, finance, energy services, transportation, and distribution; professional services like accounting, law, architecture, and engineering; and environmental services such as sewage, refuse disposal, sanitation and exhaust gas reduction services.

In March 2001, WTO Members reached agreement on guidelines and procedures for the services negotiations, reaffirming the basic objectives of removing restrictions and providing effective market access for trade in services. The work of the negotiating body during 2001 was marked by extensive discussion of negotiating proposals. The United States had submitted the first comprehensive negotiating proposal in July 2000, followed by 12 detailed proposals in December 2000 and two additional proposals in July 2001. The proposals cover 12 sectors (accountancy services; advertising services; audio-visual and related services; distribution services; education and training services; energy services; environmental services; express delivery services; financial services; legal services; telecommunications, value-added network, and complementary services; and tourism services), one GATS "mode of supply" (temporary entry of natural persons), and the cross-cutting topic of the role of transparency in the regulation of services.

As of December 2001, 42 countries had submitted some 140 proposals, including proposals from approximately 30 developing countries. As is the case for the U.S. submissions, in general these proposals describe a country's objectives for the negotiations in a sector or topic. All of these proposals are available on the WTO website; the U.S. proposals also are available on USTR's website. Members used the May, July, October, and December 2001 CTS special sessions for structured discussion of the proposals, establishing a schedule to encourage participation by capital-based sectoral and other experts. In December 2001, discussions took place on five agreed topics, including the relevance of service sectors to developing country interests.

The Doha Ministerial Declaration established two benchmark dates for the services negotiations: submission of liberalization requests by June 30, 2002, and submission of liberalization offers by March 31, 2003. While discussion and submission of negotiating proposals will continue in early 2002, the U.S. and other WTO Members will now turn their attention to preparation of requests by the agreed June 30 deadline.

C. Dispute Settlement Body

1. The Dispute Settlement Understanding

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 includes representatives of all WTO Members. The DSB 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 at the end of this chapter provides more background information on the WTO dispute settlement process.

Dispute Settlement Body Actions in 2001

The DSB met 21 times in 2001 to oversee disputes and to take care of tasks such as electing Appellate Body members 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, to aid in evaluation of candidates' qualifications and to encourage the appointment of well-qualified candidates who have expertise in the subject matters of the Uruguay Round Agreements. In 2001, 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 2001.

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.

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 Chairman, and one-year terms for subsequent Chairmen. Mr. Lacarte-Muró, the first Chairman, served until February 7, 1998; Mr. Beeby served as Chairman from February 7, 1998 to February 6, 1999; Mr. El-Naggar served as Chairman from February 7, 1999 to February 6, 2000; and Mr. Feliciano served as Chairman from February 7, 2000 to February 6, 2001; and Mr. Bacchus's term as Chairman runs from February 7, 2001 to February 6, 2002.

In 2001, the Appellate Body issued nine reports, of which six involved the United States as a party and are discussed in detail below. The three other reports concerned France's measures

affecting asbestos and asbestos-containing products, Thailand's anti-dumping duties on steel and H-beams from Poland, and the European Communities' anti-dumping duties on cotton type bed linen from India. The United States participated in all three of these proceedings as an interested third party.

Prospects for 2002

In 2002, 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 2002.

2. Dispute Settlement Activity in 2001

During its first seven years in operation, 242 requests for consultations (22 in 1995, 42 in1996, 46 in 1997, 44 in 1998, 31 in 1999, 30 in 2000, and 27 in 2001) concerning 180 distinct matters were filed with the WTO. During that period, the United States filed 57 requests for consultations and received 52 requests for consultations on U.S. measures. A number of disputes commenced in earlier years continued to be active in 2001. 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.

a. Disputes Brought by the United States

In 2001, 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 2001 with respect to those cases in which 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

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 have arisen as a result of Argentina's failure to fully implement its remaining TRIPS obligations that came due on January 1, 2000. These concerns include Argentina's failure to protect confidential test data submitted to government regulatory authorities for pharmaceuticals and agricultural chemicals; its denial of certain exclusive rights for patents; its failure to provide such provisional measures as preliminary injunctions to prevent infringements of patent rights; and its exclusion of certain subject matter from patentability. Consultations began July 17, 2000, and continued constructively through 2001.

Belgium—Rice imports

Belgian customs authorities disregarded the actual transaction values of rice imported from the United States from July 1, 1997 to December 31, 1998, in computing the applicable customs duties. The United States believes that this failure to use transaction values violated Belgium's WTO obligations. By not using transaction values to compute customs duties, Belgium assessed duties on rice that were higher than the levels provided for in the "Schedule of Specific Commitments of the European

Communities and Their Member States." Belgium's administration of its tariff regime for rice, moreover, has contributed to substantial uncertainty regarding the rate of duty that will be applicable to shipments of imported rice. On October 12, 2000, the United States requested consultations with Belgium regarding this matter, and consultations were held November 30, 2000. On January 19, 2001, the United States requested the establishment of a panel. The panel request was revised on March 1, and a panel was established on March 12, 2001. The following panelists were selected by the WTO Director-General: Ambassador Mohammed Nacer Benjelloun-Touimi, Chair; and Professor Donald MacLaren and Mr. Jooha Woo, Members. However, at the request of the parties, the panel did not commence its work, since discussions aimed at settlement were continuing. On November 19, 2001, Belgium issued a refund to the affected U.S. company for excess duties it had collected. Accordingly, on November 30, 2001, USTR announced the favorable resolution of this dispute.

Brazil—Customs valuation

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 EU regarding the same matter, and decided to pursue its own case as well. The United States held consultations with Brazil on July 18, 2000, and continued to monitor the situation in 2001.

Brazil—Patent protection

Although Brazil has a largely WTO-consistent patent regime that has been in place for some time, on May 31, 2000, the United States requested consultations with Brazil regarding a provision in its patent law providing for patent owners to manufacture their products in Brazil in order to maintain full patent rights. Consultations were held June 29, 2000. Additional consultations were held December 1, 2000, and thereafter the United States requested the establishment of a panel. On June 25, 2001, the USTR announced that the United States and Brazil had agreed to transfer their disagreement over this provision from formal WTO litigation to a newly created bilateral consultative mechanism. The agreement was a step forward both for the common fight against HIV/AIDS and the constructive handling of this patent dispute. It will permit more effective and less confrontational consideration of intellectual property issues and ensure that such discussions do not divert attention away from the shared goal of combating the spread of HIV/AIDS. The United States and Brazil set up the U.S.-Brazil Consultative Mechanism to improve their capacity to find creative solutions for trade and investment issues of mutual concern. This forum should prove useful as the United States and Brazil continue to work to accommodate their mutual desire to protect intellectual property rights without compromising their efforts to combat HIV/AIDS.

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

The United States prevailed on its claim that Canada was providing subsidies to exports of dairy products without regard to its Uruguay Round commitment to reduce the quantity of subsidized exports, 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 implement the DSB's recommendations and rulings in stages; Canada has already implemented some measures, and was to complete full implementation no later than January 31, 2001.

While Canada has eliminated one of the export subsidies subject to the DSB findings, all of its exporting provinces have instituted substitute measures that appear to duplicate most of the elements of the export subsidies which they replace. Information regarding the new measures indicates that only exporters have access to milk at prices that are below domestic market levels in Canada. Therefore, on February 16, 2001, the United States 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 benefitting goods from Canada if the panel agrees that Canada has failed to comply with 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 continues 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 requested that the panel be reconvened again for the United States to present additional factual information.

Canada—Patent protection term

The United States prevailed in this dispute, in which the United States argued that the Canadian Patent Act is inconsistent with the TRIPS Agreement. The TRIPS Agreement obligates WTO Members to grant a term of protection for patents that runs at least 20 years from the filing date of the underlying application, and requires each Member to grant this minimum term to all patents existing as of the date of application of the Agreement to that Member. Under the Canadian Patent Act, the term granted to patents issued on the basis of applications filed before October 1, 1989, is only 17 years from the date on which the patent is issued. The United States initiated this dispute on May 6, 1999. The panel was established on September 22, 1999, and on October 22, 1999, the Director-General composed the panel as follows: Mr. Stuart Harbinson, Chairman; Mr. Sergio Escudero and Mr. Alberto Heimler, Members. In its report, circulated on May 5, 2000, the panel agreed with the United States that Canada's law fails to provide the patent term guaranteed by TRIPS. On September 18, 2000, the Appellate Body affirmed the panel's rulings. The DSB adopted the reports of the panel and Appellate Body on October 12, 2000. The United States asked an arbitrator to determine the reasonable period of time for Canada to comply, and on February 28, 2001, the arbitrator determined that the deadline for compliance shall be August 12, 2001. Effective July 12, 2001, Canada announced that it had enacted an amendment to its Patent Act to bring it into conformity with its obligations under the TRIPS Agreement.

Denmark—Measures affecting the enforcement of intellectual property rights

The United States requested consultations with Denmark in May 1997 because of Denmark's failure to make available *ex parte* search remedies in intellectual property enforcement actions, as required by Article 50 of the TRIPS Agreement. After the United States and Denmark held several rounds of formal and informal consultations, Denmark formed a Legal Preparatory Committee to gather information and views, and ultimately to draft appropriate legislation. In June 2000, the Legal Preparatory Committee issued its report recommending an amendment to Danish IP legislation so as to make an *ex parte* search provision available. Soon thereafter, the Danish Government formally introduced legislation into its Parliament to amend Denmark's intellectual property rights regime. On March 20, 2001, the Danish Parliament approved the legislation, which was then signed into law on March 28, 2001.

EU—Regime for the importation, sale and distribution of bananas

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 EU 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 EU, the value of which is equivalent to the nullification or impairment sustained by the United States. The EU 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 EU agreed to an Understanding that identified the means by which the dispute could be resolved. Pursuant to the Understanding, the EU 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 EU implemented an additional change to the tariff-rate quota by January 1, 2002, which resulted in further increases of licenses allocated to US operators.

EU—Import surcharge on corn gluten feed

On August 20, 1998, the EU published Council Regulation No. 1804/98 of August 14, 1998, which imposed a tariff-rate quota of five euros per metric ton ("MT") on the first 2,730,000 MT of corn gluten feed imported into the EU from the United States. The quota was made applicable beginning on the earlier of June 1, 2001 or five days after the date of WTO Dispute Settlement Body's adoption of a decision that the U.S. safeguard measure on wheat gluten was "incompatible with the WTO Agreements." The EU cited Articles 8.2 and 8.3 of the Safeguards Agreement as authority for this measure, and the DSB adoption of recommendations and rulings in *United States – Definitive Safeguard Measures on Imports of Wheat Gluten from the European Communities* triggered the application of the TRQ effective January 24, 2001. The United States considered that the EU failed to

satisfy the requirements of Articles 8.1, 8.2, and 8.3 of the Safeguards Agreement for a Member to suspend concessions or other obligations. Therefore, on January 25, 2001, the United States requested consultations with the EU regarding this matter. The consultations were held on April 24, 2001. The EU regulation provided for the quota on corn gluten feed to apply until the U.S. safeguard measure on imports of wheat gluten was lifted. Since the U.S. safeguard measure expired on June 1, 2001, and was not renewed, the EU tariff-rate quota on corn gluten feed no longer applied to imports from the United States after that date.

EU—Protection of trademarks and geographical indications for agricultural products and foodstuffs

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 EU'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 2001.

India—Import quotas on agricultural, textile and industrial products

The United States prevailed in its challenge to India's import restrictions on more than 2,700 tariff items. These restrictions are no longer justified under the balance-of-payments ("BOP") exceptions of the GATT 1994. On February 20, 1998, at the request of the complaining parties, the Director-General selected the following panelists to serve in this dispute: Mr. Celso Lafer, Chairman; Prof. Paul Demaret and Prof. Richard Snape, Members. On April 6, 1999, the panel circulated its report, finding that India's quantitative restrictions on imports violate the WTO Agreement, and rejecting India's claim that its BOP situation justified them. The Appellate Body confirmed the panel's determination on August 23, 1999. The DSB adopted the panel and Appellate Body reports at its meeting on September 22, 1999. The United States and India agreed that India would implement the DSB's recommendations and rulings by April 1, 2000 for approximately 73 percent of the tariff items at issue in this case, and by April 1, 2001 for the remaining items. The liberalization due on April 1, 2000, took place on time. On April 1, 2001, India completed its compliance with the WTO ruling. In announcing India's new export-import policy on March 31, 2001, Indian Commerce and Industry Minister Maran explicitly cited the WTO ruling as the reason for removing these quantitative restrictions.

India—Measures affecting the motor vehicle sector

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 EU 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 has decided to appeal the panel's report.

Korea—Measures affecting imports of fresh, chilled, and frozen beef

The United States prevailed in this dispute, which challenged Korea's regulatory scheme that discriminates against imported beef by confining sales of imported beef to specialized stores, limiting the manner of its display, and otherwise constraining opportunities for the sale of imported beef. In addition to the regulatory scheme, the United States contended that Korea imposed a markup on sales of imported beef, limited import authority to certain so-called "super-groups" and the Livestock Producers Marketing Organization ("LPMO"), and provided domestic support to the cattle industry in Korea in amounts that cause Korea to exceed its aggregate measure of support as reflected in Korea's WTO schedule. The United States alleged that these restrictions were inconsistent with the GATT 1994, the Agreement on Agriculture, and the Import Licensing Agreement.

Consultations were held March 11-12, 1999, and a panel was established on May 26, 1999. Australia also requested a panel on the same measures, and the two disputes were consolidated. On August 4, 1999, the following panelists were selected, with the consent of the parties, to review the United States and Australian claims: Mr. Lars Anell, Chairman; Mr. Paul Demaret and Mr. Alan Matthews, Members. The final panel report, released on July 31, 2000, found Korea in violation of its WTO obligations. Korea appealed the panel's rulings on September 11, 2000. On December 11, 2000, the Appellate Body upheld the panel on all significant issues. The reports were adopted on January 10, 2001. On February 1, 2001, Korea announced its intention to implement the DSB recommendations and rulings by September 10, 2001 in a manner that respects Korea's WTO obligations. At a DSB meeting on September 25, 2001, Korea reported that it had implemented the DSB's recommendations and rulings.

Mexico—Antidumping investigation of high fructose corn syrup from the United States

On January 28, 2000, a WTO panel ruled that Mexico's imposition of antidumping duties on U.S. imports of high fructose corn syrup ("HFCS") was inconsistent with the requirements of the Antidumping Agreements in several respects. The panel, which was composed on January 13, 1999, with the consent of the parties, included: Mr. Christer Manhusen, Chairman; Mr. Gerald Salembier and Mr. Edwin Vermulst, Members. Mexico had begun this antidumping investigation based on a petition by the Mexican sugar industry. The United States successfully demonstrated that Mexico's threat of injury determination and imposition of provisional and final antidumping duties was flawed. Mexico did not appeal, and the panel report was adopted on February 24, 2000. On April 10, Mexico agreed to implement the panel recommendation by September 22, 2000.

On September 20, 2000, Mexico announced that it had conformed to the panel's recommendations and rulings by redetermining that there was a threat of injury to the domestic sugar industry and maintaining the subject antidumping duties, while at the same time determining that the provisional amounts paid from June 26, 1997 to January 23, 1998, would be refunded with interest. The United States, however, disagreed that such action resulted in full implementation of the panel's recommendations and rulings. Therefore, on October 12, 2000, the United States requested that the panel be reconvened to examine the matter. The panel was established on October 23, 2000, for that purpose, with Mr. Paul O'Connor replacing Mr. Vermulst, who no

longer was available to serve. In a report released on June 22, 2001, the panel agreed with the United States that Mexico had failed to cure the flaws already found in its original determination. Mexico appealed that finding. The Appellate Body released its report on October 22, 2001, in which it agreed with the panel's findings. The DSB adopted the Appellate Body and panel reports on November 21, 2001.

Mexico—Measures affecting trade in live swine

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.

Mexico—Measures affecting telecommunications services

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.

Philippines—Measures affecting trade and investment in the motor vehicles sector

On May 24, 2000, the United States requested consultations with the Philippines regarding measures affecting trade and investment in the motor vehicle sector (*i.e.*, automobiles, motorcycles and commercial vehicles). Among other things, the measures require producers to incorporate specified amounts of locally-produced inputs, precluding the purchase of U.S. parts. There is also a requirement that imports be balanced in an amount related to a company's foreign exchange earnings. These measures substantially restrict the sale of U.S. motor vehicle parts and inhibit the free flow of trade and investment, which appear to violate the TRIMS Agreement. Under WTO rules, the

Philippines was required to remove these measures by January 1, 2000, but recently requested an extension of five years pursuant to the TRIMS Agreement to bring these measures into WTO compliance. Consultations were held July 12, 2000. On October 12, 2000, the United States requested the establishment of a panel. A panel was established on November 17, 2000, but at the parties' request it was not composed because settlement discussions were continuing. An agreement to settle this dispute was concluded on December 18, 2001.

Romania—Minimum import prices

The United States requested consultations on May 31, 2000, with Romania regarding its customs valuation regime, which uses officially-established prices for imported products such as clothing, various agricultural products, including poultry, and certain types of distilled spirits. This appears to violate Romania's obligations under the Customs Valuation Agreement, the GATT 1994, the Agreement on Textiles and Clothing, and the Agreement on Agriculture. Consultations were held July 13, 2000, and in May 2001 a mutually satisfactory solution was reached.

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 2001 with respect to those cases in which the United States was a defendant.

United States—Measures relating to the importation of shrimp and shrimp products

India, Malaysia, Pakistan, and Thailand challenged U.S. restrictions on imports of shrimp and shrimp products harvested in a manner harmful to endangered species of sea turtles. A dispute settlement panel, agreed upon by the parties on April 15, 1997, and consisting of Mr. Michael Cartland (Chairman), and Mr. Carlos Cozendey and Mr. Kilian Delbrück (Members), found that the U.S. import restrictions were inconsistent with WTO rules. The United States appealed, and on October 12, 1998, the Appellate Body partially reversed the panel's ruling. The Appellate Body confirmed that WTO rules allow WTO Members to condition access to their markets on compliance with certain policies such as environmental conservation, and agreed that the U.S. "shrimp-turtle law" was a permissible measure adopted for the purpose of sea turtle conservation. The Appellate Body also found that WTO rules permit panels to accept unsolicited amicus briefs from non-governmental organizations. The Appellate Body, however, found fault with certain aspects of the U.S. implementation of the shrimp-turtle law. The reports were adopted on November 6, 1998. On November 25, 1998, the United States informed the DSB of its intention to implement the recommendations and rulings of the DSB in a manner consistent not only with WTO obligations but also with the firm commitment of the United States to protect endangered species of sea turtles. The United States and the complaining parties reached agreement on an implementation period of 13 months from the date of adoption of the reports. Upon completion of the implementation period in December 1999, the United States notified the DSB that it had completed implementation of the Appellate Body report by modifying the implementation of the shrimp-turtle law in accordance with the recommendations of the DSB. On October 23, 2000, Malaysia requested that the original panel examine whether the United States had fully implemented the DSB's recommendations, and the panel was reestablished for that purpose. On June 15,

2001, the panel released its report, finding that the United States' implementation of its sea turtle protection law is fully consistent with WTO rules and complies with earlier recommendations of the DSB. Malaysia appealed that ruling. The Appellate Body released its report on October 22, 2001, in which it agreed with the panel's report. The panel and Appellate Body reports were adopted on November 21, 2001.

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

The EU challenged the FSC provisions of the U.S. tax law, claiming that the provisions constitute prohibited export subsidies and import substitution subsidies under the 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 legislation that repealed and replaced the FSC provisions, but the EU claimed that the new legislation failed to bring the US into compliance with its WTO obligations.

In anticipation of a dispute over compliance, the United States and EU reached agreement in September 2000 on the procedures to review U.S. compliance with the WTO recommendations and rulings. Pursuant to a request approved by the WTO, the deadline for U.S. compliance was changed from October 1, 2000, as recommended by the panel, to November 1, 2000. The procedural agreement also outlined certain procedural steps to be taken after passage of US legislation to replace the FSC. The essential feature of the agreement provided for sequencing of WTO procedures as follows: (1) a panel would determine the WTO-consistency of FSC replacement legislation (the parties retained the right to appeal); (2) only after the appeal process was exhausted would arbitration over the appropriate level of retaliation be conducted if the replacement legislation was found WTO-inconsistent. Pursuant to the procedural agreement, on November 17, 2000 the EU requested authority to impose countermeasures and suspend concessions in the amount of $4.043 billion. On November 27, 2000 the United States objected to this amount, thereby referring the matter to arbitration (which was suspended pending a review of the legislation's WTO-consistency). On December 7, 2000 the EU requested establishment of a panel to review the legislation, and the panel was reestablished for this purpose on December 20, 2000. In a report circulated on August 20, 2001, the panel found that the FSC Repeal and Extraterritorial Income Exclusion Act of 2000 does not bring the United States into conformity with its WTO obligations. The United States appealed the

panel ruling on October 15, 2001. On January 14, 2002, the Appellate Body circulated its report, affirming the panel's findings. The panel and Appellate Body reports were adopted on January 29, 2002, and the arbitration over the appropriate level of retaliation resumed.

United States—1916 Revenue Act

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 EU 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, but no action was taken.

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

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 EU claimed that, as a result of this exception, the United States is in violation of its TRIPS obligations. Consultations with the EU took place on March 2, 1999. A panel on this matter was established on May 26, 1999. On August 6, 1999, the Director-General composed the panel as follows: Ms. Carmen Luz Guarda, Chair; Mr. Arumugamangalam V. Ganesan and Mr. Ian F. Sheppard, Members. The panel issued its final report on June 15, 2000, and found that one of the two exemptions found 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 EU requested arbitration to determine the period of time to be given the United States to implement the panel's recommendation. By mutual agreement of the parties, Mr. J. Lacarte-Muró was appointed to serve as arbitrator. He determined that the deadline for implementation should be July 27, 2001. On July 24, 2001, the DSB approved a U.S. proposal to extend the deadline until the earlier of the end of the then-current session of the U.S. Congress or December 31, 2001.

On July 23, 2001, the United States and the EU requested arbitration to determine the level of nullification or impairment of benefits to the EU

as a result of section 110(5)(B). In a decision circulated to WTO Members on November 9, 2001, the arbitrators determined that the value of the benefits lost to the EU in this case is $1.1 million per year. Discussions were continuing at the end of 2001 to find a means to resolve this dispute.

United States—Definitive safeguard measure on imports of wheat gluten from the European Communities

By Presidential Proclamation 7103 of May 30, 1998, the United States imposed safeguard measures in the form of a quantitative limitation on imports of wheat gluten from the EU. On March 17, 1999, the EU requested consultations concerning this safeguard measure, asserting that it is in violation of the Agreement on Safeguards, the Agreement on Agriculture, and the GATT 1994. Consultations were held on May 3, 1999. A panel was established July 26, 1999. On October 11, 1999, the following panelists were selected, with the consent of the parties, to review the EU claims: Mr. Wieslaw Karsz, Chairman; Ms. Usha Dwarka-Canabady and Mr. Alvaro Espinoza, Members. Subsequently, Mr. Maamoun Abdel-Fattah replaced Mr. Karsz as Chairman, with the consent of the parties. The panel report was released on July 31, 2000. The panel found that certain aspects of the U.S. measure were inconsistent with WTO rules. The United States filed its notice of appeal on September 26, 2000. On December 22, 2000, the Appellate Body issued its report, reversing the panel's conclusion on causation, the key issue in the case, thereby upholding the U.S. causation test in Section 201 of the Trade Act of 1974. However, the Appellate Body ruled against the United States on two issues. The reports were adopted on January 19, 2001. On February 16, 2001, the United States stated its intention to implement the DSB recommendation, and agreed to do so by June 2, 2001.

Pursuant to section 129(a)(4) of the Uruguay Round Agreements Act, the U.S. Trade Representative requested the U.S. International Trade Commission (ITC) to issue a determination that would render the ITC's action in connection with the wheat gluten safeguard not inconsistent with the findings of the Appellate Body. The ITC issued that determination in May 2001, bringing the safeguard measure into conformity with U.S. WTO obligations. On June 1, 2001, the Administration announced an innovative approach to help the U.S. wheat gluten industry move beyond the safeguard which, as of that date, had been in place for three years. Instead of extending the safeguard measure, which would have triggered the continuation of EU retaliatory tariffs on U.S. corn gluten exports to Europe, the Administration ended the safeguard but agreed to provide the wheat gluten industry $40 million in adjustment assistance over two years to complete its transition to competitiveness.

United States—Section 211 Omnibus Appropriations Act

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 questions 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 EU requested a panel. A panel was established on September 26, 2000, and at the request of the EU the WTO Director-General composed the panel on October 26, 2000, as follows: Mr. Wade Armstrong, Chairman; Mr. François Dessemontet and Mr. Armand de Mestral, Members. The panel report was circulated on August 6, 2001, rejecting 13 of the EU's 14 claims and finding that, in most respects, section 211 is not inconsistent with the obligations of the United States under the TRIPS Agreement. The EU appealed 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.

United States—Safeguard measure on imports of fresh, chilled, or frozen lamb

On July 22, 1999, the United States imposed a safeguard measure on imports of lamb meat from New Zealand and Australia, pursuant to section 203 of the Trade Act of 1974. New Zealand and Australia requested consultations on July 16 and July 23, 1999, respectively, claiming violations of the GATT 1994 and the Agreement on Safeguards. Consultations were held August 26, 1999. A panel was established on November 18, 1999, and the two cases were consolidated. On March 21, 2000, the following panelists were selected with the consent of the parties: Prof. Tommy Koh, Chairman; Prof. Meinhard Hilf and Mr. Shishir Priyadarshi, Members. The panel issued its report on December 21, 2000, finding certain aspects of the U.S. safeguard measure to be inconsistent with WTO rules. The United States filed a notice of appeal on January 31, 2001, and on May 1, 2001, the Appellate Body issued its report, reversing in part and affirming in part. After consultations with the U.S. industry, the United States decided to continue to provide adjustment assistance to the industry through FY 2003, and to terminate the safeguard on November 15, 2001.

United States—Antidumping measures on stainless steel from Korea

The Government of Korea alleged that several errors were made by the U.S. Department of Commerce and the USITC in the preliminary and final determinations of *Stainless Steel Plate in Coils from Korea*, dated January 20, 1999, and June 8, 1999, respectively. Korea claimed that these errors resulted in improper findings and deficient consultations as well as the imposition, calculation and collection of antidumping margins which are incompatible with the obligations of the United States under the Antidumping Agreement and the GATT 1994. On October 14, 1999, Korea requested the establishment of a panel. A panel was established on November 18, 1999, and on March 24, 2000, the panel was composed with the consent of the parties as follows: Mr. José Antonio S. Buencamino, Chairman; Mr. G. Bruce Cullen and Ms. Enie Neri de Ross, Members. In its report of December 14, 2000, the panel accepted some of Korea's arguments, finding that Commerce's treatment of local sales, unpaid sales, and multiple averaging periods was inconsistent with the WTO Antidumping Agreement. However, the United States prevailed in its defense of some of Korea's key claims. Neither party appealed, and the panel report was adopted on February 1. On March 1, 2001, the United States stated its intention to implement the DSB recommendation, and agreed to do so by September 1, 2001. Pursuant to section 129(b)(2) of the Uruguay Round Agreements Act, the U.S. Trade Representative requested the Department of Commerce to issue a determination that would render the Department's determinations of dumping in both investigations consistent with the findings of the panel. Re-determinations in both the stainless steel sheet and the stainless steel plate investigations were effective on August 28, 2001.

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

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 particular aspects of the antidumping duty calculation 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. On September 10, 2001, at a meeting of the DSB, the United States stated its intention to implement the recommendations and rulings of the DSB in a manner that respects U.S. WTO obligations, and that it would need a reasonable period of time in which to do so. The United States and Japan were unable to reach agreement on a reasonable period of time for compliance, and on November 20, 2001, Japan referred the question to arbitration.

United States—Transitional safeguard measure on combed cotton yarn from Pakistan

This dispute involved a transitional safeguard measure applied by the United States from March 17, 1999, on imports of combed cotton yarn from Pakistan. The WTO Textiles Monitoring Body ("TMB") reviewed this matter during 1999. When the matter was not resolved in the TMB, on April 3, 2000, Pakistan requested the establishment of a panel, which was established on June 19, 2000. On August 30, 2000, the following panelists were selected with the consent of the parties: Mr. Wilhelm Meier, Chairman; Mr. Carlos Antônio da Rocha Paranhos and Mr. Virachai Plasai, Members. On May 31, 2001, the panel report was circulated, finding that the U.S. measure was inconsistent with the WTO Agreement on Textiles and Clothing. The United States filed an appeal with the WTO Appellate Body. On October 8, 2001, the Appellate Body released its report, which affirmed the panel's finding of inconsistency, but importantly ruled that the panel exceeded its mandate by considering evidence that was not in existence at the time that the U.S. Committee on Implementation of Textile Agreements ("CITA") established the safeguard. The Appellate Body report was adopted by the Dispute Settlement Body on November 5, 2001. The United States removed its restrictions on yarn from Pakistan effective on November 9, 2001, and informed the Dispute Settlement Body on November 21 that it had implemented the WTO recommendation.

United States–Measures Treating Export Restraints as Subsidies

On May 19, 2000, Canada requested consultations with the United States about U.S. Government statements regarding treatment of a restriction on exports of a product as a countervailable subsidy to other products (those made by using or incorporating the restricted product), if the domestic price of the restricted product is affected by the export restriction. The United States agreed to consult with Canada, notwithstanding Canada's failure to identify a "measure" in its request for consultations. Consultations were held on June 15, 2000. Canada then requested the establishment of a panel on August 4, 2000, identifying a provision of the U.S. countervailing duty statute and "US practice thereunder" as the challenged measures. A panel was established on September 11, 2000. On October 23, 2000, the following panelists were selected with the consent of the parties: Mr. Michael Cartland, Chairman; Mr. Scott Gallacher and Mr. Richard Plender, Members. On June 29, 2001, the panel released its report, rejecting Canada's claim that the U.S. countervailing duty law violates WTO rules. As a result, the panel did not recommend that the United States change its law. The panel report was adopted on August 23, 2001.

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

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 argues that such measures are 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. Further, the panel agreed that the United States could exclude imports from its NAFTA partners, Canada and Mexico, from the line pipe measure. The U.S. notice of appeal was filed with the WTO Appellate Body on November 19, 2001.

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

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 on November 21, 2000, and on July 24, 2001. India then filed a panel request, which focused on a subset of the claims it had raised during consultations. The panel is composed of: Mr. Timothy Groser, Chair, and Ms. Salmiah Ramli, Member (selected by mutual agreement of the parties); and Ms. E. Luz Reyes, Member (selected by the Director-General).

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

On November 13, 2000, the EU requested WTO dispute settlement consultations in 14 separate U.S. countervailing duty proceedings covering imports of steel and certain other products from member states of the EU, all with respect to the Department of Commerce's "change in ownership" (or "privatization") methodology that was challenged successfully by the EU in a WTO dispute concerning leaded steel products from the 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 EU challenges 12 separate US CVD proceedings, as well as Section 771(5)(F) of the Tariff Act of 1930. At the request of the EU 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.

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

Also on November 13, 2000, the EU 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 EU alleges 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 EU held consultations pursuant to this request on December 8, 2000. A second round of consultations was held on March 21, 2001, in which the EU 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 is 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).

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

On December 1, 2000, the EU requested consultations with the United States regarding U.S. safeguard measures on imports of circular welded carbon quality line pipe and on wire rod. The EU argued that these measures are inconsistent with the Agreement on Safeguards and the GATT 1994. The EU 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 ("Byrd Amendment")

On December 21, 2000, Australia, Brazil, Chile, the EU, India, Indonesia, Japan, Korea, and Thailand requested consultations with the United States regarding the Continued Dumping and Subsidy Offset Act of 2000 (19 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 is 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).

United States—Countervailing duties on certain carbon steel products from Brazil

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 in this situation as well. Consultations were held on January 17, 2001.

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

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. Consultations were held on March 1, 2001, and a panel was established at Canada's request on August 23, 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.

United States—Antidumping duties on seamless pipe from Italy

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

United States—Preliminary Determinations with Respect to Certain Softwood Lumber from Canada

"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)). Canada alleges that these determinations and statutory provisions are inconsistent with the WTO Agreement, GATT 1994, and the Agreement on Subsidies and Countervailing Measures. Consultations were held on September 17, 2001, and a panel was established at Canada's request on December 5, 2001. The panel is composed of Mr. Dariusz Rosati, Chair, and Mr. Gonzalo Biggs, Member (selected by the Director-General); and Mr. Robert Arnott, Member (selected by mutual agreement of the parties)."

United States—Calculation of Dumping Margins

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.

IMPLEMENTATION OF WTO AGREEMENTS

A. 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 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. In 2001, special sessions of the General Council were convened to address matters concerning implementation of WTO Agreements.

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 underway are examples of how the WTO has evolved into a permanent negotiating body.

Major Issues in 2001

Ambassador Stuart Harbinson of Hong Kong, China served as Chairman of the General Council in 2001. In addition to focusing on preparations for the Fourth Ministerial Conference in Doha, the General Council had oversight over the progress of the built-in negotiations on agriculture and services. The following additional issues figured prominently in the General Council activities:

Transparency: In 2001, the General Council continued its efforts to enhance the level of transparency in WTO business among Members and with the public. In particular, the General Council considered the expansion of its 1996 document availability decision, a step which is supported by several Members, including the United States. The United States and other Members urged the timely circulation and de-restriction of documents. Opposing WTO Members believe such measures would adversely affect the Member-driven nature of the organization. Apart from document-based transparency, Members also considered the WTO's relations with the public. Several entities were granted observer status at Doha as a result of these discussions.

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, the Andean Trade Preferences 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: 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 2001, the Ministerial Council at Doha approved the accession of China and Taiwan. China became a Member of the WTO on December 11, 2001 and Taiwan on January 1, 2002. The General Council approved the accessions of Lithuania which joined on May 31, 2001 and Moldova which joined on July 26, 2001. Additional details concerning these accessions are discussed below in the section entitled "Accessions to the World Trade Organization."

Global Electronic Commerce: During 2001, the General Council continued to examine issues related to electronic commerce. Emerging from those discussions was a list of cross-cutting issues, *i.e.*, issues that touch upon activities of two or more of the WTO bodies examining electronic commerce under the Work Programme on Global Electronic Commerce. The General Council attempted to address the cross-cutting issues by organizing a dedicated discussion on electronic commerce in June 2001. In addition, the Doha Ministerial Declaration included important language on electronic commerce, particularly extending the current practice of not imposing customs duties on electronic transmissions until the Fifth Ministerial Conference. Ministers also instructed the General Council to consider the most appropriate institutional arrangements for handling the work program, and to report on further progress to the Fifth Ministerial Conference.

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 one million dollars to the WTO Global Trust Fund for Technical Assistance to provide training courses for African countries and to develop computer training modules for in-country training.

Prospects for 2002

The General Council will continue its important role in overseeing implementation of the WTO Agreements, expanding the current program of work for the WTO, and overseeing the new negotiations launched at the Fourth Ministerial Conference at Doha last year. Management of the WTO, especially with respect to outreach efforts with the public, consultations with Members and its work with other institutions on capacity building, will figure prominently in the Council discussions over the next year. The Council likely will meet at least quarterly to discharge its functions and likely will undertake a review of a U.S. waiver of legislation know 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 negotiations. The informal processes on transparency and oversight of the work program on electronic commerce will remain an important part of the Council's work.

B. 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 2001

In 2001, the CTG held 11 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, three major issues were extensively debated in the CTG in 2001:

Request for TRIMS Extensions: Article 5 of the WTO Agreement on Trade-Related Investment Measures (TRIMS) required developing countries to eliminate certain measures by January 1, 2000. However, the CTG can extend the transition period for the elimination of inconsistent measures for countries that demonstrate particular difficulties implementing the Agreement. Extensions up to December 31, 2003, were provided to Argentina, Chile, Colombia, Mexico, Malaysia, Pakistan, the Philippines, Romania and Thailand.

Waivers: The CTG approved several requests for waivers, including those related to the implementation of the Harmonized System and renegotiation of tariff schedules, waivers for trade preferences granted by Switzerland to Albania and Bosnia-Herzegovina, waivers with regard to the implementation of the Agreement on Customs Valuation to Cameroon, Haiti, Madagascar, Pakistan, Cote d'Ivoire and El Salvador, and extension of Cuba's waiver on exchange rates. In April 2000, the EU requested a waiver for the interim trade provisions of its new African-Caribbean-Pacific "partnership" agreements, which replaced the preferences of the Lomé Convention. At the Doha Ministerial Meeting, WTO Members adopted waivers that reflected the arrangement worked out between the EU and interested Members. 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 three times during the fall of 2001 to conduct the major review of the implementation of the ATC in the second stage (1998-2001) of the integration process pursuant to Article 8.11 of the Agreement. These discussions revealed a major disagreement between textile exporters (typically developing countries) and importers (mostly developed countries). 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 to 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 between exporting and importing countries in 2001 prevented the CTG from issuing a report of the review, including conclusions and recommendations. Discussions on the content of this report will continue in 2002. In addition, the Committee decided on the members/alternates of the TMB for Stage 3 implementation of the Agreement. The TMB will be composed of: the United States, China, the EU, Japan, Canada/Norway, Switzerland/Turkey, Brazil, Thailand, Pakistan/Macau, India/Egypt, and Hong Kong/Republic of Korea. Upon accession to the WTO, China assumed membership on the TMB.

(The membership of the TMB for Stage 3 is the same as Stage 2 with the addition of China.)

Prospects for 2002

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.

Major Issues in 2001

The Committee held four formal meetings in March, June, September and December to address ongoing issues related to the implementation of the Agreement on Agriculture. The Committee also met in special session to begin negotiations 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.

Over 270 notifications were subject to review during 2001. The United States actively participated in the notification process to raise 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, Canada, and Japan; identified restrictive import licensing and tariff-rate quota administration practices used by Costa Rica, Indonesia, the Philippines, Thailand, and Poland; and questioned Turkey's notification on wheat export subsidies. The Committee also proved to be an effective forum for raising issues relevant to the implementation of Member's other commitments. For example, the United States identified concerns with Venezuela's import restrictions on corn, India's wheat and rice export policy, Costa Rica's ban on imports of U.S. poultry parts, and French subsidies to soybean farmers.

On a number of occasions, U.S. intervention in the Committee led to corrective action by the countries concerned. For example, Indonesia's commitment to remove its ban on U.S. poultry parts was facilitated through the Committee, and repeated U.S. questioning of Turkey's wheat export subsidies led to a reduction in Turkey's support price for wheat, thus reducing the need for Turkey to use export subsidies.

The Committee also discussed a number of implementation issues, including: (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 Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-developed and Net Food-Importing Developing Countries; 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. At its September meeting, the Committee approved recommendations concerning these implementation issues, which were reported to the General Council.

Prospects for 2002

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, but renamed at the October 2001 meeting) and the Informal Group on Anticircumvention.

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 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 three 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; and, in April 2001, (3) extensions of time to supply information. While the Committee considered at its April and October 2001 meetings a draft decision regarding the status to be accorded such adopted recommendations, the Committee was unable to reach a consensus on the text of the decision, and will consider the issue again at its April 2002 meeting.

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 2001 to discuss the topics of "what constitutes circumvention" and "what is being done by Members confronted with what they consider to be circumvention."

The Ministerial Decision on Implementation-Related Issues and Concerns in November 2001 referred three issues to the Committee and its Working Group to examine and prepare appropriate recommendations within twelve months on: (1) examination and clarification of the modalities of application of Article 15 of the Antidumping Agreement pertaining to developing-country Members; (2) study of the time-frame 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) preparation of guidelines for the improvement of annual reviews under Article 18.6 of the Antidumping Agreement.

Major Issues in 2001

The Antidumping Committee's work 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 2001, the Antidumping Committee held two regular meetings, in April and October, as did the Working Group on Implementation and the Informal Group on Anticircumvention. The Antidumping Committee also held one special meeting in December. 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 the reports that the Agreement requires Members to provide of their preliminary and final antidumping measures and actions taken in each case over the preceding six months. At the special meeting in December, the Committee added to its (and the Working Group's) agenda the three topics referred to it in November 2001 by the Ministerial Decision on Implementation-Related Issues and Concerns.

Among the more significant activities undertaken in 2001 by the Antidumping Committee, the Working Group on Implementation and the Informal Group on Anticircumvention are the following:

Notification and Review of Antidumping Legislation: To date, 65 Members of the WTO have notified that they currently have antidumping legislation in place, while 32 Members have notified that they maintain no such legislation. In 2001, the Antidumping Committee reviewed notifications of new or amended antidumping legislation submitted by Canada, Croatia, Ecuador, the European Union, Korea, Latvia, Mexico, Morocco, Peru, and Tunisia. In addition, the Committee continued its review (for the most part via a written question and answer procedure) of the previously notified legislation of Chile and Malaysia. 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 2001, 25 WTO Members notified antidumping actions taken during the latter half of 2000, whereas 24 Members did so for the first half of 2001. (By comparison, 40 Members notified that they had not taken any antidumping actions during the latter half of 2000, while 29 Members notified that they had taken no actions in the first half of 2001.) 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.

Working Group on Implementation: The Working Group held two rounds of multi-day working meetings in April and October 2001. At these sessions, the Group continued its review and discussion of six topics approved by the Antidumping Committee in 1999, *i.e.*, (i) practical issues and experience in applying Article 2.4.2 of the Agreement; (ii) termination of investigations under Article 5.8 in cases of *de minimis* import volume; (iii) practical issues and experience in cases involving cumulation under Article 3.3; (iv) practical issues and experience with respect to questionnaires and requests for information under Article 6.1 and 6.1.1; (v) practical issues and experience in providing opportunities for industrial users and consumer organizations to provide information under Article 6.1.2; and (vi) practical issues and experience in conducting "new shipper" reviews

under Article 9.5. In addition, the Group considered three draft recommendations, on extensions of time to supply information, on the contents of preliminary affirmative determinations, and on conditions of competition relevant to cumulation under Article 3.3. The Group reached a consensus in April on the recommendation concerning extensions of time to supply information, which was adopted by the Committee in April. The Group also reached a consensus in October on the 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. No agreement has yet been reached by the Group on the draft recommendation concerning cumulation under Article 3.3, 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 from both 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 2001, the Informal Group on Anticircumvention continued its useful discussions on the subject of "what constitutes circumvention?" and, at the same time, proceeded to consider the second item in the agreed framework concerning "what is being done by Members confronted with what they consider to be circumvention?" With respect to the latter item, Members submitted papers 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, which 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. At the October 2001 meeting, the Member agreed to open 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?"

Prospects for 2002

In 2002, the Antidumping Committee will address the three issues that were referred to it by the Ministerial Decision on Implementation-Related Issues and Concerns. The Committee is instructed by the Ministerial Decision to study each of these issues through the Working Group on Implementation, and to prepare appropriate recommendations within twelve months. Given the importance of completing this work within the time frame specified in the Decision, the Committee decided at the December 2001 special meeting not to add other new topics for consideration by the Working Group.

Work in 2002 will also proceed in all of the areas that the Antidumping Committee, the

Working Group on Implementation and the Informal Group on Anticircumvention addressed this past year. The Antidumping Committee will pursue its review of Members' notifications of antidumping legislation, and Members will continue to have the opportunity to submit additional questions concerning previously reviewed notifications. This ongoing review process in the 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 2002. The 1996 decision of the WTO General Council to liberalize the rules on the restriction of WTO documents has resulted in these reports also 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 has been an important development in promoting improved public knowledge and appreciation of the trends in and focus of all WTO Members' antidumping actions.

The discussions in the Working Group on Implementation may play an increasingly important role as more and more Members enact laws and begin to apply them. As noted, the Ministerial Decision on Implementation-Related Issues and Concerns specifically calls for the Committee to examine the three issues referred to it through the Working Group. Moreover, 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.

The work of the Informal Group on Anticircumvention will also continue in 2002, 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. The agreement at the October 2001 meeting to address in 2002 the added topic of "to what extent circumvention can be dealt with under existing WTO rules, and what other options may be deemed necessary," will permit the work of the Informal Group to move forward on an issue of obvious importance.

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 2001

The Agreement is administered by the WTO Committee on Customs Valuation, which met formally six times in 2001. 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.

Experience continues to demonstrate that the implementation of the Agreement 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 the genesis of much 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. 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. 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. 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 and continuing through 2001.

While many developing-country Members undertook timely implementation of the Agreement, the Committee continued throughout 2001 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.

The Committee's work throughout 2001 demonstrated 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. In July 2001, the Committee formally adopted a work program designed to invigorate its efforts in this area, aiming to address practical matters such as 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 2002

The Committee's work in 2002 will include a review of the relevant implementing legislation and regulations submitted by newly-implementing 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. The Committee also 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, consistent with the Committee's work program launched in mid-2001.

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. The Agreement also operates 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 tariff-rate quotas 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. It accomplishes 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 resolve possible potential problems before they become disputes. As use of import licensing increases, *e.g.*, to enforce national security, environmental, and technical requirements, to administer tariff-rate quotas (TRQs), or to manage safeguard measures, utilization of the Committee as a forum for discussion and review will increase.

Major Issues in 2001

At its meetings in April and October 2001, the Committee reviewed initial or revised notifications or completed questionnaires on licensing procedures for 49 WTO Members (including EU Member States), or about the same number as in 2000. 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. A number of these 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 United States also sought information from Members that use licensing to operate their TRQs on agricultural tariff lines. The Committee spent considerable time discussing how the number and frequency of notifications by Members could be increased. At the end of 2001, only 87 of 142 Members were notifying information as required by the Agreement. The Committee supported suggestions that the Chairman send a follow-up letter reminding Members of their obligations and that the status of Agreement notifications be included in the information developed for Trade Policy Reviews.

Prospects for 2002

Consideration of licensing in the administration of agricultural tariff-rate quotas will intensify, as the new negotiations launched at Doha proceed, including possible improvements in 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. The Committee also will continue to be the first point of 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.

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 future negotiations and verification of new concessions on market access in the goods area. The Committee reports to the Council on Trade in Goods.

Major Issues in 2001

During 2001, 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 eleven informal meetings in 2001 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 quota allocations. The Committee also hosted a technical assistance seminar on tariff data and negotiations.

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 19 Members continue to require waivers. The current waiver expires on April 30, 2002, at which time objections related to the adoption of HS96 are expected to be resolved. 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.

The Committee also began to discuss the next set of WCO amendments, which are scheduled to take effect on January 1, 2002 (HS2002). Drawing from the experience of HS96, the Committee, working with the Secretariat, agreed to 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 2001, the Committee held several informal meetings focused on improving IDB participation and identifying technical assistance needs. With the Committee's guidance, the Secretariat held four regional seminars to explore ways of improving participation, including through cooperation with regional trade organizations that maintain similar databases (*e.g.*, the FTAA and APEC Secretariats). 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 continued its work to create a PC-compatible structure for tariff and trade data. The CTS will facilitate the Committee's ongoing work to provide electronically each Member's consolidated "loose-leaf" schedule of tariff concessions. This highly technical task is essential in order to generate an up-to-date schedule in current tariff nomenclature. The electronic CTS will include: 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 Committee reviewed the work of the Secretariat, which through a technical assistance project has finalized the preparation of loose-leaf schedules for developing countries. Other countries that

chose to develop their own schedules have submitted them to the Secretariat.

Members are also finalizing the submission of agricultural support tables, based on an agreed electronic format. This information is being integrated into Members' consolidated schedules. The Secretariat also completed tables for 32 developing countries with agricultural commitments, while developed countries are finalizing their own tables. The entire consolidated schedule, including the agricultural commitments, is targeted for dissemination among Members in 2002. 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.

Technical Assistance: In March 2001, the Committee and the Secretariat conducted a seminar on tariff matters to provide an opportunity for developing-country Members in particular to refresh and deepen their knowledge of relevant GATT 1994 provisions relating to tariffs and tariff negotiations. The seminar touched upon various tariff projects in place and their uses. Members also learned about the ongoing work of the World Customs Organization, which significantly influences the work of the Committee.

Prospects for 2002

The Committee will play an integral role in the negotiations 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. Much of the work program will be finalized and disseminated in 2002, while the Secretariat will develop a new software package to help developing countries, in particular, to analyze data and effectively participate in the market access negotiations. In that regard, the Committee will likely explore other technical assistance needs. At the same time, as a priority, the Committee will secure updated data on applied tariffs and trade through the IDB. While access to the IDB currently is restricted to Members, as a part of a broader effort to improve transparency in the WTO, the United States will work with Members to improve public access to this important commercial information.

In addition to finalizing the HS96 updates, the Committee will begin to review 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 originally envisioned under the Agreement, which originally set for the work to be completed within three years after its commencement in July 1995. The work program continued throughout 2001.

The Agreement is administered by the WTO Committee on Rules of Origin, which met formally five times in 2001. 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 2001, 77 WTO Members had made notifications concerning non-preferential rules of origin, of which 36 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-one Members had made notifications concerning preferential rules of origin, of which 78 notified their preferential rules of origin and three notified that they did not have preferential rules of origin.

Major Issues in 2001

The WTO Committee on Rules of Origin continued to focus on the work program on the multilateral harmonization of non-preferential rules of origin. In addition to its five formal meetings, the Committee conducted numerous informal consultations and working party sessions related to the harmonization work program negotiations. The Committee work proceeded in accordance with a work program that had been developed at the beginning of 2001, setting out a schedule of meetings along with an agreed-upon sequence for much of the work to be undertaken on a sector-by-sector basis.

Throughout 2001, 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. The work focused primarily on methodologies involving change in tariff classification, although, where appropriate, the work program has also given consideration to other possible requirements beyond a change of tariff classification methodology. While resolution of several hundred outstanding issues was achieved in 2001, many of the remaining issues are particularly significant due to their broad application and relation to the overall future implementation of the results of the work program consistent with the rights and obligations under other WTO agreements.

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 are 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.

Prospects for 2002

In accordance with a decision taken by the General Council's Special Session in December 2000, the Committee expedited its efforts toward completing the harmonization work program by the end of 2001, but did not reach this objective. At the conclusion of 2001, the General Council extended the work program to the end of 2002, specifically requesting that the Committee on Rules of Origin focus during the first half of the year on identifying policy issues arising under the harmonization work program that may require attention of the General Council. Further progress in the harmonization work program on its current track will remain contingent on achieving appropriate resolution of several important and complex issues concerning the overall structure and operation of the harmonized rules, as well as their future application consistent with the rights and obligations under other WTO agreements.

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."

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 (*i.e.*, 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 have been utilized by countries to avoid GATT disciplines and which adversely affect third-country markets. Measures of this type in existence when the Agreement entered into force were required to be phased out over four years.

Major Issues in 2001

During its two meetings in April and October 2001, 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 Croatia, the Czech Republic, Estonia, Japan, Jordan, Korea, the Philippines, Slovenia and Tunisia. As of October 2001, 46 Members had notified the Committee of their domestic safeguards legislation, and 46 other Members 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 1 January 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 fall 2001 meeting, the Committee repeated its

request that Nigeria update the Committee on the status of these measures as soon as possible.

The Committee reviewed Article 12.1(a) notifications of the initiation of and reasons for an investigatory process relating to serious injury or threat thereof from: Argentina (peaches), Brazil (coconuts), Bulgaria (ammonium nitrate), Chile (lighters, mixed oils, synthetic socks, wheat, wheat flour, sugar and edible vegetable oils), the Czech Republic (footwear and isoglucose), Egypt (fluorescent lamps), Japan (tatami-omote, welsh onions and shiitake mushrooms), Jordan (chocolates and biscuits), Morocco (rubber), the Philippines (cement and ceramic tiles), Poland (nitrates of potassium), El Salvador (pig-meat, rice and fertilizers), the Slovak Republic (sugar), and the United States (steel and wire rod, a NAFTA surge investigation).

The Committee reviewed Article 12.1(b) notifications of a finding of serious injury or threat thereof caused by increased imports from: Argentina (motorcycles and peaches), Chile (liquid/powdered milk, wheat, wheat flour, sugar and edible vegetable oils), the Czech Republic (isoglucose), Egypt (fluorescent lamps and powdered milk), India (gamma ferric oxide/magnetic iron oxide, methylene chloride and phenol), Jordan (biscuits), Morocco (bananas), the Slovak Republic (sugar) and Venezuela (tires).

The Committee reviewed Article 12.1(c) notifications of a decision to apply or extend a safeguard measure from: Argentina (motorcycles and peaches), Chile (liquid/powdered milk, synthetic socks, wheat, wheat flour, sugar and edible vegetable oils), the Czech Republic (isoglucose), Egypt (fluorescent lamps and powdered milk), Jordan (biscuits), Morocco (bananas), the Slovak Republic (sugar) and United States (wheat gluten (consideration of extension)).

The Committee received notifications from Chile (mixed oils and synthetic socks), Colombia (taxis), the Czech Republic (footwear), El Salvador (pig-meat and rice), Jordan (chocolate), and the United States (extruded rubber thread) of the termination of a safeguard investigation with no safeguard measure imposed. The Committee also reviewed notifications from Korea on the results of the mid-term review of the safeguard measure on garlic, and from the United States on the results of the mid-term review of the safeguard measure on line pipe. The Committee also discussed two notifications regarding the proposed suspension of concessions and other obligations during the period under review: from Egypt and the European Union regarding the Egyptian measure on powdered milk, and from Poland regarding the Slovak measure on sugar.

The Committee reviewed Article 12.4 notifications of the application of a provisional safeguard measure from: Argentina (peaches), Bulgaria (ammonium nitrate), Chile (synthetic socks, mixed oils, wheat, wheat flour, sugar and edible vegetable oils), the Czech Republic (isoglucose), Ecuador (matches), Japan (tatami-omote, welsh onions and shiitake mushrooms), and Morocco (bananas).

The Committee also received some additional notifications shortly before the end of the reporting period, which will be reviewed in the year 2002, including the United States' notification under Article 12.1(b) with respect to findings of the U.S. International Trade Commission of serious injury or the threat thereof caused by increased imports of certain steel products.

Prospects for 2002

The Committee's work in 2002 will continue to focus on the reviews of safeguard actions that have been notified to the Committee and on the notification of any new or amended safeguards laws. From the comments made by other Members at the Committee's last meeting in October 2001, it can be expected that there will likely be a great deal of discussion at the next regular meeting of the Committee in April 2002

with respect to notifications made by the United States concerning the steel safeguard investigation.

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 Committee on SPS Measures 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 to 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) and the International Trade Center (ITC).

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). 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. Minutes of the Committee meetings are issued as "G/SPS/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/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 2001

Foot and Mouth Disease: During 2001, the Committee devoted significant time to discussion of Members' responses to the outbreak of Foot and Mouth Disease (FMD) in Europe. 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 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 terminating the emergency control measures. The International Office of Epizootics provided valuable and important information regarding international standards for the control of FMD.

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 of 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.

Equivalence: At the request of developing-country Members, the Committee held several informal meetings on the provisions of Article 4 of the Agreement - Equivalence. 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. With the commitment of the Committee to continue to discuss certain aspects of this decision that are undefined or ambiguous, the United States agreed with the text. Several other Members agreed to the text with similar reservations.

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.

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. At the July 2001 SPS Committee meeting, the United States provided additional information describing the functions and responsibilities of two U.S. agencies that contribute to the implementation of the SPS Agreement and the technical assistance cooperative activities of these agencies. Also, this addendum updated our earlier submission to provide information on technical assistance activities since June 2000.

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:

[3] Bovine Spongiform Encephalopathy and Transmissible Spongiform Encephalopathy

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 2002

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 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 which 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 2002, 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. Finally, 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.

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

[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 2002.

[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

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 2001

The Committee held two regular meetings in 2001. 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 subsidy notifications and the process by which such notifications are made to and considered by the Subsidies Committee. In this regard, the Committee developed a strategy and 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.

The Committee, in both formal and informal meetings, extensively discussed several implementation issues referred to it by the General Council. Much of this work formed the basis for the subsidy-related implementation decisions taken at the Fourth Ministerial Conference. Additionally, the United States and other Members at both formal meetings of the Committee expressed serious concerns regarding the government financial assistance provided to the Korean DRAM industry. The issue of export credits and their treatment under the provisions of the Agreement, as interpreted in ongoing dispute settlement proceedings, was raised within the Committee as well. 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 updating 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, 88 Members of the WTO (counting the EU as one) have notified that they currently have CVD legislation in place, while 39 Members have not yet notified that they maintain such legislation. Among the notifications of CVD laws and regulations reviewed in 2001 were those of Burundi, Canada, Chile, Croatia, Ecuador, Jordan, Korea, Latvia, Malaysia, Morocco, Mexico, Oman,

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.

Peru, and Tunisia.[6] As for CVD measures, seven WTO Members notified CVD actions taken during the latter half of 2000, whereas seven Members also notified actions taken in the first half of 2001. The Committee reviewed actions taken by Argentina, Australia, Canada, the EU, Peru, South Africa and the United States. With respect to subsidy notifications, the Committee continued its examination of new and full notifications submitted for 1998, as well as updating notifications submitted for 1999 and 2000. The table contained in Annex II of this report shows the WTO Members whose subsidy notifications were reviewed by the Committee in 2001.

As of January 1, 2002, when Membership in the WTO had reached 144, only 50 Members had submitted new and full subsidy notifications for 1998, while 43 and 35 Members, respectively, had submitted updating notifications for the 1999 and 2000 periods. Notably, 41 Members have never made a subsidy notification to the WTO.

In view of the ongoing difficulties experienced by Members, including the United States, in meeting the Agreement's subsidy notification obligations, the Committee took several actions in 2001 aimed at improving the situation. At the end of 2000, the Working Party on Subsidy Notifications was reconvened to take a fresh look at the notification problems confronting Members and develop possible long-term solutions for the Committee's consideration. Following a questionnaire to Members circulated by the Secretariat inquiring about the specific problems faced in making notifications and several informal meetings in the spring of 2001, a three-prong strategy was agreed upon 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. Examination of the format for a subsidy notification constitutes the second prong of the strategy –the effort began in 2001 and will continue into 2002. The third prong is the organization of a subsidy notification seminar in the fall 2002, coinciding with the regular Committee meeting, for government officials from developing countries responsible for notification.

An important action was taken by the Committee in 2001 with respect to the frequency and nature of subsidy notifications. Under Article 26 of the Agreement, "new and full notifications" are submitted every third year; while "updating notifications" are submitted in intervening years. At a special meeting held in May 2001, the Committee recognized that most Members were having significant difficulties in making their notifications, primarily due to resource constraints. Importantly, Members indicated that the effort and resources required to prepare the annual updating notifications are essentially equal to those required for new and full notifications. Generally, Members expressed their belief that their resources would be best utilized by devoting maximum effort to submitting new and full notifications, every two years, and by de-emphasizing the review of the annual updating notifications. Under this new approach, Members can concentrate their resources in alternating years, first on making their own new and full notifications, and then on reviewing other Members' notifications. It is expected that this approach will have the effect of increasing transparency, which is the objective of the notification obligation under the Agreement.

Implementation Issues: Over the course of 2001 and especially during the period just prior to the Fourth Ministerial Conference, the Committee held numerous informal and formal meetings to discuss several implementation issues. Pursuant to various General Council decisions, the

[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.

Committee held extensive discussions on five general topics:

- determining "export competitiveness" under Articles 27.5 and 27.6 of the Agreement, including the possibility of extending the period for establishing export competitiveness;
- special procedures, under Article 27.4 of the Agreement, for small exporter developing countries seeking an extension of the transition period for the phase-out of export subsidies;
- the appropriate methodology for calculating the permissible level for rebates of indirect taxes and import duties on exported products under Annex I of the Agreement;
- a general review of the Agreement's provisions regarding countervailing duty investigations; and,
- the methodology for the calculation of the GNP per capita threshold delineated in Annex VII of the Agreement for the designation of certain developing countries entitled to particular types of "special and differential treatment" under the Agreement.

1. Determining "Export Competitiveness" under Article 27.5 and 27.6

Under Article 27.2 developing countries not listed in Annex VII of the Agreement must phase-out their export subsidies no later than January 1, 2003. Notwithstanding this provision, Article 27.5 and 27.6 of the Agreement provide that a developing country which has reached 3.25 percent of world trade in a given product over two consecutive years must accelerate the phase-out of its export subsidies on that product. The product scope is defined as a section heading of the Harmonized System nomenclature. Application of this provision can be triggered either by a notification made by the developing country or a computation done by the WTO Secretariat at the request of another Member.

Many developing countries sought: (1) an extension of the period for establishing export competitiveness under Article 27.6 from two to five years; and, (2) a mechanism to allow developing countries that have achieved export competitiveness to resume export subsidization if exports fall below the level of export competitiveness. An expansion of the countries eligible for the special and differential treatment provided to Annex VII countries and a broadening of the product scope for the determination of export competitiveness were also sought.

Despite extensive discussions, the Committee was unable to agree on whether the two-year period could be effectively extended in some manner without violating the express terms of the Agreement, or whether, the two-year period could be calculated on an alternative basis, such as a multi-year rolling average. As to the mechanism for the resumption of export subsidization after export competitiveness is lost, numerous issues remained unresolved as to the terms under which a resumption could be authorized. Nor was agreement reached regarding the appropriate level of aggregation under the Harmonized System nomenclature when defining the product scope and the expansion of the countries eligible for the special and differential treatment provided to Annex VII countries under the Agreement. This implementation proposal was not considered at the Fourth Ministerial Conference.

2. Special Article 27.4 procedures for small exporter developing countries

As noted above, the Agreement requires developing countries to eliminate their export subsidies by January 1, 2003. Article 27.4 of the Agreement allows for an extension of this deadline on a year-to-year basis if a request is made to the Subsidies Committee by December 31, 2001. The Committee must then decide

whether an extension is justified based on relevant "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.[7] If the Committee does not affirmatively sanction a continuation, the export subsidies must be phased out within two years.

Two developing-country proposals were made that would have permanently grandfathered the export subsidy programs of developing countries under certain conditions. One of the conditions proposed was that the exports of the developing country represent a small share of total world exports. Several countries, including the United States, objected to the proposed permanent exemption from the Agreement's export subsidy disciplines. Nonetheless, in an attempt to try and address the concerns of small exporter developing countries, a special procedure was discussed within the context of Article 27.4 of the Agreement 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. While the Committee could not reach a consensus on all the particular provisions of the extension procedure –such as the length of the extension –based on the Committee's work, the Committee chairman made a recommendation to the General Council which substantially formed the basis of the procedure agreed upon as part of the implementation decision taken at the Fourth Ministerial Conference. Members meeting all the qualifications for the agreed upon special procedures will be eligible for a five-year extension of the transition period, in addition to the two years referred to under Article 27.4.[8] To date, Barbados, Belize, Costa Rica, El Salvador, Guatemala, Honduras, Jamaica, Kenya, Panama, Papua New Guinea, St. Kitts and Nevis, and St.Vincents, have applied for the special procedures under Article 27.4. The Committee will conduct a detailed review of all extension requests in 2002.

3. The appropriate methodology for the calculation of the rebate of indirect taxes and import duties

Under the Agreement's export subsidy rules, countries are permitted to rebate certain indirect taxes (*e.g.*, sales taxes) and import duties on inputs used in the production process and physically incorporated in an exported product. The Committee considered two implementation proposals with respect to this issue. The first was a request that countries be permitted to calculate the level of the rebate on an "aggregate" or "generalized" basis rather than on a product- or company-specific basis. Under such an approach, a particular rebate level would be established on an industry-wide basis and the same rate applied to each company in the industry. Due primarily to serious reservations – expressed by the United States and other developed country Members – that any aggregate methodology for calculating the rebate could result in an excessive rebate, no consensus within the Committee was reached.

The second proposal related to the question of whether indirect taxes and import duties on capital equipment used in the production of exports could be included when calculating the amount of the rebate. As noted above, under the

[7] 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.

[8] 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.

Agreement indirect taxes and import duties on *inputs* consumed in the production process can be rebated when a product is exported. However, the phrase "inputs consumed in the production process" as defined in the Agreement does not specifically include capital equipment. Due to the clarity of the language in the Agreement many countries, including the United States, voiced concern that this was not an issue of implementation and that adoption of this proposal would effectively constitute an amendment or authoritative interpretation of the Agreement – neither of which the Committee is empowered to do. Other countries expressed doubts as to how the rebate could be accurately and transparently calculated. Consequently, no consensus was reached on this issue.

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

The General Council referred this topic to the Committee on August 2, 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 Council that the Committee continue to consider these issues. This recommendation was adopted as part of the implementation decision adopted at the Fourth Ministerial Conference.

In December of 2001, the Committee met and adopted a plan to examine and discuss the two previously submitted papers. The Committee must report to the General Council by July 31, 2002. In light of the anticipated rules negotiations, it is unclear the extent to which the Committee is the appropriate forum for addressing some of the proposals, especially those which affect the rights and obligations of countries under the existing Agreement.

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

Annex VII of the Agreement identifies certain 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 applies in countervailing duty investigations of imports from these countries, although this standard expires at the end of 2002.[9] 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).[10] A country automatically "graduates" from Annex VII(b) status when its per capita GNP rises above the $1,000 threshold. When a country crosses this threshold it becomes subject to the subsidy disciplines of other developing countries.

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

[10] 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 an apparent technical error made in the initial compilation of this list and pursuant to a General Council decision, Honduras was formally added to Annex VII(b) on January 20, 2001.

Since the adoption of the Agreement in 1995, the *de facto* interpretation by the Committee of the $1,000 threshold has been current (*i.e.*, nominal or inflated) dollars. The concern with this interpretation, however, was that a country could graduate from Annex VII on the basis of inflation alone, rather than on the basis of real economic growth. The possible use of a $1000 constant 1990 dollar threshold was first raised as part of the preparatory process for the Third Ministerial Conference in Seattle, and at that time some work on different possible methodologies for deriving GNP per capita in constant 1990 US dollars was developed.[11]

In October 2001, the Chairman of the General Council requested that the Committee take up the question of the methodology for calculation of the $1000 threshold in constant 1990 US dollars. 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:

> . . . 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.[12]

Pursuant to this decision, the Committee will re-examine the methodology proposed by the Chairman of the Committee in the course of 2002.[13]

6. *Financial Support by the Government of Korea for Hynix Semiconductor*

At the two formal meetings of the Committee in 2001, the United States made statements expressing serious concerns regarding the continued financial support which various Korean government authorities have been providing to Hynix Semiconductor, Inc. This support has had the effect of shielding Hynix from market discipline and exacerbating the already distressed state of the global semiconductor market. At the May 2001

[11] While some Members were concerned that they might graduate from Annex VII due, in part, to inflation, other countries were concerned that use of constant 1990 dollars might result in their being closer to Annex VII graduation relative to their position calculated using nominal dollars.

[12] 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.

[13] In addition to the subsidy-related implementation issues noted above, the Fourth Ministerial Conference agreed to three other proposals which were not discussed by the Committee. The first permits a Member whose GNP per capita income rose above $1000 and graduated from Annex VII to be re-included if its GNP per capita income falls back below $1000. The second reaffirms the rights of least-developed countries to provide export subsidies and to have an eight-year phase-out period for export subsidies after export competitiveness is reached with respect to a particular product. The third takes note of a proposal to treat certain types of subsidies provided by developing countries as non-actionable and urges Members to exercise due restraint with respect to challenging such measures.

meeting, Korean officials attempted to assure the United States that: (1) Hynix benefits from no government-subsidized support; and, (2) the special government-orchestrated measures, which Korea claims are intended to compensate for an underdeveloped capital market, would be of limited duration.

At the time of the November meeting, the United States again expressed concern regarding the variety and magnitude of government support for Hynix as a result of the adverse trade effects likely to result. The Korean government's financial and other support has enabled Hynix to maintain capacity and production at uneconomic levels, contributing significantly to the global supply/demand imbalance for DRAM semiconductors. Given the continued state ownership in many of Hynix's creditors, and the historical record of government influence over the allocation of credit in the Korean economy, the United States expressed its view to the Committee that it is critical for the Korean authorities to demonstrate unequivocally their commitment to the stated policy of non-interference in the commercial judgment of banks and other financial institutions with respect to the future of Hynix. In conclusion, the United States urged the Korean authorities to take immediate, transparent and affirmative steps to assure that the Korean government will not provide any additional subsidies to Hynix and that the creditors of Hynix will not be pressured or influenced by the government into taking any decisions that cannot be justified solely on commercial terms. At the November meeting, the EU made an equally strong statement while Japan and Singapore raised concerns as well.

7. *Export Credits*

At the May meeting, Brazil made a statement regarding the Agreement's provisions on export financing. Brazil's concerns stemmed from its participation in aircraft dispute settlement proceedings. Brazil made four basic points regarding export credits. First, the existing provisions of the Agreement – items (j) and (k) of the Illustrative List of export subsidies found in Annex I of the Agreement – covering export credit guarantees and export credits are insufficient to deal with the diversity of mechanisms utilized in the market today and are potentially unfair to developing countries. Second, the manner in which the OECD Arrangement on Guidelines for Officially Supported Export Credits was incorporated into the Agreement allows participants of that Arrangement to effectively alter the Agreement without the participation of other Members. Third, the use of the so-called "market window," pursuant to which a participant of the OECD Arrangement may depart from the OECD rules by claiming that it is operating as a private entity, is "virtually unchallengeable" and generally unavailable to developing countries. Fourth, the Appellate Body's definition and interpretation of the *de facto* export subsidies provisions in the Agreement was overly narrow and insufficient to discipline such subsidies.

In a related matter, the Committee received a communication from the OECD that was distributed at the May meeting. In this communication, the Participants to the Arrangement on Guidelines for Officially Supported Exports Credits decided to publish the country risk classifications that were used for the Premium Agreement of the Arrangement and made these classifications available on their website. The OECD also requested the Secretariat to make available to any requesting Member the full text of the Export Credit Arrangement and the Premium Agreement, unless the Committee believed that it might be more useful simply to circulate these to all Members of the Committee. In addition, in informal discussions between the WTO Secretariat, as observer to the Participants Group on the Export Credits Arrangement, and the OECD Secretariat, the possibility was discussed that representatives of the OECD Secretariat make a factual presentation on the operation of the Arrangement for interested Members.

8. 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. One PGE member, Mr. A. V. Ganesan of India, resigned his membership, effective May 18, 2000, prior to the end of his term. At a special meeting in February 2001, the Committee elected Professor Okan Aktan to replace Mr. Ganesan, for the remainder of Mr. Ganesan's term, which expires in 2002. At its May 2001 regular meeting, the Committee elected Mr. Jorge Castro Bernieri to replace Mr. Gary Horlick, whose term expired in 2001.

Prospects for 2002

In 2002, the Subsidies Committee will continue its attention to implementation issues in a variety of respects. First, as noted above, 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, 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. As noted above, as a direct result of the decision taken at the Fourth Ministerial Conference, the Committee will continue its examination of the provisions of the Agreement regarding countervailing duty investigations and report to the General Council by July 31, 2002. Finally, the United States will actively review the normal and special extension requests made under Article 27.4 of the Agreement to ensure the close adherence to the provisions of the Agreement and the agreed upon procedures for small exporter developing countries.

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[14] 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.

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

The National Institute of Standards and Technology (NIST) serves as the U.S. inquiry point. NIST maintains a reference collection of standards, specifications, test methods, codes and recommended practices. This reference material includes U.S. Government agencies' regulations, and standards of U.S. private standards-developing organizations and foreign national and standardizing bodies. The inquiry point responds to all 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. On questions concerning standards and technical regulations for agricultural products, including SPS measures, the NIST refers requests for information 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.

[14] Participation in the Committee is open to all WTO Members. Certain non-WTO Member governments also participate, in accordance with guidance agreed 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.

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).[15] Parties in the United States interested in submitting comments to foreign governments on their proposals should send them through the U.S. inquiry point at the address above. Minutes of the 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 available to the public on the WTO's website.

Major Issues in 2001

The TBT Committee met three times in 2001. 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 United States compiled information on the range of notifications under the TBT Agreement (G/TBT/W/115), as well as the Agreement on Sanitary and Phytosanitary Measures (SPS) (G/SPS/GEN/186), to emphasize to WTO Members that the provisions of both agreements were relevant to international trade in bio-engineered products.

The Committee conducted its sixth Annual Review of the Implementation and Operation of the Agreement based on background documentation contained in G/TBT/10, and its Sixth 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 WTO TBT Standards Code Directory (Sixth Edition), G/TBT/CS/1/Add.5 and G/TBT/CS/2/Rev.7. Decisions and recommendations adopted by the Committee are contained in G/TBT/1/Rev.7.

A Special Meeting on Procedures for Information Exchange was held in conjunction with the Committee's second meeting in order to give Members the opportunity to discuss issues relating to information exchange and to ensure a focused review of how well notification procedures under the Agreement are functioning.

Follow-up to the Second Triennial Review of the Agreement: The primary focus of the Committee in 2001 was the work program arising from its Second Triennial Review (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, in 2001 priority attention was given to technical assistance and the implementation needs of developing countries, as well as trade effects resulting from mandatory labeling requirements.

Technical Assistance: In the Second Triennial Review, the Committee recognized the importance of ensuring that solutions were

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

targeted at the specific priorities and needs 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 priority infrastructure needs of a specific Member. The Committee recognized the need for coordination and cooperation between donor Members and organizations, and between the Committee, other relevant WTO bodies, and other 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, work was begun to develop a survey both to elicit the needs of developing countries and to target assistance provided by donors. The Committee agreed to assess progress made in the context of the Third Triennial Review.

Labeling: The Committee intensified its exchange of information on issues associated with mandatory labeling requirements, noting the frequency with which specific concerns regarding 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.

Prospects for 2002

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 and the Committee has been a useful forum for Members to raise concerns and facilitate bilateral resolution of specific concerns. In 2002, the United States expects continued attention to issues relating to technical assistance and implementation of the Agreement by developing-country Members in particular. Priority will be given to enhancing the awareness of Committee Members regarding the trade impediments which can result from mandatory labeling requirements, the relevance of existing trade disciplines, and the need for good regulatory practice in the development and adoption of technical regulations.

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 obligations to treat imports no less favorably than domestically produced products, or the GATT Article XI obligation not to impose quantitative restrictions on imports. The Agreement thus expressly requires elimination of measures such as those that require or provide benefits for the incorporation of local inputs or "local content requirements" in the manufacturing process, or measures that restrict a firm's imports to an amount related to its exports or related to the amount of foreign exchange a firm earns ("trade balancing requirements"). It also includes an illustrative list of measures that violate its requirements. The Agreement requires that any such measures existing as of the date of entry into force of the WTO (January 1, 1995) be notified and eventually eliminated. Developed countries were required to bring notified measures into conformity by January 1, 1997. Developing countries had until January 1, 2000 unless additional time was granted by the Council for Trade in Goods (CTG), and least-developed countries have until January 1, 2002.

Major Issues in 2001

The TRIMS Committee held no meetings this year. As was the case last year, the key TRIMS issues related to Article 5.3, which outlines the process for granting an extension of the transition periods for developing countries, and Article 9, which describes a mandated review of

the Agreement, were both required topics for discussion in the Council for Trade in Goods (CTG), rather than in the TRIMS Committee (see separate section on the CTG).

The Committee did produce two documents this year. The first was on notifications under Article 6.2 of the Agreement. Under Article 6.2, Members with non-conforming TRIMS must provide a notification to the WTO regarding the publications in which information on such measures can be found. The other document was Part I of a report drafted by the WTO Secretariat and UNCTAD on the impact of TRIMS for developing countries. This portion of the report describes definitions of performance requirements found in various agreements as well as the disciplines applied to such measures. The United States is still reviewing the report and has not yet commented on it. Part II of the report, which is not yet available, will focus specifically on developing country experiences with TRIMS.

Prospects for 2002

Once both portions of the report on the impact of TRIMS have been drafted, consensus in the CTG on the scope of the work to be undertaken in response to the Article 9 mandate may be possible which may invigorate discussions in the TRIMS Committee. Absent such a mandate, work in the TRIMS Committee will be limited.

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 2001, TMB membership was composed of appointees and alternates from the United States, the EU, Japan, Canada/Norway, Switzerland/Turkey, Brazil, Thailand, Pakistan/Macau, India/Egypt, and Hong Kong/Republic of Korea. Upon its accession in December 2001, China assumed membership on the TMB. 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, time-limited 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 Agreement on Textiles and Clothing in a manner in 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 it has "integrated" a product, a WTO 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 5.7 percent in 1995 and 7.3 percent in 2001.

Article 5 of the ATC requires that Members cooperate to prevent circumvention of quotas by illegal transshipment or other means. The United States actively worked with trading partners to improve cooperation and information sharing, and concluded a new agreement with Hong Kong to this end. The United States also established a Textile Transshipment Task Force at the U.S. Customs Service to improve enforcement of textile quotas at U.S. borders and has tightened enforcement actions vis-a-vis other trading partners where an improved bilateral agreement was not possible.

Major Issues in 2001

Safeguard Restraints: A special three-year safeguard is provided in the ATC to control surges in uncontrolled imports that cause or threaten to cause serious damage to domestic industry. Actions taken under the safeguard are automatically reviewed by the TMB. In 2001, the TMB reviewed a safeguard action taken by Poland on synthetic fiber imports from Romania. The TMB found that Poland had not demonstrated serious damage or actual threat thereof with respect to these imports.

Notifications and Other Issues: 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's report on the implementation of the second stage of the ATC covering the years 1998-2001 appears as document G/L/459.

Prospects for 2002

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; *e.g.*, 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," agreement was reached in the Uruguay Round on "The Understanding on the Interpretation of Article XVII." It provides a working definition of a state trading enterprise and instructs Members to notify the Working Party of all firms in their territory that fall within the agreed definition, whether or not such entities have imported or exported goods.

A WTO Working Party was established to review the notifications of state trading enterprises, and their adequacy, and 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, for the first time, 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 exclusion 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 state trading enterprises could capriciously raise import duties and/or 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 tariff-rate quotas) are now bound. While further work is needed on the administration of tariff-rate quotas, bindings do 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 2001

New and full notifications were first required in 1995 and, subsequently, every third year thereafter, while updating notifications are to be made in the intervening years, indicating any changes. As of October 2001, 25 Members submitted new and full notifications for 2001. In 1998, the previous period requiring full notification by Members, 45 Members submitted new and full notifications. In the intervening period, 34 Members submitted updating notifications for 2000, and 39 Members submitted updating notifications for 1999.

The Working Party held one formal meeting in October 2001 to review Member notifications. During the meeting, the Working Party reviewed 57 notifications, including the 25 new and full notifications. At the meeting, the Chairman made statements concerning the need for timely compliance with notification requirements.

Prospects for 2002

As part of the mandated agricultural negotiations already underway, several countries have identified issues to be addressed in negotiations related directly to measures used by state trading enterprises, such as in tariff-rate quota administration or export competition. Several countries have called for stricter disciplines on privileges enjoyed by state trading enterprises. The United States has tabled a proposal, to be further discussed in 2002, that calls for the development of new disciplines on agricultural export state trading enterprises that would ensure export transactions are non-discriminatory and transparent. Specifically, disciplines should be established that eliminate exclusive rights of single desk exporters and importers, strengthen notification requirements, and eliminate the use of government funds or guarantees to finance potential operational deficits or to otherwise insulate 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. In anticipation of more expanded negotiations during the year, the Working Party also will intensify efforts to improve the notification record.

C. 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.

Major Issues in 2001

The major activity of the Council this year consisted of the Built-In-Agenda (BIA) negotiations described at the beginning of this chapter. In addition to the BIA, the CTS is conducting two previously agreed reviews.

The air transport review, required in the GATS Annex on Air Transport Services, began in late 2000 and continued in 2001. 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." While a small number of countries have advocated changes to the current exclusion, the United States has taken the position that to date bilateral and plurilateral venues outside the WTO have proven to be effective in promoting liberalization in this important sector. In October 2001, the United States submitted a written statement presenting these views (available at http://docsonline.wto.org:80/DDFDocuments/t/S/C/W198.doc).

The second review, regarding the status of basic telecommunications accounting rates under GATS MFN provisions, was provided for in the course of the 1997 basic telecommunications negotiations and continued through 2001. During that review, some Members requested that those seeking to retain a "gentleman's agreement" not to bring a dispute on accounting rates on MFN grounds explain why there is a need to retain this agreement. The United States supports a more thorough examination of why

Members need to retain such an agreement, particularly in light of increased competition in the telecommunications sector.

Separately, at the initiative of the United States, the CTS took steps to ensure that preferential free trade agreements are reviewed for their consistency with countries' GATS obligations. In 2001, the CTS decided to refer nine such agreements to the WTO Committee on Regional Trade Agreements for review.

Prospects for 2002

The air transport review will continue in 2002. The main work of the CTS, however, will be related to the WTO services negotiations described at the beginning of this chapter.

1. Agreement on Basic Telecommunications Services

Status

The WTO Agreement on Basic Telecommunication Services, which came into force in February 1998, opened over 95 percent of the world telecommunications market, by revenue, to varying levels of competition. The range of services and technologies covered by the Agreement ranges from submarine cables to satellite systems, from broadband data to cellular services, to business networks based on the Internet. The majority of WTO Members have made regulatory as well as market access commitments, ensuring adherence to a multilateral framework for promoting competition in this sector. The Philippines, and Papua New Guinea made commitments that have yet to be ratified. Brazil's offer was contingent on expected improvements, details of which, however, were not accepted by other WTO Members.

Through the Agreement on Basic Telecommunications, the United States has largely succeeded in shaping an international consensus that telecommunications monopolies must be replaced with competitive markets for any economy to enjoy the benefits of the digital economy.

Accordingly, WTO Members around the world are rewriting rules to permit effective competition and to promote the growth of new markets. The results continue to promote growth: usage of telecommunications networks has increased as prices have dropped, fueling new services and introducing new efficiencies throughout economies. With demand for advanced services, including the Internet, new entrants willing to innovate with different technologies are creating markets that would never have developed had control of other nations' networks remained in the hands of monopolists.

As a result of this Agreement, U.S. firms have invested billions of dollars abroad, extending their networks, bringing down the cost of communications for U.S. consumers and businesses, and laying the infrastructure for global electronic commerce. The experience U.S. firms have gained in developing competitive markets in the United States has provided an enormous advantage in these newly opened markets, allowing them to bring to these markets the same innovation and efficiency U.S. consumers have long enjoyed. Opening foreign markets has had immediate benefits for U.S. consumers and businesses as well. Prices for calls to many competitive markets now differ little from domestic long-distance prices.

In addition to fueling growth in new services, market liberalization has stimulated a boom in equipment sales. U.S. manufacturers have been major beneficiaries in the growth of a global market for telecommunications equipment, with U.S. equipment exports in 2000 increasing 23 percent over the previous year to $28 billion. This spending is largely dedicated to investment in new networks, or upgrades to existing networks, driven by competitive pressures.

Major issues in 2001

Governments have recognized the value of reducing the governmental role in the supply of telecommunications services, and have continued to divest shares in government-owned operators – including in Germany, Greece, Israel, Japan, Korea, Norway and Taiwan. This trend is expected to continue. Governments have also taken significant steps to increase market access opportunities through pro-competitive regulatory initiatives, including the unbundling directive in the EU and establishment of dominant carrier regulation in Japan. Newly-acceding WTO Members, such as China also brought into force broad-based telecommunications commitments in 2001.

Prospects for 2002

The global investment needs in the telecommunications sector, and U.S. firms' interest in meeting this demand show no sign of abating. Demand for high-capacity (broadband) services on wireline networks and the development of advanced wireless services (*e.g.* so-called Third Generation services) ensure that competitive opportunities, and the importance of the Agreement as a framework for ensuring market access, will increase.

Given the recent trend in unilateral liberalization, prospects are good that the WTO services negotiations now underway will expand existing commitments to cover a broader range of telecommunications sub-sectors with fewer market access limitations. In regions that were previously not a major market focus (*e.g.*, in developing countries) there is substantial room for improved commitments.

2. Agreement and Committee on Trade in Financial Services

Status

The Committee on Trade in Financial Services (CTFS) met four times in 2001. It serves as a forum for discussion of important issues related to WTO Members' existing liberalization commitments and for technical approaches regarding further liberalization.

Major Issues in 2001

Several WTO Members reported on developments under their financial services regimes. The United States provided information on the processes it follows to ensure transparency in its development and application of financial services regulations. The United States encouraged other countries to provide similar information on their national regimes for development of regulations.

The United States also worked with other trading partners to maintain pressure on those few countries that have not ratified their commitments under the 1997 Financial Services Agreement - the Fifth Protocol to the GATS - to do so as quickly as possible and to provide status reports of progress underway. In October, 2001, the Dominican Republic notified that it had completed its domestic ratification procedures. The United States expects that the Dominican Republic will complete the procedures necessary to accept the Fifth Protocol in the near future. Six countries – Bolivia, Brazil, Jamaica, Poland, the Philippines and Uruguay – have not yet ratified their commitments or accepted the Protocol. Progress was reported by the majority of these six countries.

Prospects for 2002

Work of the CTFS will continue to pick up pace in 2002. The CTFS will enable WTO Members to hold substantive discussions of some of the issues raised in negotiating proposals tabled in financial services.

3. 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 do not constitute unnecessary barriers to trade in services." A 1994 Ministerial Decision had 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/english/news_e/pres97_e/pr73_e.htm and www.wto.org/english/news_e/ pres98_e/pr118_e.htm, respectively.)

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 2001

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 more trade restrictive than necessary to fulfill legitimate objectives for the full range of service sectors. The United States has taken a deliberate approach in this second area and has supported discussion first of problems or restrictions for which new disciplines would be appropriate.

To continue work on professional services, Members agreed to solicit views on the accountancy disciplines from their relevant domestic professional bodies, addressing whether those other professions would favor use of the accountancy disciplines 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 reviewed a list of international professional organizations, compiled by the Secretariat from Member submissions, and are considering whether the organizations listed are the appropriate ones to consult regarding the applicability of the accountancy disciplines to those professions.

Prospects for 2002

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.

4. 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 2001

Of the three issues, the GATS established a deadline only for safeguards. In 2000, this deadline was again extended, to March 2002, reflecting the continuing disagreement among WTO Members on both the desirability and feasibility of a safeguards provision similar to the WTO provisions for goods.

Discussions were more focused in 2001 than in previous years, benefitting from submissions by ASEAN, Canada, Mexico, Mauritius, Argentina, and Chile, Switzerland, and Costa Rica. The United States also submitted a paper arguing that for safeguards to be desirable in the services context they would need to be shown to promote liberalization of services trade. In the first part of the year, discussion among Members focused on feasibility of safeguards, and addressed concepts including domestic industry, acquired rights, modal application of safeguards, situations justifying safeguards, and indicators and criteria to determine injury and causality. In its submission, the United States argued that a case for the desirability of safeguards has not been made and needs to be discussed. 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 negotiating in 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. Discussion was limited in this area due to the Working Party's increased focus on safeguards resulting from the March 2002 deadline.

Prospects for 2002

Information-gathering and discussion of all three issues will continue. The continuing sharp divergence of views on safeguards may result in a decision to extend the negotiating deadline once again.

5. 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 country schedules in sectors for which there is no sectoral body, currently all sectors except financial services.

Major Issues in 2001

The Committee concluded its work on revising scheduling guidelines. These guidelines, which originally were developed by the GATT Secretariat for use in scheduling country commitments during the Uruguay Round, are intended to improve transparency and consistency of new commitments. The CTS formally adopted the revised guidelines in March 2001.

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

identified. The United States has advocated changes in express delivery services, energy services, environmental services, and legal services and has made submissions in each of these areas.

At the end of 2001, the Committee decided to begin work on procedures for consolidation of country schedules; these procedures will be important in light of new market access and national treatment expected in the current GATS negotiations.

Prospects for 2002

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

D. 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. Minimum standards are established by the TRIPS Agreement for the enforcement of intellectual property rights in 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. In addition, the TRIPS Agreement is the first multilateral intellectual property agreement that is enforceable between governments through WTO dispute settlement provisions.

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. However, some obligations are phased in based on a country's level of development. Developed country Members were required to implement by January 1, 1996; developing-country Members generally had to implement by January 1, 2000; and least-developed country Members must implement by January 1, 2006. However, based on a proposal made by the United States, Ministers agreed in Doha to change the implementation date for least-developed Members with respect to certain obligations related to pharmaceutical products to 2016 as part of the Declaration on the TRIPS Agreement and Public Health. Several specific obligations became effective on January 1, 1995, including a general "standstill" obligation, and, with respect to Members that do not provide patent protection for pharmaceuticals and agricultural chemicals, an obligation to provide a patent "mailbox" in which to file applications for such inventions to preserve a filing date, and an obligation to provide exclusive marketing rights systems.

TRIPS Council: 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 2001

In 2001, the TRIPS Council held four formal meetings, including several "special discussion" sessions on the issue of intellectual property and access to medicines. In addition to continuing its work reviewing the implementation of the

Agreement by developing countries and newly acceding Members, the Council's work in 2001 focused on defining the TRIPS issues to be 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 2001 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 that 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 about how individual Member's had implemented their obligations.

During 2001, laws of the following 50 Members were reviewed: in April - Bolivia, Cameroon, Congo, Grenada, Guyana, Jordan, Namibia, Papua New Guinea, Saint Lucia, Suriname, Venezuela; in June - Albania, Argentina, Bahrain, Botswana, Costa Rica, Cote d'Ivoire, Croatia and St. Kitts and Nevis; in July - Dominica, Dominican Republic, Egypt, Fiji, Georgia, Honduras, Jamaica, Kenya, Mauritius, Morocco, Nicaragua, Oman, The Philippines and United Arab Emirates; in November - Antigua and Barbuda, Barbados, Brazil, Brunei Darussalam, Cuba, Gabon, Ghana, India, Lithuania, Malaysia, Pakistan, Sri Lanka, Thailand, Tunisia, Uruguay and Zimbabwe.

Intellectual Property and Access to Medicines: Health activists and certain WTO Members have expressed concern about the relationship between access to essential drugs in low-income countries and the obligations under the TRIPS Agreement related to pharmaceuticals, particularly in the dire circumstances of the HIV/AIDS epidemic in sub-Saharan Africa.

Patents are widely acknowledged as providing the incentive for investment in research and development (R&D) to bring new and more effective pharmaceutical products to market; although there is no cure for HIV/AIDS at present, there is hope that research efforts currently under way will yield results. However, critics have expressed concern that by requiring developing countries to provide pharmaceutical patent protection, TRIPS enables pharmaceutical companies to charge high prices for essential drugs thereby limiting their availability in low-income markets.

These concerns have been expressed despite the fact that TRIPS does not require least-developed Members to provide patent protection until 2006 and developing countries, including Egypt and India, enjoy a transition from the deadline of January 1, 2000 to January 1, 2005. Such concerns also failed to take into account the extent to which essential drugs are patent-protected in markets hardest hit by pandemics such as HIV/AIDS. For example, during the course of the 2001, researchers at Harvard University published a study specifically aimed at uncovering the extent to which antiretroviral drugs used to treat HIV/AIDS were patented in Africa, the continent hardest hit by the pandemic. The report concluded, inter alia, that "anti-retroviral drugs are patented in few African countries.... We conclude that a variety of de facto barriers are more responsible for

impeding access to antiretroviral treatment, including but not limited to the poverty of African countries, the high cost of antiretroviral treatment, national regulatory requirements for medicines, tariffs and sales taxes, and, above all, a lack of sufficient international financial aid to fund anti-retroviral treatment."

This issue has emerged in the wider context of a campaign to provide better access to essential drugs for the treatment of health and related problems in needy populations. The Accelerating Access Initiative was launched by UNICEF, UNFPA, WHO, the World Bank, and the UNAIDS Secretariat in May 2000, on the basis of offers by five pharmaceutical manufacturers to supply anti-retroviral drugs at reduced prices for use in developing countries; other manufacturers have since responded to the Access initiative.

In June 2001, a Special Session of the General Assembly on HIV/AIDS endorsed the Global Fund to fight HIV/AIDS, malaria, and tuberculosis in developing countries. The Global Fund had been announced earlier in the year by the Secretary-General of the UN. The United States was the founding donor to this unique and distinctive approach to combating the nearly six million deaths each year attributed to these diseases.

The United States has taken a leadership role in responding to the global challenge of the HIV/AIDS pandemic. The United States is the largest bilateral donor of funds for HIV/AIDS assistance, in support of HIV/AIDS prevention and care and treatment programs in developing countries. In addition, the US invests over $2 billion per year on HIV/AIDS research. The United States was the first contributor, to the new "Global Fund to fight AIDS, Tuberculosis, and Malaria" with an initial contribution of $200 million.

However, because of the concerns expressed about the WTO TRIPS Agreement, the United States has also taken a leadership role in trying to address these concerns, through discussions in the TRIPS Council and other fora.

Following a request from Zimbabwe on behalf of the African Group, the United States was the first WTO Member to agree that the Council should take up the issue of "Intellectual Property and Access to Medicines." The objective of these discussions was to enable Members to discern more clearly the relationship between the TRIPS Agreement and the public policy objective of affordable access to patent-protected essential drugs, and to identify an agenda of points requiring further discussion; this included clarification of the Agreement's flexibility provisions so as to minimize the potential for disputes.

The United States supported this discussion in the hope that through this dialogue, Members would come to appreciate the important role the TRIPS Agreement plays in stimulating development and commercialization of new life-saving drugs. The United States also hoped that this dialogue would result in a clearer understanding of existing flexibility in the Agreement which enables Members to ensure that such drugs are available to their citizens, particularly those that are unable to afford basic medical care. The United States consistently expressed the view that TRIPS strikes the proper balance between these two objectives. We expressed concern that some have quite incorrectly blamed the Agreement for health crises or claimed that it stands in the way of resolving such crises. Quite the contrary, Members have the ability under the Agreement to implement their obligations in a way that fully supports their national health care objectives. On the other hand, without the economic incentives provided by patent systems, there would be far fewer drugs available for the treatment and cure of life-threatening diseases and conditions and distribution of those that did exist would be far more limited.

The United States expressed its commitment to strong intellectual property protection but also

to ensuring Members are able to use the flexibility in the TRIPS Agreement where necessary to meet their health care objectives. In February 2001, the Bush Administration reaffirmed the commitment of the United States to a flexible approach on health and intellectual property. Under this policy, we have informed WTO Members that, as they take steps to address major health crises, such as the HIV/AIDS crisis in sub-Saharan Africa and elsewhere, the United States would raise no objection if Members availed themselves of the flexibility afforded by the WTO TRIPS Agreement.

While supportive of the use of the flexibility in the TRIPS Agreement, the United States recognizes that a comprehensive approach is needed to serious health problems. The TRIPS Agreement – its obligations and flexibility – is at most one element of the equation. To deal with serious health problems, countries need to stress education and prevention as well as care and treatment if health crises are to be eliminated. Health experts inform us that the cost of drugs is only one of many important issues that must be addressed in any health crisis. Effective drug treatment necessitates urgent action to strengthen health management systems particularly directed to drug distribution and patient monitoring. Appropriate drug selection policies and standard treatment guidelines; training of care providers at all levels; adequate laboratory support to diagnose and monitor complex therapies; and systems for ensuring that the right drugs are used for the right purpose and in the right amount are all required to address the HIV/AIDS crisis.

We must recognize that even if enough drugs to treat every single HIV positive person were provided, free of charge, an adequate infrastructure to deliver them and monitor their use does not appear to exist in many areas most in need. To ensure that healthcare is available, particularly to those unable to afford basic medical care, according to health experts, each country must also develop its medical and public health infrastructure, increase the resources allocated to health care, and take other appropriate steps. The Director General of the World Health Organization, Dr. Brundtland, has made the following statements about the key factors to improve access to medicines: "We have heard quite clearly that the price of drugs matters, it matters to poor people, and it matters to poor countries. But little progress will be possible without a significant investment in building effective health systems... just making drugs available - even at no cost - does not guarantee that they will be utilized. All other pieces of the picture have to be in place as well: the distribution systems, the partnerships between public and private providers; the agreements between governments and development agencies; and clear and explicit goals and objectives."

Ultimately, the special discussions in the TRIPS Council, and further work on the issue of intellectual property and public health in Doha, Qatar, resulted in WTO Ministers adopting the Declaration on the TRIPS Agreement and Public Health.

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. 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.

The United States is pleased that this 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 is committed to 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.

Several important points need to be emphasized about the Doha Decision:

- The Declaration recognizes and confirms the important link that exists between the protection of intellectual property rights and the continued development and availability of medicines, in particular those used to treat HIV/AIDS and other pandemics, such as tuberculosis and malaria.

- Pursuant to the TRIPS Agreement, measures may be taken to protect public health. The Declaration does not alter the requirement in Article 8 that such measures must be consistent with the provisions of the Agreement.

- The TRIPS Agreement is governed by the customary rules of interpretation of international agreements as reflected in public international law.

- Pursuant to Article 6 of the TRIPS Agreement, Members' exhaustion (parallel import) regimes may not be subject to challenge under WTO dispute settlement procedures. Ministers have not altered Members' rights and obligations under the TRIPS Agreement with respect to exhaustion of intellectual property rights. Measures that are inconsistent with TRIPS requirements concerning the exclusive right to authorize importation can be challenged under national or other international legal procedures.

- Members may define grounds for granting a compulsory license. Members remain obligated by the terms of the TRIPS Agreement with respect to their use of compulsory licensing, including the provisions that prohibit discrimination based on whether the patented product is imported or domestically produced.

- Ministers have recognized the complex issues associated with the ability of least-developed Members that lack domestic manufacturing capacity to make use of the flexibilities in the TRIPS Agreement. Ministers have directed the TRIPS Council to undertake work in this area and report to the General Council. We note that one issue to be evaluated in this process is that developers of new pharmaceutical products frequently do not seek intellectual property protection in countries that lack domestic manufacturing capacity.

Finally, in recognition of the special challenges facing the least-developed Members, Ministers adopted a U.S. proposal to direct the TRIPS Council to take the necessary action pursuant to Article 66.1 of the TRIPS Agreement to extend until 1 January 2016 the transition period under Sections 5 and 7 of Part II of the TRIPS Agreement and enforcement of those sections with respect to pharmaceutical products for least-developed country Members.

TRIPS-related WTO Dispute Settlement Cases: During the year, the United States continued to pursue consultations on enforcement issues with a number of developed countries, including

Denmark regarding its failure to provide provisional relief in civil enforcement proceedings, the European Communities, for its failure to provide TRIPS-consistent protection of geographical indications, Greece regarding its failure to take appropriate action to stop television broadcast piracy in that country, and Ireland for its failure to implement a TRIPS-consistent copyright law. As a result of Ireland's enactment of needed amendments to its copyright law, the United States and Ireland announced resolution of the WTO case brought by the United States over Ireland's failure to amend its copyright law to comply with the TRIPS Agreement on November 6, 2000, and the new law became effective on January 1, 2001. On March 20, 2001, the Danish Parliament approved legislation making civil *ex parte* searches available. The legislation was signed into law on March 28, 2001. The WTO Appellate Body decided in favor of the United States in a dispute with Canada regarding the term of protection for patents applied for prior to October 1, 1989, and recommended that Canada implement the recommendations of the dispute settlement panel within a reasonable time. As no agreement was reached regarding what was reasonable, the United States asked an arbitrator to determine the reasonable period of time for Canada to comply, and on February 28, 2001, the arbitrator determined that the deadline for compliance would be August 12, 2001. Effective July 12, 2001, Canada announced that it had enacted an amendment to its Patent Act to bring it into conformity with its obligations under the TRIPS Agreement. On March 22, 2001, the United States and Greece formally notified the WTO of the resolution of the dispute settlement case regarding television piracy. This was possible due to the sharp decline in the level of television piracy in Greece, passage of new legislation providing for the immediate closure of infringing stations, closure of several stations that had pirated U.S. films, and the issuance of the first criminal convictions for television piracy in Greece.

Also during the year, the United States continued consultations with Argentina regarding patent and data protection issues. Consultations continued with Brazil regarding a provision in its patent law providing for patent owners to manufacture their products in Brazil in order to maintain full patent rights. On June 25, 2001, the USTR announced that the United States and Brazil had agreed to transfer their disagreement over this provision from formal WTO litigation to a newly created bilateral consultative mechanism. Under the terms of the Agreement, Brazil would consult with the United States before granting any compulsory licenses and the complaint was withdrawn.

There are a number of other WTO Members that likewise appear not to be in compliance with their TRIPS obligations. The United States, for this reason, is still considering possible dispute settlement cases against India, Australia, the Dominican Republic, Egypt, Hungary, Israel, the Philippines and Uruguay. We will continue to consult with all 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: During 2000 and 2001, the Council has continued negotiations under Article 23.4 on a multilateral system for notification and registration of geographical indications for wines and spirits intended to facilitate protection of such indications. In 1999, the European Union submitted a proposal for such a system under which Members would notify the WTO of their geographical indications and other Members would have one year in which to oppose any such notified geographical indications. If not opposed, the notified geographical indications would be registered and all WTO Members would be required to provide protection as required under Article 23. The United States, Canada, Chile and Japan introduced an alternative proposal under which Members would notify their geographical indications for wines and spirits for incorporation in a register available to all

Members on the WTO website. Under this proposal, Members choosing to participate in the system would agree to consult the notifications made on the website when making decisions regarding registration of related trademarks or otherwise providing protection for geographical indications for wines and spirits. Implementation of this proposal would not place obligations on Members beyond those already provided under the TRIPS Agreement or place undue burdens on the WTO Secretariat. In 2000, the European Communities introduced a revision of its original proposal and Hungary introduced a proposal for a formal opposition system. Discussion on the proposals continued during the 2001 meetings. The United States continues to support the "collective" proposal that it sponsored along with Canada, Chile and Japan. Other delegations including Argentina, Australia, Brazil, Korea, Mexico, and New Zealand, have also expressed support for the U.S. approach. The United States will aggressively pursue additional support for its approach to the multilateral register in 2002 in light of the direction from Ministers in the Doha Ministerial Declaration to complete negotiations by the Fifth Ministerial Conference.

A review of the implementation of the application of the TRIPS provisions on geographical indications pursuant to Article 24.2 of the Agreement continues on the agenda. At each of the 2001 TRIPS Council meetings, the United States urged those Members that have not yet provided information on their regimes for the protection of geographical indications to do so. The United States also supported a proposal by New Zealand in 2000 that the Council conduct the review by addressing each article of the TRIPS Agreement covering geographical indications in light of the experience of Members. Some Members have sought to use the review to initiate negotiations to expand "enhanced" geographical indication protection under Article 23 for products other than wines and spirits. The United States, supported by several other Members, opposed efforts to initiate further negotiations in this area, noting that the Agreement provides no mandate for such negotiations.

The Doha Ministerial Declaration did not provide a mandate for such negotiations. However, the Declaration does direct 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 report to the Trade Negotiations Committee by the end of 2002 for appropriate action.

Review of Current Exceptions to Patentability for Plants and Animals: TRIPS Article 27.3(b) authorizes Members to except plants and animals and biological processes from patenability, but not micro-organisms and non-biological and microbiological processes. In 1999, the TRIPS Council initiated a review of this Article as called for under the Agreement and, because of the interest expressed by some Members, discussion of this Article continued through 2000 and 2001. In 1999, the Secretariat prepared a synoptic table of information provided by those Members that were already obligated to implement the provisions. The synoptic table facilitated the review by permitting Members' practices to be compared easily. This portion of the review revealed that there was considerable uniformity in the practices of the Members that have implemented their obligations. 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, has 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 will have a more complete picture if the discussion of this article is to continue. Regrettably, some 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.

While maintaining the view that these issues are beyond the scope of the review of Article 27.3(b), and that the discussion should focus on relevant information regarding Members' implementation of the provision, the United States has responded by providing two papers expressing views on these topics in 2000 and an additional paper in 2001 outlining a contract method by which those Members that are also Parties to the CBD might implement their obligations under the latter agreement. An additional paper is being prepared for the first meeting of the TRIPS Council in 2002, describing the contracts used by the National Cancer Institute when it collects plants outside the United States.

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, the protection of traditional knowledge and folklore.

Non-violation: Throughout the year, some WTO Members continued to raise questions regarding the operation of non-violation nullification and impairment complaints in the context of the TRIPS Agreement and called for the Council to define the appropriate "scope and modalities" for addressing such complaints. They argued that the possibility of such complaints, now that the moratorium on such cases has expired, 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.

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.

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 on-line environment. The United States will continue to support discussion of the application of the TRIPS Agreement in the digital environment.

Further Reviews of the TRIPS Agreement: Article 71.1 calls for a review of the implementation of the Agreement, beginning in 2000. The Council currently is considering how the review should best be conducted in light of the Council's other work. The Doha Ministerial Declaration states 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.

Prospects for 2002

In 2002, the TRIPS Council will continue to focus on its built-in agenda as well as the additional mandates established in Doha. The TRIPS Council will issue a report to the Trade Negotiations Committee by the end of 2002 on a number of issues, including compulsory licensing, geographical indications, the relationship with the CBD, traditional knowledge and folklore as well as other relevant new developments.

While the review of developing-country Members' implementation was to have been completed in 2001, follow up of some countries was not completed and was rescheduled for 2002. Reviews yet to be completed are for: Albania, Antigua and Barbuda, Barbados, Botswana, Brazil, Brunei Darussalam, Cameroon, Congo, Côte d'Ivoire, Cuba, Egypt,

Fiji, Gabon, Ghana, Grenada, Guyana, India, Kenya, Lithuania, Malaysia, Mauritius, Namibia, Oman, Pakistan, the Philippines, Saint Kitts and Nevis, Sri Lanka, Suriname, Thailand, Tunisia, the United Arab Emirates, Uruguay, and Zimbabwe.

U.S. objectives for 2002 continue to be:

- 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 participate actively in the review of formal notifications of intellectual property laws and regulations to ensure their consistency with TRIPS obligations by Members;
- to ensure that no weakening of the Agreement occurs; and
- to develop further Members' views on the relationship between the TRIPS Agreement and electronic commerce.

E. Other General Council Bodies/Activities

1. 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 has served as a valuable resource for improving transparency in WTO Members' trade and investment regimes and in ensuring their 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 subject Member. This report is accompanied by the report of the country under review. Together the reports are subsequently discussed by WTO Members in the TPRB at a session at which representatives of the country 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 smaller countries have found the preparations for the review 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 on the WTO's web site at www.wto.org.

Major Issues in 2001

During 2001, the TPRB conducted 15 policy reviews: Brunei, Cameroon, Costa Rica, Czech Republic, Gabon, Ghana, Macau, Madagascar, Malaysia, Mauritius, Mozambique, Slovak Republic, Uganda, the United States and the WTO Members of the Organization of East Caribbean States.

Five countries were reviewed for the first time, including two least-developed countries, Madagascar and Mozambique. As of December 2001, 150 reviews have been conducted since the formation of the TPR. These reviews covered 84 of the 128 Members, counting the European Union as one, and represent 83 percent of world merchandise trade. The increased importance of least-developed country reviews has led to 11 such reviews since 1998.

Despite the importance of the TPRM, questions continue to be raised about the ever-increasing

amount of resources needed to conduct the reviews. 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 Members countries. In the coming year the United States will give some additional attention to the question of resources for the TPRM and potential improvements.

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.

Prospects for 2002

The TPRM is an important tool for monitoring and surveillance, in addition to encouraging WTO Members to meet their WTO obligations and to maintain or expand trade liberalization measures. The program for 2002 contains provisions to conduct reviews of 17 Members: Australia, Barbados, the Dominican Republic, the European Union, Guatemala, Haiti, Hong Kong-China, India, Japan, Malawi, Mauritania, Mexico, Pakistan, Slovenia, South Africa, Venezuela, and Zambia.

2. 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. The mandate of the CTE is to make appropriate recommendations to the Ministerial Conference as to whether, and if so what, changes are needed in the rules of the multilateral trading system to foster positive interaction between trade and environment measures and to avoid protectionist measures. At the Fourth WTO ministerial meeting in Doha, Qatar, Members agreed to an enhanced role for the CTE including serving as a forum for identifying and debating environmental issues in connection with the negotiations and increasing the focus on certain items of its agenda (see below).

Major Issues in 2001

The CTE met three times in 2001. The United States contributed to the Committee's deliberations by, *inter alia*, working to build a consensus that important trade and environmental benefits can be achieved by addressing fisheries subsidies that contribute to overfishing, and through the liberalization of trade in environmental goods and services.

Multilateral Environmental Agreements (MEAs): The CTE continued to help enhance WTO Members' understanding of the trade provisions of MEAs by holding information

exchanges with representatives from a number of MEA Secretariats, who briefed Committee Members on recent developments in their respective agreements. In June 2001, the CTE held an information session that focused on the compliance and dispute settlement provisions in MEAs and the WTO. The Secretariats of the WTO and the UN Environmental Programme (UNEP), in close cooperation with MEA Secretariats, jointly prepared a background paper for the meeting. These discussions helped inform the decision of WTO Members at Doha to begin negotiations on ways to enhance cooperation between the WTO and MEA Secretariats, and to explore further the relationship between existing WTO rules and specific MEA trade obligations, as applied among parties to the MEA in question.

Market Access: The CTE continued its work on the environmental implications of reducing or eliminating trade-distorting measures. This work reflected a broad degree of consensus that trade liberalization, in conjunction with appropriate environmental policies, can yield environmental benefits. As mentioned above, the CTE continued to discuss in depth the potential environmental benefits of reducing or eliminating fisheries subsidies. The CTE also continued discussions of the benefits of improving market access for environmental services and goods and the environmental implications of agricultural and services trade liberalization and liberalization in other sectors such as energy.

TRIPS: The CTE continued its discussions of the relationship between the TRIPS Agreement and the environment. 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 has made clear its view that there is no incompatibility between WTO Agreements and the CBD.

Relations with NGOs/Transparency/ Environmental Reviews: In 2001, the United States, joined by several other Members, continued to emphasize the need for further work to develop adequate mechanisms for involving NGOs in the work of the WTO and to improve transparency, including through providing adequate public access to documents. The United States also continued to stress the usefulness of environmental assessments in helping to assure that trade and environmental policies are mutually supportive. The United States conducts reviews of major trade agreements to which it is a party pursuant to Executive Order 13141 (1999) and encourages Members to perform reviews of their own agreements.

Prospects for 2002

As a result of new negotiations launched at Doha, the CTE is expected to play a key role on such items as enhancing cooperation between the WTO and MEA Secretariats. The Committee is also instructed to pay particular attention to the effect of environmental measures on market access, the relevant provisions of the TRIPS Agreement, and labeling requirements for environmental purposes. The Committee will prepare a report to the Fifth Ministerial Conference in 2003 with recommendations, including on potential negotiations. More generally, the CTE will serve as a forum for identifying and discussing environmental implications of the new negotiations launched at Doha, to help assure that the negotiations appropriately reflect the objective of sustainable development.

3. Committee on Trade and Development

Status

The Committee on Trade and Development (CTD) was established in 1965 to strengthen the GATT's role in the economic development of less-developed GATT Contracting Parties. In the WTO, the Committee on Trade and

Development is a subsidiary body of the General Council. The Committee provides developing countries, who comprise two-thirds of the WTO's Membership, an opportunity to focus on 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. Among subjects the Committee has discussed are the benefits of trade liberalization to development prospects, the role of technical assistance and capacity building in this effort and electronic commerce, pursuant to the 1998 Ministerial decision on electronic commerce.

Major Issues in 2001

The Committee held five formal meetings and two seminars in 2001. The Committee's work focused on the following areas: review of the special provisions in the Multilateral Trading Agreements and related Ministerial Decisions in favor of developing-country Members (in particular least-developed countries); participation of developing countries in world trade, implementation of WTO agreements, technical cooperation and training, concerns and problems of small economies, development dimensions of electronic commerce, market access for least-developed countries, and the generalized system of preferences. The Committee seminars focused on technology, trade and development, and government facilitation of electronic commerce for development.

The Committee also discussed the nature of the WTO's role in technical assistance and how to collaborate effectively with other international and national agencies in providing and monitoring such assistance. At the Committee meeting in November, the United States submitted a report on U.S. Government initiatives to build trade-related capacity in developing and transition countries. The report provides details on the $1.3 billion worth of trade-related capacity building the United States has provided during the last three years. The report can be viewed at http://www.usaid.gov/economic_growth/trade report. (The U.S. Government also has developed a trade-related capacity building database available online at http://qesdb.cdie.org/tcb/index.html.)

Sub-Committee on Least-Developed Countries: The Committee on Trade and Development has a sub-committee that focuses on the least-developed countries. At the 1996 Singapore Ministerial Meeting, Members agreed to a Plan of Action to foster an integrated approach to trade-related technical assistance activities for the least-developed countries and to improve their overall capacity to respond to the challenges and opportunities offered by the trading system. The result was the Integrated Framework for Trade-related Technical Assistance ("Integrated Framework") that seeks to coordinate the trade assistance programs of 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). In addition, least-developed countries can invite other multilateral and bilateral development partners to participate in the Integrated Framework process. In 2001, the Sub-Committee on Least-Developed Countries of the Committee on Trade and Development continued to focus its work on the Integrated Framework, communicating with and providing views to the Inter-Agency Working Group which includes representatives from the six core international organizations on the arrangements for the Integrated Framework. In January 2001, the Sub-Committee held a seminar on the Policy Relevance of Mainstreaming Trade into Country Development Strategies. In February, the Sub-Committee adopted a proposal for an Integrated Framework pilot scheme and in May the Sub-Committee was informed of the selection of the first three Integrated Framework pilot project countries: Madagascar, Mauritania, and Cambodia.

Prospects for 2002

The Committee on Trade and Development, which is scheduled to meet four times in 2002, will continue its function as the forum for discussion of development issues within the WTO. Particular emphasis is likely to be placed on special and differential treatment, the participation of developing countries in the multilateral trading system, electronic commerce, technical cooperation, and the UN Conference on Financing for Development. The Committee will host a seminar on electronic commerce in April.

The Sub-Committee on Least-Developed Countries will meet three times in 2002. It will continue to focus on the special needs of and opportunities available to the least-developed countries and the Integrated Framework. This year, the Sub-Committee will hold two different seminars on the Integrated Framework and WTO Trade Policy Reviews.

4. 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 BOP consultations.

Major Issues in 2001

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. At its December 2000 meeting, the Committee approved a phase-out plan submitted by Bangladesh to eliminate all of its balance-of-payments restraints on certain textiles in four tranches by January 2005. In July 2001, the Committee held additional consultations with Bangladesh. In consultations in December 2001, Bangladesh informed the Committee that it would be willing to eliminate its restrictions on the import of sugar by July 1, 2005, and would try to justify its ban on non-iodized salt under Article XX. For the remaining three products subject to import restrictions, Bangladesh indicated that it would be submitting a notification in the near future on how it intends to deal with these products. In January and February 2001 Pakistan, notified the BOP Committee that it had removed the restrictions on netting fabrics, special woven fabrics, knitted clothing and non-knitted clothing in accordance with the second tranche of its phase-out plan. In late December 2001, BOP Committee announced that Pakistan had informed it that it had removed the remaining import restrictions on woven fabrics and bed linens, fully implementing its balance of payments restrictions phase-out plan.

Prospects for 2002

The Committee will consult with Bangladesh in January 2002 and as necessary with other countries maintaining BOP-related restrictions during the year. Additionally, 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 see 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 also

continue to rely upon its close cooperation with the IMF.

5. 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 United States is an active participant in the Budget Committee.

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. For the 2002 budget, the U.S. assessment rate is 15.723 percent of the total assessment, or Swiss Francs (CHF) 22,342,383 (about $14 million). Details on the WTO's budget required by Section 124 of the URAA are provided in Annex II.

Major Issues in 2001

In 2001, the launch of the new round of negotiations in Doha and the capacity building needs of developing countries were the major issues facing the Budget Committee. Other issues of significance in 2001 included implementing a new performance-based pay system, reviewing a Swiss proposal to provide additional facilities for the WTO, and the first contribution received under the WTO's new guidelines governing the acceptance of contributions from non-governmental organizations.

Agreed Budget for 2002: After considerable discussion to ensure that the organization would be able to meet the technical assistance and capacity building needs of developing countries agreed during the launch of the new round at Doha, the Committee proposed, and the General Council approved, a 2002 budget for the WTO Secretariat and Appellate Body of CHF 143,129,850 (approximately $88 million).

The discussions within the Budget Committee focused primarily on meeting the call in the Doha Ministerial declaration for stable and predictable funding for trade capacity-related technical assistance and cooperative programs for developing countries. Previously, there had been significant debate within the Committee over whether the resources needed to meet the technical assistance needs of developing-country Members should be brought onto the regular budget, funded by Members' contributions. In 2001, the United States and a number of other Members opposed funding all of the technical assistance and capacity building expenses from the regular budget for both systemic and budgetary reasons. (Historically, a portion of the staffing for technical assistance programs was provided by the WTO Secretariat out of the budget. The variable expenses of these programs–mostly for facilities, interpretation and non-Secretariat travel–are funded primarily by donations of individual developed countries, including contributions by the United States of $600,000 in November 2000 and $1.0 million in May 2001).

The agreed 2002 budget package provides for increased technical assistance and additional financing for the International Trade Center. The budget resolution also creates the Doha Development Agenda Trust Fund, which will be financed by voluntary contributions. WTO Members agreed to double the number of 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. The training program is funded out of the regular WTO budget. Another element of the budget package will provide technical assistance for developing countries that do not have offices in

Geneva to represent them at the World Trade Organization. These efforts will assist countries that have the greatest difficulty in participating in WTO activities.

The Doha Development Agenda Trust Fund, with a target endowment level of CHF 15,000,000 (about $9 million), will allow the WTO to meet the trade capacity development commitments in the Doha Declaration and will absorb previous trust funds, including the Technical Assistance Global Trust Fund. A pledging conference in the first quarter of 2002 will kick off efforts to reach the target endowment for the Doha Fund, which will have a CHF 1,000,000 buffer account to ensure that programs will not be disrupted due to temporary shortfalls in the receipt of pledged contributions. The Doha Fund will operate with specific targets tied to identified benchmarks and will be jointly supervised by the Committee on Trade and Development and the Budget Committee. For the year 2002, it was agreed that up to CHF 480,000 from the new trust fund can be used to fund a symposium with non-governmental organizations (NGOs).

WTO Members agreed to increase the staffing of the organization by eight people to address higher workloads, including in several areas related to the launch of the new round. The positions are to be allocated in the following divisions: three in the Training Institute, one in Economic Research and Analysis, one in Statistics, one in the Human Resources, one in Trade Policy Review, and one to be determined. The WTO Secretariat will also be redeploying five positions within the organization.

As a result of the budget agreement, the United States assessment for 2002 is CHF 22,342,383 (about $14 million). The U.S. contribution accounts for 15.723 percent of the total assessments of WTO Members, which are based on the share of WTO Members' trade in goods, services, and intellectual property. In 2001, the Committee adopted a new methodology based on the average trade of each Member over a five-year period. To assure uniformity, the fifth year corresponds to the year that is two years before the particular budget year. Therefore, assessments for 2002 are based on average trade in the years 1996-2000, inclusive. At the end of 2001, the accumulated arrears of the United States to the WTO amounted to CHF 3,205,232 (nearly two million dollars).

Performance Award Program: In 2001, the WTO developed performance benchmarks and trained supervisors in performance assessment to implement the performance-based pay system introduced in 2000 at the insistence of the United States and a number of other countries. The performance-based system replaced the practice of staff receiving salary increases based solely on the length of time that they have served. Salary increases are now granted only if an employee's performance had been evaluated as satisfactory and bonuses reward outstanding performance.

Building Facilities: The Budget Committee considered 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. However, 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.

Prospects for 2002

In 2002, the Budget Committee will work closely with the Committee on Trade and Development to develop a program of technical cooperation for 2003 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 to look closely at an independent consultant's report on staffing levels and potential reorganization of the WTO Secretariat, which was completed at the very end of 2001 and therefore not able to be fully reviewed by the Committee. Further work will be accomplished in the area of performance-based budgeting.

6. 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 less comprehensive agreements between or among developing countries. The Uruguay Round added two more provisions: Article V of the General Agreement on Trade in Services (GATS), which governs the services-related aspects of FTAs and CUs; and the Understanding on the Interpretation of Article XXIV, which clarifies and enhances the requirements of GATT Article XXIV.

FTAs and CUs, both exceptions to the principle of MFN treatment, are allowed in the WTO if certain requirements are met. First, substantially all of the trade between the parties to the agreement must be covered by the agreement, *i.e.*, tariffs and other restrictions on trade must be eliminated on substantially all trade. 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 WTO Members and begin negotiations to compensate other Members for exceeding their WTO bindings with market access concessions. A similar compensation agreement exists for services.

Major Issues in 2001

Examination of Reports: The Committee held three formal meetings during 2001. The Committee examined 107 agreements, referring 94 of them to the Council on Trade in Goods and 13 agreements to the Council for Trade in Services.[16] The Committee has a backlog of

[16] A list of all regional trade agreements notified to the GATT/WTO and in force is included in the appendix to this chapter.

draft reports, for which Members do not agree on the nature of appropriate conclusions. Throughout 2001, the Committee held extensive consultations in attempt to resolve Members' differences. At the same time, the Committee considered 20 biennial reports on regional agreements notified under the Article XXIV of GATT 1947.

Systemic Issues: At the direction of the CRTA, the Secretariat undertook two horizontal surveys of crosscutting measures to assist the Committee in its understanding of the impact of regional trade agreements on the multilateral trading system. The two studies, on product coverage and rules of origin, will be discussed by the Committee in 2002.

Prospects for 2002

The Doha Declaration calls for clarifying and improving rules for regional trade agreements. The Committee may play a role in these new negotiations, the exact structure of which will be decided in early 2002. In the meantime, the Committee will continue to address all aspects of its mandate, in particular reviewing the new regional trade agreements being notified to the WTO and attempting to clear the backlog of reports. Further discussions on improving the review process and the systemic effects of regional agreements will likely be major issues in the coming year, particularly in the context of the horizontal studies already undertaken by the Secretariat. The Committee also plans to hold a seminar engaging the academic community in a discussion of regionalism in early spring in order to increase its understanding of the impact of regional trade agreements on the multilateral trading system.

7. Accessions to the World Trade Organization

Status

The year 2001 saw the completion of over fifteen years of negotiations for the WTO Membership of the People's Republic of China. Three other long-term accession applicants, Lithuania, Moldova, and Taiwan (officially known in the WTO as the Separate Customs Territory of Taiwan, Pengu, Kinmen, and Matsu, or Chinese Taipei) also completed the accession process in 2001, bringing total WTO Membership to 144 as of January 1, 2002. In addition, there are twenty-eight other accession applicants with established Working Parties, and Ethiopia and Sao Tome and Principe participate as observers.

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. After accepting an application, the WTO General Council establishes a Working Party to review information on the applicant's trade regime and conduct the negotiations. Accession negotiations are time consuming and technically complex. They involve a detailed review of an applicant's entire trade regime by the Working Party. Applicants must be prepared to make legislative changes to implement WTO institutional and regulatory requirements, to eliminate existing WTO-inconsistent measures, and to make specific commitments on market access for goods and services. 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.

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 contain 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 General Council approval, accession applicants normally submit the package to their domestic authorities for ratification. Thirty days after the instrument of ratification is received in Geneva, accession to the WTO occurs.

At the end of 2001, thirty-one applications for WTO Membership were pending, up from 29 at the beginning of the year, and Membership in the WTO remains an economic, and political, priority for a number of governments. In addition to the four new Members whose parliaments ratified the results of their negotiations, Vanuatu's Working Party adopted the terms of its accession in October, the first time since the WTO was established that a least-developed country (LDC) had reached this stage. The package awaits acceptance by Vanuatu and the General Council to complete the process.

The General Council accepted new accession applications from The Bahamas, Tajikistan, and Yugoslavia during 2001. Applications from Syria and Libya were tabled late in the year. Of the twenty-eight applicants with Working Parties established, all but seven have submitted initial descriptions of their trade regimes, in effect activating the accession process. Azerbaijan, Cambodia, Samoa, Tonga, Sudan and Uzbekistan all provided comprehensive information on their trade regimes, and Cambodia and Tonga initiated negotiations with their first Working Party meetings. Working Party meetings and/or bilateral market access negotiations were also held with Armenia, Belarus, China, Kazakhstan, Macedonia, Moldova, Russia, Tonga, Ukraine, Taiwan, and Vanuatu. The chart included in the Annex to this section reports the current status of each accession negotiation.

Major Issues in 2001

Intensive work to complete the accessions of China, Chinese Taipei, and Vanuatu and to make progress on those of Russia and Macedonia, took up most of the attention given by WTO Members to individual accessions in 2001.[17] The accession negotiations of Ukraine, Kazakhstan, and Armenia also intensified during 2001, either in terms of market access negotiations on goods and services or in terms of legislative implementation.

Members also attempted to respond to criticism leveled by the informal group of developing countries during 1999 and 2000 that the accession process was too burdensome for some applicants. During 2001, they sought ways to simplify and streamline the accession process, especially for the nine least-developed country (LDC) applicants with extremely low levels of income and economic development, and others, such as WTO observers Ethiopia and Sao Tome and Principe, that might apply for Membership in the future. Members generally recognized the unique problems facing LDCs applying for WTO accession, *i.e.*, lack of human resources to conduct the negotiations, infrastructure deficiencies, and a general lack of capacity to implement WTO provisions without technical assistance from the WTO and its Members.

At the time the accession package of Moldova was approved, the United States invoked the non-application provisions of the WTO Agreement contained in Article XIII with respect to that country, bringing to five the number of times since the establishment of the WTO in 1995 that this step has been

[17] For further information on the results of the WTO accession negotiations with China and Taiwan to the WTO, please consult Chapter IV.

necessary.[18] Invoking Article XIII 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 limitations, prevents the United States from bringing a WTO dispute based on a violation of the WTO or the country's commitments in its accession package.

Prospects for 2002

As the new round of multilateral negotiations gets underway, work in the WTO will increasingly be focused in that direction, and day-to-day work in the organization and dispute settlement cases will also require WTO Members' attention. As a consequence, in addition to continuing efforts to promote progress in the accessions of LDCs, emphasis will center on accession applicants that demonstrate a willingness to implement WTO provisions and reach agreement with WTO Members on market access issues. 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, and to support a high standard of implementation of WTO provisions by both new and current Members. The United States has also pledged to increase its efforts to promote trade capacity building among least-developed countries, including those seeking accession to the WTO.

Armenia, Macedonia, Russia, and Vanuatu are the most advanced in the accession process. In addition, Algeria and Kazakstan have resumed active negotiations after a lengthy hiatus, declaring WTO accession a priority for their countries, and will press to intensify negotiations during 2002. Six additional applicants at the very beginning of the accession process, including three additional least-developed countries, have circulated initial documentation and will expect to launch Working Party reviews of their trade regimes this year. Finally, the expectation remains that additional countries currently outside the WTO system will seek to initiate accession negotiations.

8. Working Group on Trade and Competition Policy

Status

In 2002, the WTO Working Group on the Interaction between Trade and Competition Policy (Working Group) enters its sixth 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

[18] 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, and Georgia were approved by the WTO General Council in 1996, 1998, and 1999, respectively. Congress subsequently authorized the President to grant them permanent NTR, and the United States withdrew its invocation of non-application in the WTO for these countries.

[19] In addition to Moldova, eight of the remaining 28 WTO accession applicants with active Working Parties are covered by Title IV. They are: Armenia, Azerbaijan, Belarus, Kazakhstan, Russia, Ukraine, Uzbekistan, and Vietnam. The Administration recently proposed that Armenia, Azerbaijan, Kazakhstan, Moldova, Russia, Ukraine, and Uzbekistan be granted permanent NTR. For further information on this issue, please consult Chapter IV. For further information on granting permanent NTR to China, please consult Chapter IV.

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 in 2001.

In Paragraph 23 of the November 2001 Doha Ministerial Declaration, the Ministers agreed that "negotiations regarding competition policy would 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 up to the Fifth Session 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. The Ministerial Declaration also 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 in response to these needs.

Major Issues in 2001

The Working Group held three meetings in 2001, in March, July and September. 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, the World Bank and UNCTAD. As noted, in December 1998, the General Council set a focused framework for study by the Working Group, which continued to set the parameters of the Working Group's work in 2001. These parameters were: (i) the relevance of fundamental WTO principles of national treatment, transparency and most-favored-nation treatment to competition policy, and vice-versa; (ii) approaches to promoting cooperation and communication among Members, including in the field of technical cooperation; and (iii) the contribution of competition policy to achieving the objectives of the WTO, including the promotion of international trade.

Beyond these three broad areas of focus, the Working Group also took account of some suggestions developed by the Working Group Chairman, Professor Frédéric Jenny of France, in the course of informal consultations with Members. These suggestions were that the Working Group:

- continue placing emphasis on addressing the concerns that had been expressed by some developing-country Members regarding both the general impact of implementing competition policy on their national economies and the particular implications that a multilateral framework on competition policy might have for development-related policies and programs;
- continue exploring the implications, modalities and potential benefits of enhanced international cooperation, including in the WTO, in regard to the subject-matter of trade and competition policy; and
- continue focusing on the issue of capacity building in the area of competition law and policy.

Twenty written submissions were contributed by a total of 16 Members (counting the EU and its 15 Member States as one contributor). These submissions ranged across the three areas of focus set by the General Council, but the majority of them addressed issues arising under the rubric of "approaches to promoting cooperation and communication among Members, including in the field of technical cooperation." The United States made two submissions to the Working Group in 2001: the

first (which had previously circulated as an advance copy for the Working Group's meeting in October 2000) addressed "The Role of Competition Advocacy," while the second addressed "Administering a Competition Law and Policy: The Mechanics of Setting and Pursuing Policy Goals with Finite Resources."

Prospects for 2002

The work of the Working Group in 2002 will focus on the clarification of the topics specified in the Ministerial Declaration (*i.e.*, core principles, hardcore cartels, voluntary cooperation, and capacity building). Meetings of the Working Group are already scheduled for March and July, and a further meeting in September also has been discussed.

9. Working Group on Transparency in Government Procurement

Status

Building on the progress to date 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 efforts 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 2001

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 2001, discussions in the Working Group focused on the important benefits to all WTO Members of concluding a multilateral Agreement in this area. Many delegations stressed that incorporating predictable standards of transparency in government procurement into the rules-based international trading system would not only facilitate commercial development and the integration of all Member economies into the global trading system, but could also contribute to Members' efforts to ensure the most efficient possible use of scarce public resources. Some developing-country delegations noted that computer-based information and communications technologies

can provide a cost-effective way for all governments to achieve their transparency objectives.

Prospects for 2002

Pursuant to the Doha Ministerial Declaration, the United States will work with other WTO Members to push for progress on a number of key issues relating to modalities for negotiations on an Agreement on Transparency in Government Procurement, including: 1) potential capacity building needs related to the substance of the negotiations; 2) the appropriate scope and coverage of an Agreement; and 3) the appropriate application of WTO dispute settlement procedures to such an Agreement.

10. Working Group on Trade and Investment

Status

The Working Group on Trade and Investment (WGTI), which was originally established by the Singapore Ministerial Declaration in 1996, 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 and has approved an extension of its initial two-year mandate until the next Ministerial in 2003. During this time, the WGTI has been tasked to focus on several investment issues including scope and definition, transparency, non-discrimination, development provisions, exceptions and dispute settlement. Following this period, negotiations will occur "on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations."

The WGTI provides an opportunity for the United States and other countries to present the benefits they derive from open investment policies and programs and to advance international understanding of these benefits. It is also a valuable forum in which to dispel misconceptions about investment liberalization, such as the concern in some developing countries that foreign investment marginalizes domestic firms. To date, the group has analyzed the full range of investment agreement models currently in use, and considered the implications of the differences. The group assessed the advantages and disadvantages of the variety of approaches, including as they affected economic development. The United States believes that the WGTI's work significantly raises other countries' understanding of investment rules.

Major Issues in 2001

The WGTI met three times in 2001. Drawing from the checklist of issues developed during the initial two years of its work, and relying on written submissions from Members, the WTO Secretariat and multilateral bodies such as the OECD and UNCTAD, the WGTI reviewed three broad subject areas. The first was the implications of trade and investment for facilitating economic development and growth, including the following subtopics: the relationship between balance of payments and FDI with a focus on mergers and acquisitions, portfolio investment, and the advantages of multilateral investment rules. The second topic was the economic relationship between trade and investment, where investment incentives and FDI flows and technology transfer were addressed. Finally, the Working Group took stock of and analyzed existing international instruments and activities regarding trade and investment, focusing on investment seminars outside of the WTO.

Prospects for 2002

With a renewed mandate for the WGTI, and the prospects of negotiations to begin following the next Ministerial, it is expected that the work in this body will take on renewed importance. Members looking to include specific topics on the negotiating agenda will need to begin developing a consensus, given that the content of negotiations remains a decision to be made by Ministers in 2003.

11. Trade Facilitation

Status

The 1996 Singapore Ministerial Declaration requested the Council for Trade in Goods "to undertake exploratory and analytical work, drawing on the work of other relevant international organizations, on the simplification of trade procedures in order to assess the scope for WTO rules in this area." The Council continued its work under this mandate in 2001, leading up to the Doha Ministerial, where an ambitious and focused program was established for new work to be undertaken, leading up to the Fifth Ministerial in 2003. At Doha, it was agreed that negotiations on Trade Facilitation will take place after the Fifth Ministerial, based upon a decision to be taken at that Ministerial on modalities of negotiations.

Major Issues in 2001

In 2001, the Council for Trade in Goods met several times in informal session, continuing its analysis of various 'national experience' submissions, and exploring potential current "gaps" within the parameters of relevant WTO rules. Emerging in 2001 was a significant level of interest by many Members to add to the Trade Facilitation agenda those issues pertaining to the transit of goods through territories– a matter of particular importance to several 'land-locked' countries. In addition, a key event in 2001 was a comprehensive two-day "WTO Workshop on Technical Assistance and Capacity Building in Trade Facilitation," featuring speakers from both donor and recipient countries, international organizations actively involved in trade capacity building, and the private sector.

As the year progressed, there continued to be some resistance exhibited on the part of certain developing-country Members toward commencing negotiations on Trade Facilitation. However, many developing countries joined the United States and other Members in supporting a view that the development of a rules-based environment for conducting trade transactions would be an important element for securing continued growth in the economic output of all WTO Members. There was no disagreement among Members that systemic reforms related to increased transparency and efficiency in the conduct of border transactions would diminish corruption, while providing an 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 2002

As reflected in the Doha Declaration, the United States and all other Members are challenged in the area of Trade Facilitation to move beyond the previous Singapore Ministerial analytical mandate and undertake an ambitious work agenda leading up to the Fifth Ministerial. The Council on Trade in Goods will not only review, but also undertake as appropriate to "clarify and improve" relevant aspects of GATT Article V ("Freedom of Transit"), GATT Article VIII ("Fees and Formalities Connected with Importation and Exportation"), and GATT Article X ("Publication and Administration of Trade Regulations"). At the same time, Members will identify trade facilitation needs and priorities of Members, while concurrently taking up the challenge of ensuring adequate technical assistance and support for capacity building in this area. The United States and other leading Members will move aggressively toward advancing the Doha Trade Facilitation agenda, in order to ensure that the work is effectively positioned at the Fifth Ministerial for

completing negotiations in the three-year time frame of the overall Doha negotiating work program.

The United States views work in this area as ultimately leading to one of the most important systemic negotiations to be undertaken by the WTO. The future WTO negotiations in the area of Trade Facilitation are a "win-win" opportunity, given the important linkages between a rules-based trade transaction environment and a stable economic infrastructure. The United States will continue to advance ongoing complementary initiatives involving existing Agreements, such as with regard to implementation of the WTO Agreement on Customs Valuation. The United States will also be working with key Members to ensure the technical assistance is demand-driven and is effective in bringing about concrete measurable results that will translate into increased trade and investment opportunities for all Members.

F. Plurilateral Agreements

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

Status

The landmark agreement to eliminate tariffs by January 1, 2000 on a wide range of information technology products, generally known as the Information Technology Agreement, or ITA, was concluded at the WTO's first Ministerial Conference at Singapore in December 1996. The ITA has 57 participants representing over 95 percent of trade in the $600 billion-plus global market for information technology products. [20] The agreement covers computers and computer equipment, semiconductors and integrated circuits, computer software products, set-top boxes, telecommunications equipment, semiconductor manufacturing equipment and computer-based analytical instruments.

Major Issues in 2001

The WTO Committee of ITA Participants held four formal meetings in 2001, during which the Committee reviewed implementation status. Although developed country participants implemented duty-free treatment for these products on January 1, 2000, some limited staging of tariff reductions for individual products up to 2005 for developing countries was granted on a country-by-country basis.

Pursuant to the provisions of the Singapore Ministerial declaration establishing the ITA, the Committee continued its work to address divergent classification of information technology products. Building on the work done in 1999 and 2000, substantial progress was made in 2001 on reaching agreed classifications for many products. A list of products where agreement was not possible was forwarded to the World Customs Organization for their consideration.

As a result of the approval of the Non-Tariff Measures (NTM) Work Program in late 2000, the Committee began work in 2001 by identifying NTMs which impede trade in ITA products. On this issue there have been nine submissions from participants to date. The Committee is in the process of examining the economic and development impact of such measures on trade in ITA products and the benefits which would accrue to participants

[20] ITA participants are: Albania, Australia, Bulgaria, Canada, Costa Rica, Croatia, Cyprus, Czech Republic, El Salvador, Estonia, European Communities (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. China and Armenia have indicated their intention to join the ITA.

from addressing their undue trade-distorting effects.

Prospects for 2002

The Committee's decision to establish a work program on non-tariff measures effectively demonstrates how the WTO provides a dynamic mechanism that is responsive to the ever-changing nature of the information technology sector. ITA participants have already identified a number of non-tariff measures that act as unnecessary impediments to trade. The Committee intends to bring together industry representatives and government regulators in 2002 to consider how these impediments can be removed.

Throughout 2002 the Committee will continue to undertake its mandated work, including reviewing possibilities for product expansion 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 it 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 current membership is: the United States, the member states of the European Union (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, Jordan, the Kyrgyz Republic, Latvia, Oman, Panama, and Slovenia are in the process of negotiating GPA accession.

Major Issues in 2001

In Article XXIV:7 of the GPA, the Parties agreed to conduct further negotiations with a view to improving both the text of the Agreement and its market access coverage. The Parties have since agreed that, as part of the review, the Committee should take into account the objective of promoting expanded membership of the GPA by making it more accessible to non-members.

With these objectives in mind, the United States has taken the lead in advocating significant streamlining of some 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 should be carefully analyzed in view of the ongoing modernization of the Parties' procurement systems and technologies.

As provided for in the GPA, the Committee continued the process of monitoring members' implementing legislation. In 2001, it completed its review of the implementing legislation of Canada, Hong Kong China, Israel, Japan, Liechtenstein, Norway, Singapore and the United States.

Prospects for 2002

In 2002, the Committee will continue its review and analysis of the text of the GPA, focusing on proposals by the United States and other Parties aimed at "streamlining" the Agreement's

procedural requirements. It will also consider proposals that have been made with respect to potential negotiations to further expand the Agreement's market access coverage. The Committee will review the implementing legislation of Iceland and the Netherlands with respect to Aruba, which will complete the review for all the current GPA Parties.

3. Committee on Trade in Civil Aircraft

Status

The Agreement on Trade in Civil Aircraft (Aircraft Agreement), was concluded in 1979 as part of the Tokyo Round of multilateral trade negotiations. Although the Aircraft Agreement was not renegotiated during the Uruguay Round, it remains fully in force and is included in Annex 4 to the WTO Agreement as a plurilateral trade agreement.

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 PNTR 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, including:

Government-directed procurement actions and mandatory subcontracts: The Agreement provides that purchasers of civil aircraft (including parts, subassemblies, and engines) will be free to select suppliers on the basis of commercial considerations and governments will not require purchases from a particular source.

Sales-related inducements: The Agreement states that governments are to avoid attaching political or economic inducements (positive or negative linkages to government actions) as an incentive to the sale or lease of civil aircraft.

Certification requirements: The Agreement provides that civil aircraft certification requirements and specifications on operating and maintenance procedures will be governed, as between Signatories, by the provisions of the Agreement on Technical Barriers to Trade.

Under Article II.3 of the Marrakesh Agreement, the Aircraft Agreement is part of the WTO Agreement, however only for those Members who have accepted it and not for all WTO Members. As of December 31, 2001, there were 29 Signatories to the Aircraft Agreement: Bulgaria, Canada, the European Communities, Austria, Belgium, Denmark, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, the United Kingdom, Egypt, Estonia, Georgia, Japan, Latvia, Lithuania, Macau, Malta, Norway, Romania, Switzerland and the United States. Although Albania and Croatia have committed to become parties upon accession to the WTO, which occurred in 2001, neither has accepted the Agreement. Chinese Taipei, which became a WTO Member on January 1, 2002, also became a Signatory to the Aircraft Agreement on that date. Oman agreed to become a party within three years of accession. Those WTO Members with observer status in the Committee are: Argentina, Australia, Bangladesh, Brazil, Cameroon, China, Chinese Taipei, Colombia, the Czech Republic, Finland, Gabon, Ghana, Hungary, India, Indonesia, Israel, Korea, Mauritius, Nigeria, Oman, Poland, Singapore, the Slovak Republic, Sri Lanka, Trinidad and Tobago, Tunisia and Turkey. In addition two WTO accession candidates, the Russian Federation and Saudi Arabia, have observer status in the Committee. The IMF and UNCTAD are also observers.

Major Issues in 2001

The Aircraft Committee, permanently established under the Aircraft Agreement, affords the Signatories an opportunity to consult on the operation of the Agreement, to propose amendments to the Agreement and to resolve any disputes. During 2001, the full Committee

formally convened twice and also met once informally in conjunction with a meeting of the Technical Sub-Committee reviewing the Agreement's Annex. The Committee agreed to open a new Protocol (2001) for acceptance by the Signatories that revises the Agreement's Annex of aircraft items to be accorded duty-free treatment to bring them into accord with changes to the international Harmonized Commodity Description and Coding System. The Committee also agreed to recommend interim application of duty-free treatment for ground maintenance simulators, a product not currently within the defined coverage of the Agreement.

In addition, the Committee discussed various aircraft-related trade matters including: conforming the language in the Agreement to the WTO; end-use customs administration including a proposal to define "civil" aircraft by initial certification rather than by registration; and, statistical reporting of trade data. The United States also raised certain activities by other Signatories that might result in trade barriers or market distortions, such as the failure by France to promptly certify large civil aircraft at full seating capacity, European Union support for large civil aircraft development and marketing, Belgian government exchange rate guarantees for aircraft component manufacturers, and European Union regulations restricting the operation of aircraft, otherwise compliant with International Civil Aviation Organization Stage III noise standards.

Prospects for 2002

The United States will continue to seek to conform the Aircraft Agreement with the new WTO framework while maintaining the existing balance of rights and obligations. The United States will also continue to make it a high priority for countries with aircraft industries that are seeking membership in the WTO to become a Signatory to the existing 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 members of 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 2001, the United States and the other Free Trade Area of the Americas (FTAA) nations continued to make substantial progress in negotiations toward creation of the FTAA. The FTAA will create the largest free trade area in the world, with 800 million people. American workers, farmers, consumers and businesses will benefit from increased access to Latin American markets and a greater variety of products available here.

The negotiations are being guided by general principles and objectives approved by leaders of the 34 democratically-elected FTAA countries. Among the most important principles are that the FTAA should improve upon WTO rules and disciplines wherever possible and appropriate, and that the outcome of the negotiations will be a "single undertaking," in the sense that signatories to the final FTAA agreement will have to accept all parts of it – they cannot pick and choose among the obligations. Among the most important objectives are to eliminate progressively tariffs and non-tariff barriers, as well as other measures with equivalent effects, which restrict trade; to eliminate agricultural export subsidies affecting trade in the hemisphere; to bring under greater discipline trade-distorting practices for agricultural products, including those that have effects equivalent to agricultural export subsidies; to liberalize trade in services to achieve hemispheric free trade under conditions of certainty and transparency; to ensure adequate and effective protection of intellectual property rights, taking into account changes in technology; to establish a fair and transparent legal framework for investment and related capital flows; to pursue mutually supportive economic and environmental policies, as was agreed at the 1994 Miami Summit of the Americas; and to observe and promote worker rights, as Trade Ministers agreed at the 1998 Trade Ministerial in San Jose, Costa Rica.

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/AD/CVD) and the non-negotiating groups and committees (the Technical Committee on Institutional Issues, the Consultative Group on Smaller Economies, the Joint Government-Private Sector Committee of Experts on Electronic Commerce and the Committee of Government Representatives on the Participation of Civil Society). The FTAA Administrative Secretariat, which facilitates the negotiations, moved to Panama City, Panama in February 2001 from its previous site in Miami, Florida where it had been located since May 1998. Panama will continue to host the Secretariat until March 2003, when the Secretariat will move to Mexico, as agreed in the San Jose Ministerial Declaration.

FTAA Trade Ministers met for the sixth time in Buenos Aires, Argentina on April 7, 2001 to review negotiators' work to date and provide guidance for the next phase of negotiations. The ministerial meeting was followed by the Summit of the Americas meeting in Quebec, Canada -- the first multilateral summit meeting attended by President Bush -- where the hemisphere's leaders confirmed the FTAA as a key component of the hemisphere's economic development and integration.

Ministers made several important decisions in Buenos Aires, including agreeing that negotiations for creation of the FTAA will be concluded no later than January 2005, and that the Agreement will enter into force no later than December 2005.

Ministers also agreed that Negotiating Groups with market access components (market access, agriculture, services, investment, and government procurement) would start the market access phase of their negotiations by May 15, 2002. During 2001 these negotiating groups worked toward agreement on the "modalities" (ground rules) for the market access negotiations, while they and other negotiating groups and non-negotiating groups continued to work on creating disciplines and obligations to open trade throughout the hemisphere.

At the Buenos Aires meeting, Ministers created the Technical Committee on Institutional Issues (TCI). The TCI's mandate is to develop the overall structure of the FTAA Agreement, including issues not covered in other chapters of the text, such as institutional mechanisms, transparency, and general provisions, which will apply to the entire Agreement. During 2001 the TCI discussed the treatment of these themes in the Agreement and has started considering proposals for text development.

To improve the transparency of the FTAA process and to build broader public understanding of and support for the FTAA, in April 2001 the Ministers made the unprecedented decision to make public the draft FTAA agreement. The nine negotiating groups presented Ministers with their negotiating texts - which make up the preliminary draft consolidated text of the FTAA Agreement. The text was subsequently translated into the four official languages of the FTAA – English, Spanish, French, and Portuguese – and is now available on the USTR website (www.ustr.gov) and the official FTAA website (www.ftaa-alca.org) in all four languages. Ministers instructed each of the nine FTAA negotiating groups to continue to work towards consensus by removing brackets in the draft chapters of the Agreement to the maximum extent possible.

Subsequent to the release of the draft text and recognizing the need for open communication with the public, the FTAA Committee of Government Representatives on the Participation of Civil Society issued an Open Invitation for comment on all aspects of the FTAA negotiations, including the publicly released draft texts, on November 1, 2001. Information on the Open Invitation can be found on both the USTR and FTAA websites. The Civil Society Committee has invited the public to comment on the FTAA negotiations previously (November 1998 and April 2000) in order for the Committee to present the full range of views to Ministers before each Ministerial meeting. Submissions to the Third Open Invitation will be reflected in the Committee's report to Ministers in Quito, Ecuador in October 2002. To ensure that the negotiators hear the opinions of those submitting comments as well, the FTAA Civil Society Committee is overseeing the timely delivery of all submissions to the negotiators.

In addition to agreeing to place this most recent invitation on the FTAA website, countries pledged to use national mechanisms to disseminate the invitation further. In July 2001, immediately after the draft text was released, USTR issued a Federal Register Notice to solicit comments on the FTAA draft text and other components of the negotiations, and did so again in November 2001 to publicize the issuance of the Civil Society Committee's Third Open Invitation. USTR also issued a press release and letters to trade advisory committees alerting the public to the Open Invitation. USTR also regularly briefed members of the statutory Advisory Committees and others in several public meetings.

The 1998 Santiago Summit of the Americas Declaration stated that the participants in the FTAA process are to "take into account the differences in the levels of development and size of the economies in the Americas, in order to create opportunities for the full participation by all countries." This pledge has been repeated in subsequent Ministerial Declarations. In September 2001, at their ninth meeting in Managua, Nicaragua, FTAA Vice Ministers developed guidelines on the treatment of differences in the levels of development and size. The guidelines, based on input from the FTAA

Consultative Group on Smaller Economies, provide the negotiating groups a flexible series of principles aimed at promoting the participation of smaller and less developed countries in the FTAA process. The guidelines include a process for considering specific proposals on technical assistance and capacity building, and will help ensure the full participation of all countries in the construction and benefits of the FTAA.

Following the Buenos Aires Ministerial, the United States assumed chairmanship of the FTAA Negotiating Group on Intellectual Property Rights. Other governments throughout the hemisphere share the responsibility for leading the negotiations. During 2001, the following countries or groups of countries chaired FTAA entities: Argentina (Market Access), Guatemala (Agriculture), Costa Rica (Government Procurement), Mexico (Investment), Colombia (Competition Policy), CARICOM (Services), Paraguay (Dispute Settlement) and Peru (Subsidies/Andtidumping/Countervailing Duties). Also during 2001, Brazil chaired the Technical Committee on Institutional Issues, Bolivia chaired the Consultative Group on Smaller Economies, Canada chaired the Joint Government-Private Sector Committee of Experts on Electronic Commerce and the Dominican Republic chaired the Committee of Government Representatives on the Participation of Civil Society.

As agreed at the 1998 San Jose Ministerial meeting, Ecuador assumed the chairmanship of the FTAA process in May 2001, and will continue to chair meetings of FTAA Vice Ministers (Trade Negotiations Committee) and Ministers until October 2002. Beginning in November 2002, the United States and Brazil will assume the co-chairmanship of the FTAA process.

B. North American Free Trade Agreement

Overview

On January 1, 1994, the North American Free Trade Agreement 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 most 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.

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 more than doubled between 1993 and 2000, significantly higher than export growth of 52 percent for the rest of the world over the same period.

Trade among the three NAFTA Parties has soared during the first seven years of the Agreement, and continues to set new records. Total U.S. exports to our NAFTA partners more than doubled, to $266.3 billion. Total U.S. exports to Canada, our largest trading partner, climbed nearly 78 percent since the NAFTA entered into force. U.S. merchandise exports to Mexico have more than doubled from pre-NAFTA levels. As a result, Mexico became our second largest single-country trading partner in 1999. Exports to our two North American trading partners, combined, account for approximately 34 percent of our global exports. Jobs supported by goods exports to NAFTA countries increased by 45 percent, from an estimated 2.0 million in 1993 to an estimated 2.9 million in 2000.

Elements of NAFTA

1. Tariffs

Following procedures set out in the NAFTA, the United States, Canada and Mexico concluded a fourth NAFTA accelerated tariff elimination exercise on January 1, 2002. The early elimination of tariffs on a variety of products affected nearly $24 billion in trade. The items identified for accelerated tariff elimination were selected based on requests by consumers, producers and traders who are eager to take advantage of the benefits of free trade throughout North America. Under this agreement, the United States and Mexico eliminated tariffs on a number of rubber and plastic footwear items, while Mexico matched current U.S. duty-free treatment on additional manufactured goods including motor vehicles, electric and electronic goods, and pharmaceuticals. Mexico and Canada eliminated tariffs between their two countries on a parallel package of goods.

2. Investment

The NAFTA provides comprehensive disciplines to ensure that U.S. investors in Mexico and Canada are provided with certain basic protections, including nondiscriminatory treatment, freedom from certain performance requirements (such as requirements for local content or for the transfer of technology to competitors), free transfer of funds related to investments, and expropriation only in conformity with international law.

During its July 2001 meeting in Washington, the NAFTA Free Trade Commission reviewed the operation of Chapter 11 of the NAFTA and issued interpretations of certain Chapter 11 provisions. These interpretations included a clarification of the correct interpretation of the NAFTA provision requiring treatment in accordance with customary international law for investments of investors of other Parties (thereby also correcting misinterpretations of that provision by certain arbitral tribunals). The Commission also agreed to make accessible to the public, in a timely manner, documents submitted to, or issued by, Chapter 11 tribunals, subject to redaction of confidential business information; information which is privileged or otherwise protected from disclosure under a Party's domestic law; and information which the Party must withhold pursuant to the relevant arbitral rules. These interpretations contribute to the proper and transparent operation of the Chapter 11 dispute settlement process and to the proper and responsible participation of the disputing parties in such proceedings. The Commission also directed experts to continue their work examining the implementation and operation of Chapter 11, including developing recommendations as appropriate.

3. Rules of Origin

In 2001, the NAFTA Parties agreed on technical changes to the NAFTA Rules of Origin to bring the rules of origin into conformity with changes in the Harmonized System nomenclature that were adopted by the World Customs Organization. These changes will take effect in 2002.

4. Mechanisms to Implement 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 July 2001 in Washington, DC. The ministers reviewed the operation of the NAFTA Work Program, and the progress made thus far by the more than 25 NAFTA committees, working groups and other subsidiary entities. The Commission agreed to increase the rate of compensation paid to dispute settlement panelists, which had not been adjusted since the NAFTA entered into force. The ministers also agreed to cooperate in other trade fora, including the FTAA,

APEC, and the WTO.

5. 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 an unprecedented trilateral work program in the areas of industrial relations (i.e., the right to organize and bargain collectively), occupational safety and health, employment and training and child labor and gender initiatives.

Each NAFTA Party also has 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 of a Ministerial Council and an administrative Secretariat.

Under the NAALC and various NAO procedural guidelines, citizens of any NAFTA signatory 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 response to one such submission, the U.S. NAO released a report in April 2001 on occupational safety and health issues at certain manufacturing facilities in Mexico.

The Parties have held numerous trilateral conferences, seminars, and technical exchanges to share information and make improvements in many critical areas. Conferences held in 2001 addressed issues related to migrant workers, the rights to organize and bargain collectively, and workplace violence. By addressing issues of labor rights, the NAALC has contributed to transparency and public dialogue on labor issues.

6. 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: a) the Council made up of the environmental ministers from the United States, Canada, and Mexico; b) the Joint Public Advisory Committee made up of five private citizens from each of the NAFTA countries; and c) the Secretariat made up of professional staff, located in Montreal, Canada.

The 2002-2004 Program Plan, approved in December 2001, is centered around four core program areas: Environment, Economy and Trade; Conservation of Biodiversity; Pollutants and Health; and Law and Policy. Within these areas, a number of programs are set out to further the objectives of the NAAEC. Throughout the course of implementing its annual program plan, the CEC has acquired a wealth of regional information and policy expertise in a wide range of cooperative program areas including: trade in sustainable agricultural products; the banning of dangerous chemicals like DDT in North America; development of environmental management system guidelines for businesses; and a strategy to conserve wildlife and natural ecosystems in North America.

Finally, the NAAEC 10(6) Environment and Trade Officials Working Group is currently discussing a number of issues, including how the three NAFTA Parties use precaution in making regulatory decisions, environmental assessments of trade liberalization, and the environmental effects of trade in electricity.

In November 1993, Mexico and the United States agreed on arrangements to help border communities with environmental infrastructure projects, in furtherance of the goals of the NAFTA and the NAAEC. During the September 2001

State Visit of Mexican President Vicente Fox, the United States and Mexico agreed to strengthen the Border Environment Cooperation Commission (BECC) and the North American Development Bank (NADB), to allow them to better address priorities in the border area. The two institutions are currently working with close to 100 communities along the Mexico-U.S. border.

Since their creation, the institutions have been instrumental in the development of over 30 projects, now complete or under construction, with an aggregate cost of nearly $1 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 eight 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.

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 56 percent. In 2001, two-way trade with APEC members totaled $1.3 trillion, a decline of 6.6 percent from 2000.

It was at Blake Island that APEC Leaders first expressed their collective desire to move toward an "Asia Pacific community" of economies. In particular:

- 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 (ITA) 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; and

- 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.

2001 Activities

APEC Trade Ministers and Leaders reaffirmed the importance of moving forward to launch multilateral trade negotiations at Doha, stressing the region's continued commitment to trade expansion and market opening. Though APEC economies continued to open their markets in 2001 (see the *APEC 2001 Economic Outlook,* and the *2001 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 that the Round could be launched and the world trading system would move beyond inconclusive results of the 1999 WTO Ministerial in Seattle.

Important activity took place at all APEC levels in 2001 to give effect to APEC's vision of free and open regional trade and investment, from the Leaders and Ministerial agreements to the work of Senior Officials and the Committee on 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 specific steps with the adoption of the Shanghai Accord to advance its own work program of regional trade and investment liberalization and facilitation; and
- discussed the numerous sub-regional trade agreements in the Asia Pacific region, underscoring the need for their consistency with APEC's architecture, goals and principles.

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. APEC Trade Ministers meeting in Shanghai in June 2001 – a time when the prospects for a launch of the new WTO Round were still uncertain – adopted a very strong statement supporting the launch of a new WTO Round at the upcoming WTO Ministerial Conference in Doha, Qatar. APEC Ministers and Leaders built upon this outcome when they met in October in Shanghai, where they gave their unanimous support to the launch of the new Round, unified by the tragic September 11 events in the United States and the need for real multilateral commitment in the face of the worldwide economic downturn.

To continue building confidence in the WTO, APEC Ministers and Leaders also emphasized the importance of the many APEC activities undertaken in 2001 to provide capacity building assistance under the APEC Strategic Plan, created in 2000 to help developing APEC economies implement their existing WTO obligations. Ministers and Leaders called for APEC to continue developing new assistance programs under the Strategic Plan and implement them on an accelerated basis.

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

By adopting the Shanghai Accord, originally proposed by the United States, APEC Leaders took an important step to ensure that APEC achieves its free and open trade and investment goals in the region. During his trip to Shanghai,

President Bush stated, "Together, we must meet the Bogor goals -- including free trade for every nation in this region by 2020. The Shanghai Accord we will sign ... gives us new and useful tools to enhance trade and investment."

In the Shanghai Accord, Leaders agreed to:

- anchor the new economy by further liberalizing services, intellectual property, and tariff regimes;
- implement transparency principles in economic governance that ensure good government; and
- eliminate red tape in a way that facilitates trade and moves to reduce transaction costs by 5 percent over the next 5 years.

The Shanghai Accord also contains substantive changes to APEC procedures by calling for:

- "Pathfinder Initiatives" which enable a small group of countries to pilot initiatives, even though not all countries can initially participate; and
- meaningful peer review of each Member's progress toward the Bogor Goals to ensure that APEC economies stay on track.

APEC work on trade and investment liberalization and facilitation is overseen by the *Committee on Trade and Investment* (CTI) and its sub-fora, which the United States chaired in 2000 and 2001. 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 2001, Ministers endorsed the CTI's improvements to the OAA Part I, a review directed by Ministers in 2000. This new work product ensures that the OAA remains APEC's roadmap for achieving free and open trade and investment in the region. As of 2001, APEC economies are now supposed to present their Individual Action Plans (IAPs) in electronic template form - the "e-IAP." IAPs were originally developed as an annual reporting tool to provide APEC economies with mutual pressure to institute trade liberalizing measures on their own accord, and e-IAPs were agreed in 2000 to further encourage this trend. The United States successfully completed its first e-IAP in 2001, and it reflects the relatively open, market-driven nature of the U.S. economy (e-IAPs can be viewed at www.apecsec.org.sg).

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 2001 in China: Beijing, 15-16 February; Shenzhen 30-31 May; and Dalian 20-21 August. In addition, the following CTI sub-fora met:

- *Market Access Group* (MAG) – Beijing, 17-19 February; Shenzhen, 27-28 May; and Dalian, 17-18 August;
- *Group on Services* (GOS) – Beijing, 17-18 February; Shenzhen 27-28 May; and Dalian, 18-19 August;
- *Investment Experts' Group* (IEG) – Cheju, Republic of Korea, 23-24 March; Shenzhen 26-27 May; and Dalian 16-17 August;
- *Sub-Committee on Standards and Conformance* (SCSC) – Beijing, 17-18 February; Shenzhen 28-29 May; and Dalian, 18-19 August;
- *Sub-Committee on Customs Procedures* (SCCP) – Beijing 17-20 February; and Shanghai, 16-19 August;

- *Intellectual Property Rights Experts' Group* (IPEG) – Sydney, Australia, 20-21 March; and Taichung, Chinese Taipei, 16-17 July;
- *Competition Policy/Deregulation Workshop* – Shenzhen, 27-28 May;
- *Government Procurement Experts' Group* (GPEG) – Beijing, 17-18 February; and Dalian, 18-19 August;
- *Informal Experts' Group on the Mobility of Business People* (IEGBM) - Beijing, 17-18 February; Shenzhen, 27-28 May; and Dalian 17-19 August;
- *Informal Group on Implementation of WTO Obligations and Rules of Origin* - Beijing, February; Shenzhen, 28 May; and Dalian, 18, August.

Progress on Collective Action Plans

Among other things, the CTI and its sub-fora are responsible for implementing APEC's "Collective Action Plans" 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 2001, 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 2001 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 of the CTI Sub-fora are outlined below:

The *Sub-Committee on Standards and Conformance* (SCSC), contributed to the launch of a pilot of the DeclareNet, an internet business-to-government(B2G) website for exchange of conformance information between regulatory authorities and manufacturers which also functions as a regulatory tool for surveillance. It also endorsed a proposal that APEC-based information technology companies and Information Technology Industry Council (ITI) members work to co-develop, with interested member economies, a road map to facilitate the implementation of the work program on trade facilitation in information technology products. The SCSC also streamlined its work program through rationalization of its agenda and better coordination with other groups.

The *Sub-Committee on Customs Procedures* (SCCP) completed several comprehensive multi-year technical assistance programs aimed at assisting member in implementing the SCCP collection action plan. It endorsed a framework for assessing and evaluating members' implementation of the collective action plan, and implemented a set of SCCP trade facilitation recommendations.

The *Market Access Group* (MAG) intensified its work on tariffs and non-tariff measures (NTMs), agreeing to a "Typology of Possible NTMs Identified under EVSL Sectors and Fora/Sub-Fora to Address Them." As part of a Trade Policy Dialogue on NTMs, it invited experts from the Pacific Economic Cooperation Council and the United States International Trade Commission to present papers on their work on NTMs. The Group also published a report entitled "APEC Economies: Breaking Down the Barriers" that highlights efficient and effective administrative procedures to facilitate the flow of goods and services across borders, and which some APEC economies already have implemented in certain sectors. MAG reviewed and agreed on a new term of reference to provide clearer guidance on the roles and functions of the group, and elevated into new collective actions the points contained in a paper the Group did last year entitled "Discussed Ideas for Future NTMs Work Program."

The *Group on Services* (GOS) completed Phase II of the Development of the Menu of Options for Voluntary Liberalization, Facilitation and

Promotion of Ecotech in Services Trade and Investment. As part of the updating of the Osaka Action Agenda mandated by Leaders, Leaders accepted GOS' recommendation for a new objective. According to this objective, economies all agree to achieve free and open trade and investment in the APEC region by "providing, in regulated sectors, for the fair and transparent development, adoption and application of regulations and regulatory procedures for trade in services." The GOS also considered recommendations on trade in education services, and finalized a report entitled "Firm Expatriation Policy and Practices in Services Trade: The Gender Dimension."

The *Intellectual Property Experts' Group* (IPEG) endorsed a new collective action plan on intellectual property rights, and held a government/industry workshop on IP enforcement in the APEC region to exchange information on enforcement issues between the private and public sectors. The Group also conducted a symposium to share knowledge and exchange views on effective patent commercialization and successful technology transfer in the context of intellectual property systems.

The *Workshop on Competition Policy and Deregulation* (CPD) considered effective ways to implement the APEC Principles on Competition and Regulatory Reform. Of particular note are the CPD's joint activities with the OECD to foster regulatory reform in the region. During 2001 APEC, through the CPD and together with the OECD, held two of the three events planned for this cooperative effort. The opening conference "Foundations for Sustainable Growth: Progress and Challenges in Regulatory Reform" was held in February, and the first follow-up workshop was held in September. As part of the mandated updating of the Osaka Action Agenda, Leaders accepted the CPD's recommendation for new guidelines according to which economies agreed to "enforce competition policies and/or laws to ensure protection of the competitive process and promotion of consumer welfare, innovation, economic efficiency and open markets," and to "disclose any pro-competitive efforts undertaken (e.g., enactment of competition laws, whether comprehensive or sectoral)."

The *Government Procurement Experts' Group* (GPEG) focused its work on continuing the agreed process of voluntary review and reporting by member economies on the consistency of their government procurement regimes with the APEC Non-Binding Principles on Government Procurement adopted in 1999. Reporting by member economies on the consistency of their regimes with transparency principles is nearing completion. Member economies are beginning presentations on their e-procurement systems with a view to providing "lessons learned" to those economies which have yet to initiate e-procurement.

The *Informal Experts' Group on Mobility of Business People* (IEGBM) endorsed the "Business Mobility Standards: A Key to Building Capacity" paper which provides a framework for developing effective capacity building strategies that support regional travel facilitation. As part of this capacity building strategy, it endorsed a document examination standards paper and training packages to assist implementation of effective and speedy document examination regimes. IEGBM also secured APEC funding approval to develop professional and efficient service standards, and to conduct a multilateral trial of the "Advance Passenger Processing" system, a standard for border processing. The Group approved in principle, on a best endeavors basis, the adoption of a 30-day standard for completion of the temporary residency processing of specialists. It also developed a website on business mobility to facilitate dialogue and continued to maintain the APEC Business Travel Handbook website.

The *Informal Group on Implementation of WTO Obligations and Rules of Origin* developed twelve lead projects under the APEC Strategic Plan on WTO capacity building. These projects were funded by APEC's TILF (Trade and Investment Liberalization and Facilitation) fund to assist developing APEC economies to implement their

WTO obligations.

Work on the "EVSL" Sectors

The CTI continued to monitor and advance the work to address non-tariff measures, facilitate trade, and conduct economic and technical cooperation in each of the sectors selected by APEC Leaders for "early voluntary liberalization." Further progress has been achieved in some areas, including chemicals, autos, and medical equipment.

Key among these was the launch of an APEC *Chemical Dialogue*, in which senior government and industry representatives will meet regularly to discuss issues affecting the competitiveness of the chemical industry in the Asia-Pacific region. The Chemical Dialogue will focus on issues affecting non-tariff measures, trade facilitation, and economic and technical cooperation. In 2001, terms of reference for this Dialogue were developed, including the creation of a Steering Group to support the Dialogue's work. An initial Steering Group was held in August 2001, at which time industry identified a regional effort to adopt and implement the Globally Harmonized System of classification and labeling as its top priority. Preparations are now underway for the holding of the first Chemical Dialogue in Mexico around the time of the Meeting of APEC Trade Ministers in May 2002.

In addition, the third meeting of the *APEC Automotive Dialogue* was held successfully on 3-5 April 2001 in Bangkok with more than 200 participants from industry and government. The Dialogue adopted an "Information Technology Manifesto" which incorporates a forward-looking action agenda and a set of "Principles of Technical Regulation Harmonization." In addition, the Automotive Dialogue has reorganized into Working Groups, a format which will increase the Dialogue's responsiveness to industry recommendations. An active work program is underway, including a potential link to the WTO round, peer review activity, increased efforts to involve developing economies in global harmonization work, and a series of customs seminars.

In the area of *medical equipment*, funding was approved for a follow-up seminar to the Seminar for Government Regulators on Harmonization of Medical Equipment Regulation that was held in Singapore in March 2000. The U.S. Government is now working with the medical equipment industry to organize this seminar, which is scheduled for May 2002. The seminar will provide an opportunity for participants to exchange views on the status and benefits of global harmonization of regulations for medical equipment and promote broader participation in international efforts to develop consensus-based standards for medical technical regulation. Such harmonization would improve the competitiveness of the industry, create more open and transparent regulatory systems, reduce trade frictions, and help to ensure rapid patient access to the latest medical innovations – which will improve the quality of care and reduce costs.

3. Free Trade Agreements

Noting the increasing number of free trade agreements being either studied, negotiated, or concluded among countries in the APEC region, APEC officials conducted several discussions in 2001 to exchange views on these developments, and the effect they may have on regional and multilateral efforts to free trade, including at a trade policy forum session of the CTI in Shenzhen in May. At the suggestion of the United States and Chile, interested members held an informal session in Dalian in August to discuss in more depth the various free trade agreements that members are currently negotiating or have recently completed.

In November, APEC Leaders noted the information exchanges undertaken, and agreed that regional and bilateral trade agreements should serve as building blocks for multilateral liberalization in the WTO. They stated that it is essential for such agreements to be consistent with WTO rules and disciplines, and in line with APEC

architecture and supportive of APEC goals and principles.

IV. Bilateral Negotiations

A. 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 2000, the stock of U.S. foreign direct investment in Canada was $126.4 billion, an increase of 13.8 percent from 1999. In 2000, the stock of Canadian direct foreign investment in the United States was $100.8 billion, an increase of 31.7 percent.

a. Softwood Lumber

On April 2, 2001, one day after the expiration of the 1996 U.S.-Canada Softwood Lumber Agreement, the Coalition for Fair Lumber Imports filed both antidumping and countervailing duty petitions. Affirmative preliminary determinations by the Department of Commerce ("Commerce") in both its countervailing duty and antidumping investigations resulted in provisional import duties being imposed on Canadian softwood lumber imports based on a net countervailable subsidy rate of 19.31 percent and an antidumping rate of 5.94 to 19.24 percent. Commerce's final determinations in the investigations are scheduled for late March 2002.

In August 2001, the United States received a request for WTO consultations from Canada regarding Commerce's preliminary countervailing duty determination. A WTO panel was established on December 5, 2001.

In July, 2001, Canada agreed to a constructive dialogue on softwood lumber issues. Federal and provincial officials have participated in this discussion to determine whether the United States and Canada can find a durable solution as an alternative to the litigation. The United States continues to seek a solution to the underlying concerns of this long-standing trade issue. Discussions with Canadian federal and provincial officials include reforms in provincial pricing practices, tenure systems, and mandated requirements.

b. Agriculture

Canada is the United States' second largest market for food and agricultural exports. For fiscal year 2001 (October 2000 - September 2001), U.S. agricultural exports to Canada grew by 6.5 percent to $8 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 2001, the CCA and PSAG met twice on issues covering livestock, grain, seed, and horticulture trade, as well as pesticide and animal drug regulations.

As a result of the ROU, U.S. feeder cattle exports from eight states to Canada continued to increase at a record pace in 2001 and are expected to set another record in 2002. Grain transshipped through Canada under an ROU program also continued to accelerate reaching 1 million tons in 2001.

Despite these accomplishments, 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. USTR is scheduled to make a final determination on the 301 petition in February 2002.

On a related but separate track, the United States is seeking reforms to state trading enterprises as part of the WTO agricultural negotiations. The U.S. proposal calls for the end of exclusive 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.

In April 1999, the United States successfully challenged Canada's subsidized dairy industry. 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-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 is concerned that the new measures appear to duplicate most of the elements of the export subsidies which they replace, 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. As a result, on December 18, the United States requested another compliance review panel in order to consider additional information. The compliance review panel is expected to issue a decision in spring 2002.

c. Intellectual Property Rights

The United States initiated a dispute on May 6, 1999 arguing that the Canadian Patent Act was inconsistent with the TRIPS Agreement as it did not provide for a patent term of at least 20 years from the date of application for all patents in existence on the date that Canada was obligated to comply with TRIPS. On September 18, 2000, the Appellate Body affirmed that Canada's law failed to provide the patent term guaranteed by TRIPS. The DSB adopted the reports of the panel and Appellate Body on October 12, 2000. The United States asked an arbitrator to determine the reasonable period of time for Canada to comply, and on February 28, 2001, the arbitrator determined that the deadline for compliance would be August 12, 2001. Effective July 12, 2001, Canada announced that it had enacted an amendment to its Patent Act to bring it into conformity with its obligations under the TRIPS Agreement.

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 more than 144 percent through 2001. The potential of trade with Mexico is just beginning to be tapped, while the benefits to workers, consumers, farmers and firms are

increasingly apparent. The NAFTA, now in its ninth 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. On January 1, 2002, the results of the Fourth NAFTA Accelerated Tariff Elimination Agreement were implemented, which eliminated duties on U.S. exports valued at $25 billion ahead of schedule. The United States has continued to seek improved access to the Mexican market in several other areas.

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 the U.S. copyright industries and the closure of legitimate copyright industry-related businesses in Mexico. Despite significant raiding efforts, only a small percentage of arrests have resulted in court decisions and deterrent penalties. 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. Mexico is currently the United States' third largest agricultural export market. For fiscal year 2001 (October 2000-September 2001), U.S. agricultural exports to Mexico grew by 15.4 percent to $7.3 billion, the highest value ever, with value-added consumer agricultural products surging 30 percent to an all-time high.

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 our favor. 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.

In other agricultural sectors, the United States and Mexico continue to seek to resolve a dispute over the NAFTA's sugar provisions. In May 2001, the United States and Mexico reached agreement to improve Mexico's administration of its tariff rate quota on U.S. dry bean exports ensuring the United States' full access under the NAFTA to the Mexican dry bean market. Following WTO consultations with the United States regarding Mexico's antidumping investigation of U.S. slaughter hog imports from the United States, Mexico self-initiated a review of the dumping order. A preliminary resolution was issued in June 2001, and a final resolution is expected soon. On April 28, 2000, Mexico announced final antidumping duties on imports of U.S. beef (boneless, bone-in and carcasses). The final antidumping margins are, in many cases, lower than those in the July 27, 1999 preliminary determination, but remain a concern to the United States. In June 2000, the Mexican Congress passed a law that imported beef was to be inspected in Mexico. Because Mexico does not have sufficient facilities to handle the volume of imports and trade would have been severely disrupted, Mexico granted a delay on implementation of the law until June 2002.

In 2001, the Administration continued to address a number of Mexican sanitary and phytosanitary measures. Of particular note, in summer 2001, the Administration negotiated a resolution to phytosanitary measures impeding shipments of California tree fruit. Working with affected industries to address these and other problems as

they arise will continue to be a high priority, particularly given the importance of continued growth in export opportunities for U.S. agricultural producers.

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 a 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. The United States expects to file a new request for establishment of a WTO panel in early 2002 that specifically addresses this issue.

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 on excepted 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.

b. Argentina

U.S. exports to Argentina were 4.0 billion in 2001, and Argentina remained in the top 30 export markets of the United States. Overall bilateral trade was $7.0 billion, and the U.S. surplus narrowed by $0.6 billion to $1.0 billion in 2001. A key factor in the Argentine economy is its trade with Brazil, Argentina's number one trading partner.

During 2001, the United States pursued resolution of existing trade disputes, such as the dispute involving Argentina's inadequate patent and data protection regimes.

Agriculture: After several years of technical discussions, in January 2001, Argentina signed the protocol allowing entry of U.S. exports of both in-bone and boneless pork.

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. Grave concerns regarding Argentina's IPR regime, particularly with respect to patent protection, have led USTR to maintain Argentina on the Special 301 "Priority Watch List" since April 1998. In 1997, the United States withdrew 50 percent of Argentina's benefits under the Generalized

System of Preferences (GSP) over this same issue, and benefits will not be restored unless the concerns of the United States are addressed adequately.

Despite U.S Government efforts, intellectual property protection continued to deteriorate. 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 has engaged in a series of consultations with Argentina in Geneva throughout 2001. To date, the two countries have been unable to find a fully satisfactory solution. Argentina's copyright laws are currently under review by the Executive Branch.

c. Brazil

The United States exported goods valued at $16.3 billion to Brazil in 2001. Brazil's market accounts for 27 percent of U.S. annual exports to Latin America and the Caribbean excluding Mexico, and 66 percent of U.S. goods exports to Mercosur.

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 some of this legislation, including a local working requirement and extensive exceptions to a prohibition on parallel imports in the patent law. 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.

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 (Trade-Related Investment Measures) 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.

Wheat: In March 2001, the United States and Brazil reached agreement on a phytosanitary protocol to allow entry of certain U.S. wheat shipments.

d. Paraguay

With a population of just over five million, Paraguay is one of the smaller U.S. markets in Latin America. In 2001, the United States exported only $401 million worth of goods to Paraguay. 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 longer-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 implementation of the MOU.

e. Uruguay

With the smallest population of Mercosur (just over three million), Uruguay nonetheless imported over $417 million of goods from the United States in 2001. 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.

f. Chile

Chile is our 32nd largest export market, purchasing nearly $3.2 billion in U.S. exports in 2001. Chile has been a recognized leader of economic reform and trade liberalization in Latin America, with real GDP growth averaging eight percent for the decade prior to Chile's economic slowdown in 1998-99. Chile's real GDP grew by more than 3 percent in 2001. As a resource-based, export-dependent economy, Chile was seriously affected by the global drop in commodity prices. In addition, continued sluggishness in the economies of Mercosur, particularly Argentina, a major destination for Chilean exports, contributed to slower Chilean growth in 2001.

Chile FTA

In December 1994, the United States, Canada and Mexico announced their intention to negotiate Chile's accession to NAFTA. Several negotiating rounds were held in 1995. However, Chile withdrew from the negotiations due to concerns at that time about the absence of fast track negotiating authority. Chile subsequently negotiated a bilateral FTA with Canada (Chile already had a bilateral agreement with Mexico). In 1998, United States initiated the U.S.- Chile Joint Commission on Trade and Investment, which led to increasingly ambitious work programs in areas including services, government procurement, investment, environment, business visas, norms and standards, labor, and civil society. On November 29, 2000, the United States and Chile announced their agreement to initiate

immediately negotiations for a U.S.-Chile Free Trade Agreement.

In 2001, there were eight negotiating rounds towards a comprehensive bilateral free trade treaty. Following the December round of talks, both parties agreed to another round of talks in January 2002 and committed to concluding the agreement in early 2002.

4. The Andean Community

The U.S. trade deficit with the Andean region decreased from $17.8 billion in 2000 to $12.9 billion in 2001. U.S. goods exports to the region were up 4.6 percent in 2001, totaling $12.7 billion.

The Andean Community originated as the Andean Pact in 1969, with Bolivia, Colombia, Ecuador, Peru and Venezuela as its members. However, it was only in the 1990s that the Andean Pact's commitment to form a customs union took on 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 in addition to meetings of Trade Ministers, and creation of a General Secretariat of the Andean Community mandated to act as the group's executive body.

a. Andean Trade Preference Act

The Andean Trade Preference Act (ATPA) of 1991 authorized the President to provide reduced-duty or duty-free treatment to most imports from Bolivia, Colombia, Ecuador and Peru. It was intended to help the four beneficiary countries expand economic alternatives in their fight against drug production and trafficking. The Administration strongly supports renewal of the ATPA and expansion of the program to additional products. During November 2001, the U.S. House of Representatives approved a bill for ATPA expansion and renewal, and the Senate Finance Committee approved its version of the bill. Unfortunately, the original ATPA program expired on December 4, 2001, before a new program was in place. The Administration remains firmly committed to working with Congress to achieve ATPA renewal and expansion as soon as possible.

b. Intellectual Property Rights

In the area of intellectual property, the Andean Community countries have developed common disciplines with legal effect throughout the Community. The U.S. Government is in the process of analyzing the revised legislation with regard to WTO TRIPS compatibility. Of particular concern is an Andean Tribunal decision calling on Peru to invalidate a pharmaceutical patent on the basis that it represented a "second use" innovation. Both the U.S. pharmaceutical and agrochemical industries are also concerned that Andean laws are not sufficiently explicit regarding the confidentiality of data submitted in conjunction with applications for marketing approval.

During 2001 Ecuador was removed from the Special 301 Watch List, while the other four Andean countries are on the Watch List. In general, piracy levels in the region are high and while enforcement efforts have improved somewhat, they remain inadequate.

5. Central America and the Caribbean

a. Caribbean Basin Initiative (CBI)

The trade programs known collectively 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. Initially launched in 1983 through the Caribbean Basin Economic Recovery Act, and substantially expanded in 2000 through the U.S.-Caribbean Basin Trade Partnership Act (CBTPA), the CBI currently provides 24 beneficiary countries with duty-free access to the U.S. market for most goods. In 2001, U.S. imports from the CBI region totaled $21.2 billion, with U.S. exports

amounting to $21.2 billion.

Ongoing implementation of the CBTPA was an important Administration objective for the Caribbean Basin region during 2001. The CBTPA provided expanded preferential treatment for a range of products, including certain apparel, which had previously been excluded from CBI coverage. As of late 2001, it was clear that these new provisions were being used extensively by CBI countries and U.S. importers, with nearly 25 percent of total U.S. imports from the CBI region entering under the enhanced preference provisions. At the same time, it has been apparent that implementation of the CBTPA has been characterized by certain challenges, particularly with respect to the application of statutory provisions in the technical rules governing imports under the new preferences. 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.

The Administration also continued during 2001 to engage with CBI beneficiary countries in connection with the policy objectives established as eligibility criteria under the CBI statutes. In the March-May period, the U.S. conducted a focused review of labor practices in Guatemala, linked to that country's eligibility under both the CBI and Generalized System of Preferences programs. During the course of the review, Guatemala enacted important reforms to its labor laws, engaged directly with a special mission of the International Labor Organization, and committed to stronger efforts to enforce labor law provisions. The U.S. review was suspended in May 2001 with positive note of these actions; the U.S. also indicated that it would continue to monitor closely labor practices in Guatemala. In July 2001, the U.S. also participated in bilateral consultations with the governments of El Salvador, Honduras, and Nicaragua regarding labor practices.

In December 2001, USTR released its 4th Report to Congress on the Operation of the Caribbean Basin Economic Recovery Act. This biennial report summarizes the main provisions of the Caribbean Basin Initiative, reviews regional and bilateral trade trends under the CBI programs, and reflects an overview of the performance of beneficiary countries with respect to the CBI eligibility factors. The report is available on-line at www.ustr.gov.

b. Central America

The United States remains 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 these countries. Panama, which has observer status, and Belize participate in CACM summits but not in regional trade integration efforts. As a group, the countries of the CACM exported a total of $9.1 billion of goods to the United States in 2001, importing $11.1 billion of U.S. goods. The CACM is an internal market of 33 million people with a combined GDP of over $50 billion. GDP per capita varies widely within the Central American region, with the relatively developed service-oriented economy of Panama registering an estimated $2,316 per capita. At the other extreme, Nicaraguan GDP per capita was only $517. Furthermore, these figures do not capture the broad disparities of income evident within most Central American countries.

During 2001, the CACM countries publicly expressed an interest in pursuing free trade negotiations with the United States. In September, USTR convened a meeting with representatives of these countries to explore ways of deepening trade policy engagement between the United States and Central America. That meeting produced an agreement to pursue a series of technical workshops on trade policy issues, which will continue into mid-2002.

In December, the Administration convened a meeting of the U.S.-Panama Trade and Investment Council, with the aim of exploring Panama's interest in expanding its bilateral trade

relationship with the United States.

Central American countries continued during 2001 to pursue a range of bilateral and regional trade agreements. Costa Rica signed a free trade agreement with Canada in April, and negotiations between Canada and the other CACM members countries (El Salvador, Guatemala, Honduras, and Nicaragua) began late in the year. Negotiations for a Panama-CACM free trade agreement led to conclusion of work on common disciplines, with work continuing on negotiation of related market access provisions. In several Central American countries, work continued towards ratification of previously-negotiated agreements with Chile, Mexico, and the Dominican Republic.

All of the countries of the region are participating in the Free Trade Area of the Americas (FTAA) negotiations. Central American countries take an active role in the negotiating process. In the May 2001 to October 2002 phase of negotiations, Guatemala chairs the Negotiating Group on Agriculture, Costa Rica chairs the Negotiating Group on Government Procurement, and Nicaragua serves as Vice Chair of the Consultative Group on Smaller Economies.

During the course of 2001, the United States consulted regularly with Central American trade officials, including in the context of the FTAA and Summit of the Americas processes. The United States Trade Representative met with his counterparts from the region at the April 2001 FTAA Ministerial in Buenos Aires, and held additional, individual meetings with the region's trade ministers throughout the year.

Agriculture

Tariff and non-tariff barriers to U.S. agricultural exports are among the biggest U.S. trade policy concerns in Central America. Several countries in the region, including Costa Rica, Nicaragua and Panama, have recently raised tariffs on agricultural products, although they are still within WTO-bound rates. Panama's practices with respect to issuance of sanitary and phytosanitary licensing, often linked to local buying requirements, have been a matter of concern; the United States has pursued these concerns with the Government of Panama, and some improvement was seen by the end of 2001.

Intellectual Property Rights (IPR)

In general, the legal framework for protection of intellectual property has improved in Central America in recent years, although concerns remain, particularly in the area of enforcement. Enforcement-related issues were the principal factor leading to USTR's placement of Costa Rica on the Special 301 Priority Watch List in 2001. Both El Salvador and Honduras, however, are considering a number of TRIPS-conforming amendments to their respective IPR legal frameworks, while in 2001 Guatemala appointed a specialized prosecutor for intellectual property matters.

c. The Caribbean

CARICOM: Countries in the Caribbean region include members of the Caribbean Community and Common Market (CARICOM) and the Dominican Republic. Current members of 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 has been limited.

CARICOM countries have played an active role in the FTAA process, which has provided an opportunity for frequent bilateral interaction between U.S. and Caribbean trade officials. During the May 2001 to October 2002 phase of the FTAA negotiations, Bahamas is chairing the Negotiating Group on Services, and Dominican Republic chairs the FTAA Committee of Government Representatives on the Participation of Civil Society.

Agriculture

The Caribbean countries, Barbados and the Dominican Republic in particular, have made significant advances in lowering tariffs in advance of their WTO reduction schedule. However, many countries, including Trinidad and Tobago, the Bahamas, Jamaica, and Barbados have increased the use of non-tariff barriers such as arbitrary customs valuation, domestic absorption requirements and discretionary import licensing practices to stem the flow of imports and make up for lost government revenues due to lower tariffs.

Other Caribbean Countries

The Dominican Republic, the largest beneficiary of the Caribbean Basin Initiative program, does not belong to any regional trade association, but has increased cooperation with both Central America and CARICOM. In July 2001, the Dominican government implemented its commitments under the WTO Customs Valuation Agreement. The United States has expressed concerns about the Dominican Republic's Industrial Property law which appears to fall short of certain basic requirements of the WTO TRIPS Agreement, and the U.S. and Dominican governments have engaged in consultations on these issues. The U.S. has also raised concerns regarding possibly discriminatory effects of certain excise tax increases implemented by the Dominican Republic in late 2000.

B. Western Europe

Overview

The U.S. economic relationship (measured as trade plus investment) with Western Europe is the largest and most complex on earth. Due to the size and nature of the transatlantic economic relationship, serious trade issues inevitably arise on occasion. Sometimes small in dollar terms, especially compared with the overall value of transatlantic commerce, these issues can take on significant importance as potential precedents for broader U.S. trade policies.

From its origins in the 1950s, the EU 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 $165.1 billion in 2000, second only to Canada. Since 1994, U.S. goods exports to the EU have increased 53 percent.

The other major trade group within Western Europe is the European Free Trade Association (EFTA), which, through 1994, included Austria, Finland, Iceland, Liechtenstein, Norway, Sweden, and Switzerland (Austria, Finland, and Sweden ceased EFTA membership upon their accession to the EU). Formed in 1960, EFTA provides for the elimination of tariffs on manufactured goods and select agricultural products that originate in, and are traded among, its Member States.

In late 1991, the EFTA countries and the EU formed the European Economic Area (EEA), designed to strengthen significantly the free trade agreement already in place between the two groups. Switzerland rejected the EEA in a referendum at the end of 1992. A revised EEA (excluding Switzerland) took effect on January 1, 1994. In practice, the EEA involves adoption by the EFTA signatories of approximately 70 percent of EU legislation.

2001 Activities

In 2001, the EU intensified its efforts to deepen the economic and political integration of its Member States. The pace of additional Western European integrative 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, 1999 launched in earnest the EMU program, the most prominent feature being the

introduction of the new European single currency (the "euro"), which replaced national currencies in participating Member States on January 1, 2002.

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 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 November 1998, the EU formally launched substantive accession negotiations with six "first-tier" candidate countries: Poland, the Czech Republic, Hungary, Slovenia, Estonia and Cyprus. In late 1999, the EU declared it also would begin formal negotiations for accession with Slovakia, Romania, Bulgaria, Lithuania, Latvia, and Malta (Turkey remains an accession candidate, with no EU commitment to commence formal negotiations). Important institutional questions associated with EU enlargement still need to be resolved before enlargement can take place. No firm target has been set for completing any of the accession negotiations and some candidate states have expressed concern that the process could last for a number of years.

In 2001, USTR devoted 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. As part of our ongoing dialogue with the European Union under the Transatlantic Economic Partnership (TEP) during 2001, we negotiated a Mutual Recognition Agreement (MRA) on marine equipment and are nearing completion on guidelines for more effective transatlantic regulatory cooperation and transparency. We have resolved the long-standing bananas dispute and continued efforts to reach an understanding with the EU that would lead to EU compliance with the WTO dispute settlement ruling on beef, as well as other bilateral trade problems. In addition, with respect to the WTO ruling in the Foreign Sales Corporation (FSC) case, we will work to resolve the situation and to ensure that this issue does not seriously damage our overall bilateral relationship.

USTR activity on a bilateral basis with respect to the EFTA states in 2001 was modest, though the EFTA EEA states have continued to make inquiries concerning possibilities for further regulatory cooperation.

1. 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, which seeks to deepen and systematize the cooperation in the trade field launched under the New Transatlantic Agenda process begun in 1995. In 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 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.

Public Dialogues: Important companions to the Transatlantic Economic Partnership initiative 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 – the Transatlantic Labor Dialogue (TALD), the Transatlantic Consumer Dialogue (TACD), and the Transatlantic Environment Dialogue (TAED) – start 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. The dialogues have forwarded recommendations related to trade policy issues to governments on both sides of the Atlantic.

2. Standards, Testing, Labeling, and Certification

A process of harmonization of technical regulations and product standards is underway within the EU. Given assessments that EU legislation covering regulated products eventually may affect half of all U.S. exports to Europe, EU legislation and standardization work in the regulated areas is of considerable importance. Although there have been improvements in some respects, a number of problems related to this evolving EU-wide regulatory process continue to cause concerns for U.S. exporters. Among these concerns are: inadequate transparency in the EU rulemaking process; lags in the development of EU standards and harmonized legislation for regulated areas; inconsistent application and interpretation by Member States of the legislation that is in place; overlap among directives dealing with specific product areas; gray areas among the scope of various directives; and unclear or unnecessary marking and labeling requirements for these regulated products before they can be placed on the market.

In December 1998, the United States and the EU began implementation of the U.S.-EU Mutual Recognition Agreement (MRA) in sectors representing more than $50 billion of annual two-way trade. The MRA is designed to reduce duplicative conformity assessment procedures, while maintaining our current high levels of health, safety, and environmental protection. Once fully implemented, the MRA will permit U.S. exporters to conduct required conformity assessment procedures (such as product testing and inspection) in the United States according to EU requirements, and vice versa. The sectors covered by the current MRA include: telecommunications and information technology equipment; network and 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 recreational craft annex entered the operational phase in June 2000, and the telecommunications equipment and EMC annexes entered the operational phase in January 2001.

Over the past year, the United States continued work to enhance regulatory cooperation and reduce unnecessary technical barriers to transatlantic trade. Under the Transatlantic Economic Partnership (TEP), the United States and EU advanced our bilateral regulatory cooperation workplan in 2001 by negotiating a path-breaking MRA on marine equipment, which should take effect in mid-2002. We also made substantial progress on U.S.-EU guidelines for effective regulatory cooperation and more transparent regulatory procedures. These guidelines will serve as a framework for pursuing possible bilateral regulatory cooperation projects.

3. Telecommunications

Europe is in the process of implementing wide-ranging liberalization and harmonization in its telecommunications services market and is undergoing a process to update its

telecommunications legislation. The EU and the Member States, with limited exceptions, committed to provide market access, national treatment, and fair regulatory practices as part of the WTO Basic Telecommunications Agreement. Greece, Ireland, Portugal, and Spain made subsector-specific reservations in the WTO agreement, mirroring derogations granted under EU law that permit an extra one to five years before the introduction of competition. Ireland and Spain abandoned these derogations and, as of January 1, 1999 and December 1, 1998 respectively, opened their markets to full competition. Portugal and Greece abandoned their derogations at the end of 2000.

The record of implementation under the agreement so far is mixed. Many Member States have licensed new entrants, and have taken steps necessary to compel former monopolies to meet pro-competitive obligations set forth in the WTO Agreement. The European Commission proposed, and the Council and Parliament approved, a Regulation to make local loop unbundling mandatory by January 1, 2001. However, some governments have been slow to adopt or put in place the legislative and regulatory mechanisms necessary to implement EU directives. The European Commission's competition directorate has taken an active stance in bringing actions for noncompliance with EU directives in order to compel implementation. In December 2001, the European Commission decided to open legal proceedings against Germany, Greece, and Portugal for failing to open their local telephone services fully to competition.

The EU is also in the process of privatizing state-owned telecommunications firms, but in some countries, this process has proceeded slowly. About half the incumbent operators in EU Member States continue to have government ownership, including France, Germany, Austria, Belgium, Luxembourg, Sweden, Finland, and Greece.

The United States continues to work closely with the EU to monitor how EU Member States are addressing these issues.

4. Aircraft

In January 2001, the United States and the European Union held consultations concerning the potential provision of EU government financial assistance for the Airbus A380 jetliner project and other issues regarding trade in large civil aircraft. In April 2001, the European Commission provided notification that seven Member States had made commitments to provide government loans for part of the development costs for the Airbus A380 aircraft. The United States reviewed the transparency data provided by the EU and requested supplemental information regarding the terms and conditions of such financing to ensure that it would be consistent with the EU's obligations under the *1992 U.S.-EU Agreement Concerning the Application of the WTO Agreement on Trade in Civil Aircraft* and the *WTO Agreement on Subsidies and Countervailing Measures.* In January 2002, the EU and the United States held another round of aircraft consultations during which the U.S. sought additional details on support for the A380.

5. Foreign Sales Corporation Tax Rules

Potentially the most damaging of the trade disputes currently involving the U.S. 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 appeal in Spring 2000, but repealed the FSC law and enacted new legislation in November to correct the shortcomings identified in the dispute. Though the United States and the EU agreed in September 2000 on procedures that would permit WTO legal review of the new legislation, the EU nonetheless requested permission ultimately to retaliate against up to $4 billion in U.S. exports should the new measure be found inconsistent with WTO rules, as the EU charged. On January 14, 2002, the WTO review was completed, resulting in a finding that the new legislation is WTO-inconsistent. In the U.S. view, the EU's WTO challenge does not arise out of

substantive commercial problems identified by EU businesses. To the extent that European industry has spoken out on this issue, it has been to counsel against escalation and confrontation and to urge a reasonable settlement of the dispute.

6. 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 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. In July 1999, the United States applied 100 percent duties on $116.8 million of U.S. imports from the EU after receiving WTO authorization. The United States is currently engaged in discussions with the EU on the possibility of reducing the level of retaliation in exchange for improved market access for U.S. non-hormone treated beef.

7. Agricultural Biotechnology

a. Approvals Process for Agricultural Biotechnology Products

In the past the EU approved several U.S. agricultural biotech products. However, no U.S. products have been approved since Member States imposed a moratorium on the approval of agricultural biotechnology products in June 1998, resulting in the loss of $200 million in U.S. exports of corn to the EU annually. Restarting the approvals process is a high priority for the United States in order to restore these exports. Although European Commission officials made statements suggesting the EU might restart the process in 2001, the moratorium remains in place, and the Commission does not appear to have a strategy for resolving this issue. Both sides agreed in 1998 to establish a Biotechnology Group under the Transatlantic Economic Partnership to identify and address regulatory issues regarding the approvals process. Initially, the activities of this group served to increase understanding between the Commission and the United States officials. However, there was little progress in 2001. The U.S. Government continues to raise its concerns regarding the failure of the EU to have a functioning approval process.

b. European Commission Proposals on Traceability and Labeling

In July 2001, the Commission issued proposals on traceability and labeling of agricultural biotechnology products. These proposals are subject to a co-decision process involving the European Parliament and the European Council, which is expected to take at least 18 months. The proposals cover a range of products, including animal feed, with the potential of disrupting nearly $4 billion in U.S. exports to the EU. The United States has carefully reviewed the proposals and considers them unworkable, overly expensive, and subject to fraud. In addition, the U.S. does not believe the proposals will enhance food safety. In December 2001, the United States submitted detailed comments to the Commission outlining specific concerns about the proposals and seeking clarification. The U.S. has offered to work with the Commission, the Parliament, the Council, and the Member States in developing a better understanding of these proposals and avoiding potential trade disruptions.

8. Veterinary Equivalence

As a part of the Single Market initiative in 1992, the EU harmonized its animal and public health standards among Member States. In harmonizing

these standards, the EU introduced new import controls for animal and animal products that threatened to disrupt U.S. exports to the EU. On April 30, 1997, USDA announced that the United States and the European Union had reached an agreement on an overall framework for recognizing each other's veterinary inspection systems as equivalent. The agreement is expected to open new opportunities for red meat exports and preserve most pre-existing trade in products such as pet food, dairy and egg products. Without this agreement, U.S. exports of some products, including egg products and dairy products, would have been blocked from the EU market unless U.S. industries invested in costly adjustments to their facilities to comply with each EU internal market requirement. The agreement, which covers $1 billion in U.S. animal and animal product exports to the EU and a slightly larger value of EU exports to the United States, was signed on July 20, 1999 and became effective on August 1. In June 2001, the Joint Management Committee created by the agreement met for the second time. Agreement was reached on establishing a Technical Working Group on Foot and Mouth Disease (FMD) which met for the first time in October to discuss the FMD outbreak in the EU. The two parties received a status report from the Technical Working Group on Audits and also discussed plant listings, antimicrobial treatments for poultry, regionalization and other issues of concern.

While conditions for trading poultry and poultry products will be less restrictive under the agreement, U.S. poultry plants using certain antimicrobial treatment are not able to ship to the EU. The EU will not accept use of certain antimicrobial treatments despite the fact that such treatments are an important element in modern poultry processing. The United States continues to explore with the EU ways of resolving this issue.

9. Wine

The U.S. and EU successfully launched wine negotiations in 1999 following several years of discussions concerning various market access problems. The negotiations became possible when, in response to U.S. insistence, the Council in December 1998 approved an extension of the existing derogations for U.S. wine making practices for five years or until an agreement is reached, whichever comes first. Commission and U.S. negotiators met several times during 1999-2001, most recently in June 2001, gaining valuable information about each other's regulatory systems for wine that will help them achieve a bilateral agreement. The United States continues to be concerned about the EU's requirements for the review and approval of wine making practices, and has questioned the EU's export subsidies on wine and domestic support programs benefitting 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, the use of geographic indicators and certain other terms on labels, and import certification. The United States will continue to press the EU to give U.S. wine makers equitable access to the EU wine market. In late 2000 the EU Council agreed on new guidelines for EC negotiators. Negotiations are expected to accelerate in 2002.

C. Central Europe and the Newly Independent States

Overview

In order to ensure a permanent end to the Cold War, 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 strives 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.

2001 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, the so-called Jackson-Vanik amendment. As part of U.S. sanctions policy related to the conflict in the region, the President 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 was not 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 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. Belarus continues to receive NTR tariff treatment under annual waivers. 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. The Administration is currently consulting with the Congress and interested stakeholders with a view to removing 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 do not have "WTO relations" which, among other things, prevents the United States from bringing a WTO dispute based on a violation of the WTO or the country's commitments in its 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, today USTR concentrates principally on ensuring compliance by these countries with their international 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 and initiated a Special 301 investigation. In August 2001, USTR withdrew GSP beneficiary status from Ukraine and published a preliminary sanctions list of Ukrainian products. 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. 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.

b. Hungary, Slovenia, and Poland - Protection of Confidential Test Data

USTR places a high priority on protecting the confidential test data submitted by pharmaceutical firms to health authorities in order to obtain marketing approval. This test data typically require millions of dollars and years of research to develop, so innovators have a strong interest in preventing potential copiers from being able to rely on the data to obtain their marketing approvals. USTR seeks to ensure that WTO Members provide the protection of confidential test data (so-called "data exclusivity") specified in Article 39.3 of the TRIPS Agreement. The United States usually provides five years of exclusivity for confidential test data, and the EU requires its members to provide 6-10 years of exclusivity. 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 there. Many foreign pharmaceuticals, at best, receive process patents, a relatively weak form of protection. Over the next five years, this vestige of the transition from socialist economic regulation will diminish in importance as new products gain product patent protection. For those drugs without product patent protection, however, data exclusivity can take on special importance. Accordingly, USTR has pressed the Central European countries - especially Hungary and Slovenia with their large generic drug industries - to provide data exclusivity. In September 2001, Poland passed a law eliminating existing protections for confidential test data until it becomes an EU member, despite USTR representations to the contrary. The United States has raised objections to the law, and at the end of 2001, the Polish government was considering legislation to modify the law.

c. The Russian Federation - Widespread Piracy

Russia has enacted comprehensive laws to protect IPR, but certain major deficiencies remain. Most 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 remains pervasive. Russia has yet to provide protection, as required by our 1990 bilateral trade agreement, to pre-existing U.S. copyrighted works and sound recordings still under protection in the United States. Some U.S. companies have also had difficulty registering well-known marks, and trademark infringement is reportedly on the rise. In April 2001, Russia was again placed on the Special 301 "Priority Watch List" because of these and other problems. In 1998, the U.S. Government began a U.S. Government-wide IP law enforcement technical cooperation program with Russia. Since 1998, this group has intensified technical assistance on both enforcement and WTO requirements.

3. Generalized System of Preferences

Under the Generalized System of Preferences (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 the Federal Republic of Yugoslavia) and most of the NIS participate in the GSP program. Azerbaijan, Tajikistan and Turkmenistan have never requested designation as a beneficiary under the U.S. GSP program and, therefore, are not eligible to receive benefits under the program. In 2001, Georgia was added as a beneficiary developing country under the GSP program.

In 1997, the Government of Russia petitioned the U.S. 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 "pended" based on the situation in the U.S. titanium industry. Since 1997, Russia has expressed a continuing interest in a GSP designation for unwrought titanium; however, the domestic industry faces a situation of weakened demand and depressed prices. Three petitions on titanium were submitted during the 2001-2002 GSP Annual Product Review. The GSP Sub-Committee will decide to either accept or deny review of these petitions once the GSP program is re-authorized in 2002.

In 1997 the AFL/CIO petitioned USTR to remove Belarus from eligibility for the GSP program due to violation of worker rights. After conducting an extensive review process, including public hearings, and after affording the Government of Belarus ample time to improve its worker rights situation with no progress on this front, Belarus's GSP benefits were suspended in 2000.

In 2000, USTR commenced reviews on the continued eligibility of Ukraine, Armenia, Moldova, Kazakhstan and Uzbekistan under the U.S. GSP program, due to concerns that these countries were not providing adequate and effective protection of intellectual property rights as required by the GSP statute and as agreed to in the bilateral trade agreements that all of these countries entered into with the United States in the early 1990s. (See section on Intellectual Property Rights above.) In late 2000, based on significant improvement in Moldova's intellectual property rights regime since the initiation of the GSP review process, the U.S. copyright industry, which had petitioned USTR to conduct these reviews, withdrew its petition with respect to Moldova. In 2000, the USG initiated bilateral consultations with both Armenia and Uzbekistan designed to improve the protection and enforcement of intellectual property rights in these countries. In August 2001, USTR withdrew GSP beneficiary status from Ukraine. (See subsection on Ukraine - Optical Media Piracy above.)

The U.S. GSP legislation contains a provision that makes a country ineligible for GSP benefits if it affords preferential treatment to the products of a developed country, other than the United States, which has a significant adverse effect on U.S.

commerce. The U.S. Government has been consulting with the Central European countries about addressing the problem of preferential tariffs given EU exporters vis-a-vis U.S. exporters pursuant to their Association Agreements with the EU. In June 2001, USTR negotiated an agreement with Poland under which Poland agreed to reduce tariffs on key U.S. exports and the U.S. agreed to support, consistent with U.S. laws, Poland's continued participation in the GSP program. (See section on Country Specific Issues below.)

4. The Southeast Europe Trade Preference Act

On November 12, 1999, the Administration transmitted a draft bill, the "Southeast Europe Trade Preference Act" (SETPA), to Congress for its consideration. The SETPA would implement, in part, the United States' commitments to the countries of Southeast Europe pursuant to the Southeast Europe Trade Expansion Initiative announced at the Sarajevo Summit in July 1999. The SETPA would promote economic development and stability in Southeast Europe by increasing access to the U.S. market and facilitating regional investment. The SETPA, which is patterned after the Andean Trade Preference Act, would provide the authority to establish duty-free treatment of certain imports from Albania, Bosnia and Herzegovina, Bulgaria, Croatia, the Former Yugoslav Republic of Macedonia, Romania, Slovenia, and the territories of Kosovo and Montenegro on the basis of specified criteria. Duty-free treatment under the SETPA would extend for a period of five years in order to provide investors adequate time to take advantage of the unilateral preferences that the program offers.

5. WTO Accession

Prior to the end of 2001, 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. Armenia is expected to complete its accession process in 2002.

WTO accession working parties have been established for an additional eight NIS countries (the Russian Federation (see section on Country Specific Issues below), Ukraine, Armenia, Azerbaijan, Belarus, Kazakhstan, Tajikistan and Uzbekistan) and three Central European states (Bosnia-Herzegovina, the Federal Republic of Yugoslavia, and the Former Yugoslav Republic of Macedonia). 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 implementation of WTO provisions. WTO accession and the adoption of WTO provisions can be an important method of supporting economic reform. The United States has provided technical assistance, in the form of short- and long-term advisors, to many of the countries in support of the WTO accession process. (See Chapter II for further information on accessions.)

6. 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 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, Poland, Romania, Slovakia, and Croatia and has signed a BIT with Lithuania, for which the formal ratification process has not yet been completed. 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. The United States has held consultations with Slovenia on a BIT, but significant differences remain outstanding. After bilateral discussions, Hungary opted not to conclude a BIT with the United States.

7. EU Association Agreements and EU Membership

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. These Europe Agreements are meant to set the stage for eventual EU membership. The EU is not expected to accept new members before 2004, and many predict that enlargement may take significantly longer, especially for the less developed of the candidate countries. 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 agreed to reduce their 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, and the rates on agricultural goods are usually lower, than comparable EU rates. Consequently, U.S. exporters often face relatively high MFN tariff rates in contrast with the zero or preferential rates borne by EU exporters. Much of this tariff differential problem with respect to industrial goods will dissipate when the candidate countries join the EU and adopt its generally low industrial tariff rates.

In the interim period prior to these countries' accession to the EU, the United States has been consulting with the Central European countries to address this tariff differential problem. In 2001, the United States held discussions with Poland, the Czech Republic, and Hungary on this issue. Slovenia is implementing a plan to lower its high MFN tariff rates on industrial products to the level of the EU's common external tariff rates over a three-year period. The Czech Republic and Slovakia renewed tariff waivers for 2002 for civil aircraft and key parts. (See section on Country Specific Issues below.)

As part of the accession process, the candidate countries are harmonizing their laws and regulations to those specified in the EU's common legislative regime, the "acquis communautaire." Frequently, harmonization represents an improvement over the existing regimes in the candidate countries. In the case of audio-visual policy, however, candidate countries must harmonize their laws with the EU's Broadcast Directive, which establishes television broadcast quotas for European and domestic production. This directive provides a country with flexibility in implementing the quotas. In 2001, USTR continued to work with the candidate countries to encourage them to include the flexibility option in their legislation.

To facilitate trade with Hungary and the Czech Republic, the EU concluded Protocols to the Europe Agreements on Conformity Assessment and Acceptance of Industrial Products (called "PECAs") with these countries in 2000. These first PECAs entered into force in 2001, and the EU is negotiating PECAs with a number of other EU candidate countries. The agreements eliminate the need for further product testing and certification of EU-origin products covered by the PECAs. Products originating in countries not party to the PECAs, including products tested and certified to EU requirements, may not benefit from these agreements. During 2001, the United States raised concerns, both bilaterally and in the WTO, that the rule of origin provision in these agreements unjustifiably discriminates against non-EU origin products and is inconsistent with WTO obligations. The European Commission proposed in late 2001 that the problematic origin

provision be dropped from these agreements. We will continue to monitor this issue.

8. 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: 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.

b. Russia: WTO Accession

Russia has been an observer in the GATT and WTO since 1990 (initially as the Soviet Union), and formally applied for accession to the GATT 1947 in 1993. Its request for WTO accession has been under discussion since 1995. The United States has strongly supported Russia's efforts to join the GATT and 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 2000, Russia described its trade regime and WTO delegations noted specific aspects of the trade regime that require 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 2001. 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. Russia has indicated an interest in accelerating the negotiations and has taken steps to begin development of new and amended laws and regulations to bring it into conformity with WTO provisions. 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.

c. Russia: Aircraft Market Access

The United States and Russia concluded a joint Memorandum of Understanding (MOU) in 1996, which addresses 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. In the interim before Russia accepts its full international trade obligations, the MOU 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.

Through 2001, Russian airlines have been able to import over 20 non-Russian aircraft under the MOU, the majority of which were of U.S.-origin. In accordance with the MOU, the Russian Federation also lowered tariffs on aircraft from 30 to 20 percent. In October 2001, the Russian Government announced that it planned to lower the tariffs on certain aircraft parts to 5 percent.

In 1998, the Russian Ministry of Economy issued Resolution #716 which sets conditions for tariff waivers on imported aircraft. The resolution, among other things, required Russian airlines to commit to the purchase or lease of Russian-made aircraft in order to receive tariff reductions and duty waivers for foreign-made aircraft acquisitions. The United States urged the Russian Federation to continue to grant duty waivers to U.S. aircraft imports on a nondiscriminatory basis as provided for in the MOU and to repeal Resolution #716 in the process of moving its trade regime toward conformity with WTO trade rules. In August 2001, the Russian Government repealed Resolution #716 through successive legislation. The United States intends to monitor developments in this area to achieve desired market access.

d. 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 barrier posed a major impediment to the ability of U.S. firms to compete against EU firms for the over $2 billion worth of aircraft tenders to be conducted in 2001. In late 2000, the Czech Republic and Slovakia, in response to U.S. Government reports, agreed to waive 2001 tariffs on large civil aircraft and key parts. In 2001, this waiver was renewed for 2002.

e. Romania: Minimum Reference Prices

Romania had established minimum and maximum prices for various imports, including poultry and distilled spirits and had instituted burdensome procedures for investigating import prices when the invoice value falls below the minimum import price. USTR concluded that this customs valuation regime violated Romania's WTO obligations, especially those under the WTO Agreement on Customs Valuation. The United States initiated a WTO Dispute Settlement case in 2000 and a settlement of the matter occurred through an exchange of letters in June 2001.

f. Poland: Tariff reductions

In 2001, the U.S. and Poland concluded a comprehensive trade package designed to lower tariffs on key U.S. exports to Poland by January 2002 and to establish a process for addressing further the tariff differential that exists between the duties applied by Poland on EU- and U.S.-origin agricultural and industrial products and other bilateral trade issues. The agreement creates a bilateral working group where these issues can be addressed. The industrial products for which tariff reductions have been 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 begin the process of lowering tariffs by January 2002 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.

D. Asia and the Pacific

Overview

The dramatic expansion of trade and economic growth in the Asia Pacific region over the past decade was due in large measure to the progressive and steady opening of markets in the region. While numerous barriers to trade in the region still exist, significant progress was made in the past decade in dismantling impediments to trade. 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 has delivered results in bilateral negotiations and consultations with countries in the region, opening markets of interest to American farmers, manufacturers, and services providers, and protecting intellectual property, which is critical to U.S. exporters in the high-tech, entertainment and other key sectors.

Highlights of the achievements in this region include:

- *Effective Enforcement of Trade Commitments through WTO Dispute Settlement.* The United States effectively used the WTO Dispute Settlement mechanism to ensure that countries in the region implemented their multilateral commitments. The United States prevailed in a number of cases, which led to the resolution of U.S. complaints regarding Korea's discriminatory import regime for beef, the elimination of India's Balance of Payments (BOP) trade regime, and confirmation that India's local content requirements in the automotive sector are WTO inconsistent.

- *A Series of Significant Market Opening Agreements with Korea.* Through a combination of bilateral consultations, the use of U.S. trade remedy law, and action in the WTO, the United States has concluded agreements with Korea, and obtained commitments from its government: (1) in 1990, 1993, and 2000, to open its market for beef; (2) in 1995, to reform its government mandated shelf-life system, which had impeded the import of meat products; (3) in 1995, to address market access problems for trade in passenger cars; (4) in 1998, to further reduce trade barriers affecting passenger vehicles and to render trade in minivans and sport utility vehicles fairer; (5) between 1995 and 1998, to revise Korean import clearance procedures, thereby expediting the import of several key U.S. agricultural exports; (6) in 1998 and 1999, to take steps to privatize the second largest steel company in the world and to get the Korean Government "out of the steel business;" (7) in 1999, to reform its pharmaceutical pricing and regulatory policies, thereby making the drug approval process in Korea faster and less onerous; and (8) in 1996, an agreement, and in 1997, a policy statement, to ensure equal treatment for foreign goods, services and intellectual property rights protection in telecommunications.

- *Normalization of Trade Relations with the Countries of Indochina.* As a result of the Vietnam era conflict, Cambodia, Laos and Vietnam were three of only seven

countries in the world not to receive normal trade relations (NTR) status from the United States. In 1996, the United States completed a bilateral trade agreement with Cambodia granting it NTR status; in 1997, a bilateral trade agreement and a bilateral investment treaty were concluded with Laos (Congressional approval is still required to grant NTR under the terms of this agreement); and in July 2000, the United States and Vietnam signed a bilateral agreement granting NTR status to Vietnam, with provisions covering market access for goods and services, intellectual property and investment issues. After ratification by the U.S. Congress and the National Assembly of Vietnam, the U.S. - Vietnam agreement went into effect on December 10, 2001.

- *Significant Progress in Protecting Intellectual Property Rights.* Bilateral consultations and negotiations with a number of countries in the region resulted in new commitments to protect intellectual property. USTR's efforts highlight the difficulties in securing both the appropriate legislation and enforcement capabilities necessary to protect substantially all forms of intellectual property in Asia Pacific markets. In 2000, Thailand enacted two TRIPS-related laws (trademark amendments and integrated circuits) following extensive consultations with USTR. The Malaysian Government passed in 2001 landmark legislation to reduce pirated optical media production and export, and has begun implementation of these measures. Korea amended its Copyright Act to address some U.S. concerns and implemented a Special Enforcement Period at the direction of President Kim to reduce software piracy.

- *Enhanced Access for U.S. Agriculture and Processed Food Exports.* The United States has vigilantly utilized WTO procedures and bilateral consultations to reduce Asian and Oceanic restrictions which impede market opportunities for U.S. agriculture and food exporters. In addition to the agriculture-related WTO disputes mentioned elsewhere, resolution of India's balance of payments restrictions resulted in the elimination of quantitative restrictions affecting a broad range of agricultural and processed food products. In Southeast Asia, particularly during the recent economic turmoil and currency volatility, U.S. efforts concentrated on a host of measures which threatened U.S. agriculture exports, including: Philippine arbitrary customs valuation practices; Thai tariff adjustments and import licensing restrictions; Malaysian food standards and certification; and Indonesian tariff adjustments and monopolistic distribution channels.

- *Ensuring that Responses to the Financial Crisis are Market Opening.* USTR worked with Treasury and other agencies to ensure that International Financial Institutions (IFIs) stabilization programs adopted by countries affected by the 1997-1998 financial crisis (including Korea, Indonesia and Thailand) worked to open markets and expand competition. Many aspects of these programs have a direct bearing on trade, in areas such as improved market access, transparency, economic deregulation, attracting investment, and allocating public and private resources based on market disciplines. The United States continues to monitor the trade-related aspects of these programs closely to ensure their effective implementation.

- *Restoring Market Opening Reforms.* Following the 1997-98 financial crisis, many Asian countries adopted much needed reform programs, which were then abandoned during the export boom of

1999-2000. In 2001, the Administration pursued initiatives with many countries in the regon, including Indonesia, Thailand and the Philippines, to highlight the continued need for market-opening reforms.

2001 Activities

The countries in the Asia Pacific region suffered in 2001 from slumping demand worldwide, particularly for key exports such as electronics and information technology (IT) products. As a result of the global downturn, no country in ASEAN expects growth to exceed 3.3 percent for 2001-2.

The United States had a full agenda of specific bilateral impediments that it sought to tackle in the Asia Pacific region in 2001, as described below. It also continues to work regionally, primarily through APEC, to foster concrete movement toward more open markets, as described elsewhere in this report. In addition, it is using the WTO process – both in enforcing existing commitments and in its future work program – to further drive open markets and expand trade in a region that accounts for over half of total U.S. exports. The negotiation of a comprehensive U.S.-Singapore Free Trade Agreement is intended to complement both our regional and multilateral work by serving as a significant step toward realization of APEC's "Bogor Vision," under which APEC's 21 members are working toward "free and open trade in the Pacific" and by underscoring the benefits of further trade liberalization.

1. Australia and New Zealand

Australia's market for agricultural commodities continues to be closed for some products due to sanitary and phytosanitary measures. The U.S. Government has made some progress toward resolution of these issues in recent years. For example, Australia's longstanding import prohibition of U.S. table grapes is advancing toward resolution.

On November 14, 2001, President Bush signed a proclamation to terminate the U.S. safeguard action on lamb meat. The Australia/New Zealand WTO dispute brought against the U.S. safeguard measure was thereby closed.

On October 30, 2001, the New Zealand Government announced that it will legislate a two-year moratorium on the release of genetically modified organisms, except those that provide direct benefits to human or animal health. The U.S. Government has expressed its concerns about the imposition of this moratorium which appears to be inconsistent with New Zealand's avowed policy of regulating these products on a scientific basis. The government did announce that it will lift the 17-month moratorium on new genetically modified field trials. It also intends to clarify its expectation that all research must meet strict safety standards by amending the Hazardous Substances and New Organisms Act to require specific mandatory conditions to be applied to any research approval, which the New Zealand Government claims is necessary to ensure that appropriate environmental and health safeguards are imposed.

2. The Association of Southeast Asian Nations (ASEAN)

The trade and investment relationship between the United States and the members of the Association of Southeast Asian Nations is strong, mature, and mutually beneficial despite the effects of the global economic downturn. U.S. exports to ASEAN in 2001 decreased by an estimated 6 percent (annualized based on the first 11 months of 2001). The now ten-member ASEAN group – comprising Brunei, Burma, Cambodia, Indonesia, Laos, Malaysia, Philippines, Singapore, Thailand, and Vietnam – collectively continues to be the United States' fifth largest trading partner. As such, the United States has an important stake in ASEAN's economic recovery and is committed to working closely with ASEAN as an institution, and with ASEAN member countries individually, to pursue and promote our mutual trade and investment interests.

In 2001, the Administration reinvigorated the U.S.-ASEAN Trade Dialogue, a formal mechanism to advance the trading relationship between the U.S. and ASEAN group a whole. In August, 2001, senior officials of ASEAN member states and the U.S. Government met in Brunei to reinitiate this mechanism.

While ASEAN's gradual expansion over time has added to the association's diversity, it has also posed new challenges, which manifest themselves as more complicated decision-making and the lack of ASEAN solidarity in other fora, such as APEC and the WTO (in which some ASEAN members do not participate). Tensions have also surfaced in terms of individual member's economic difficulties and selective implementation of trade-related initiatives undertaken within ASEAN. In order to ensure that these intra-ASEAN undertakings do not adversely affect U.S. interests, we have stressed the importance that such undertakings be consistent with WTO rules, be taken in the spirit of APEC's goals and principles, and be faithfully implemented if ASEAN hopes to attain its own developmental goals and in order to promote a business and investor-friendly environment.

In 1993, the then-seven members of ASEAN created the ASEAN Free Trade Area (AFTA) as a means to promote regional economic competitiveness and prosperity. The objective of AFTA is to promote trade among ASEAN member countries by gradually eliminating customs duties on intra-ASEAN trade of qualifying products by 2005, with special allowance for sensitive sectors. By agreement, AFTA members decided to accelerate the reduction of tariff cuts under AFTA from 2003 to 2005. Laos and Burma were admitted to ASEAN as full members in July 1997, although these countries have until 2008 to phase in obligations under the AFTA.

ASEAN continues efforts to implement and expand the AFTA by including unprocessed agricultural commodities in the tariff phase-out scheme, and placing greater emphasis on the elimination of non-tariff measures such as customs surcharges and technical barriers to trade. Members also continue to follow the 1999 "ASEAN Vision 2020" declaration in which members resolved, among other things, to continue with full implementation of AFTA, to implement fully the ASEAN Investment Area by 2010, and to achieve the free flow of investment by 2020.

a. Indonesia

i. General

The Indonesian economy remains fragile and in need of significant reforms including corporate governance and the privatization of assets seized by the state during the 1997-98 regional financial crisis. Indonesia's IMF program, initiated in October 1997, was modified in each of the three subsequent years as the economic situation deteriorated. Concerns about the Indonesian Government's ability to follow through with these reforms along with continuing political uncertainty is weakening investor confidence and adding to the serious problems faced by Indonesia's financial and corporate sectors.

Despite the country's tenuous economic situation, the Administration sought to bolster the U.S.-Indonesian trade relationship by convening a Bilateral Trade and Investment Council in September 2001. At that meeting, senior officials met to address several long-standing trade issues such as IPR and market access for U.S. poultry products.

ii. Intellectual Property Rights

In April 2000, USTR removed Indonesia from the Special 301 Priority Watch List, where it had been since 1996, and placed it on the Watch List in recognition of efforts made toward a more effective IPR regime. The Indonesian Government resubmitted draft legislation on trade secrets, industrial designs, patents, trademarks and copyrights in 2000, although this legislation has yet to gain parliamentary approval.

U.S. industry reports continuing problems with IPR issues, including: software, book, video, and VCD piracy; drug and apparel trademark counterfeiting; audiovisual market access barriers; inconsistent enforcement; and an ineffective legal system. Indonesia's amendments to the copyright, patent and trademark laws would not appear to be fully consistent with Indonesia's WTO obligations.

The U.S. Government has raised these issues with Indonesia since 1998, when it presented Indonesia with an IPR work plan (market access, enhanced enforcement, WTO consistency of laws, special juridical arrangements, legal use of software, and increased protection of well-known marks in several company-specific cases). Although the Indonesian Government has yet to take sufficient action on the proposed work plan, it has acknowledged the need for improved enforcement and a broad education program, in addition to the need to bring its statutes into WTO conformity. The U.S. and Indonesian Governments have agreed to work together under the auspices of the bilateral Trade and Investment Council to achieve progress on intellectual property issues in 2002.

b. Malaysia

i. Investment and Services

Malaysia maintains investment limits which predate the mid-1990s financial crisis and which adversely affect the local business and investment climate. In general, Malaysian law requires that business entities include a domestic partner with a minimum 30 percent stake. Banking and other financial services providers face foreign-held equity restrictions, as do suppliers in the wholesale/retail, distribution and multi-level marketing, construction and legal services sectors. U.S. officials will continue to raise concerns over investment restrictions in the distribution services sector and will continue to monitor developments on this issue.

ii. Tariffs

In 1997 and 1998, Malaysia raised tariffs on certain goods from 0 percent in 1996 to current levels of between 5 and 20 percent ad valorem – still within its WTO-bound commitments. The products affected include some types of heavy machinery and construction equipment, automobiles, motorcycles, and home appliances. Malaysia reduced tariffs for information technology products covered by the Information Technology Agreement (ITA), under which most of its tariffs were bound at zero by 2000.

iii. Local Content-Related Investment Incentives

Malaysia has taken a number of steps which confer tax benefits, based on the amount of locally produced parts or inputs utilized, in order to promote the development of domestic automobile manufacturers under its "national automobile" program. As required by the WTO Agreement on Trade-Related Investment Measures, Malaysia's various incentives for local production were to have been eliminated by January 1, 2000. However, in late 1999, Malaysia notified WTO members of its desire to obtain a two-year extension of its auto-related measures. In October 2001, WTO members, including the United States, reached an agreement with Malaysia to allow an extension of these measures through December 2003.

iv. Intellectual Property Rights

USTR conducted a Special 301 out-of-cycle review of Malaysia's intellectual property practices in September 2001 and decided to remove Malaysia from the Priority Watch List following the passage and initial implementation of new optical disc (OD) legislation designed to reduce pirated optical media production and export. The United States will continue to encourage the Malaysian Government to fully implement the enforcement provisions of this legislation.

c. Philippines

i. Market Access Issues

In 2000, the Philippines passed a new safeguard law. Although no action has been taken under this law, the U.S. Government and U.S. industry have serious concerns with its provisions. The legislation does not give foreign producers a meaningful opportunity to defend their interests. In addition, the prerequisites for imposition of provisional relief appear to be lower than the requirements contained in the WTO Safeguards Agreement. The U.S. Government has raised its concerns with the Philippine Government over this law and will take appropriate steps, as necessary, if the Philippine Government takes safeguard actions against U.S. firms.

ii. Intellectual Property Rights

The protection of IPR continues to be hampered by the lack of a political commitment from the Philippine Government to implement existing laws, to dedicate the necessary resources to law enforcement, and to stress publicly the need for consistent protection of intellectual property rights. While a comprehensive 1997 law on IPR represented a significant step toward implementation of the Philippines' commitments under the WTO TRIPS Agreement, several provisions of the law remain of concern, including provisions governing the circumstances under which decompilation of software programs is permissible, *ex parte* search and seizure, and restrictions on technology licensing arrangements. The United States also continues to monitor Philippine enforcement efforts and judicial efficiency. As a result of these concerns, the U.S. Government elevated the Philippines to the Special 301 Priority Watch List in 2001.

iii. Customs

On March 31, 2000, the Philippine Government ended a problematic pre-shipment inspection services contract with Swiss Societe Generale De Surveillance, but during 2001 an influential minority in the Philippine business community pressed the Philippine Government for a return to this practice. The U.S. Government has expressed its opposition to a return to a pre-shipment inspection regime that does not strictly adhere to the WTO Customs Valuation Agreement, and will closely monitor further developments on this issue.

iv. Local Content-Related Investment Incentives

As required by the WTO Agreement on Trade-Related Investment Measures, the Philippines' local content-related measures in the automobile sector were slated for elimination by January 1, 2000. In October 1999, the Philippines requested a five-year extension of these measures. After extensive consultations with the Philippines, the United States filed a dispute settlement case with the WTO in 2000, and in October 2001, USTR secured the Philippines' agreement to submit to a phase-out program that will eliminate local-content requirements in its automobile sector by June 30, 2003.

d. Singapore

In November 2000, the United States and Singapore announced the launch of negotiations for a U.S.-Singapore Free Trade Agreement (FTA). This agreement is expected to have significant commercial benefits, as Singapore is our largest trading partner in Southeast Asia, with two-way trade in goods and services totaling more than $40 billion. In negotiating this agreement, the United States is seeking to eliminate tariffs on substantially all goods over time, obtain substantial sectoral coverage in services, help develop electronic commerce, protect intellectual property rights (IPR), and achieve other bilateral trade objectives. The agreement also will include provisions on labor and the environment.

While the United States and Singapore are discussing IPR in the context of the FTA negotiations, this area has been a longstanding concern for the United States. Singapore readily

acknowledges that enhanced IPR regulation and enforcement is necessary to achieve its goal of becoming a "knowledge-based economy." The creation of mobile IPR units in 2000 has increased the Singaporean Government's ability to conduct raids on major centers of distribution for pirated products. In addition, the Government of Singapore's efforts to promote a "code of conduct" for local manufacturers of optical disks in order to improve the performance of its domestic industry has helped to focus attention on the growing problem of piracy of CDs, VCDs, and CD-ROMs. The U.S. Government recognized this progress in 2001 by removing Singapore from the Special 301 Watch List.

e. Thailand

i. Intellectual Property Rights

In recent years, Thailand's commitment to effective IPR protection has been uneven, as evidenced by growing piracy rates and inconsistent coordination between enforcement authorities. Despite some progress on the legislative front in 2000, by the end of 2001, many key statutes remained pending before the Thai legislature, including promising legislation on optical media piracy and the protection of business trade data. Recognizing the increasing problem of pirate optical media production in Thailand, U.S. copyright industries petitioned USTR in 2001 to suspend or remove Thailand's benefits under the Generalized System of Preferences until such time as the Thai Government moved to significantly improve IPR protection. With the expiration of GSP at the end of 2001, the industry request was suspended. At such time as GSP is reauthorized, USTR will further consider the request. The Thai Government has begun to make progress, but more remains to be done to ensure sustained enforcement efforts.

ii. Market Access Issues

Thailand's applied tariffs are generally higher than many of its neighbors. As a signatory to the Information Technology Agreement (ITA), effective January 2000, Thailand eliminated tariffs on 153 information technology-related products pursuant to its obligations. The Thai Government, however, continues to require that certificates of origin accompany ITA products through Thai Customs. Thailand is the only ITA member to require such certification, a practice that appears to violate the ITA Agreement. The U.S. Government has repeatedly raised its serious concerns about this practice 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 fifteen percent higher than in 2001, a nine percent increase in recognition of Cambodia's progress in reforming labor conditions in textile factories over the last three years, in addition to the normal increase in quotas of six percent.

The nine percent increase for 2002 reflects Cambodia's progress towards ensuring that working conditions in its garment sector are in "substantial compliance" with internationally recognized labor standards and provisions of Cambodia's labor law, and follows recent formal U.S.- Cambodian labor consultations. The International Labor Organization (ILO) also has two projects underway assisting Cambodia with the implementation of its labor law.

As in the original agreement, Cambodia will be 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 agreed to increase this potential quota reward for full compliance from 14 to 18 percent. The United States and Cambodia will keep working conditions in the Cambodian garment sector under ongoing review,

and will conduct two rounds of labor consultations in 2002, as provided for in 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, concluding a four-year negotiation to normalize trade relations. Upon implementation, the agreement grants 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 agreement also commits Vietnam to sweeping economic reforms, which will create trade and investment opportunities for both U.S. and Vietnamese companies, and will lay the foundation for a new American relationship with Vietnam.

Under U.S. law, 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 this agreement, and its subsequent approval by Congress has 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 Agreement 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 Agreement. Congress approved the Agreement on October 3, 2001 and the President signed the legislation approving the Agreement on October 16, 2001. The National Assembly of Vietnam approved the resolution ratifying the Agreement 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 Agreement. Thus, in accordance with the terms of the Agreement, NTR tariff treatment for products of Vietnam became effective on December 10, 2001.

The trade agreement commits Vietnam to opening its market and moving toward adoption of WTO and international norms. The agreement has five major sections:

1. *Market Access for Agricultural and Industrial Goods.* Vietnam has made significant commitments across a wide range of industries. It will grant trading rights (the right to import and export) to all Vietnamese and U.S. persons and firms; lower tariffs on hundreds of categories of industrial goods and farm products of interest to U.S. exporters; phase-out all non-tariff measures; and adhere to WTO standards in applying customs, import licensing, state trading, technical standards and sanitary and phytosanitary measures.

2. *Intellectual Property Rights.* Vietnam will adopt the WTO "TRIPS" standard for intellectual property protection (e.g., in the area of copyrights, patents, and trademarks) in 18 months or less, and will take further measures in several other areas not covered by the TRIPS Agreement (e.g., protection of satellite signals).

3. *Market Access for Services.* Vietnam will allow U.S. persons and firms to enter its services market in a broad array of areas, including financial services (insurance and banking), telecommunications services, distribution services, audiovisual services, as well as other sectors. These commitments are phased in, typically within three to five years.

4. *Investment.* Vietnam will protect U.S.

investments from expropriation, eliminate its "Trade Related Investment Measures," and phase out its investment licensing regime for many sectors, as well as modernize its investment regime in other areas.

5. *Transparency*: Vietnam has agreed to adopt a fully transparent regime in each of the four areas above, by publishing all laws, regulations and rules; submitting them for public comment in advance; and giving U.S. citizens the right to appeal rulings made with respect to all such laws and regulations.

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, the IMF negotiated a macroeconomic stabilization package with the Korean Government when the value of the won depreciated dramatically due to a large outflow of foreign investment. The stabilization package for Korea included credit from the IMF, the World Bank, and the Asian Development Bank.

The stabilization plan focused on: (1) restructuring the financial and corporate sectors to make them more market-driven, efficient, transparent, and open to foreign investment; and (2) eliminating trade- and competition-distorting policies. Korea's trade-related reforms included early elimination of WTO-prohibited export and domestic content subsidies and the import diversification program (which prohibited many Japanese imports) and a reduction in the number of products subject to tariff adjustments, or snapbacks. Korea also agreed to liberalize its import licensing and certification procedures and to bind its OECD financial services market access commitments in the WTO.

The Korean Government made progress on implementing some of its reform commitments during the past four years, particularly in the financial sector, by rationalizing and recapitalizing its banks, and by consolidating regulatory authority over the financial sector in a new, independent Financial Supervisory Commission. However, 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. Korean authorities are seeking to further strengthen commercial bank balance sheets and restructure merchant banks, investment trust companies and the insurance industry.

With respect to changes in corporate practices, Korea is in the process of implementing international standards on accounting practices, including corporate activities on a consolidated basis, and has provided for the appointment of outside directors on corporate boards. The rights of small shareholders have been strengthened, while restrictions on foreign participation have been eased and bankruptcy laws have been strengthened. In 2001, the Korean Government announced that it would relax restrictions on corporate ownership and implemented the Corporate Restructuring Promotion Act, both of which have raised some concerns on the part of foreign firms.

Many of the systemic reforms that President Kim Dae Jung laid out for Korea have yet to be implemented. The U.S. Government has noted in representations to the Korean Government that for restructuring to be considered meaningful: (1) it must yield efficient, market-driven companies; and (2) the process through which it is carried out must be open, transparent, and treat foreign creditors equitably, and comport with Korea's international obligations.

The fiscal, monetary, and restructuring policies laid out by the Kim Administration have contributed to a resumption of foreign and domestic consumer confidence in Korea's economy. In 2000, Korea's economy grew by more than 9 percent and growth in 2001 was about 2.6 percent, despite the global downturn. The United States ran a bilateral trade deficit with Korea of $12.5 billion in 2000, and the deficit in 2001 is expected to be higher.

Despite their differences over a wide range of bilateral trade issues, the United States and Korea cooperated effectively in regional and multilateral fora. Their cooperative efforts helped lead to the successful launch of new multilateral trade negotiations at the Doha Ministerial in November.

b. OECD

In late 1996, the Korean National Assembly ratified Korea's accession to the OECD. Given Korea's membership in the OECD, the United States expects Korea to implement its WTO commitments and to negotiate in the new round of multilateral trade negotiations as a *developed* country, including in the area of agriculture.

In addition, the United States underscored the need for Korean regulations and other rules, and the officials who administer them, to reflect the free and open trade and investment policy that Korean President Kim Dae Jung has embraced. Among the specific areas of concern flagged by the United States in this review were Korean policies on motor vehicles, pharmaceuticals, telecommunications, *chaebol* reform, import clearance procedures, foreign equity restrictions, and customs classification and border treatment.

In September 2000, the OECD Trade Policy Review Body reviewed Korea's trade policies. The report noted the progress the Korean Government had made over the past few years in instituting market-based reforms, which helped pave the way for the recovery of the Korean economy following the financial crisis. However, the United States and Korea's other trading partners highlighted areas where additional progress is required. Among these were Korean Government policies on privatization and *chaebol* reform, motor vehicles, pharmaceuticals, telecommunications, agriculture, intellectual property protection, import clearance procedures, foreign equity restrictions, subsidies, and labor rules.

c. 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 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.

At the most recent MOU review, held in September 2001, the United States and Korea held consultations to assess the progress under the agreement and to discuss additional steps Korea will take to implement this agreement. While the Korean Government has implemented many of the specific provisions of the MOU, the U.S. Government remains concerned about the lack of substantial increases in market access for foreign motor vehicles in Korea. The share of foreign vehicles in the Korean market remains at well

under one percent as a result of high taxes and tariffs, and continuing anti-import sentiments among many Korean consumers, as well as standards and certification issues.

The United States has made specific proposals for addressing these concerns and achieving further progress under the agreement. Among these were proposals for Korean Government action to improve the generally negative perception of foreign vehicles among Korean citizens, which are largely the result of successive Korean Government policies that discouraged the purchase of foreign autos. The U.S. Government also made specific proposals on outstanding standards and certification, financing, and tax and tariff issues.

In November 2001, the Korean Government reduced one auto-related consumption tax through June 2002, which may have a positive effect on foreign auto sales. In addition, 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. President Kim publicly urged Koreans to buy more foreign products, including autos, and the Korean Government will purchase 100 imported cars for its Police Agency fleet over the next two years. Nonetheless, it has refused to lower tariffs, despite its own study that showed that doing so would lead to significant increases in foreign car sales.

d. Steel

A discussion of the overall situation facing the steel industry in the United States and the initiatives of the Administration during 2001 is contained in Chapter V of this report.

e. Pharmaceuticals

U.S. concerns regarding pharmaceuticals trade relate to three baskets of issues: (1) listing and pricing on Korea's national health insurance reimbursement schedule, and associated hospital margins and administrative procedures that limit the commercial distribution of foreign-made pharmaceuticals; (2) protection of intellectual property rights, particularly protection of clinical data and patents; and (3) regulatory requirements, particularly on acceptance of foreign and clinical test data and approval of new drugs.

In 1999, the Korean Government took a number of steps to address U.S. concerns in this sector. Since then, the U.S. Government has been closely monitoring Korea's implementation of these changes. The United States has urged Korea to take steps to ensure full implementation and enforcement of the Actual Transaction Price (ATP) system whereby both imported and domestically-manufactured pharmaceuticals are reimbursed without hospital margins (such margins had previously benefitted only Korean-produced drugs). The Korean Government has recently suggested that it is considering changes to the ATP system and other aspects of its pharmaceutical pricing system. The U.S. Government has strongly urged Korea to ensure that any changes do not undermine the agreements the two governments have reached on this issue or lead to a distortion of the incentives needed to promote innovation and the availability of innovative pharmaceutical products.

To speed the introduction of innovative drugs into Korea, the U.S. Government has underscored the need for Korea to improve market access for foreign pharmaceuticals by eliminating requirements for redundant clinical test data in the drug approval process. USTR also continues to press Korea to implement international guidelines by adopting tests for bio-equivalency that are based on global scientific standards. In addition, the U.S. Government continues to encourage Korea to accept foreign clinical test data, and has urged Korea to apply requirements for bridging studies based on International Conference on Harmonization (ICH) and global scientific studies.

f. Intellectual Property Rights

USTR placed Korea on the Special 301 Priority Watch List in 2000 as a result of serious concerns

over legal protection and enforcement of intellectual property rights (IPR). While some progress has been made, the U.S. Government and U.S. industry remain concerned about enforcement by the Korean Government of Korea's IPR laws.

In 2000, the Korean National Assembly passed amendments to laws on protection of copyrighted works, including computer programs, which addressed some U.S. Government concerns, but outstanding issues remain. The U.S. Government raised these issues in detail with Korea on numerous occasions in 2001. It also raised the failure to provide full protection for pre-existing copyrighted works as required under the TRIPS Agreement. 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 test data against unfair commercial use and disclosure, and on protection of copyrights. Issues related to Korea's WTO consistency must be resolved before concluding a Bilateral Investment Treaty (BIT).

The United States also continues to monitor Korea's implementation of an amendment to the Pharmaceutical Affairs Act in January 2000, which provides for the protection of data submitted to the Korean Government when the submitting company requests such protection. The U.S. Government also remains concerned about the lack of coordination between the Korea Food and Drug Administration (KFDA) and intellectual property (KIPO) officials, which allow products that infringe existing patents to be approved for marketing.

g. Telecommunications

The Korean Government raised foreign investment limits in telecommunications services companies (other than Korea Telecom) from 33 percent to 49 percent in April 1999, 18 months sooner than its WTO commitment. The limit on foreign investment in Korea Telecom was increased from 20 percent to 33 percent in September 1999, and the Korean Government announced in September 2000 that it would ask the Korean National Assembly to revise the Telecommunications Business Act to increase the foreign ownership ceiling to 49 percent. The United States has urged Korea to eliminate all investment restrictions in this sector, which limit Korea's ability to introduce the infrastructure necessary to develop its telecommunications sector.

Continued Korean Government intervention in the private sector's selection of technologies and interference with private sector negotiations involving foreign licensing and tecnology transfers remained a U.S. concern in 2001. 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 encountered 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 over the past few years. By limiting competition in the Korean telecommunications market, the Korean Government also is hampering the ability of Korean firms to develop state-of-the-art, globally competitive products. The U.S. Government will continue to raise these concerns with the Korean Government.

h. 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.

i. 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 early 2001, the state-run Korea Development Bank (KDB) issued a special one-year bond obligation and most of the seven firms which have received benefits under the program have been Hyundai affiliates, with the KDB purchases of Hynix bonds totaling more than $700 million. In May, Korean state-owned and state-controlled banks and several investment trust companies provided additional assistance to Hynix under a complex refinancing agreement. In the fall, at the instigation of the partially state-owned Korea Exchange Bank (KEB), Hynix's creditors agreed to a new $4 billion bailout. Still later last year, the KEB organized yet another $7 billion debt restructuring package among Hynix creditors and approximately $500 million in new loans. A collection of investment trust companies also apparently rolled over around $900 million in loans for three years.

The U.S. Government raised its concerns on this issue at the two regular meetings of the WTO Subsidies Committee last year. It has drawn Korea's attention to its obligations under the Subsidies Agreement not to provide subsidies that may cause adverse effects to other WTO Members and has pointed out the questionable consistency of these interventions with the spirit of Korea's financial and market reform commitments. At the second meeting, U.S. objections were echoed by the European Union, while Japan and Singapore also expressed interest and concern regarding the situation. In addition, senior U.S. officials have raised this issue in meetings with officials at the highest levels of the Korean Government. By year's end, Micron had entered into talks with Hynix to explore the possibilities of a merger or buy-out arrangement that could result in the rationalizing the two firms' chipmaking operations. The U.S. Government will continue to watch the situation closely and, if no market-based solution is found, will take appropriate action.

j. 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 or reduced until the domestic market share for Korean films maintains a 40-percent level.

k. Bilateral Investment Treaty

In 2001, the U.S. Government sought further progress in negotiations with Korea on a BIT 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 key issues remain 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.

l. 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. However, the new regulations are extremely vague, and as a result, since their implementation, only 18 U.S. products have been approved for sale in Korea out of more than 600 applications. The U.S. Government has repeatedly raised its concerns with Korea and both the United States and the EU are considering next steps to resolve this issue.

m. Agriculture

Beef: To address longstanding impediments to the entry and distribution of foreign beef, on February 1, 1999, the U.S. Government requested WTO dispute settlement consultations. Australia also requested formation of a panel on Korea's beef measures and the U.S. and Australian panels were eventually joined. Canada and New Zealand participated in the panel process as third parties.

The U.S. complaint focused on Korea's: (1) requirements that imported beef be sold only in specialized imported beef stores and Korean laws and regulations restricting the resale and distribution of imported beef by SBS super-groups, retailers, customers, and end-users; (2) a discretionary import licensing regime; (3) imposition of duties and charges in the form of a markup, which is not provided for in Schedule LX; and (4) failure to fulfill its WTO reduction commitment for domestic support.

The United States prevailed in the case against Korea, with the WTO panel concluding in July 2000 that Korea's import regime for beef discriminates against imports of beef from the United States and other foreign countries. Korea filed an appeal of the case in September; and in December 2000 the Appellate Body report affirmed the key findings of the WTO panel. In September 2001, Korea passed legislation to bring its measures into compliance with WTO rules. The U.S. Government is continuing to monitor implementation of the new laws by central and local government authorities.

In October 2000, the Korean Government passed a rule of origin requiring that cattle must be in the United States for at least six months prior to slaughter in order to be considered U.S beef when exported to Korea. The requirement was to go into effect at the beginning of 2001. The U.S. Government raised strong concerns about the new requirement and its likely impact on U.S. beef exports to Korea, a key market for U.S. beef exporters. Korea agreed to delay implementation of the new requirement for one year to study U.S. concerns. On December 2001, the Korean Government eliminated the residency requirement.

The U.S. Government has also sought changes to Korean regulations prohibiting the freezing of meat sold "fresh" or "chilled" or the thawing of meats sold as "frozen." Freezing of fresh or chilled meat is commonly practiced in the United States and many other markets to ensure product wholesomeness, especially when the meat must be transported lengthy distances, and U.S. regulations allow for freezing of fresh or chilled beef as long as the meat is properly labeled and appropriately handled. The Korean Government is reviewing U.S. regulations regarding this issue and actively considering changes to its regulations.

Rice: The Korean Government purchased U.S. rice for the first time in 2001. In addition, in December, the Ministry of Agriculture announced a plan for the stabilization of the rice industry, emphasizing compensation to farmers for shifting production to alternative crops, an important first step toward reform of Korea's rice market.

However, the Korean Government continues to exercise full control over the purchase, distribution, and end-use of imported rice. The state trading enterprises that administer the WTO-mandated minimum access program continue to purchase only low-quality Asian rice, as Korean law forbids the use of imported rice for purposes other than industrial or processing uses, severely impeding imports of high quality U.S. rice.

Oranges: The Cheju Citrus Cooperative, a Korean producer group, has controlled the allocation of the in-quota quantity of Korea's orange tariff-rate quota (TRQ). In the past, Cheju

has filled the quota, with most of the imports coming from the United States. During the past three years, however, the quota was not filled. The United States will continue to actively engage Korea on this issue to ensure its full compliance with its WTO obligations on citrus.

Croaker: Korea's application of prohibitively high adjusted tariffs to croaker significantly limits U.S. exports of the fish species to Korea, which is the largest per capita consumer of croaker in the world. Only joint ventures with Korean importers (with a minimum of 49 percent Korean ownership) are eligible to export croaker to Korea at a zero tariff rate. Korea's market for croaker was closed until 1997, when the Government introduced a 90 percent adjustment tariff. Since 1997, in accordance with the requirements of its IMF stabilization package, the Korean Government has reduced the number of items that qualify for adjusted tariff protection. Of the remaining 27 items, however, 14 are seafood products, including croaker.

The U.S. Government has urged Korea to eliminate or reduce its tariff on croaker. The Korean Government reduced the tariff by 10 percent each year for each of the last three years, to 70 percent in early 2001. However, in late 2001, the Korean Government failed to include further reductions for 2002. The United States will continue to press Korea to phase out these tariffs.

Potato Preparations: The Korea Customs Service's (KCS) repeated misclassification and change in border treatment of potato preparations has hampered U.S. exports of these products to the Korean market. Potato preparations should enter Korea in the unrestricted HS heading 2005 with a current applied tariff rate of 20 percent and a bound rate of 31.5 percent. Instead, Korea has been classifying these products in the more restrictive HS heading 1105 (pure potato), with an in-quota quantity of 60 metric tons and an over-quota tariff rate in excess of 300 percent. The U.S. Government will continue to urge Korea to take steps to resolve this issue.

Agricultural Tariffs: In 1999, the U.S. Government discovered a discrepancy between Korea's applied tariff rates on several agriculture items – peanuts, popcorn, potato flour, potato flakes, and wheat and soybean meal – and its WTO bindings and tariff commitments made to the United States in a 1993 U.S.-Korean Record of Understanding and a February 1994 exchange of letters. In February 1999, U.S. Embassy officials in Seoul brought these discrepancies to the attention of the Korean Government. The Korean Government adjusted the in-quota tariff rates of potato flour, potato flakes, and peanuts effective January 1, 2000. The U.S. Government will continue to press Korea to bring duties on the remaining agricultural products into compliance with Korea's WTO and bilateral commitments.

Biotech Labeling Requirements: In July 2001, the Korean Government began imposing new mandatory biotech labeling and identity preservation requirements for processed foods containing soy or corn products, which are to be extended to products containing potato products in mid-2002. These requirements were probationary until January 13, 2002, when the requirements were to be finalized and penalties imposed for non-compliance.

According to U.S. industry, the requirements are extremely burdensome and have disrupted U.S. exports of processed foods. The U.S. and other foreign governments have repeatedly raised concerns about the new requirements, including the documentation requirements, whether the Korean Government has met its transparency and notification obligations, and national treatment and MFN issues.

The U.S. Government is continuing to urge the Korean Government to consider whether the requirements appear to be more burdensome than necessary to achieve the goal of providing consumers clear information. The U.S. Government is continuing to urge the Korean Government to amend the requirements and will consider further action, as appropriate, to address this issue.

n. 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 by: (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; (4) beginning revisions of the Korean Food and Food Additives Codes, for example, by bringing Korean pesticide residue level standards for citrus into conformity with CODEX standards; and (5) requiring ingredient listing by percentage for major, rather than all, ingredients. In 2000, the KFDA issued revisions to the Food Code, the Food Additives Code, and Labeling Standards for Food. However, additional work will be needed to bring Korea's Food and Food Additives Codes into conformity with international standards, specifically those related to chocolate and food additives.

U.S. firms continue to experience problems with import clearance in Korea. The U.S. Government has sought to expand access for a number of cherry varieties to the Korean market, but the Korean Government has provided no response to U.S. proposals for mitigation measures. The United States will continue to urge the Korean Government to address this issue. However, the Korean Government has initiated the domestic legal process necessary to revise its regulations and recognize U.S. industry fumigation for shelled walnuts. Currently, U.S. walnut exporters are required to conduct redundant fumigation on walnuts, causing processing delays and significantly raising costs.

4. India

a. General

The U.S. and India continued to make progress in developing a constructive long-term trade relationship. To this end, in August 2001, U.S. Trade Representative Robert B. Zoellick was the first member of President Bush's Cabinet and the first USTR to visit India in more than ten years. Important events during the year included the elimination of India's remaining balance of payment-related quantitative restrictions and a U.S. victory in its WTO challenge to India's automotive TRIMS regime. However, India continues to limit market access in various areas, including through the application of soda ash import restrictions, minimum reference prices on steel 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 (this had been established in the Clinton Administration). The TPWG will facilitate regular consultations on the range of trade issues between the United States and India.

c. WTO Balance of Payments Case

The United States prevailed in its WTO challenge to India's Balance of Payments (BOP) trade regime, leading India to eliminate bans, restrictive licensing, and other quantitative restrictions (QRs) on imports of industrial, textile, and agricultural products for the first time in 50 years. In 1999, BOP restrictions applied to approximately 15 percent of India's tariff lines. Virtually all consumer goods were affected, as were many agricultural, textile, and petroleum-related products.

In 1997, during India's consultation with the WTO Committee on Balance of Payments Restrictions, the International Monetary Fund stated that India no longer had a BOP crisis necessitating recourse to the GATT BOP exception. However, India insisted on at least six years to remove the BOP QRs. Following unsuccessful settlement talks with India, the United States initiated dispute settlement proceedings against India in 1997. The WTO panel issued its final report in April 1999

affirming the U.S. contention that these measures were inconsistent with India's WTO commitments. India appealed the decision but the Appellate Body rejected India's claim that its balance of payments situation justified import restrictions.

On December 28, 1999, the United States and India reached an agreement to lift these restrictions. Under the agreement, India eliminated one-half, or 714, of its 1,429 QRs on March 31, 2000. Restrictions on the remaining 715 items were eliminated by April 1, 2001. Eliminating these restrictions offers new market access opportunities for U.S. producers in key sectors such as textiles, agriculture, consumer goods, and a wide variety of manufactured products. India had previously reached agreements with the EU, Japan, and other trading partners to remove these restrictions by April 2003. The agreement with the United States advanced that time table by two years.

d. Intellectual Property Rights and the WTO TRIPS Mail Box

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 to 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 2000, but remains mired in Committee nearly one year past its original submission to Parliament. Even should the bill eventually pass, several provisions still appear to be inconsistent with the TRIPS Agreement.

In April 1999, the United States and India resolved the WTO dispute brought by the United States regarding India's implementation of Articles 70.8 and 70.9 of the TRIPS Agreement. Through the enactment of the Patents (Amendment) Act 1999 and its accompanying regulations, India established a mechanism for the filing of so-called "mailbox" patent applications and a system for granting exclusive marketing rights for pharmaceutical and agricultural chemical products.

e. 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.

On 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.

f. GSP

In December 1998, the United States accepted the petition of the American Natural Soda Ash Corporation (ANSAC) to withdraw, suspend or limit the application of GSP treatment to Indian imports. The subcommittee accepted the petition because of the lack of market access in the Indian market stemming from the injunction of the Indian Monopolies and Restrictive Trade Practices Commission barring ANSAC imports. In India's FY1999-2000 budget, it raised the import tariff on soda ash to 38.5 percent, the highest import tariff on soda ash in the world. Coupled with other excise taxes and charges, importers faced levies of nearly 70 percent at the border. A public hearing was held on March 23, 1999.

On February 28, 2001, as part of the FY2001-2002 budget, the Government of India announced a reduction in the duty on soda ash to 20 percent. When coupled with reduced excise taxes and charges, the aggregate border levy was reduced to about 45 percent. Discussions between the U.S. and Indian Government on the injunction barring ANSAC imports (but not imports from individual ANSAC members) continued in 2001 and are ongoing.

g. Reference Pricing

In December 1998, three weeks after imposing antidumping duties on certain steel products, the Government of India established minimum reference prices for certain other imported steel products: hot-rolled steel coils, cold rolled steel coils, hot-rolled sheets, and alloy steel bars and rods. Under this regime, India prohibits the import of these products when the import values are below the established minimum price. India had noted that the regime was adopted to discourage dumping. U.S. industry is concerned that this practice, which violates India's obligations under the Customs Valuation Agreement, could divert imports to the United States.

Minimum prices on steel were withdrawn on January 1, 2000, for primary products but still apply to secondary merchandise. In the spring of 2000, the Indian steel industry challenged the Indian Government's elimination of the regime for primary products. The Supreme Court of India reinstated the regime for these products while it considers the petitioner's claim. To date, the Supreme Court has not issued a final decision and the regime remains in place for both primary and secondary products. The U.S. Government is evaluating the appropriate response to this situation.

h. Other Import Barriers

Throughout the year, USTR and the interagency community worked with the U.S. Congress and U.S. industry to address a variety of measures which impede U.S.-India trade. These measures include longstanding issues, including high tariff and non-tariff barriers to the Indian market for U.S. textile and agricultural products and other, newer measures that have appeared as India has eliminated its regime of BOP-related quantitative restrictions.

5. People's Republic of China

Overview

Our China trade policy goals have been to open China's markets to American exports, support Chinese domestic economic reform, and integrate China into the Pacific and world economies. We have used a variety of means to achieve these goals, including commercially meaningful agreements that create opportunities for Americans. These efforts culminated in the accession of China to the WTO in December 2001, which followed the formal approval of China's accession agreement by WTO Ministers at Doha, Qatar, in November 2001, ending 15 years of often intense and difficult negotiations in which the United States had taken a leading role among WTO members.

To realize the full benefits of China's WTO accession requires extensive monitoring and

enforcement. We have put into place a comprehensive interagency monitoring effort and are prepared to use our trade laws to secure compliance, where necessary. China's status as a WTO member will provide new means and focus for U.S. efforts. We will benefit from the multilateral monitoring efforts mandated by China's terms of accession through which we will be able to work with 142 other WTO members instead of acting alone when addressing compliance problems. We can also use WTO dispute settlement where necessary.

2001 Activities

In 2001, the United States played a key role in negotiating the multilateral portion of China's WTO accession, achieving important concessions in areas of interest to U.S. firms. Upon China's accession, an expert group was formed under the TPSC in Washington and a WTO Coordination Committee was established within the Mission in Beijing to monitor China's implementation of its commitments. The Departments of Commerce and State continued to devote considerable resources to building an understanding among the Chinese of China's WTO obligations.

China's accession to the WTO in December 2001 was facilitated by two key events, the historic U.S.-China bilateral market access agreement reached in November 1999 and the subsequent enactment in October 2000 of legislation permitting the grant of permanent normal trade relations (PNTR) to China. Building upon a record of bipartisan Congressional support for a market-opening China trade policy, the PNTR legislation authorized the President to terminate application of Section 402 of the 1974 Trade Act (the Jackson-Vanik Amendment), which had mandated annual reviews of China's receipt of normal trade relations treatment, and to grant China PNTR treatment if the President could certify that the final terms of China's accession were at least equivalent to those agreed bilaterally between the United States and China in November 1999. The President issued his report on certification in November 2001, and his subsequent proclamation granting PNTR status to China became effective January 1, 2002.

a. WTO Accession

i. Background

In July of 1986, China applied for admission to the General Agreement on Tariffs and Trade (GATT 1947). The GATT formed a Working Party in March of 1987, composed of all interested GATT contracting parties, to examine China's application and negotiate terms for China's accession. For the next eight years, negotiations were conducted under the auspices of the GATT Working Party. Following the formation of the WTO on January 1, 1995, a WTO Working Party, composed of all interested WTO members, took over the negotiations.

Like all GATT and WTO accession negotiations, the negotiations with China had three basic aspects. First, China provided information to the Working Party regarding its trade regime. China also updated this information periodically during the 15 years of negotiations to reflect changes in its trade regime. Second, each interested WTO member negotiated bilaterally with China regarding market access concessions and commitments in the goods and services areas, including, for example, the tariffs on industrial and agricultural goods and the commitments that China is making to open up its market to foreign services suppliers. The most trade liberalizing of the concessions and commitments obtained through these bilateral negotiations were consolidated into China's Goods and Services Schedules and now apply to all WTO members. Third, overlapping in time with these bilateral negotiations, China engaged in multilateral negotiations with Working Party members on the rules that govern trade with China. The rules commitments made by China in this area are set forth in its Protocol of Accession and an accompanying Report of the Working Party.

With its accession to the WTO, China is implementing significant changes to its trade

regime, at all levels of government. Although it has been gradually transitioning toward a market economy from what had been a strict command economy two decades ago, China has now taken on the far-reaching obligations of the WTO, a rules-based system that requires its members to operate with openness and transparency and stresses the central role of markets and private enterprise.

In order to accede to the WTO, China has committed to undertake important systemic reforms, which should facilitate business dealings. China has also committed to take concrete steps to remove trade barriers and open its markets to foreign companies and their exports from the first day of accession in virtually every product sector and for a wide range of services. Supporting these steps, China has also committed to eliminate or significantly reduce restrictions on the rights of foreign companies to import and export goods and to distribute goods within China, and it has further committed to rectify numerous trade-distortive industrial and agricultural policies.

The openness, accountability and changes required by China's commitments should strengthen and accelerate the achievement of China's economic reform goals. China's ministries and agencies will transition out of their old role of directing and controlling how and with whom Chinese enterprises do business. Increasingly, they will need to focus on the implementation and enforcement of laws, regulations and other measures that will help to promote the smooth functioning of markets. Meanwhile, State-owned enterprises will face greater accountability for their business decisions, and together with other Chinese enterprises they will face the full forces of global competition for the first time.

ii. Systemic Reforms

China committed to implementing broad reforms in the areas of transparency, notice and comment, uniform application of laws and judicial review. Each of these reforms will strengthen the rule of law in China and help to address practices that have made it difficult for U.S. and other foreign companies to do business in China.

iii. Adherence to Existing Multilateral WTO Agreements

As a WTO member, China assumes the obligations of more than 20 existing multilateral WTO agreements covering all areas of trade, with only minimal transition periods, where necessary. Consequently, China will be taking on the obligations of the GATT, the WTO agreement that lays down core principles, such as non-discrimination and national treatment, that constrain and guide national trade policies as well as other WTO agreements, such as those governing agriculture, sanitary and phytosanitary measures, technical barriers to trade, trade-related investment measures (TRIMS), trade-related intellectual property rights (TRIPS), services (GATS), subsidies, import licensing, rules of origin, customs valuation and preshipment inspection.

iv. China-Specific Trade-Liberalizing Commitments

China's accession agreement also includes numerous China-specific trade-liberalizing commitments. One of the most significant of these commitments involves trading rights. Prior to its accession, China restricted the number of companies with trading rights, *i.e*, the right to import and export goods, and the products that a particular company can import or export. China agreed to phase-in trading rights, so that all enterprises in China and all foreign enterprises and individuals will have full trading rights within three years after accession.

Perhaps equally significant is China's commitment regarding distribution services. Prior to its accession, China generally did not permit foreign companies to distribute products through wholesale and retail systems in China or to provide related distribution services, such as repair and maintenance services. China agreed to

phase-out these prohibitions over three years, subject to limited exceptions.

China also committed to the phase-out of trade-distortive non-tariff measures (NTMs), such as quotas and licenses, covering hundreds of products. Most of these NTMs must be eliminated upon accession, while the remainder of them must be eliminated within three years after accession.

China further committed to the elimination of import monopolies maintained by State trading enterprises in China on many industrial goods upon accession. It must also provide full information on the pricing mechanisms of state trading enterprises, to limit the mark-up on goods that they import in order to avoid trade distortions and otherwise to ensure that their import purchasing procedures are transparent and fully in compliance with WTO rules.

China's accession agreement includes many provisions directly or indirectly addressing state-owned enterprises. China agreed that laws, regulations and other measures relating to the purchase and commercial sale and production of goods or supply of services for commercial sale by state-owned enterprises or for use in non-governmental purposes are subject to WTO rules. China also agreed that state-owned enterprises must make purchases and sales based solely on commercial considerations, such as price, quality, marketability and availability, and that the government will not influence the commercial decisions of state-owned enterprises.

In an annex to its accession agreement, China provided detailed information on the limited number of products and services subject to price control or government guidance pricing and the procedures for establishing prices. China may not use price controls to restrict the level of imports of goods or services.

Finally, China committed to non-discrimination in the treatment of enterprises within its special economic areas.

v. Tariff Reductions

When China's Goods Schedule went into effect shortly after China acceded to the WTO, greatly increased market access was realized by U.S. and other foreign companies through cuts in China's tariffs on industrial and agricultural goods. Although these reductions generally take place over a period of five years, in almost all instances most of the reductions took place immediately on January 1, 2002.

Tariffs on industrial goods of greatest importance to U.S. businesses were reduced from a base average of 25 percent (in 1997) to 7 percent. More specifically, China agreed to participate in the Information Technology Agreement, which requires the elimination of tariffs on computers, semiconductors and other information technology products. China's elimination of these tariffs will be completed by January 1, 2005. China also agreed to implement tariff reductions on more than two-thirds of the 1,100-plus products covered by the WTO's Chemical Tariff Harmonization Agreement. In addition, tariffs on autos were to be reduced from 80-100 percent to 25 percent (by July 1, 2006), and tariffs on auto parts were to be reduced from a base average of 23 percent to 9.5 percent (by January 1, 2006). Tariffs in the wood and paper sectors were to be reduced from a 1997 average of 18 percent on wood and 15-25 percent on paper to 5 percent and 7.5 percent, respectively.

Tariffs on agricultural goods of greatest importance to U.S. farmers were to be reduced from a 1997 average of 31 percent to 14 percent.

vi. Services Commitments

As set forth in China's Services Schedule, China committed to the substantial opening of a broad range of services sectors through the elimination of many existing limitations on market access, at all levels of government, particularly in sectors of importance to the United States, such as banking, insurance, telecommunications and professional services. Notably, these commitments represent

only the minimum level of market access that China will be expected to make available once it becomes a WTO member. Nothing in China's Services Schedule precludes the Chinese government from applying more liberal measures that would allow foreign companies to provide services with even fewer limitations on market access.

vii. Enforceability

WTO members established a multilateral review mechanism at the WTO of unprecedented scope and authority. This so-called "Transitional Review Mechanism" operates annually for 8 years after China's accession, with a final review in year 10. It requires China to provide detailed information, to report to Washington on its implementation efforts, and to give all WTO members the opportunity to raise questions, in a multilateral setting, about how China is complying with its commitments before 16 subsidiary WTO bodies, which report to the WTO's General Council. The General Council then conducts an overall review each year and may issue recommendations.

Normal WTO dispute settlement procedures remain available to enforce all of the rights of the United States and other WTO members under the WTO agreements, including with regard to the commitments in China's accession agreement.

viii. Safeguard Mechanisms

Even though the terms of China's accession agreement are directed at the opening of China's market to WTO members' industries, China's accession agreement also includes several safeguard mechanisms designed to prevent injury that U.S. or other WTO members' industries and workers might experience based on unfair trade practices or import surges.

For 15 years after China's accession to the WTO, the United States and certain other WTO members will continue to have the ability to utilize a special non-market economy methodology for measuring dumping in anti-dumping cases against Chinese companies

China's accession agreement also includes a unique, China-specific safeguard provision allowing a WTO member to restrain increasing Chinese imports that disrupt its market. This mechanism applies to all industrial and agricultural products and will be available for 12 years after accession.

Additionally, the accession agreement includes a special textiles safeguard, which will be available for 7 years after accession (until December 31, 2008). This safeguard covers all products subject to the WTO Agreement on Textiles and Clothing as of January 1, 1995.

Finally, the United States (and other WTO members) will continue to have the rights under WTO rules to maintain, for example, its export control policies and to prevent the import of Chinese goods made with prison labor.

ix. U.S. Monitoring and Enforcement Efforts

Given China's importance as a major trading power and the breadth and complexity of China's WTO commitments, the U.S. Government initiated a comprehensive and coordinated interagency monitoring effort to ensure that China complies with its commitments. As part of this effort, the U.S. Government will be active on several fronts. In China, State Department economic officers, Foreign Commercial Service officers, Foreign Agricultural Service officers and Customs attaches will gather information and work with U.S. companies and assist them in doing business in China. In Washington, an interagency team of experts, led by USTR, drawing on the assistance of the U.S. Government personnel in China as well as trade associations, chambers of commerce, industry and agriculture groups and individual companies, will closely monitor China's compliance efforts. In Geneva, USTR and other concerned agencies will also be active participants in the WTO's annual

Transitional Review Mechanism.

Where the U.S. Government finds systemic problems and potential WTO violations, it will act quickly to resolve them through all available mechanisms. It will use bilateral means, including U.S. trade laws, the WTO's multilateral Transitional Review Mechanism and WTO dispute settlement proceedings, as necessary. This effort will be greatly enhanced by the placement of overseas trade compliance officers from the Commerce Department and other agencies in our embassies in key trading partners.

b. Agriculture

China's WTO membership is a huge step forward for the U.S. agricultural community in its long sought objective to gain direct access to China's market for U.S. agricultural products and, in particular, its aim to remove China's remaining unjustified sanitary and phytosanitary barriers. Previously, in 1992, China signed a bilateral Memorandum of Understanding on Market Access with the United States, agreeing to remove unjustified technical barriers to imports of U.S. agricultural commodities. Although China agreed to address these issues within one year, access issues for several products remains limited.

On April 10, 1999, just months before finalizing their November 1999 bilateral WTO agreement, the United States and China signed an Agreement on U.S. - China Agricultural Cooperation (ACA), which eliminated technical barriers in China to imports of U.S. citrus, meat and poultry, wheat, and other grains. The signing of this agreement facilitated and greatly enhanced the strong positive support for PNTR by the agricultural community. While trade to China has increased for U.S. citrus, grains, red meat and poultry under the 1999 ACA, China's compliance with this agreement has been inconsistent and U.S. exporters still do not have the access envisioned in the agreement. While China agreed to recognize the U.S. inspection system for meat and poultry, for example, it has erected new barriers to poultry imports with new regulations (issued December 1, 2000), which it eventually revised and republished in February 2001. China's regulatory stance on poultry was primarily intended to deal with a long-standing smuggling problem. But, the result was to impose confusion and raise concerns among traders. Most recently, in late 2001, China insisted that imported U.S. chicken paws carry a "Certificate of Wholesomeness" declaring them to have been inspected and found fit for human consumption by the Food Safety and Inspection Service, requiring the U.S. poultry industry to modify processing plant operations.

In the 1999 ACA, China also agreed to remove phytosanitary barriers to citrus exports from Arizona, California, Florida and Texas over a two-year phase-in period. While it implemented the first tranche on schedule, China delayed implementation for remaining counties in California and Florida three months beyond the October 2000 deadline, finally implementing the agreement for those counties on January 18, 2001. China has not responded to the February 2001 Animal and Plant Health Inspection Service's request to add five more counties (one in California and four in Florida) to the export list for China.

China also agreed to remove phytosanitary barriers to wheat and other grains from the Pacific Northwest beginning April 1999. In marketing year 2000/2001, wheat shipments from the Pacific Northwest totaled 233,000 tons, but China periodically detained U.S. wheat shipments, subjecting them to unwarranted special handling requirements and other actions not consistent with the ACA. As of November 2001, 142,000 tons of sales have been made, 120,000 tons of which have already been exported. No U.S. wheat is currently detained.

Bilateral negotiations on remaining sanitary and phytosanitary issues continue, with barriers still in place on plums, additional varieties of apples, potatoes and pears.

With its accession to the WTO, China took on the obligations of the WTO Agreement on

Agriculture. China also made several additional commitments that will help to rectify numerous agricultural policies upon accession or after limited transition periods. For example, China committed to eliminate export subsidies upon accession, and it has agreed to a cap for trade and production-distorting domestic subsidies that is lower than the cap permitted developing countries and that includes the same elements that developed countries use in determining whether the cap has been reached. In addition, China committed to implement tariff-rate quotas that provide significant market access for bulk goods of special importance to American farmers such as grains, soy oil and cotton upon accession. China also agreed to eliminate import monopolies maintained by State trading enterprises on agricultural goods such as wheat, rice and corn and to permit non-State trading enterprises to import them.

c. Intellectual Property Rights

For more than a decade, the United States and China have engaged in detailed discussions regarding the improvement of China's protection of intellectual property rights and market access for products with intellectual property rights protection. In January 1992, the United States and China reached an agreement on improved protection for U.S. inventions and copyrighted works, including computer software and sound recordings, trademarks, and trade secrets. This Agreement focused principally on revisions to China's laws and membership in international intellectual property rights agreements, including the Berne Convention for the Protection of Literary and Artistic Works, the Universal Copyright Convention, the Geneva Phonogram Convention, the Patent Cooperation Treaty, and the Madrid Protocol on the Protection of Marks.

Although China improved the legal framework for intellectual property rights protection based on the 1992 bilateral agreement, enforcement of those laws was seriously deficient. In 1995, the United States and China reached a second agreement that focused on intellectual property rights enforcement and market access issues.

Based on our 1995 IPR Agreement and the Administration's continuing bilateral efforts, China has developed a basic infrastructure for the protection and enforcement of intellectual property rights. Implementation of our bilateral intellectual property rights agreements provided a basis for China's commitment to implement the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) upon accession to the WTO. Additional improvements to China's laws and training of judges and enforcement personnel are essential. U.S. and Chinese rights-holders can seek administrative and judicial remedies for infringement of their intellectual property rights; however, administrative sanctions need to be increased and the threshold to initiate criminal investigations needs to be lowered. China has formally issued a decree to address the "end-user" computer software piracy issue in connection with government purchase and use of legitimate software.

As a result of intensive bilateral implementation and enforcement negotiations in 1996, China has made further progress on enforcement of intellectual property rights. For example, Chinese authorities have shut down over 100 illegal CD, CD-ROM and VCD production facilities. This effort has changed China from an exporter of pirated material to being the import target for pirated product from other countries in the region.

China also is improving customs enforcement of intellectual property rights. Each year customs authorities seize millions of pirated CDs, CD-ROMs and VCDs. Since the importation of pirated product has been on the increase, we have encouraged enhanced cooperation with regional customs authorities, such as those in Hong Kong and Macau, Vietnam and others, to stop this trade in pirated product.

Under our bilateral agreements, market access for computer software, motion pictures, videos and sound recordings have improved. China has also

made further commitments on market access in the context of our November 1999 bilateral WTO agreement, which have now been incorporated into China's accession agreement.

i. Further Steps to Improve Protection for IPR and Market Access

China's last major revisions to its intellectual property rights laws and regulations occurred after the 1992 Bilateral Agreement. Based on its experience in implementing its intellectual property rights laws, Chinese authorities have revised the copyright, patent and trademark laws and are taking further steps necessary to comply with the requirements of the TRIPS Agreement. The United States has also urged China to do a comprehensive amendment to its copyright laws to implement two copyright-related agreements negotiated under the auspices of the World Intellectual Property Organization (WIPO) that China has signed but not yet ratified.

Chinese enforcement of copyrights and trademarks is still uneven from province to province. Guangdong province, for example, has significantly increased sanctions against piracy and counterfeiting. We are encouraging the national government and/or the other provinces to do likewise. Of concern is the unauthorized use of software by private enterprises (end-user piracy). Piracy rates of entertainment software (game compact discs) and other audiovisual products are also very high. Although strong steps have been taken to address the production of pirated software, CDs and VCDs, far too many pirated products remain available at the retail level.

Trademark counterfeiting in China has worsened considerably. During recent discussions we have also raised the growing problem with trademark counterfeiting, particularly in the area of consumer goods, protection for unregistered well-known trademarks and effective enforcement against counterfeiters. In part to address these concerns, the Chinese launched a nationwide anti-counterfeiting campaign in October 2000. The results are as yet inconclusive.

Access for foreign sound recordings has improved, but restrictions on distribution remain a key concern. Although imports of foreign video titles have increased rapidly, the Chinese still impose an unofficial quota on foreign motion pictures that are distributed on a revenue-sharing basis. China maintains this limit through a state-owned import monopoly.

China committed in its November 1999 bilateral WTO agreement with the United States to increase market access for the audiovisual sector, and these commitments were subsequently incorporated into China's accession agreement. China will allow foreigners to distribute videos, entertainment software and sound recordings through joint ventures, and will allow the importation of 20 motion pictures annually on a revenue sharing basis.

ii. WTO Agreement on Trade-Related Intellectual Property Rights

With its acceptance of the TRIPS Agreement when it acceded to the WTO, China took on the obligation to adhere to internationally accepted norms to protect and enforce the intellectual property rights of U.S. and other foreign companies and individuals in China. In 2001, as part of its efforts to comply with the TRIPS Agreement, China was in the process of modifying the full range of intellectual property laws and regulations, including those relating to patents, trademarks, trade secrets, integrated circuits and copyrights. In addition, provisions in its accession agreement require China to strengthen the enforcement of these laws and regulations by its courts and the responsible administrative agencies.

d. 1992 Market Access Agreement

The United States and China signed a Memorandum of Understanding on Market Access in 1992. This Agreement committed China to changes in its import regime over a five-year period, including increased transparency, elimination of quotas and licenses, a guarantee that no trade law or regulation could be enforced

unless published, uniform application of trade rules, elimination of import substitution policies, and agreement that any sanitary and phytosanitary measures would be based on sound science. While China phased-out formal measures, such as certain quotas and licenses, serious problems remained during 2001 as China continued to restrict imports by retaining non-uniform application of trade rules, import substitution policies and use of sanitary and phytosanitary (SPS) standards.

China's accession agreement includes these same commitments as well as many additional ones. Consequently, the commitments made by China in the 1992 Memorandum of Understanding have been, in effect, multilateralized, and therefore the United States will no longer be alone in seeking compliance from China.

e. Satellite Launch Services

The 1989 Bilateral Agreement on International Trade in Commercial Launch Services with China was extended in 1995 to cover the period through 2001. The Agreement was intended to balance the interests of the U.S. satellite and commercial space launch industries, while encouraging free trade by allowing China to enter the international market for commercial space launch services in a fair and non-disruptive manner. The extended Agreement continued quantitative and pricing disciplines established under the earlier Agreement. The Agreement also specifically provided that nothing in the Agreement limited the operation of U.S. export control laws.

In March 2001, the government of China hosted a delegation from the United States for consultations under the terms of the Agreement. The consultations included an exchange of information on the commercial satellite launch market and new developments in China's commercial space program as well as a review of the implementation of the Agreement.

The Agreement expired, pursuant to its terms, on December 31, 2001. No determination has been made regarding any future arrangement with China governing international trade in commercial launch services.

6. Japan

The United States redoubled its efforts in 2001 to promote deregulation and structural reform, improve market access for U.S. goods and services, and support the adoption and successful implementation of pro-competitive policies throughout the Japanese economy. The United States has been encouraged by positive trends in corporate restructuring and Prime Minister Koizumi's determination to "promptly and swiftly" carry out regulatory reform. Nonetheless, the Japanese economy continues to underperform largely as a result of structural rigidities, excessive regulation, and market access barriers. Over the past year, the U.S. Government and the Government of Japan have addressed concrete steps for Japan to further open and deregulate its markets. These measures will help Japan revitalize its economy and generate sustainable economic growth in the medium and long-term.

The United States also relied on a wide range of regional and multilateral fora in 2001, including the WTO and APEC, 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.

The highlights of our 2001 bilateral and multilateral trade agenda with Japan follow.

Overview of Accomplishments in 2001

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 2001. The most significant step forward was the launch of the U.S.-Japan

Economic Partnership for Growth (the Partnership) by President Bush and Prime Minister Koizumi in June 2001. The main objective of the Partnership is to promote sustainable growth in both countries by addressing such issues as sound macroeconomic policies, structural and regulatory reform, financial and corporate restructuring, foreign direct investment, and open markets. A key feature woven into the various components of the Partnership is the opportunity for the U.S. and Japanese private sectors to be more fully integrated in our bilateral economic work. This has been done to help cultivate creative solutions to the economic and trade challenges facing our two countries and nurture stronger private-sector support for pro-reform policies. While regulatory and structural reform remains of paramount importance, the United States and Japan will also address new and lingering trade issues in a variety of sectors.

The following provides a brief description of each component of the Partnership along with 2001 accomplishments:

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 first meeting in October 2001, participants covered a range of issues, including the problem of non-performing loans in Japan and bilateral cooperation on terrorism. The next meeting is expected in early 2002, coincident with the first meeting of the Private Sector/Government Commission, which is described below.

Private Sector/Government Commission: The "Commission," which is led by USTR and the Department of Commerce, 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 will meet annually with the Subcabinet to discuss issues of key importance to both countries. The first meeting will convene in early 2002 to address the topic "Creating an Environment for Sustainable Growth: Raising Productivity and Corporate Revitalization" and will focus on corporate restructuring.

Regulatory Reform and Competition Policy Initiative: Co-chaired by USTR and MOFA, the "Regulatory Reform Initiative," which is detailed further in section 1 below, aims to promote economic growth and open markets by focusing on sectoral and cross-sectoral issues related to regulatory reform and competition policy. In an effort to create a new, constructive tone in the U.S.-Japan bilateral trade and economic relationship, the United States has made a concerted effort to focus on issues that Prime Minister Koizumi and his Administration have identified as important areas for reform, such as information technologies, telecommunications, medical devices and pharmaceuticals, energy, and competition policy. Working Groups met throughout the fall of 2001, setting the stage for a High-level Officials Group meeting in early 2002.

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 Department of State and Japan's Ministry of Economy, Trade, and Industry (METI), the first "Investment Group" met in October 2001 in Washington just prior to the Subcabinet meeting. Key topics discussed included recent developments related to FDI in the United States and Japan, while investment issues to be taken up in 2002 include mergers and acquisitions, and tax, labor and land policy.

Financial Dialogue: The Financial Dialogue serves as a forum for the 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. As

appropriate, the report to the leaders under the Regulatory Reform Initiative will include progress in financial sector liberalization achieved under this Dialogue. The first meeting was held in November 2001 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, including those related to the manufacturing, services, and agricultural sectors. It will also serve as an "early warning" mechanism to facilitate resolution of emerging trade problems. The first meeting of the Trade Forum, which will meet at least annually, is expected to take place in early 2002.

Fourth Joint Status Report

In June 2001, the United States and Japan issued the Fourth Joint Status Report under the Enhanced Initiative on Deregulation and Competition Policy (the Enhanced Initiative), the precursor to the Regulatory Reform Initiative. Japan agreed to a number of important deregulation measures in the report, and notable achievements were made in various sectors, including telecommunications, information technology, energy, medical devices and pharmaceuticals, financial services, and housing. Important 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. (The deregulation measures undertaken in these sectors and areas are highlighted in the Regulatory Reform section below.) The two Governments affirmed in the Fourth Joint Status Report their determination to build upon the progress achieved under the Enhanced Initiative through the Regulatory Reform Initiative.

Automotive Consultations

A third significant accomplishment in 2001 was the creation of the Automotive Consultative Group (ACG) 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 Bush Administration is committed to addressing the U.S. auto and auto parts industries' concerns related to Japan, and the ACG will serve as the focal point for addressing lingering as well as 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. 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 is expected to take place in the first half of 2002.

In addition to meetings under the Automotive Consultative Group, the United States has continued to address cross-cutting issues impacting the automotive sector under the Partnership. This has included expanding opportunities for foreign investment, increasing transparency, and promoting corporate restructuring in the Japanese economy.

a. Regulatory Reform

A key component of the Partnership, the Regulatory Reform and Competition Policy Initiative, is designed to further deregulate the economy, and to bolster competition and open markets in Japan. It focuses on five key sectors: telecommunications, information technologies, energy, medical devices and pharmaceuticals, and financial services. The Initiative also addresses five important cross-cutting structural areas: competition policy, transparency and other government practices, legal system and infrastructure reform, commercial law, and distribution.

In October 2001, the United States presented

Japan with 47 pages of recommendations under the Initiative, which called on Japan to adopt bold 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. Further, to create a more constructive tone in the U.S.-Japan bilateral trade and economic relationship, the United States made a concerted effort to focus on issues that Japan has identified as priorities for reform. Another important feature of this Initiative is integration of the private sector into the work of the two Governments. Working Groups meeting in November and December of 2001 included presentations from private sector officials, who offered their expertise, observations, and recommendations on key issues.

The October 2001 recommendations presented to Japan will serve as the basis for bilateral discussions over the coming year in a High-level Officials Group and the various Working Groups established under the Regulatory Reform Initiative. These discussions will in turn serve as the basis for an annual report to the President and Prime Minister in 2002 specifying the progress made under this Initiative, including specific measures to be taken by each Government.

As mentioned above, the Regulatory Reform Initiative was preceded by the Enhanced Initiative and the deregulation achievements obtained during 2001 under the Enhanced Initiative were included in a Fourth Joint Status Report. This report was endorsed by President Bush and Prime Minister Koizumi in June 2001. Highlights of these achievements, together with key reform recommendations submitted this year to Japan under the Regulatory Reform Initiative are as follows:

i. Sectoral Regulatory Reform

Telecommunications: The inability of competitive telecommunications carriers to dislodge Nippon Telegraph and Telephone (NTT) from its control of 99 percent of subscriber lines and 60 percent of mobile customers has hampered access by residential and business users to innovative, low-cost services. The difficulties in establishing new competitive services in turn have restricted growth and investment in Japan's $130 billion telecommunications market, the world's second largest.

In the Fourth Joint Status report, Japan agreed to implement effective dominant-carrier regulation in all sectors of the telecommunications market in order to ensure that NTT's control does not impede competition. Regulations to implement "asymmetric regulation" over the mobile market and other improvements to regulation over essential wireline facilities enacted by the Diet in June 2001 took effect in November. These regulations added safeguards to prevent NTT from discriminating against competitors in favor of group companies, and will provide a basis for corrective measures to ensure cost-based interconnection to the network of the dominant mobile carrier, NTT DoCoMo. The regulations also will help competitors gain access to NTT's optical fiber, rights of way, switching offices, and other facilities, as well as to wholesale rates for services provided by NTT. The regulatory reforms were supplemented by guidelines written jointly by Japan's telecommunications ministry and the Japan Fair Trade Commission (JFTC) to clarify anticompetitive and other behavior that is proscribed by the Antimonopoly Act and the Telecommunications Business Law. In addition, Japan is developing guidelines to ensure that market entry by NTT East and NTT West into Internet or other services does not impair competition. Japan also will eliminate unnecessary regulations for carriers which do not possess market power in order to promote competitive services and new entrants. These reforms ease the regulatory burden facing new entrants by eliminating some filing tariffs and contracts and shifting from an approval system to a notification system for some filings.

In the Fourth Joint Status Report, Japan also agreed to ensure the fair, non-discriminatory and transparent provision of access to rights of way for

carriers, facilitating their ability to build out their networks. Japan enacted some other measures to ensure cost-based access to NTT's fiber optic cables. Further, Japan will continue to reduce interconnection rates through the introduction of an appropriate costing methodology, improve the existing interconnection pricing model, and in the case of mobile interconnection, ensure that tariffs for NTT DoCoMo are publicly disclosed and reflect costs. In addition, Japan will ensure that any universal service funding mechanism is limited to basic voice services, open to competitors, and based on a cost model reflecting an efficient operator. In recognition of the need for an impartial dispute resolution function, Japan also set up the structure for a commission to handle disputes between carriers, which is a positive step towards fully separating regulation from the government's industrial promotion policies. These steps will clearly improve opportunities for access by U.S. firms to Japan's telecommunications sector because they begin to rebalance the overwhelming advantages NTT has had in its monopoly position in favor of new entrants, who have invested billions of dollars in new networks but have had little success in capturing significant market share. The added flexibility new entrants will gain in quickly introducing new services should accelerate innovation and price competition which is essential to stimulating overall growth in the telecommunications, information technology, and other key sectors.

In its October 2001 Regulatory Reform submission, the United States urged Japan to build on the progress achieved in the past year and complete the process of instituting and implementing a pro-competitive regime. The United States provided several recommendations to achieve this goal, including the establishment of a strong, independent regulator, divestiture of the government's shares in NTT, and the strengthening and implementation of dominant carrier regulation. Moreover, the United States called on Japan to continue reducing rates and to correct a sometimes skewed pricing structure that prevents new entrants from offering profitable services over the NTT network, and to fully evaluate whether a universal service subsidy program is necessary. In addition, the United States recommended that Japan eliminate unnecessary filing and reporting requirements and further facilitate access to infrastructure for competitive carriers, as well as expand the resale and unbundling of services and facilities to promote new competitive services. The first meeting of the Telecom Working Group took place in December 2001.

Information Technologies: Japan has recently embarked on an ambitious plan to become a global leader in information technologies (IT), which includes plans to revise laws for the digital age that will further facilitate electronic commerce. Even so, development of the Internet and electronic commerce in Japan lags behind other developed countries. As Japan responds to the challenges that lie ahead in this pivotal sector, the U.S. Government is working with Japan to promote a thriving IT sector that will provide significant opportunities for U.S. firms and their leading technology products in a market that is expected to reach nearly $136 billion by the end of 2004.

IT sectoral issues and problems were raised for the first time in conjunction with the Telecommunications Working Group under the fourth year of the Enhanced Initiative on Deregulation and Competition Policy, and in expert-level talks which took place in March 2001. To promote growth in its IT sector, Japan agreed in the Fourth Joint Status Report to take steps to strengthen the protection of intellectual property rights on the Internet by expeditiously ratifying the WIPO Performances and Phonograms Treaty, which would protect the rights of performers and producers of phonograms online. In addition, Japan will continue discussions with the U.S. Government to implement legislation in Japan so as to adequately and effectively protect copyright and related rights, and provide clear-cut Internet Service Provider (ISP) liability rules, as well as to ensure that temporary copies and business method patents are adequately protected

under Japanese law. Moreover, Japan will promote the growth of electronic commerce with privacy legislation that protects personal information and facilitates paperless transactions by considering the amendment of existing laws and regulations which hinder the development of e-commerce. Japan also agreed in the Fourth Joint Status Report to promote electronic government procurement by creating a consolidated database for that purpose and introducing electronic bidding for public works projects. Japan also will work closely with the U.S. Government on network security issues.

A separate IT Working Group was established under the Regulatory Reform Initiative in June 2001. The primary focus of this working group is to work with Japan to establish an environment that will promote the development of IT-related businesses and innovative information technologies that can be utilized to spur growth in other key sectors of the economy and help Japan return to sustainable growth. In its October 2001 Regulatory Reform Initiative submission, the United States made several recommendations which 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 proposals for cooperative efforts in the areas of electronic education, the promotion of electronic commerce and IT in the private sector, and network security. Specifically, the United States called on Japan to establish a legal framework that is appropriate for the digital age and strengthens the protection of intellectual property, particularly on the Internet, including the need for clear-cut and balanced ISP liability rules. Moreover, the United States made several recommendations for online privacy, consumer protection, and the facilitation of electronic transactions, including in government, which can spur greater use of IT and electronic commerce in the private sector and increased use of U.S. IT-related products and services. The United States conveyed these recommendations in detail during the first round of talks of the IT Working Group, which took place in November 2001.

Energy: With the highest energy prices in the OECD, Japan has taken steps in recent years to deregulate both its gas and electricity sectors. In 2000, for example, Japan opened 28 percent of its electricity market to competition, permitting large-lot customers to choose their electricity supplier. Despite these efforts to deregulate, the Japanese electricity market remains dominated by 10 vertically integrated regional utilities. As of August 2001, new entrants commanded a meager 0.39 percent of the newly liberalized portion of the electricity market. The gas sector has seen limited new entry as well. As a result, Japan's energy sector remains less efficient than it should be, innovation has been stifled, and new entry by domestic and foreign companies continues to be minimal.

In the fourth year of the Enhanced 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, while 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. To address these problems, Japan agreed in the Fourth Joint Status Report to promote open access to its electricity transmission grid by monitoring the transparency and neutrality of wheeling services and by conducting an audit of utility accounts to assess whether wheeling tariffs are just and appropriate. In addition, Japan agreed to foster fair and transparent treatment of new entrants' requests for transmission capacity expansion, and to facilitate new entry into electricity and gas markets through such means as consultations with potential market entrants and studies of existing regulatory requirements for siting new generating units, transmission lines, gas pipelines and LNG facilities. Japan also agreed to fully implement and enforce measures intended to ensure fair, open, and non-discriminatory access to its gas transportation services. Furthermore, Japan said it would actively enforce its Antimonopoly Act

(AMA) and relevant guidelines to promote access to electricity and gas markets, and conduct evaluations of the progress of electricity and gas market liberalization by 2003.

Building on progress achieved in the Fourth Joint Status Report, the United States made numerous energy sector recommendations in October 2001 under the Regulatory Reform Initiative. Initial working-level meetings were held a month later in Tokyo, where the United States recommended that Japan adopt numerous reforms measures to further liberalize its energy sector. The United States, for example called on Japan to articulate concrete measures to promote independence of the energy sector regulatory authorities in METI and define specific policy goals for the energy sector reform process. The United States also recommended that Japan take steps to promote equal access to transmission and retail services for all market participants, establish guidelines to determine the need for transmission construction, and promote construction between electricity service areas. In addition, the United States suggested that Japan expand transmission infrastructure in the gas sector, and promote a competitive gas and LNG market through unbundling and transparency of usage charges and information.

These reforms are designed to foster Japan's economic recovery, help U.S. firms compete in the Japanese electric and gas markets, and create new opportunities for competitively priced, high-quality exports to the Japanese market for electrical generation equipment.

Medical Devices and Pharmaceuticals: Continued over-regulation, inefficiencies, and a misguided focus on short-term budget savings have slowed the introduction of innovative and cost-effective products into Japan's medical device, pharmaceutical, nutritional supplement, and health care delivery sectors. 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 Fourth Joint Status Report, Japan agreed to take twenty-four 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. Importantly, Japan agreed to ensure that its reform of medical device and pharmaceutical pricing systems would result in appropriate valuations for innovative products. The U.S. Government is very concerned, however, that severe fiscal and political pressures are leading Japan to undertake pricing reforms that will contravene its Enhanced Initiative agreements. The United States is actively engaging Japanese officials at all levels to ensure that Japan does not implement reforms that arbitrarily target U.S. products for price reductions.

Although pricing issues have become a source of trade friction, issues relating to the regulatory approval of medical devices and pharmaceuticals are moving forward. Consistent with its Enhanced Initiative agreements, Japan has taken 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. Japan also implemented a new system to allow nutritional supplement manufacturers to make health benefit claims. Lastly, Japan relaxed regulations governing advertising by hospitals to allow for more comprehensive service information to be offered to patients.

Building on these steps, the United States in its October 2001 Regulatory Reform Initiative submission proposed that Japan: 1) introduce competitive market forces and pursue structural reforms by improving public access to medical information and expanding the roles of private companies in hospitals and nursing care facilities; 2) encourage the introduction of innovative medical devices and pharmaceuticals and ensure that these products receive timely and appropriate

valuations; 3) continue to expedite regulatory approvals of medical devices and pharmaceuticals, particularly for products that are available in other countries; 4) continue to work within the International Council on Harmonization process to promote broader use of foreign clinical data and facilitate more efficient utilization of Japan's clinical trial system; and 5) further deregulate the sale of nutritional supplements. The United States elaborated on these recommendations at the first meeting of the Medical Devices and Pharmaceuticals Working Group, which met in November 2001.

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 mid-2001, the Financial Services Agency (FSA) announced a package of securities market reforms, including the prohibition of broker churning. October brought the long-awaited introduction of defined contribution pensions, the removal of the ban on corporate holding of their own stock acquired through buy-backs, and the introduction of safe-harbor rules to reduce insider trading and market manipulation. In April 2001 Japan increased the access of investment advisory companies to fund management of public pension funds by allowing funds to be managed through a direct, on-shore trust arrangement, and by eliminating the requirement to convert investment holdings to cash when changing fund managers. To improve the transparency and predictability of the regulatory process, the FSA has initiated a system of response to written inquiries, including requests for published guidance and "no-action" letters. Banks were granted limited entry into the insurance business in April 2001, and further removal of restrictions on banks' insurance activities is under consideration. In January 2002, the FSA will submit legislation eliminating the requirement for physical certificates for Japanese government bonds (JGBs) and corporate debentures. This follows legislative action in 2001 to eliminate a similar requirement for commercial paper effective April 2002. The FSA has also announced its intention to allow exchange-traded funds (ETFs) based on foreign stock price indices.

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 through direct onshore trust arrangements without the requirement to convert asset positions into cash before changing asset managers on terms similar to those now in use for public pensions; (2) granting regulatory approval to prototype plans for defined contribution pensions; (3) eliminating the requirement for physical certificates for privately placed fixed income securities and investment trusts; (4) permitting multiple classes of shares for investment trusts; (5) requiring full mark-to-market accounting for all investment trusts; (6) revising the E-Notification Law to include lenders subject to the Moneylending Business Law; and (7) studying the feasibility of increasing electronic record-keeping and notification.

These issues were discussed in November 2001 in the inaugural meeting of the U.S.-Japan Financial Services Working Group. The Working Group is one component 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."

Housing: Japan's $40 billion home building materials market is the second-largest in the world. Numerous restrictions on building size and design and the traditional emphasis on new housing versus maintenance and renovation have impeded market access for foreign building products and systems designs, limiting choice for consumers, and driving up housing costs.

In the Fourth Joint Status Report, Japan agreed to address these problems through several measures. Specifically, Japan will cooperate with the private sector to create a standard appraisal system for resale housing that accurately reflects the value of maintenance and renovation. Japan also will remove or significantly limit key financial disincentives associated with the purchase of used homes, such as permitting longer repayment periods for higher quality resale detached homes and extending the reduction from five percent to three-tenths percent for registration taxes on sales of existing homes. In addition, Japan pledged to cooperate and work with the U.S. Government to obtain recognition of the equivalency of the U.S. standards system for grading and certifying wood products, and to accept that Oriented Strand Board is functionally equivalent to plywood. Moreover, Japan will also continue to review with the United States its implementation of performance-based building codes through various bilateral fora. This particular on-going review will address serious U.S. concerns about Japan's use of performance criteria, transparency and testing methodologies, which impede the use in Japan of building materials and systems commonly used in the United States and elsewhere.

In June 2001 the United States and Japan also agreed in the Fourth Joint Status Report to continue future technical discussions on issues related to performance-based codes, implementation of test methodologies and procedures in evaluating fire resistance and other housing/wood product-related issues in the Wood Products Subcommittee, the Building Experts Committee, and Japanese Agricultural Standards (JAS) Technical Committee. The Building Experts Committee and the JAS Technical Committees met in Ottawa in September 2001 and discussed progress in implementing a number of measures announced in the Fourth Joint Status Report related to housing/wood products, including Japan's implementation of performance-based building codes. In October 2001, the U.S. Government held additional discussions with the relevant Japanese ministries on this issue and on the issue of equivalency for the U.S. standards system for grading and certifying wood products. Subsequently, the U.S. Government submitted to the Ministry of Agriculture, Forestry and Fisheries (MAFF) the remaining information necessary for MAFF to make a positive determination on the United States' request for equivalency.

The next Wood Products Subcommittee meeting will take place in early 2002, at which time the United States will review the progress made on performance-based building codes, equivalency, and other key issues.

ii. Structural Regulatory Reform

Competition Law and Policy: A key goal of our regulatory reform efforts is to ensure steps to deregulate Japan's economy are not undone by anticompetitive actions by private-sector players. An active and strong antitrust enforcement policy is needed to restrain anticompetitive behavior, including by incumbent firms, in once heavily regulated sectors.

In the Fourth Joint Status Report, Japan agreed to review the status of the JFTC within the central government to ensure its independence and neutrality. Japan also undertook to examine the introduction of new legislation to enable the JFTC to uncover violations of the AMA more effectively. For its part, the JFTC established the Information Technology and Public Utilities Task Force to investigate and take enforcement action against violations of the AMA in industries undergoing deregulation. The JFTC and the Ministry of Public Management, Home Affairs, Posts and Telecommunications (MPHPT) agreed to cooperate in promoting competition in the telecommunications sector and subsequently

issued joint guidelines for business activities in that sector. With respect to measures to combat bid rigging, procuring agencies at the central and local government level were required by the Act for Promoting Proper Tendering and Contracting for Public Works, which came into effect on April 1, 2001, to report facts raising suspicions of bid rigging to the JFTC. Moreover, the Japanese Cabinet issued a Decision adopting the "Guiding Principle," which obligates central and local government procuring agencies to make efforts to seek recovery of overcharges from bid rigging participants and to suspend such participants from eligibility to bid on future government contracts. In addition, Japan agreed to examine the introduction of new legislation to address the problem of government procuring officials who assist bid rigging activities.

In its October 2001 Regulatory Reform submission, the United States recommended that Japan increase substantially the staff levels of the JFTC and make it an independent agency under the Cabinet Office. The United States urged that the JFTC's investigative tools be brought up to modern international standards by strengthening the deterrent effect of the administrative fine (surcharge) system, making changes to permit adoption of a cooperation leniency program, and providing greater criminal investigation powers. The United States also recommended that Japan take effective measures to address the epidemic of bid rigging, which should include new legislation to prevent so-called "bureaucrat-led bid rigging." The submission called on the JFTC to step up its promotion of competition in regulated sectors and to devote additional resources to monitoring recently deregulated sectors to ensure that government regulation is not replaced by anticompetitive administrative guidance or private-sector restraints. Competition policy issues were discussed further at the first meeting of the Cross-Sectoral Working Group in early November 2001.

Transparency and Other Government Practices: Despite improvements in recent years, Japan's regulatory system continues to lack the transparency and accountability necessary to ensure all players have the same access to government information and the policymaking process. New market entrants and competitors need adequate information on Japan's regulatory system in order to base their decisions on accurate assessments of potential costs, risks and market opportunities. This is especially true for foreign firms, which do not have the same access to the bureaucracy as domestic firms.

Japan took several steps in 2001 that will increase the transparency and accountability of its regulatory system. It has introduced a government-wide "No Action Letter" system that will enable businesses to submit inquiries to, and receive responses from, Japanese agencies on the interpretation of laws and ordinances and their application to specific factual situations. Japan also has implemented a government information disclosure law, similar to the U.S. Freedom of Information Act; introduced a government-wide policy evaluation system; and improved its Public Comment Procedures by making all of the public comments available for review by the public. In the Fourth Joint Status Report, Japan agreed that each ministry and agency will adopt detailed rules related to the implementation of the new "No Action Letter System" by the end of Japanese Fiscal Year 2001. Japan also agreed to make continuous efforts to enhance and strengthen the government-wide policy evaluation system.

Building on these measures, the United States recommended in its October 2001 submission that Japan undertake additional improvements in its regulatory system to support its reform efforts and ensure that all players have the same access to government information and the policymaking process. These recommendations include: (1) revising the Public Comment Procedures to make them an effective regulatory mechanism by establishing a central registry for all solicitations, requiring a minimum 30-day comment period, authorizing an independent review of use of the Procedures, and establishing a study group to examine the Procedures; (2) reducing the use of administrative guidance and requiring all

administrative guidance to be issued in writing (except in special cases); (3) developing a mechanism that would enable all interested domestic and foreign parties to review and comment on draft legislation before governmental agencies make their submissions to the Diet; and (4) increasing the authority of the courts to review administrative actions of governmental agencies. Further discussions on transparency issues took place in early November 2001 during the inaugural meeting of the Cross-Sectoral Working Group.

Legal System and Infrastructure: Reform of the Japanese legal system is essential to establishing a legal environment that is conducive to international business and investment and supportive of deregulation and structural reform. In keeping with this objective and its Enhanced Initiative agreements, Japan took significant steps in 2001 toward modernizing and liberalizing its legal system. Most notable was the establishment of a Judicial Reform Council (JRC), which in June 2001 made important recommendations on needed legal reforms. These recommendations included: deregulating the requirements for specified joint enterprises (*tokutei kyodo jigyo*) to promote cooperation and collaboration between *bengoshi* and foreign lawyers; studying the restriction that prohibits foreign lawyers from hiring Japanese lawyers; increasing the number of legal professionals; increasing the speed and efficiency of civil litigation; facilitating litigants' collection of evidence at early stages of litigation; increasing the number of judges; making the specialized intellectual property rights departments at Tokyo and Osaka District Courts function as "patent courts;" reforming Japan's 100-year-old Arbitration Law; and undertaking a comprehensive study of judicial oversight of administrative agencies.

The United States has welcomed these steps and recommended in its October 2001 submission additional measures. These include: (1) expeditious and effective implementation of the JRC's recommendations; (2) elimination of all prohibitions against freedom of association between Japanese and foreign lawyers; (3) removal of restrictions on foreign lawyers; (4) improvements in the foreign lawyer regulatory system; and (5) modernization of the judicial system, including by improving pre-trial evidence gathering mechanisms, augmenting protection of trade secrets during court proceedings, and strengthening the powers of judges to fashion more effective injunctive orders. Further discussions on Japan's legal system and infrastructure took place under the Cross-Sectoral Working Group, which met in early November 2001.

Commercial Law: The United States recommends that Japan revise its Commercial Code to introduce greater flexibility to the organization, management, and capital structure of Japanese companies, and improve efficiency and accountability. Comprehensive revision of Japan's commercial laws should have a profound effect on both domestic and foreign firms. The liberalization of restrictions on equity securities, for example, would facilitate the acquisition of capital necessary for restructuring and new investment. Revision of the Commercial Code also would have significant implications for the ability of foreign firms to invest and operate effectively in the Japanese market, bringing crucial technologies, know-how and employment to Japan's economy.

In the Fourth Joint Status Report, Japan agreed to revise its commercial code in a manner that would create a more positive business environment for both domestic and foreign firms. Steps agreed to included eliminating restrictions on the use of stock options and establishing new corporate governance rules designed to encourage the use of outside directors on corporate boards. Japan took a positive step toward necessary reforms with the Legislative Council's issuance of its Interim Tentative Draft of the Outline of Commercial Code Revision in April 2001, proposing some major revisions to the commercial law system, including elimination of restrictions on recipients of stock options and on the issuance of new shares, and allowing companies the option of

adopting a Western-style corporate governance system. Legislation to implement some of these recommendations was submitted to the Diet in the Fall of 2001, and the final recommendations are due for release in early 2002.

The United States continues to recommend significant revisions to Japan's commercial law. In its October 2001 Regulatory Reform submission, the United States urged Japan to: 1) permit and promote cross-border share exchanges and other legal mechanisms to facilitate foreign merger and acquisition activities; 2) introduce greater flexibility to the capital structure of Japanese corporations, including the elimination of restrictions on the quantity and recipients of new stock options; 3) strengthen corporate governance mechanisms, including allowing publicly trade companies the option of adopting an executive committee and outside director system; 4) oppose any proposal requiring foreign corporations to appoint statutory agents who would be jointly and severally liable for all liabilities of the corporation; and 5) allow greater input by the international business community into the formulation of proposed commercial law revisions. These and other issues related to the Commercial Code were raised in early November during the inaugural meeting of the Cross-Sectoral Working Group. Also during that meeting, members of the private sector gave a presentation on the importance of permitting cross-border share exchanges in Japan.

Distribution: Japan's rigid and inefficient distribution and customs systems restrict market access for imported products and work against the competitiveness of foreign-made products. On the customs front, the United States believes Japan needs to modernize clearance procedures to fully open its market to imported goods. Regarding distribution, Japan's new Large Store Location Law (SLL) enacted in June 2000 marked an important step forward in addressing some of the inefficiencies in the sector, but burdensome regulations continue to hamper the efficient movement of goods. Enforcement of the SLL also must be carefully monitored to ensure that it does not unfairly discriminate against large stores.

In the Fourth Joint Status Report, METI agreed to continue to take measures to facilitate the implementation of the SLL in a consistent, transparent, and predictable manner by: 1) monitoring local governments to ensure that they do not impede the purpose of the law; and 2) providing information regarding the application of the Law through meetings and technical training of local government officials. In response to requests by the United States, METI has established official contact points in Tokyo and around the country to field complaints by large store developments and to facilitate their resolution. On the issue of customs clearance procedures, the U.S. Government noted its appreciation for Japan's willingness to consider the concerns of express carriers and other companies faced with increased fees for the use of the Nippon Automated Cargo Clearance System (NACCS) for air-cargo. Discussions between users of the new system, which was introduced in October 2001, and the NAACS Operation Center took place throughout the year, starting with the initiation of a public comment procedure in March 2001.

Our reform recommendations to the Government of Japan in October 2001 recognized that Japan has implemented and plans to implement additional positive measures to simplify and automate customs processing. The submission recommended extending the new Simplified Declaration Procedures Act to express carriers and raising the de minimis level for customs duties from yen 10,000 to yen 30,000. At the same time the United States urged Japan to continue its dialogue with companies to ensure that a fee structure equitable to all NACCS air-cargo users is installed after the expiration of the current three-year arrangement. The U.S. Government continues to monitor progress on customs processing procedures and the fair and uniform implementation of the SLL. In early November 2001, the Cross-Sectoral Working Group met to discuss these and other issues.

b. Bilateral Consultations

i. Insurance

The 1994 and 1996 bilateral insurance agreements have made significant contributions to the deregulation of the Japanese insurance market. The agreements included sweeping measures that resulted in significant improvements in the product approval process, greater use of direct sales of insurance products, and the introduction of risk differentiated automobile insurance. As a result, foreign insurance companies have continued to visibly and substantially increase their presence in both the life and non-life insurance sectors in Japan.

Bilateral consultations under the two insurance agreements were held in Tokyo in July 2001. The 2001 review included an analysis of data provided by Japan, a discussion of changes in the FSA's policies/regulations, and an exchange on important and timely changes in Japan's insurance sector. As in past years, a representative from the National Association of Insurance Commissioners participated in the talks in order to promote U.S.-Japan regulator-to-regulator discussions of various aspects of the U.S. and Japanese insurance regulatory systems. More specifically, the United States and Japan discussed recommendations by an FSA study group 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 life and non-life Policyholder Protection Corporations. 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.

The United States also raised concerns voiced by U.S. industry 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. There has been increasing concern over the effect these institutions have on the efficient operation of Japan's financial market. As such, the planned transfer of the three postal services (mail delivery, savings and insurance) from the Postal Services Agency to a public postal corporation in 2003 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 2001 Regulatory Reform submission to Japan, as well as in response to draft MPHPT plans regarding *Kampo* and *Yucho* put out for public comment in November, 2001. These recommendations included ensuring transparency throughout the process, extending the same standards of regulation to the postal financial institutions as applied to the private sector, and prohibiting these institutions from underwriting any new insurance products or originating any new non-principal-guaranteed investment products.

Over the past year, the Government of Japan has taken a number of 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 as well as the inclusion of foreign representatives on various government advisory committees. The United States strongly encourages the FSA and MPHPT to continue their efforts in this regard. The next annual consultations are scheduled to be held mid-year in 2002, 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 is 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 highly disappointed that, after rising steadily in 1995 and 1996, sales of North American-made vehicles have fallen for the past five years, with sales in 2001 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: U .S. exports to Japan declined from a record level of $13 billion in 1995 to an estimated $11.3 billion in 2001.

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 is expected to take place in the first half of 2002.

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

NTT Procurement: The U.S. Government has urged Japan to increase its public sector purchases (including purchases by NTT companies, part of a group in which the Government of Japan held a majority of shares until early 2001) of U.S. telecommunications equipment through a series of bilateral agreements with Japan dating back to 1980. As a result of the NTT Agreements, U.S. suppliers have made some significant inroads as suppliers to NTT, the largest single procurer in the Japanese telecommunications equipment market. NTT accounts for approximately one third of the $36 billion market for terminal and network equipment. Before the first NTT Agreement was concluded in 1980, less than 1 percent of NTT purchases were from foreign firms. These successive Agreements have helped move NTT toward procurement decisions based on market-driven, competitive factors. As a result, purchases of foreign equipment have increased, to the benefit of U.S. telecommunications equipment suppliers and the NTT companies.

In June 2001 the United States and Japan conducted the final annual review under the most recent bilateral agreement – the 1999 U.S.-Japan NTT Procurement Agreement. At the review, the United States focused discussion on changes in procurement brought about by the NTT restructuring which took effect in 1999. These procedures include the process through which suppliers qualify to bid, the criteria used by NTT to select suppliers, the functioning of the Supplier Proposal Process, and the use of Japan-specific national versus internationally-adopted technical standards. The NTT companies provided data on foreign procurement during Japan Fiscal Year (JFY) 2000, which showed an increase in procurement from foreign telecommunications

equipment suppliers.

The 1999 Agreement expired in July 2001. Due to the substantive progress made under the series of NTT Agreements, the United States, after consultations with U.S. industry, determined that the best way to pursue the goal of a fully open NTT market after July was to continue to monitor NTT purchases and procurement practices closely and in coordination with U.S. industry. The U.S. Government will examine information provided by U.S. industry, and will pursue with the Government of Japan problems or issues related to NTT procurement as they arise. In addition, the United States will look to NTT to narrow the gap between the noticeably lower foreign share of the NTT equipment market and that of the Japanese private sector telecommunications market, in order to provide new opportunities for globally competitive U.S. suppliers with their leading technology products.

Construction/Public Works: The U.S. share of Japan's $250 billion public works market has consistently remained well below one percent – a troubling fact given the competitiveness of American 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 American companies' ability to participate in Japan's public works sector. The 1994 Agreement remains in effect, but the consultative provision in the 1994 Agreement expired in March 2000. The United States will continue to engage Japan on specific matters of concern related to construction, using appropriate opportunities such as the 2002 inaugural meeting of the Trade Forum, established under the Partnership.

In September 2001, Japan hosted the third U.S.-Japan Construction Cooperation Forum (CCF), which is designed to facilitate the formation of joint ventures between U.S. and Japanese design/consulting and construction companies and to make it possible for U.S. firms to participate more fully in Japan's public works market. The United States looks forward to tangible results from the CCF. However, these private sector meetings are not a substitute for government-to-government consultations.

Medical Technology: The 1994 Medical Technology Procurement Agreement has been successful in providing improved market access and increased sales for foreign suppliers in Japan's government procurement sector. The last review of this agreement in March 2001 showed that overall foreign market share had increased to just under 47 percent. In key areas where U.S. manufacturers are major suppliers, foreign market share was even more substantial, for example cardiac pacemakers (98.5 percent), magnetic resonance (82.5 percent), and artificial joints and bones (77.4 percent). Although the annual consultation mechanism of this agreement expired at the end of March 2001, all of the procedural provisions remain in force. The U.S. Government will continue to engage the Government of Japan on specific matters of concern.

Other: In March 2001, the United States and Japan conducted reviews of the bilateral Computer and Telecommunications Procurement Agreements, concluded in 1992 and 1994, respectively. Both agreements aim to expand Japanese public sector procurement of foreign goods and services in these sectors. The March reviews included an analysis of data on recent government purchases provided by Japan and addressed issues of importance to the United States, such as transparency of the procurement system, continued high use of sole-source

tendering, and the use of "overall greatest value" methodology in evaluating bids. In addition, the United States and Japan discussed the Japanese Information Technology Initiative and how procurement under the Initiative will be conducted. The United States remains concerned over the relatively low level of Japanese public procurement of highly competitive U.S. computer and telecommunications goods and services and will continue to address any issues that arise in all appropriate fora.

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 in JFY 2000 (which ended in March 2001) hit $28 billion (Yen 3.1 trillion), more than 30 percent above the level of JFY 1999. Banking/insurance and telecommunications sectors showed particularly high growth. 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, likely as a result of continuing economic problems in Japan and a slowing global economy. From April through September 2001, total FDI was down almost 19 percent from a year earlier. U.S. investment plunged more than 33 percent.

Japanese and foreign businesses continue to be significantly affected by the implementation of several laws passed in 1999 which included suggestions raised by the United States during the dialogue carried out under the 1995 foreign direct investment agreement. 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.

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. In October 2001 the inaugural meeting of the U.S.-Japan Investment Group set forth a framework for bilateral discussions on investment that will highlight and resolve possible impediments. The Group met again on December 13 and reviewed in detail the impediments to FDI inflows to Japan. In response to specific requests from the United States, Japan explained that it is working to strengthen accounting practices and increase the number of accounting and legal professionals. The U.S. private sector was also given an opportunity to directly present their investment concerns to the Government of Japan during the meeting. More talks will be held in early 2002, culminating in a joint report on investment.

c. Sectoral Issues

i. Agriculture

Although Japan is the United States' largest food and agriculture export market, Japan maintains many barriers to imports of U.S. food and agricultural products.

Rice: Japan's highly protected rice market has long been a target for liberalization efforts. In the Uruguay Round, Japan agreed to market access for rice in the form of an import quota. In 1999, Japan converted the quota to a tariff-rate quota, with a prohibitively high out-of-quota duty.

The United States has expressed ongoing concern over the market share of U.S. firms in Japan's overall rice imports in 2001 as compared to recent years. U.S. market share in Japan's Simultaneous-Buy-Sell (SBS) tenders was particularly low. (SBS tenders, which are conducted by the Japanese Food Agency, 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 continue to monitor this situation closely.

Over the last year, the U.S. Government raised another problem related to Japanese imports of U.S. rice – the increasing percentage of low quality, broken rice in Japanese tenders of U.S. rice. The United States has pointed out that recent levels of broken rice imports from U.S. firms (17-18 percent) exceed what the industry would view as a normal broken percentage of around 11 percent. Japan has claimed that "brokens" in rice shipments normally exceed 11 percent, and points out that the high quality of Japanese rice harvests in recent years has pushed the domestic supply of brokens down, forcing those that normally use brokens (pastry, brewing and animal feed industries) to turn to the Japanese Food Agency for imports of this product. In Japan's November 2001 import tender, there was some decrease in the percentage of broken rice purchased from the United States. The United States has told Japan that it expects this trend to continue in future import tenders, particularly as the quality of Japanese rice harvests return to more normal levels.

Sanitary and Phytosanitary: Japan's use of sanitary and phytosanitary measures has created many barriers to U.S. food and agricultural goods. In April 2001, Japan instituted measures limiting the number of phytosanitary inspections of imported fruits and vegetables. With quick intervention by the Administration, the impact of that initiative was negligible on U.S. shipments. However, Japan continues to maintain overly restrictive quarantine measures on a number of U.S. products, such as apples, cherries and lettuce.

Organic Food: In May 2001, Japan accepted a U.S. proposal to permit certification of U.S. organic processed ingredients to Japanese organic standards by USDA accredited certifiers, allowing a continuance of approximately $50 million in U.S. organic food exports. Negotiations are underway with Japan to expand the certification to all U.S. organic food, valued at $100 million.

ii. Steel

Steel issues are detailed in Chapter V, "Other Multilateral Activities."

iii. Flat Glass

U.S. flat glass manufacturers continue to face high hurdles in their efforts to sell their products in Japan, despite gaining extensive market shares 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.

To address these interrelated problems, the United States engaged Japan in discussions in 2001 under the Enhanced Initiative, the outcome of which was contained in the Fourth Joint Status Report. In that report, the Government of Japan recognized the economic benefits of competition in the distribution sector. It also confirmed that it would be detrimental to competition and a violation of Japan's Antimonopoly Act for distributors to reach agreements among themselves designed to exclude imported or other competitors' products from entering the market. In addition, the Government of Japan suggested that enterprises and foreign governments notify the JFTC of anticompetitive practices in the flat glass market and other highly oligopolistic markets. In the Fourth Joint Status Report, METI also agreed to continue to pursue economic reforms to ensure competition in the distribution sector.

The United States continues to raise glass market access issues with Japan and to work with U.S. industry on ways to improve market access and enhance competition in this sector.

d. Multilateral/WTO Disputes and Settlements

Varietal Testing of Fruits: In October 1997, the United States invoked dispute settlement procedures against Japan regarding its varietal testing requirements. Japan required repeated testing of established quarantine treatments each time a new variety of an already approved commodity was presented for export. This redundant requirement had no scientific basis and, because it imposed expensive and time-consuming testing on American producers, served as a significant barrier to market access. The United States challenged these requirements as inconsistent with Japan's obligations under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (the "SPS Agreement").

In March 1999, the WTO Dispute Settlement Body (DSB) adopted panel and Appellate Body findings that Japan's varietal testing requirement was: (1) maintained without sufficient scientific evidence, in violation of Article 2.2 of the SPS Agreement; (2) not based on a risk assessment, in violation of Article 5.1; and (3) inconsistent with Japan's transparency obligations under paragraph 1 of Annex B, since Japan did not publish its requirements.

In June 1999, Japan and the United States notified the DSB of their agreement that a reasonable deadline for Japan's implementation was December 31, 1999. Japan announced that it eliminated its varietal testing requirement on December 31, 1999, and continued consultations with the United States on fumigation requirements on the eight horticultural products at issue. In September 2001, Japan approved fumigation procedures for the final product, apples, and the United States and Japan notified the DSB that the case was finally resolved.

Fire Blight: Following the termination of technical discussions in October 2001, the Administration initiated dispute settlement procedures in the WTO against Japan's quarantine measures on U.S. apples due to fire blight in early 2002. Japan's Ministry of Agriculture, Forestry and Fisheries (MAFF) maintains highly restrictive requirements for western U.S. apples due to concerns about fire blight, without either a formal risk analysis or sufficient scientific evidence. In February 2001, USDA presented to MAFF the results of joint U.S.-Japan research which confirmed that mature symptomless apple fruits produced in the western United States are not a pathway for transmission of fire blight. This research supports earlier USDA research from 1989 and 1998 that was peer reviewed and published in scientific journals.

7. Taiwan

Trade Ministers at Doha, Qatar approved Taiwan's WTO membership in November 2001, recognizing Taiwan's important position in the global trading system. Taiwan became a member on January 1, 2002.

Taiwan's accession to the WTO will benefit most sectors of the U.S. economy. Taiwan's WTO commitments will increase access to a broad range of U.S. goods and services, including agricultural exports to Taiwan. Highlights of Taiwan's WTO commitments include:

- Tariffs on industrial goods reduced to less than 5 percent on average;
- Agricultural tariffs will fall to 12 percent on average, with most of these reductions taking place upon accession;
- Taiwan's state trading monopoly on tobacco and alcohol eliminated;
- Tariffs on construction and agriculture equipment, wood (except plywood), paper and paper products, furniture, distilled spirits, beer, certain steel products, civil aircraft, dolls, toys and games will all be reduced to zero (some by accession, most by 2004);

- Taiwan has agreed that on accession it will increase foreign access to a number of service sectors, including professional services (architects, accountants, engineers, lawyers), audiovisual services, express delivery services, advertising, computer services, construction, wholesale and retail distribution, franchising, and environmental services; and
- Taiwan will have the obligation to adhere to the WTO TRIPS Agreement to protect intellectual property rights.

a. Agriculture and Industrial Quotas

During 2001, the United States continued discussions with Taiwan regarding its commitments to import pork and chicken products at levels agreed to in February 1998 and in multilateral access arrangements that opened these "U.S. only" quotas to all WTO members in 2000. U.S. exporters experienced logistical difficulties as the result of Taiwan's implementation of a quarterly allocation system for these products in 2001. Taiwan's WTO commitments on tariff-rate quotas for chicken, pork, fish, autos and other products and a minimum market access commitment for rice were to replace the previous system on January 1, 2002. As 2001 came to a close, the United States was working closely with Taiwan to ensure timely implementation of these commitments.

b. Intellectual Property Rights

Taiwan moved toward strengthening its intellectual property rights protection regime during the past year with passage of several key legislative bills. However, the level of piracy in Taiwan remains at a very high level; serious enough to warrant placing Taiwan on the 2001 Priority Watch List. Taiwan has implemented a new chip marking system which allows identification of the manufacturer and designer of computer chips suspected of containing counterfeit software. During the Fall legislative session, Taiwan passed several amendments to existing laws and one new bill to address optical media piracy. Taiwan amended its patent law to extend the term of protection for certain existing patents from 15 to 20 years, consistent with WTO requirements. In the area of copyright protection, Taiwan amended its law to extend the term of protection for computer programs to the life of the writer plus 50 years. Taiwan also passed legislation requiring licensing of optical media (such as CDs, video CDs, and DVDs) manufacturing facilities in an attempt to reduce its high level of copyright piracy. However, the optical media law, as passed, appears to fall short in a number of areas. We will work closely with Taiwan on implementation of this bill to assure Taiwan aggressively enforces its provisions. Only with aggressive enforcement will Taiwan begin to address its seriously high rates of piracy and exports of pirated product.

We will continue to monitor Taiwan's progress in combating its high IP piracy rates, in particular, whether Taiwan aggressively enforces its existing 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 Taiwan on further amendments to its copyright law to conform with existing international IPR norms.

c. Telecommunications

Several international telecommunications companies are interested in providing fiber-optic broadband submarine cable service to Taiwan customers. The United States has been actively involved in discussions with the Taiwan authorities during the past few years to assure that these companies can effectively compete in the Taiwan market in a manner consistent with Taiwan's WTO commitments. In the Fall of 2001, Taiwan agreed to allow these firms to construct their own back-haul facilities without first negotiating such construction with the incumbent telecommunications providers. In addition, Taiwan agreed to allow submarine cable firms to directly sell their services to Internet Service

Providers, as well as to existing fixed-line providers. We will continue to monitor Taiwan's progress toward full market opening of its telecommunications sector in a WTO-consistent manner.

d. Government Procurement

In August 2001, the United States and Taiwan reached an understanding clarifying Taiwan's commitments for its accession to the WTO's Government Procurement Agreement (GPA). The understanding affirms Taiwan's commitment to full and effective participation in the international rules-based trading system, brings Taiwan further into conformity with WTO GPA requirements, and ensures that barriers against U.S. companies in Taiwan's government procurement market will be lifted. Taiwan's commitments cover both infrastructure projects and procurement of a wide range of other goods and services.

8. Hong Kong (Special Administrative Region)

a. Intellectual Property Rights

Hong Kong continued enforcement actions during the past year to address piracy of copyrighted works. The Hong Kong public continues to become much more aware of the damage being sustained by its own industries, notably movies, music, and toys, from copyright and trademark infringement. Legislation that criminalized the corporate use of unlicensed software and subjects corporate pirates to the same penalties, including fines and jail sentences, as other pirates became effective in April 2001. However, soon after implementation, opposition was raised to certain provisions of the bill as applied to the photocopying of newspapers and magazines, and by supporters of small businesses that would like to decriminalize parallel imports of software for end-users. Certain provisions of this bill were suspended and a review is currently underway. We will continue to monitor this situation and other anti-piracy efforts closely.

b. Telecommunications

Hong Kong continued to make progress in opening its telecommunications market during the past year. We will continue to monitor progress in this sector closely as Hong Kong prepares for full market liberalization on January 1, 2003.

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 highlighted the importance of supporting peace and stability in the region by fostering economic development. The U.S.-Jordan Free Trade Agreement (FTA) and the U.S.-Israel Free Trade Agreement, 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.

2001 Activities

1. U.S.-Jordan Free Trade Agreement

The U.S.-Jordan Free Trade Agreement (FTA) took effect on December 17, 2001. 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

a Bilateral Investment Treaty with Jordan, the FTA does not include an investment chapter (the treaty has not yet entered into effect pending exchange of the instruments of ratification).

The agreement builds on other U.S. initiatives in the region designed to encourage economic development and regional integration. These include the 1985 U.S.-Israel Free Trade Agreement and its extension to areas administered by the Palestinian Authority in 1996, and the 1996 Qualifying Industrial Zone (QIZ) program.

2. Qualifying Industrial Zones

In 2001, USTR designated the eleventh Qualifying Industrial Zone (QIZ) in Jordan, the Zarqa Industrial Zone, in order to attract investment and strengthen economic integration in the region. Since the establishment of the first in 1998, QIZs have been a bright spot in Jordanian economic performance. They played an important role in helping to boost Jordan's exports to the U.S. from $16 million in 1998 to a projected $200 million in 2001. 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 $85-100 million, which is expected to grow to $180 to $200 million when all projects are completed.

To date all QIZs have been established in Jordan. 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. The President issued a November 1996 proclamation delegating the authority to designate qualifying industrial zones to the U.S. Trade Representative and providing duty-free treatment to products of the West Bank and Gaza.

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.

3. Trade and Investment Framework Agreements

In 2001, the United States concluded a Trade and Investment Framework Agreement (TIFA) with Algeria. TIFA agreements were previously negotiated with key regional partners, Egypt, Jordan, Turkey, and Morocco. 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. In 2001, Trade and Investment Council talks with the Government of Turkey were inaugurated. In October 2001, follow up talks on agriculture import issues were held.

4. WTO Accession

Negotiations on accession to the WTO of Saudi Arabia and Algeria continue, in which the United States is seeking entry based on implementation of WTO provisions upon accession and commercially meaningful market access commitments for U.S. goods, services, and agricultural products.

5. Intellectual Property Rights

Protection of intellectual property rights remains a leading priority in the Middle East region. Because of continuing concerns with Israeli efforts to reduce and eliminate piracy of intellectual property, Israel remained on the "Special 301 Priority Watch List" in 2001. Egypt and Turkey are also on the Priority Watch List, while Lebanon, Kuwait, Saudi Arabia, and the United Arab Emirates (UAE) are on the Watch List.

F. Africa

Overview

The United States enjoys a vibrant and growing trade and investment relationship with the countries of sub-Saharan Africa, and the region remains a key strategic partner. Total two-way trade between the United States and sub-Saharan Africa topped $22 billion in the first nine months of 2001 – an increase of 8 percent compared to the same period in 2000. Sub-Saharan Africa is home to more than one-tenth of the world's population, supplies 18 percent of U.S. oil needs, and represents the largest bloc of WTO members (38 countries).

The African Growth and Opportunity Act (AGOA) is the centerpiece of U.S. trade policy towards 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 more democratic governments in sub-Saharan Africa. The United States made significant progress in each of these areas in 2001 and plans to continue its efforts in 2002.

1. Implementing the African Growth and Opportunity Act

The AGOA provides powerful incentives for economic growth in one of the poorest regions of the world by granting duty-free and quota-free access to the $10 trillion U.S. market for nearly 6,500 products. The Act also institutionalizes a process for strengthening U.S. relations with sub-Saharan African countries by establishing a U.S.-Sub-Saharan Africa Trade and Economic Cooperation Forum co-hosted by the USTR and the Secretaries of State, Treasury and Commerce. The AGOA is authorized through September 30, 2008.

The United States held the first Trade and Economic Cooperation Forum in Washington, DC on October 29-30, 2001. President Bush officially opened the Forum, which included participation by Ministerial delegations from every AGOA-eligible country. During the event, the USTR co-hosted a successful plenary session on AGOA implementation with the Minister of Industry, Trade and Marketing of Lesotho, where Trade Ministers from across the region discussed strategies for promoting regional economic reforms and strengthening U.S.-Sub-Saharan African trade and investment ties. USTR was joined at the Forum by four Cabinet Secretaries, the National Security Advisor, and the AID Administrator, reflecting AGOA's importance to the Bush Administration.

In 2001, the Administration worked to designate countries as eligible for AGOA and to ensure that the benefits of the Act are broadly shared. The AGOA requires the President to determine annually whether sub-Saharan African countries are, or remain, eligible for benefits based on criteria set out in the Act. USTR chairs the interagency AGOA Implementation Subcommittee responsible for advising the USTR on country eligibility. Based on the USTR's recommendation, the President determined in December 2001 that all 35 countries that were designated as eligible for AGOA benefits in 2001 will remain eligible in 2002. The 35 countries are

Benin, Botswana, Cameroon, Cape Verde, Central African Republic, Chad, 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, Uganda and Zambia.

Under AGOA, eligible countries that meet certain requirements to prevent illegal transshipment may also receive preferential duty-free and quota-free treatment for certain textile and apparel articles. In 2001, USTR approved submissions for AGOA textile and apparel benefits from 12 countries (Botswana, Ethiopia, Kenya, Lesotho, Madagascar, Malawi, Mauritius, Namibia, South Africa, Swaziland, Uganda and Zambia), including nearly all of the region's leading apparel producers. The AGOA Implementation Subcommittee expects to recommend approval of pending submissions of another nine countries in 2002.

As part of its ongoing AGOA implementation efforts, USTR has coordinated more than 20 regional technical assistance seminars on AGOA across sub-Saharan Africa. These seminars, designed to ensure that the sub-Saharan African public and private sectors are equipped to fully utilize AGOA benefits, were organized in conjunction with U.S. Customs, USAID and the Departments of State and Commerce. Throughout 2001, USTR also worked closely with the Overseas Private Investment Corporation (OPIC), the U.S. Export-Import Bank and the U.S. Trade and Development Agency (TDA) to address regional infrastructure and supply-side constraints. USTR and other federal agencies plan to host additional national and regional AGOA seminars in sub-Saharan Africa this year.

The United States continues to actively promote public and private sector understanding of AGOA and U.S. trade policy towards Africa, and these efforts are raising awareness of the many opportunities available through expanded trade with the region. In addition to numerous AGOA technical assistance and training seminars, USTR officials have organized briefings for Congress and private sector business groups and met frequently with the African diplomatic corps, Industry Sector Advisory Committees (ISACs) and companies interested in AGOA. 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 they continue to maintain a website dedicated to AGOA information (www.agoa.gov). In 2002, the USTR will institute a Trade Advisory Committee on Africa (TACA) to provide a formal vehicle for regular private sector and NGO input into AGOA implementation and broader U.S. trade and investment policy towards sub-Saharan Africa.

2. Promoting Economic Reform, Growth and Development

In its first 18 months, the AGOA has prompted important economic and social reforms across sub-Saharan Africa and delivered new jobs and new opportunities for economic growth and development to the region. The 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 practices to attract and maintain trade and investment, and are essential for the transfer of technology, increasing labor force skill, promoting competition and increasing exports.

The United States consulted extensively with sub-Saharan African countries on AGOA eligibility requirements in 2001, and many eligible countries are implementing needed reforms as a result. These reforms include measures to combat

corruption, accelerate privatization, deregulate key industries, promote more open trade, and strengthen intellectual property and labor law protections. Countries have ratified ILO Convention 182 on the elimination of the worst forms of child labor and are working to change, or have changed, laws on child trafficking or on worker rights.

By bringing increased investment to and creating new jobs in sub-Saharan African countries, the AGOA is also demonstrating how trade can benefit developing countries. In 2001, Lesotho attracted an estimated $120 million in new investment as a result of AGOA, four times the amount it receives annually in overseas aid. Kenya attracted nine new investors and the country predicts that AGOA will create over 150,000 jobs. Namibia won $100 million in new investment, and U.S. apparel industry leaders active in Madagascar attribute about 30,000 new jobs in that country to AGOA. South Africa has also achieved significant results, exporting to the United States in over 18 different sectors. Overall, anecdotal evidence suggests that AGOA's incentives have brought the entire region nearly $1 billion in new investment.

In addition, U.S. firms say they have increased their sourcing from sub-Saharan Africa by roughly 75 percent as a result of AGOA. In the first half of 2001, almost 85 percent of U.S. trade with the region was with the 35 AGOA eligible countries, and U.S. imports under the Act accounted for 58 percent of total U.S. imports ($11.6 billion) from sub-Saharan Africa over the same period. While most of U.S. imports were in the energy sector, AGOA is beginning to diversify our trading relationship. For example, textile and apparel imports from the region rose nearly 30 percent ($343 million to $438 million) in the first half of last year, compared to the same period in 2000. Imports of minerals and metals were up 14 percent ($1.5 to $1.7 billion) and machinery imports grew 78 percent ($80 million to $142 million).

3. 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 twenty-country Common Market for Eastern and Southern Africa (COMESA) and a Joint Declaration on E-Commerce with Nigeria in 2001. The COMESA TIFA is the first U.S. regional TIFA in sub-Saharan Africa and adds to an existing network of Trade and Investment Framework Agreements with individual countries (South Africa, Nigeria and Ghana). The Administration has used these agreements to successfully further bilateral trade promotion initiatives and resolve commercial disputes.

AGOA successes are also creating new commercial opportunities for U.S. exporters. Even as trade preferences granted under the Act have increased U.S. demand for African goods, U.S. exports to the region have grown significantly. Indeed, U.S. sales to sub-Saharan Africa were up nearly 30 percent (to $5.2 billion) in the first nine months of last year, compared to the same period in 2000. For those nine months, South Africa was the largest regional consumer of U.S. exports, followed by Nigeria, Kenya, Namibia, Angola, Cameroon, Ghana and the Seychelles. In order to sustain and build upon this success we need to ensure growth of new trade opportunities and increasing AGOA exporters' familiarity with the U.S. market. Africans, too, will have to continue their pursuit of new trade opportunities and work to develop efficient shipping links and other infrastructure.

a. South Africa

The United States and South Africa enjoy a broad and mutually beneficial trade and investment relationship. Total two-way trade grew 9 percent to $5.7 billion in the first half of 2001, compared to the same period the previous year. Leading

U.S. exports to South Africa include transportation equipment, chemicals, electronic products, machinery and agricultural goods. Imports include minerals and metals, transportation equipment, chemicals, machinery and textiles and apparel. South Africa is a valued partner in the WTO and is the largest U.S. supplier of AGOA eligible products in sub-Saharan Africa, with sales worth more than $290 million in the first nine months of 2001.

As with many diverse and growing 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, and ongoing problems related to South Africa's basic telecommunications monopoly, Telkom, and its failure to provide facilities necessary for U.S. value-added network services (VANS) providers to operate and expand. The USTR held a videoconference with the South African Minister of Trade and Industry to discuss poultry in September 2001, and the Administration hopes to resolve this matter early in 2002. The United States worked with U.S. VANS providers in 2001 to address concerns related to the South African Telecommunications Amendment Bill signed into law in November, and will continue these efforts in 2002.

b. Nigeria

Nigeria is the largest overall U.S. trading partner in sub-Saharan Africa. Total two-way trade topped $7.9 billion in the first nine months of 2001, a four percent increase over the same period in 2000. Nigeria is a major global consumer of U.S. agricultural products and was the largest foreign purchaser of U.S. red winter wheat in 2001. Nigeria is also the fifth largest U.S. petroleum supplier, and energy products account for the vast bulk of the country's sales to the United States. Under AGOA, however, the country is diversifying its export base to encompass other products, including footwear and manufactured goods.

The United States is working closely with the Government of Nigeria, both through the U.S.-Nigeria TIFA and other initiative, to promote expanded trade and investment and a more diversified economy. Earlier this year, U.S. and Nigerian governments officially launched a multi-million dollar gum arabic production project in the northern Nigerian state of Jigawa. U.S. gum arabic processors have agreed to purchase all Nigerian production that meets quality standards.

c. Other Countries and Regions

The Administration plans to continue ongoing efforts to strengthen bilateral trade and investment ties throughout sub-Saharan Africa and promote regional economic integration through work with the Organization for African Unity (OAU), the Economic Community of West African States (ECOWAS), the West African Economic and Monetary Union (WAEMU), the Economic and Monetary Community of Central Africa (CEMAC), COMESA and the Southern African Development Community (SADC). This year, the United States will co-chair the inaugural U.S.-COMESA TIFA Council meeting and host the U.S.-SADC Forum in Washington, DC.

4. Facilitating Sub-Saharan Africa's Integration Into the Multilateral Trading System

The AGOA has also helped to promote sub-Saharan Africa's integration into the multilateral trading system and encourage support for new global trade negotiations in a region that accounts for more than a quarter of WTO membership.

The United States worked closely with sub-Saharan African governments throughout 2001 to prepare for the successful Fourth WTO Ministerial Conference at Doha. Between June and November, the USTR consulted directly with Trade Ministers and/or Heads of State or Government from Gabon, Ghana, Kenya, Lesotho, Mauritius, Nigeria, Senegal, South Africa and Tanzania to discuss WTO and other matters. He also co-hosted a WTO Roundtable for Trade

Ministers at the October U.S.-Sub-Saharan Africa Trade and Economic Cooperation Forum and led a similar discussion in Doha. Responding to invitations from COMESA and the OAU, USTR officials participated in meetings in Cairo, Egypt in July and Abuja, Nigeria in September where African leaders were coordinating regional positions on WTO issues and preparing for the Doha Ministerial.

This year, the United States is working with sub-Saharan African countries to achieve common objectives in Geneva and ensure that regional governments have the capacity to participate effectively in new WTO negotiations and implement the results. The Administration has developed a comprehensive strategy for delivering WTO technical assistance to the region based on needs identified by African governments, and will be cooperating with other bilateral and multilateral donors on implementation.

These efforts build on a solid track record of delivering trade capacity assistance to developing countries in sub-Saharan Africa and beyond. Between 1999 and 2001, the United States devoted more than $110 million to technical assistance on WTO agreements, awareness and accession worldwide, and U.S. spending on these programs increased by more than 650 percent over the same period. In 2001, the United States pledged $1 million to the WTO's Global Trust Fund for Technical Assistance to help developing country members meet their Uruguay Round commitments and participate more fully in the international trading system. USTR will continue to coordinate regional seminars and workshops on key WTO issues (agriculture and services) and fund scholarships for 30 sub-Saharan African trade officials to participate in comprehensive WTO courses in Geneva in 2002.

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. During 2001, as part of the review policy, USTR issued a draft review of the U.S.-Chile FTA. USTR also initiated an interagency environmental review of the WTO negotiations on agriculture and services and continued work on interagency environmental reviews of the Free Trade Area of the Americas (FTAA) and the U.S.-Singapore FTA.

At the fourth WTO Ministerial Conference in Doha, Qatar (November 2001), the U.S. Government succeeded in securing a package of environmental elements that underscores the WTO's commitment to sustainable development and to the simultaneous advancement of trade, environment, and development interests. Specifically, the Doha agenda includes mandates to negotiate on rules to reduce or eliminate environmentally harmful and trade-distorting subsidies in fisheries and export subsidies in agriculture, as well as on improved market access for environmental goods and services. Members also agreed to strengthen the role of the Committee on Trade and Environment and to encourage trade and environment technical assistance, including in connection with environmental reviews of trade agreements. In addition, Members agreed to negotiations on the relationship between the WTO rules and specific trade obligations in multilateral environmental agreements (MEAs), as well on ways to enhance cooperation between the WTO and MEA secretariats.

The Doha Declaration also encouraged continued cooperation between the WTO and international environmental and developmental organizations, especially in the preparations for the World Summit on Sustainable Development to be held in Johannesburg, South Africa in September 2002. USTR is actively participating in preparations for the Summit, with a view to helping ensure that developing countries fully integrate into the world trading system in order to benefit from trade liberalization and growing trade opportunities. The Summit also provides an opportunity to

promote the availability of trade capacity building assistance, including assistance to assure that trade is environmentally neutral or positive, for countries to improve environmental standards and regulations, and to stimulate greater access to environmental technologies for sustainable development.

Also in 2001, USTR obtained Congress' approval of the U.S.-Jordan FTA, which entered into effect on December 17, 2001. This FTA includes trade and environment provisions such as on effective enforcement of environmental laws, an initiative on technical environmental cooperation, transparency elements, and provisions liberalizing market access for environmental goods and services. USTR continued negotiations on FTAs with Singapore and Chile, and expects to address trade and environment issues, as appropriate, with those countries as talks make progress in early 2002.

In addition, USTR has participated both in multilateral and regional economic fora and in international environmental agreements, in conjunction with other U.S. agencies. USTR also has worked bilaterally with U.S. trading partners to avert or minimize potential trade frictions arising from foreign and U.S. environmental regulations.

1. Multilateral Fora

The WTO Committee on Trade and Environment (CTE) met three times in 2001, pursuant to its mandate as elaborated in the Uruguay Round Agreements. In preparation for the Doha Ministerial, the Committee reviewed the full range of trade and environment issues on its agenda and continued to deepen Members' understanding of these issues. The United States contributed to this process by, *inter alia*, playing a leadership role in working to build a consensus on the need for the WTO to address fisheries subsidies that contribute to overcapacity and overfishing, and on the trade and environmental benefits of liberalizing trade in environmental goods and services. These initiatives culminated in a successful launch of negotiations on these topics at Doha. The United States also stressed the importance of public outreach to enhance understanding of the trading system, as well as the valuable role to be played by environmental reviews of trade agreements. In addition, Members held valuable information exchanges with the Secretariats of a number of MEAs, and furthered their understanding of the synergies between MEAs and the WTO.

USTR co-chairs U.S. participation in the OECD Joint Working Party on Trade and Environment (JWPTE), which met two times in 2001 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 below under *Environment and Trade*.

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 more 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.

2. 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 CEC has undertaken a number of environmental projects, encompassing such diverse objectives as studying the market potential of shade-grown coffee, developing a draft plan to help control mercury levels in the environment, promoting efforts to protect the habitat for migratory birds, and initiating voluntary environmental management systems with the private sector. In 2001, the CEC held a symposium to study the environmental implications of the changing electricity market in North America.

The NAAEC allows citizens to make submissions to the CEC Secretariat to document alleged non-enforcement of environmental laws by one or more of the NAFTA Parties. If the Secretariat finds merit in such submissions, it may recommend the production of a factual record, which outlines the circumstances of each case. In 2001, the CEC Council instructed the CEC Secretariat to prepare factual records for five citizen submissions, three concerning the Government of Canada, one concerning the Government of Mexico, and one alleging failure by the U.S. Government to effectively enforce section 703 of the Migratory Bird Treaty Act against a logging operation.

In 2001, 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.

USTR, along with other U.S. agencies, has also been engaged in examining the relationship between investment and the environment, including the need for clarification of NAFTA Chapter 11. (Chapter 11 sets out each government's obligations with respect to investors from other NAFTA countries and their investments in its territory.) *See* Chapter IV.

3. The Western Hemisphere

To provide direction on ensuring mutually supportive economic and environmental policies, as was agreed at the 1994 Miami Summit of the Americas, U.S. negotiators worked over the past year within the framework of the Free Trade Area of the Americas (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 will continue to support the FTAA Civil Society Committee to expand opportunities for expression of views to the FTAA Ministers by members of civil society throughout the Hemisphere, and will carefully consider civil society's submissions to that Committee on the full range of issues, including environmental concerns. The United States is taking into account the environmental implications of the FTAA negotiations through an environmental review, which was initiated in 2000.

4. Other Issues

Shrimp/Turtle WTO Dispute

As described in Chapter II, the WTO Appellate Body in the *Shrimp-Turtle* dispute found that the United States' implementation of its sea turtle protection law (known as the "shrimp-turtle" law) is fully consistent with WTO rules and complies with earlier recommendations of the Appellate Body. Malaysia, along with three other countries, had brought an initial challenge to the law in 1996. In a 1998 report, the Appellate Body did not find fault with the U.S. shrimp-turtle law, but did find that the United States had unjustifiably discriminated among exporting countries in applying the law. The United States took steps to implement those findings by modifying the application of the law in a manner that both enhanced sea turtle conservation and addressed the concerns of the Appellate Body.

At the request of Malaysia, in 2001 the original WTO panel considered whether the United States' implementation measures complied with the Appellate Body's 1998 recommendation. The panel's report, issued in June 2001, found that the United States had complied. On Malaysia's appeal, the Appellate Body in October 2001 agreed with the panel's conclusions. This outcome, along with that in the Asbestos dispute, provides further confirmation that WTO rules adequately safeguard Members' ability to protect the environment, health and safety.

Asbestos WTO Dispute

The United States participated as a third party in Canada's challenge to a French ban of chrysotile asbestos on health grounds. In 2000, the WTO dispute resolution panel had found that the French ban was inconsistent with WTO national treatment provisions but was justified under WTO exceptions as a measure necessary to protect human health. While supporting the panel's overall conclusion that the ban is consistent with WTO rules, the United States questioned the panel's finding that the ban violated WTO national treatment provisions. In March 2001, the Appellate Body upheld the panel's conclusion that France's ban was WTO-consistent, but also agreed with the United States that the ban did not breach national treatment obligations.

B. Trade and Labor

The trade policy agenda of the U.S. Government includes a strong commitment to improving labor standards and protecting the rights of workers. To help assure that trade and labor policies are mutually supportive and reinforcing, during 2001 the Bush Administration worked to develop a "toolbox" of actions the United States could take, either as part of or parallel to trade negotiations, to protect children and ensure adherence to the fundamental rights of workers by our trading partners. Accordingly, USTR worked cooperatively with other USG Agencies in multilateral, regional and bilateral fora to promote labor standards.

Expanded trade benefits all Americans through lower prices and greater choices among imports. Many other American workers benefit from expanded employment opportunities created by trade liberalization. However, these gains may come at the expense of some American workers in sectors adversely affected by trade flows. Because such workers should be fairly compensated and given the resources – especially training or re-training – to adjust to new jobs, the reauthorization of and improvements to the system of Trade Adjustment Assistance (TAA) is also an integral part of the Administration's international trade agenda. The Administration continues to consult with Members of Congress concerning the exact form these improvements to TAA should take.

1. 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 core labor

standards. At the 2001 Doha WTO Ministerial, we supported a similar proposal which was put forth by the EU. Unfortunately, at Doha as at earlier meetings, 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. At its November 2001 meeting, the Working Party had before it papers on the impact of expanded trade on employment that were prepared by the ILO secretariat, the WTO, and UNCTAD. The efforts of the Working Party to analyze the relationships between trade, investment and labor, and to draw policy conclusions from that anlysis, are continuing.

The United States remains the largest donor to the work of the ILO. The U.S. has been particularly supportive of two ILO initiatives: the International Program for 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.

2. 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. USTR therefore joined the Departments of Labor and State on the U.S. Delegation to the XII IACML meeting in Ottawa, in October 2001. Ongoing efforts of the IACML will take place in two working groups: One will focus on the labor dimensions of the Summit of the Americas process, including the Free Trade Area of the Americas (FTAA). The second working group will focus 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, and the UN's Economic Commission for Latin America and the Caribbean in their work.

The U.S. Government also promoted attention to labor standards and issues of workforce quality at the 2001 APEC Labor Ministerial meeting, held in Kumamoto, Japan. Other regional trade and labor activities carried out under NAFTA/NAALC and the OECD are noted in those sections of this report.

3. Bilateral Activities

Perhaps the most significant bilateral action involving the interaction of trade and labor came with Congressional approval of the U.S.-Jordan Free Trade Agreement. Article 6 of that Agreement commits each Party to strive to ensure that the principles of the *ILO Declaration on Fundamental Rights* are recognized and protected by domestic law, to effectively enforce its labor laws, and to not waive or derogate from domestic labor laws to encourage trade. The US-Jordan FTA marks the first time such labor-related

obligations have been incorporated into an American trade agreement. During 2001 USTR continued FTA negotiations with the Governments of Chile and Singapore, and expects appropriate labor provisions to be included in those agreements.

At the end of 2001, negotiations were concluded which extended the bilateral textile agreement with Cambodia. A unique aspect of the Cambodian textile agreement is that import quotas for several categories of textiles 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.

A final aspect of trade and labor bilateral activities relates to the worker rights provisions of U.S. trade preference programs. Early in 2001 incidents were reported of continuing acts of violence against workers and trade union organizers in Guatemala. It was also confirmed, through the good offices of the ILO, that Guatemala's labor laws did not adequately protect those workers' rights contained in provisions of the U.S. Generalized System of Preferences (GSP) and Carribean Basin Trade Promotion Act (CBTPA). USTR and our Embassy in Guatemala City made it clear to the government that GSP and CBTPA benefits would be withdrawn unless its labor law was amended and violence against workers and their representatives was ended. These actions were taken, and Guatemala continues to participate in U.S. trade preference programs, although careful monitoring of the workers' rights situation there continues.

When CBTPA eligibility was reviewed and approved in 2000, three other countries were noted to have problems with respect to meeting their obligations to effectively provide for internationally recognized worker rights: El Salvador, Honduras and Nicaragua. Therefore, in July of 2001 USTR led a mission to those countries which also included worker rights specialists from the Departments of State and Labor. In each of the countries, meetings were held with Government officials from the Trade and Labor Ministries, trade unionists, NGOs, and employers. Results of the visits concluded that CBTPA trade benefits would be maintained, but that we would continue to pay careful attention to the protection of worker rights in those countries, particularly in their *maquiladora* sectors.

C. Organization for Economic Cooperation and Development

The Organization for Economic Cooperation and Development (OECD) is a key forum for the discussion of economic and social issues confronting its 30 members. The OECD includes the United States, Canada, Mexico, the countries of Western Europe, Japan, Australia, New Zealand, the Czech Republic, Korea, Hungary, Poland and Slovakia, whose accession was completed in December of 2000. Argentina and Russia have formally applied to join. The OECD has a major cooperation program with Russia, the purpose of which is to support Russia's efforts to establish a market economy and its 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. Members have negotiated binding agreements in certain areas 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 2001, the OECD Trade Committee continued to address a number of issues of significance to the multilateral 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. Major projects include studies on the benefits of ongoing trade liberalization in services, an extensive review of regional trade agreements, and preparations for work related to the fourth WTO Ministerial Conference held in Doha, Qatar in November.

2. Competition Policy and Trade

The Joint Group on Trade and Competition 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 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 – if not always convergence – of approaches toward issues of common interest.

The OECD Joint Group on Trade and Competition met twice in 2001. Pursuant to its mandate to undertake further work on the development dimension of trade and competition, the Joint Group used the conceptual approaches taken by both trade policy and competition policy experts to discuss the potential role of "special and differential treatment" at the trade, competition, and development interface. Substantive work, as well as roundtable discussions, were also undertaken on both the Economic Effects of International Exhaustion of Intellectual Property Rights (parallel imports) as well as competition dimensions of trade in Electronic Commerce. In February of 2002, the renewal of the Joint Group's two-year mandate will be discussed.

3. Development and Trade

A number of recent Trade Committee reports have made an important contribution in informing public debate on the implications of further trade liberalization by analyzing the contribution that expanded international trade can make to economic development and other broader economic and social goals. Previous work in 1998 through 2000 concluded that open trade and investment have been beneficial for development, particularly when accompanied by a coherent set of growth-oriented macroeconomic and structural policies, capacity-building, adequate social policy and good governance. In particular, open economies have grown significantly faster than closed economies over sustained periods of time. In turn, this higher growth is associated with a reduction in poverty.

In 2000, the Committee began work on a more detailed follow-up study on the relationship between international trade and economic development in non-OECD countries. As a result, in autumn of 2001, the OECD published a major new study on *The Development Dimensions of Trade* which reviewed the economics of trade and growth, the relationship of developing countries to the multilateral trading system, and the contribution of development co-operation to economic advancement and integration. To ensure adequate review, input was sought from developing country representatives, an informal meeting of the Working Party was organized with participants from 14 non-member economies and UNCTAD, and its findings were the subject of an OECD Global Forum for Trade hosted by the Government of Chile in Santiago during June of 2001.

In addition, the Trade Committee continued its dialogue with transition countries with a view to encouraging their integration into the multilateral trading system. In 2001, the Committee focused on developments in Russia's trade policy and trade in services in the Baltic countries. The dialogue with Russia included discussion of the role of Russia's regions in trade policy, regional

co-operation in Russia's Far East, and trade-related aspects of regulatory reform. A Round Table on the Interface between the Central and Sub-National Levels of Government in Russia's Trade Policy was organized in Vladivostok, Russia on October 11-12, 2001. The Trade Directorate also organized a Policy Meeting on the Economic and Business Environment for Trade in Services in the Baltic States in Tallinn, Estonia on December 13-14, 2001.

4. Criminalization and Non-tax-deductibility of 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 significant penalties on those who bribe, and implement adequate accounting procedures to make it harder to hide illegal payments. As of February 1, 2002, 32 of the 35 signatories had 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 of developing countries, undermine the rule of law and create an unpredictable environment for business.

The signatories to the Convention commenced the second phase of monitoring - the evaluation of enforcement - in November 2001. The first phase of monitoring - the review of the adequacy of implementing legislation (which commenced in April 1999) - is almost complete; implementing legislation of thirty countries has been reviewed. The OECD Convention signatories are also studying whether the Convention's coverage should be extended to several related issues, including bribery of foreign public officials as a predicate offense for money laundering legislation, the role of foreign-subsidiaries and offshore financial centers in bribery transactions, and bribery of foreign political parties and candidates.

The OECD also has recommended that member countries eliminate tax deductibility of bribes. All thirty-five signatories have agreed to implement this recommendation. While most signatories have reported that such bribes are non-deductible, we will continue to work with the OECD to develop more reliable methodologies for monitoring implementation of this recommendation.

5. 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).

In 2000, the Committee focused on developments in Russia's trade policy and the progress in trade liberalization of all transition countries over the previous ten years. The dialogue with Russia included discussion of proposed reforms in its trade regime, the interface between the central and sub-national levels of government in trade policy, and trade-related aspects of regulatory reform. This work was continued in 2001 (see section above on Trade and Development).

The OECD also maintained its commitment to

dialogue with Civil Society Organizations in 2001. For example, the Trade Committee held its third annual consultation with civil society in October, which provided a renewed opportunity to exchange views between OECD Members and civil society. This year's consultation theme was "To Doha and Beyond," with a focus on trade and sustainable development. In November of 2001, the Joint Working Party on Trade and Environment (JWPTE) held its seventh consultation with civil society and exchanged views on the outcome of the Doha Ministerial.

6. Environment and Trade

The OECD Joint Working Party on Trade and Environment (JWPTE) met two times in 2001 to continue its analysis of the effects of environmental policies on trade and the effects of trade policies on the environment. The JWPTE has successfully deepened its capabilities, having moved from identifying broad effects to analyzing effects in specific market sectors. This year the JWPTE completed important work on methodologies for assessing the environmental effects of trade liberalization in the services sector, which will prove useful as USTR undertakes assessment of the effects of WTO negotiations on services. The JWPTE has also worked to forge tools for enhancing the compatibility of trade and environment policies, and this year compiled a synthesis of case studies examining national application of transparency and consultation procedures, with a view to disseminating best practices to member countries early next year.

Building upon the development initiatives agreed upon at Doha, the JWPTE agreed to undertake work on the development dimension of trade and environment, beginning with an examination of how developed country environmental measures may affect developing country exports. The OECD will then solicit developing country views through a workshop in 2002 and seek to address issues identified.

7. 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 stand-alone policy-level body of the OECD, are responsible for implementing the nearly 25-year old Arrangement and for negotiating further disciplines to reduce subsidies in official export credit support.

In 2001, Participants renewed for another year an agreement to prevent tied aid from being offered in select countries of the former Soviet Union, in order to keep these newly opened markets free from the trade distorting effects of tied aid. While the Arrangement has reduced overall tied aid drastically and European tied aid was at its lowest level in history, Japan emerged as the largest provider of tied aid in 2001 - accounting for 70 percent of all such aid. Participants also began considering in 2001 a proposal to apply the tied aid disciplines to untied aid, which is a form of aid financing that is currently not disciplined multilaterally but which can have trade distorting effects. Japan is the largest provider of untied aid.

Participants were unable to conclude negotiations to bring discipline to agricultural export credits (currently excluded from the Arrangement) after several years of negotiations. This was due to Canada's inability to accept the proposed disciplines. The issue will now be addressed in the WTO, but bilateral contacts will continue in hopes of reaching consensus on the issue.

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.

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 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.

The Export Credit Group, the Participants' primary working group, reached agreement to try to ensure that export credits to heavily indebted poor countries (HIPCs) are not provided for unproductive purposes. Export Credit Group members agreed on a transparency exercise whereby members will report semi-annually on the financing that they have provided to these countries (2 year repayment term or greater).

In 2001, the Export Credit Group also made progress on the issue of bringing environmental considerations into the financing decisions of export credit agencies, although agreement has not yet been reached because the U.S. was unwilling to accept the draft proposal – believing it inadequate. Until agreement is reached, most members have stated their intention to implement unilaterally the provisions of the current draft proposal.

8. Investment

The OECD continued its work on international investment issues. A key area of focus was follow-up work in regard to the OECD Guidelines. A prominent event in this regard was the First Annual Meeting of the National Contact Points (NCP) of the OECD Guidelines for Multinational Enterprises. This meeting provided an opportunity to take stock of the first year of NCP activity since completion of the review of the Guidelines and to reflect on directions for future activity. Discussions centered around institutional arrangements, information and promotion, and implementation of the Guidelines in specific instances. The OECD also organized the Global Forum on International Investment which was developed in order to foster an open and inclusive dialogue on emerging investment issues.

The Committee also continued its outreach to non-Members. Examples of this work include the OECD-Ukraine Roundtable on the Ukraine Investment Policy Review and conferences on foreign direct investment (FDI) in the Caribbean Basin and Latin American and FDI in South East Europe (SEE). The latter conference highlighted the crucial role of FDI in the SEE countries and outlined a strategy for achieving a favorable investment environment in the region. Additionally, the OECD also organized meetings on foreign investment in China which were part of the ongoing OECD-China policy dialogue on investment issues.

In addition to these events the CIME also held regular meetings where issues such as the costs and benefits of investment and investment incentives were addressed.

9. 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, at www.oecd.org.

10. Regional Economic Integration

The OECD has initiated work to study the nature and implications of Regional Trade Agreements (RTAs) and their impact on trade. As part of this work, a report was produced aiming to provide a review of the main findings of empirical work already undertaken outside the OECD on the effects of RTAs on flows of trade and investment, and their impact on economic welfare. The OECD declassified that study in 2001.

As a follow-up to the study on trade and other economic effects of RTAs, work has been launched by the Trade Committee to construct a database that structures the available evidence on empirical effects of RTAs in a systematic manner. The purpose of the RTA-database is to facilitate analysis of patterns across both issues and RTAs, and allow comparisons between studies, thereby helping to differentiate between areas of broad consent among researchers and those where further empirical clarification of effects seems desirable.

Furthermore, the Trade Committee decided in 2001 to investigate the relationship between the rules-based multilateral trading system and regional trade agreements. The Committee launched a comparative analysis of WTO and selected RTA provisions in various policy areas, such as tariffs, rules of origin, services, competition, investment, environmental protection, standards and dispute settlement. The objective of the analysis is to examine the extent to which existing RTAs draw on existing multilateral trade rules, or go beyond such rules, and whether RTAs have taken consistent or differing approaches on particular policy areas. This work will continue in 2002 with a view to exploring the synergies between regionalism and multilateralism, and clarifying some of the implications of regionalism for the functioning of the multilateral trading system.

11. Regulatory Reform

The OECD has an ongoing work program focusing on how governments can improve their regulations and regulatory processes. It began conducting reviews of regulatory reform efforts in member countries in 1998, based in part on self-assessment. The United States has supported the OECD's regulatory reform efforts as a way to raise the profile of the problems posed by the regulatory regimes of many OECD countries to our exporters' market access; to demonstrate that the benefits of regulatory reform (e.g., creation of due process and transparency) can lead to greater market openness and competition and more effective achievement of important policy goals; to encourage consideration of discussion among OECD members regarding possible solutions to market access problems caused by regulation and regulatory heterogeneity; and to promote growth in member economies through domestic efficiency gains and thereby increase demand for U.S. exports.

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.

Since 1998, the OECD completed country reviews of regulatory reform in the United States, Japan, Mexico, the Netherlands, Korea, Spain, Denmark, Hungary, Greece, Italy, Ireland, and the Czech Republic. In 2001, the United Kingdom, Poland, Canada and Turkey were reviewed by the Committee.

12. Services

With services negotiations ongoing in the WTO, services work in the OECD revolved around several challenging issues for these negotiations. A major study, *Open Services Markets Matter*, provides governments with a resource to draw upon in consultations with domestic stakeholders. The study focuses on three main areas: (i) the economy-wide benefits of services trade and investment liberalization for both developed and developing countries and for consumers, identifying practical examples and drawing on available empirical research; (ii) specific concerns raised by anti-GATS critics, including that the GATS threatens the provision of essential public services and governments' right to regulate service activities; and (iii) key negotiating challenges under GATS, especially for developing countries. A *Policy Brief* with the main findings was made available at the WTO Ministerial meeting in Doha, Qatar, and the study itself will be published in early 2002.

Significant work was also undertaken on movement of services providers under mode 4 of the GATS, looking at issues in mode 4 trade for both sending and receiving countries; defining and measuring mode 4; and current GATS commitments and how these could be improved in negotiations. Further work is underway on approaches to the movement of service suppliers in selected regional trade agreements; the economic effects of temporary foreign workers in host and origin countries; progress in mutual recognition agreements; and further consideration of improvements to GATS commitments on mode 4.

In 2001, the OECD published *Trade in Services: Negotiating Issues and Approaches*, which reports on the results of work in its services project. A third Services Experts Meeting is planned for March 4 and 5, 2002. Initial work was also undertaken on non-tariff barriers in the new economy, with work on regulation of services traded electronically planned for 2002.

13. Shipbuilding

The OECD Council Working Party on Shipbuilding has intensified its efforts to seek viable policy alternatives that would alleviate market distortions and establish a "level playing field" amongst the world's shipbuilders. This activity has been given the highest priority in that Working Party, in response to the instruction given by the OECD Council meeting at Ministerial level in May 2001 *"to redouble its efforts to explore solutions to bring about normal competitive conditions in shipbuilding, and encourage shipbuilding countries outside the OECD to participate in this work."* The Working Party is organizing an Industry Hearing in March of 2002 at which principal industry representatives will be invited to provide their views on possible actions governments should take to address the industry's problems.

In order to enhance the dialogue with partners outside the OECD, the Working Party organized a Workshop on Shipbuilding Policies on December 19 and 20, 2001. The Workshop brought together a number of non-OECD countries with important shipbuilding capacity, including China, now the world's third largest ship producer. Representatives at the Workshop covered nearly 95% of the world's shipbuilding market. At that Workshop, there was strong support from participants for the OECD efforts to seek viable policy alternatives to create a more competitive market, and there were positive signs that some non-OECD economies may participate if effective disciplines can be found.

14. Steel

On June 5, 2001 President Bush announced a comprehensive strategy to respond to the challenges facing the U.S. steel industry. Included in this strategy were: (1) negotiations with U.S. trading partners to seek the near-term elimination of inefficient excess capacity in the steel industry worldwide; and (2) negotiations with our trading partners to develop rules that will govern steel trade in the future and eliminate the market-distorting subsidies that gave rise to the industry's current condition. These negotiations were launched at special high-level OECD meetings on steel held in September and December of 2001.

At the first high level OECD meeting on steel held in September, thirty-nine participating governments agreed that a global excess of inefficient steelmaking capacity is a central problem affecting steel trade. The governments issued a communique recognizing the problems caused by the global excess of inefficient steelmaking capacity, and committed to taking concrete actions to reduce global excess.

The participants at the September meeting on steel also recognized the differences among governments regarding definitions of inefficient or excess capacity, and acknowledged that in market-oriented economies, decisions to reduce capacity will be decided by individual firms, not governments. Therefore, the participating governments agreed to proceed with a "self assessment" in which each government would consult with its industry to assess what changes in steelmaking capacity have recently occurred or are anticipated to occur due to market forces.

This initiative was continued at a second high-level meeting held at the OECD in December. Participating governments reported that market forces and policy measures have recently resulted in, or will result in, the projected closure of at least 61 to 65 million metric tons of capacity by the end of 2003, a further 9.5 million tons of capacity by 2005, and another 23 million tons by 2010.

The participants also concurred on the longer-term need to address subsidies and other market distorting practices and measures. The governments agreed to discuss in meetings during 2002 how these distortions may be addressed.

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 2001, industry CEOs representing all five parties held their second 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 that the governments of national/regional industry associations must 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 of governments and authorities that may affect the future outlook and competitive conditions within the global semiconductor industry. In June 2001, the United States hosted the second such meeting. At that meeting, the WSC recommended that government authorities pursue the following policies: promotion of open and competitive markets around the world; avoidance of specific intervention by government in the operation of individual companies; protection of intellectual property rights; non-discrimination for foreign products in all markets; an end to investment restrictions tied to technology transfer requirements; swift accession of China and Chinese Taipei to the WTO; expanded participation in the Information Technology Agreement (ITA); revitalization of efforts to conclude ITA II; adoption of a growth-promoting, transparent, non-discriminatory and market-oriented approach to electronic commerce and maintenance of the internet as a tariff-free environment; and adoption of environmental regulations based on scientific assessments of the risks posed by the targeted materials and their likely substitutes. The WSC also presented a White Paper on the industry's concerns about proposals to ban the use of lead in semiconductors and efforts underway within industry to reduce the use of lead in electronic products and to develop safe alternatives. 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. Japan will host the next meeting of governments and other authorities in September 2002.

Foreign market share in the Japanese market, which had exceeded 30 percent in every quarter during 1997 and 1998, averaged 29 percent in 1999 and remained at about that level in 2000. The U.S. Government monitors foreign market share in the Japanese market on a quarterly basis, and once a year reports the average annual foreign share in the Department of Commerce "U.S. Industry and Trade Outlook." Market share data for 2001 is not yet available.

E. Steel

On June 5, 2001 President Bush announced a comprehensive strategy to respond to the challenges facing the U.S. steel industry. This strategy is designed to restore market forces to world steel markets and to eliminate the 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 the Treasury, to initiate negotiations with our trading partners seeking the elimination of inefficient excess capacity in the steel industry worldwide. Finally, the President directed the United States Trade Representative, together with the Secretaries of Commerce and the Treasury, to initiate negotiations on the rules that will govern steel trade in the future and to eliminate the underlying market-distorting subsidies that led to the current conditions in the first place.

On June 22, 2001, the United States Trade Representative requested, on behalf of the Administration, that the U.S. International Trade Commission (ITC) initiate a comprehensive investigation of injury to the industry under section 201 of the Trade Act of 1974.

On October 22, the ITC determined that imports of 12 groups of products, valued at over $10 billion a year, were harming U.S. manufacturers and workers. These products accounted for approximately 74%, by volume, of United States steel imports.

On December 19, the ITC issued a report

containing its recommendation as to what action the President should take in response to the import surge. On January 3, 2002, USTR requested additional information from the ITC, which responded on February 4, 2002. The President has until 30 days after that response to decide on what action, if any, should be taken under Section 201.

The negotiations on inefficient excess capacity were launched at special high-level OECD meetings on steel held in September and December of 2001. (*See steel discussion in preceding section of activities of OECD.*)

The President's three-part strategy was designed to help U.S. industry meet the challenges it faces while restoring market forces to global steel trade. It will encourage the elimination of excess inefficient capacity and subsidies and other market distorting practices in the global steel industry.

VI. Trade Enforcement Activities

A. Enforcing U.S Trade Agreements

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 helps 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 USTR'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 to 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 57 complaints at the WTO, thus far successfully concluding 37 of them by settling favorably 19 cases and prevailing on 15 others through litigation in

WTO panels and the Appellate Body. USTR 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 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 37 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 enforcement of intellectual property rights; the EU's market access for grains; 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 15 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 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; 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.

1. WTO Dispute Settlement

2001 Activities

In 2001, the United States filed one new complaint under WTO dispute settlement procedures, involving an import surcharge imposed by the European Union on corn gluten feed, and that dispute was resolved shortly thereafter. The United States also reached an agreement with the EU to resolve the long-standing dispute over bananas; satisfactorily settled the dispute regarding Belgian duties on imports of rice; and reached agreement with Brazil regarding certain provisions of its patent law.

The United States also received favorable WTO dispute panel or Appellate Body rulings in 2001

in cases involving U.S. exports of high fructose corn syrup to Mexico and beef to Korea. 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 at www.ustr.gov/enforcement.

2. 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 marketplace.

Section 281 of the Uruguay Round Agreements Act of 1994 (URAA) sets out the responsibilities of USTR and the Department of Commerce (Commerce) in enforcing 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. The SEO's electronic subsidies database, which was fully installed last year, 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, which can be found at http://ia.ita.doc.gov/esel/eselframes.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.

The past year marks an important turning point in the marshaling of government resources to deal with distortive foreign subsidies and other unfair trade practices, and in the intensity and focus of those efforts. A new, Administration-wide trade compliance initiative was launched in 2001, with additional personnel and resources throughout the Executive Branch being dedicated to increased monitoring and enforcement activity as concerns our trading partners' adherence to their bilateral and multilateral trade commitments. In terms of subsidies enforcement, IA has both expanded the reach and strengthened the organization of its resources as part of this broader trade compliance effort.

Last year, IA established a Trade Remedy Compliance Staff for the purpose of addressing the problem of foreign unfair trade practices, particularly those originating in East Asia, in a more pro-active fashion. Pursuant to Congressional directives, IA has assembled a staff of trade analysts with exclusive responsibility for tracking and analyzing government policies, business practices and trade trends in China, Japan and Korea for possible evidence of burgeoning unfair trade problems. These Washington-based analysts will work in coordination with IA officers that the Congress has mandated be stationed in such countries as China, Japan and Korea in order to support administration of the U.S. unfair trade laws, monitor other countries' use of their own trade statutes, and work closely with U.S. industries in order to prevent and impede at an early stage the development of unfair trade problems that could both harm U.S. interests and create unnecessary frictions with our trading partners.

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 monitor other Members' administration of antidumping and countervailing duty actions involving U.S. companies. Information about foreign antidumping and countervailing duty actions affecting U.S. exports is accessible to the public via the Department of Commerce's Import Administration website at http://ia.ita.doc.gov/foradcvd/index.html. As noted above, the deployment overseas of IA officers will improve the Administration's ability to monitor the application of foreign unfair trade laws to U.S. exports.

Over the last year, USTR and other senior U.S. officials have met on several occasions with South African officials regarding the South African antidumping order against U.S. exports of certain poultry parts, and hope to resolve this matter early in 2002. The Canadian countervailing duty investigation against U.S. exports of grain corn, in which the U.S. Government actively participated as a separate respondent, ended last year with a finding by the Canadian International Trade Tribunal that U.S.

exports did not cause or threaten to cause injury to the producers of corn in western Canada. This ruling terminated the investigation. Other antidumping investigations of U.S. goods currently being closely monitored include Canada's investigation of fresh tomatoes and China's investigation of lysine.

Twice a year, WTO Members 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. Members also notify their preliminary and final determinations to the WTO on a semi-annual basis. 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.

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 (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.

There were major developments in the following Section 301 investigations during 2001. (*For those investigations involving WTO dispute settlement procedures, see Chapter II.*)

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 regarding 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: (1) its failure to use existing law enforcement tools to stop optical media piracy; and (2) 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. On August 7, 2001, the USTR announced that additional 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.

The USTR extended the investigation for three months in order to allow sufficient time for the development of a final product list. During that time, the Government of Ukraine again failed to take steps to stop the high levels of optical media piracy. 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. Given that the Ukrainian parliament was scheduled to vote on an optical media licensing law on December 13, 2001, the USTR decided to delay the implementation of such action until December 20, 2001. However, Ukraine failed to adopt the optical media licensing law, and the USTR announced sanctions on December 20, 2001, with an effective date of January 23, 2002.

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 asserts 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 this request on October 5, 2001.

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 the Canadian wheat marketing practices, as well as any other issues raised in the petition, the ITC report, or in other submissions to the USTR. Such comments were due by January 14, 2002. Because of the extensive comments filed, USTR extended the investigation until February 15, 2002, to ensure thorough review of all information.

EC - Importation, Sale, and Distribution of Bananas (301-100a)

Chapter II includes a report on WTO dispute settlement proceedings involving the EC's regime for the importation, sale, and distribution of bananas. On April 6, 1999, WTO arbitrators confirmed that the EC had failed to implement the recommendation and rulings of the WTO Dispute Settlement Body (DSB) with respect to its banana regime, and the arbitrators determined that the level of nullification or impairment suffered by the United States as a result of the EC's WTO-inconsistent banana regime was $191.4 million per year. Pursuant to the arbitrators' determination, on April 19, 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 $191.4 million per year. In a notice published in April 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 pursuant to Section 301.

On April 11, 2001, the United States and the EC announced an understanding in the dispute. The understanding provides for phased implementation steps. On July 1, 2001, the EC adopted a new system of banana licenses based on historic reference periods. On January 1, 2002, the EC shifted an additional 100,000 tons of bananas into a tariff-rate quota accessible to bananas of Latin American origin (with respect to which U.S. distributors have a substantial historic share). By January 1, 2006, the EC is to introduce a tariff-only regime for banana imports.

The EC completed the first two phases of implementation, resulting in additional access for U.S. banana distributors to the EC market. In response, the USTR removed the increased duties on EC products as of July 1, 2001. The United States is continuing to monitor the EC's implementation of the understanding.

EC - Measures Concerning Meat and Meat Products (Hormones) (301-62a)

Chapter II includes a report on WTO dispute settlement proceedings regarding an EC directive prohibiting import of 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. These increased duties remained in place throughout 2001. Talks have continued with the aim of reaching a mutually satisfactory temporary solution to the dispute, but no resolution has been reached.

Other Investigations Involving WTO Dispute Settlement

Chapter II includes information on the following Section 301 investigations that involve measures that are the subject of WTO dispute settlement proceedings filed by the United States: Japan - Market Access Barriers to Agricultural Products (301-112); and Canada - Export Subsidies and Market Access for Dairy Products (301-113)

2. Super 301

Super 301 has provided a mechanism for the USTR to review U.S. trade expansion priorities and identify priority foreign country practices, the elimination of which is likely to have the most significant potential to increase U.S. exports, either directly or through the establishment of a beneficial precedent. During calendar years 1999-2001, Super 301 was authorized by Executive Order 13116.

The 2001 Super 301 Report identified the following trade expansion priorities: (1) reestablishing a bipartisan consensus on free trade; and (2) moving on multiple fronts to expand trade. The report did not identify any "priority foreign country practices" within the meaning of the Executive Order. However, the report identified for careful monitoring a range of measures that limit U.S. exporters' ability to take advantage of enhanced market access obtained through trade agreements.

Examples of such measures include certain customs valuation practices, burdensome dealer protection laws, restrictive auto policies, onerous technical regulations, lack of

transparency in regulatory rule-making, agricultural practices, subsidization practices, telecommunications trade barriers, discriminatory trade and investment measures in the auto sector, discriminatory retail policies, discriminatory policies affecting trade in electronic commerce, non-transparent pharmaceutical pricing policies, market access barriers in the flat glass sector, and market access barriers affecting the textile sector in various trading partners.

3. Special 301

During the past year, the United States continued to implement vigorously the Special 301 program, resulting in substantial improvement in the global intellectual property environment. Publication of the Special 301 lists indicates the countries whose intellectual property protection regimes most concern the United States, and warns 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. 2001 Special 301 Review Announcements

On May 1, 2001, the United States Trade Representative announced the results of the 2001 "Special 301" annual review which examined in detail the adequacy and effectiveness of intellectual property protection in approximately 80 countries, the largest number of countries ever reviewed. 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.

Ukraine was identified as a Priority Foreign Country on March 12, 2001, and an investigation was initiated under Section 301 of the Trade Act of 1974. The United States has worked with Ukrainian officials over the past several years in an effort to reduce alarming levels of copyright piracy and to improve Ukraine's overall intellectual property regime. Copyright piracy in Ukraine is extensive and

enforcement is severely lacking, resulting in increasing unauthorized production and export of CDs and CD-ROMs. According to estimates from our copyright industry, Ukraine is the single largest source of pirate CDs in the Central and East European region. U.S. industry estimates that losses to the music industry alone are $210 million. In addition, a number of Ukraine's intellectual property laws, especially trademark, patent and copyright, fall short of compliance with the minimum standards set out in the TRIPS Agreement and the 1992 U.S.-Ukraine bilateral trade agreement. It is unclear whether Ukraine protects pre-1973 copyrighted works; it does not provide retroactive protection for sound recordings. In June, the U.S.-Ukraine Joint Action Plan to Combat Optical Media Piracy in the Ukraine was signed. Regrettably, the Ukraine has failed to live up to the terms of the Plan. *A description of the current status of that dispute is contained earlier in this chapter in the discussion of cases under Section 301.*

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 2001, USTR placed 16 trading partners on the "Priority Watch List": Argentina, Costa Rica, the Dominican Republic, Egypt, the European Union, Hungary, India, Indonesia, Israel, Korea, Lebanon, Malaysia, the Philippines, Russia, Taiwan and Uruguay. Thirty-two trading partners were placed on the "Watch List." Countries that were not mentioned in the report last year but are on the Watch List this year include: New Zealand, the Slovak Republic and the United Arab Emirates. The following countries were removed from all lists: Czech Republic, Denmark, Ecuador, Moldova, Oman, Qatar, Singapore, and Spain.

On October 31, 2001, the USTR announced the results of out-of-cycle reviews of Malaysia, Costa Rica and Lithuania. Malaysia was moved from the Priority Watch List to the Watch List as a result of its progress in combating optical media piracy and its commitment to sustained IPR enforcement. Costa Rica remained on the Priority Watch List, and Lithuania also remained on the Watch List.

b. Intellectual Property and Health Policy

In announcing the results of the 2001 Special 301 review, USTR reiterated that we were not considering a change in the present flexible approach to health-related intellectual property issues. Consistent with America's protection of intellectual property, we remain committed to working with countries that develop serious programs to prevent and treat HIV/AIDS.

We are informing 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 United States is 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.

A comprehensive approach is needed to deal with any serious health emergencies, such as the AIDS crisis. In dealing with such serious threats to public health, like AIDS, countries need to stress education and prevention. The cost of drugs is but one of many important issues that must be addressed. Effective drug treatment necessitates urgent action to

strengthen health management systems – especially with regard to the means and methods of drug distribution. Other needed measures include: the development of appropriate drug selection policies and standard treatment guidelines; the training of care providers at all levels; an increase in the availability of adequate laboratory support to diagnose and monitor these complex therapies; and ensuring that the right drugs are used for the right purpose and in the right amount.

Certain countries have done an excellent job addressing the AIDS crisis, especially given their limited means. Such countries include Uganda, Senegal, and Thailand. However, some interested parties blame only the pharmaceutical companies without fully examining the many issues involved in addressing the AIDS crisis.

Certain countries try to justify the use of protectionist measures by associating these measures with the AIDS crisis when no such linkage exists. This behavior diverts countries, and other interested parties, from focusing on areas of real concern. Indeed, local production requirements can also cost the jobs of American workers.

In sum, the HIV/AIDS scourge is devastating – but there are ways to counter it. Drug therapies must be part of an integrated approach. Solutions must be found to encourage the discovery and production of other effective treatments in the future – for this disease and others.

On November 14, at the 4th World Trade Organization (WTO) Ministerial Conference, the United States joined other WTO Members in issuing a separate political Declaration that highlights provisions in the TRIPS agreement that provide Members with the flexibility to address public health emergencies, such as epidemics of HIV/AIDS, tuberculosis and malaria. Through the Declaration, Members expressed their strong support for the TRIPS agreement and the importance of intellectual property protection for the development of life-saving drugs. Ministers also agreed to a U.S. proposal to extend until January 1, 2016, the time by which least-developed WTO Members must implement TRIPS provisions on protecting patent rights for pharmaceutical products.

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:

- In January 2001, Korea enacted amendments to strengthen its patent and trademark laws.
- In February 2001, Turkey enacted long-awaited amendments to its Copyright Law, with the goal of bringing Turkey into compliance with the TRIPS Agreement.
- In February 2001, President Kim of Korea issued public orders to the Ministry of Information and Communications and the Ministry of Justice designed to strengthen their copyright enforcement efforts.
- On March 20, 2001, the Danish Parliament approved legislation making civil ex parte searches available. The legislation was signed into law on March 28, 2001.
- In March 2001, the United States agreed to settle a WTO dispute it brought against Greece regarding television piracy after Greece passed new legislation providing for the immediate closure of television stations that infringe intellectual property rights, and committed to provide effective deterrence against any increase in the level of television piracy.

- Hong Kong's amendments to its Copyright Ordinance, clarifying end-user software piracy as a criminal offense, became effective on April 1, 2001.

- In response to a WTO panel decision, in which the United States prevailed, Canada amended its Patent Act to extend patent protection from 17 to 20 years to comply with its WTO Trade-Related Aspects of Intellectual Property Rights (TRIPS) obligations. The law entered into force on July 12, 2001.

- In November 2001, Taiwan's legislature passed an optical media management law, in response to the U.S. Special 301 process. Under the law, fines were increased and the government has the authority to seize machinery and products. Due to a six- month transition period, it will be some time before the effectiveness of Taiwan's enforcement effort will be seen.

- In November 2001, Taiwan also enacted legislation extending the term of patent protection from 15 to 20 years as required by the TRIPS Agreement.

d. Ongoing Initiatives

Implementation of the 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, 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 among 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, a number of countries are still in the process of finalizing implementing legislation and establishing adequate enforcement mechanisms. The United States will continue to work with such countries and expects further progress in the very near future to complete the TRIPS implementation process. However, in those instances where additional progress is not achieved in the near term, or where the United States has been unable to resolve concerns through bilateral consultation, we will pursue our rights through WTO dispute settlement proceedings.

Controlling Optical Media Production and Internet Piracy

To address existing and prevent future piratical activity, over the past year several of our trading partners, including Malaysia, have taken important steps toward implementing, or have committed to adopt, much needed controls on optical media production. However, others that are in urgent need of such controls, including Ukraine, have made insufficient progress in this regard.

Governments such as those of Bulgaria, 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. We continue to urge our trading partners facing the challenge of pirate optical media production within their borders, or the threat of such production developing, to adopt similar controls in the coming year. During 2001, Ambassador Zoellick took note of the positive initial steps taken by Malaysia to implement its optical media law and urged Russia, Thailand, Indonesia, the Philippines and Taiwan to follow suit.

As serious as the problem of optical media piracy is, the internet is even more problematic in that it has provided an efficient global distribution network for pirated products. Several approaches must be taken by governments to address this problem, including full implementation of the TRIPS Agreement's enforcement obligation to provide effective action and adequate deterrence against commercial piracy, whether it occurs in the on-line environment or in the physical world. In addition, governments should ratify and implement the two WIPO "internet" treaties, which clarify exclusive rights in the on-line environment and specifically prohibit the circumvention of technological protection measures for copyrighted works.

Government Use of Software

In October 1998, a new Executive Order was adopted directing U.S. Government agencies to maintain appropriate, effective procedures to ensure legitimate use of software. The President also directed USTR to undertake an initiative over the following 12 months 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 since October of 1998. Countries that have issued decrees mandating the use of only authorized software by government ministries include China, Colombia, Ireland, Jordan, Paraguay, Thailand, France, the U.K., Greece, Hungary, Hong Kong, Macau, Lebanon, Taiwan and the Philippines. This past year the Governments of Israel and Spain reported that they have also issued similar decrees. Ambassador Zoellick noted his pleasure that these governments have recognized the importance of setting an example in this area. 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 2002.

4. 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. An affirmative determination under Section 1377 must be treated as an affirmative determination of a violation of a trade agreement under Section 304(a)(1)(A) of the Trade Act of 1974.

Since the World Trade Organization (WTO) Basic Telecommunications Agreement came into force in February 1998, telecommunications markets overseas have

rapidly opened to competition. U.S. companies have invested billions of dollars to build global networks, partner with foreign companies, and expand their commercial presence in foreign markets.

However, there remain obstacles to the full expansion of U.S. telecommunications companies into overseas markets. Of these, the most pervasive and difficult to overcome are barriers placed on new entrants by the dominant incumbent carrier. Most major U.S. trading partners have undertaken obligations in the WTO to ensure the pro-competitive entry of new service suppliers into the market, including obligations to maintain appropriate measures to prevent anticompetitive conduct, ensure cost-oriented interconnection, and administer scarce resources in an objective and non-discriminatory manner.

The 2001 Section 1377 review focused on practices of incumbent carriers that hinder the development of competitive telecommunications markets in various countries. In addition, the 2001 review announced resolution of outstanding issues from past reviews.

Canada: USTR announced resolution of a complaint raised in the 2000 1377 review concerning the consistency of Canada's contribution collection (universal service) regime with its WTO Reference Paper obligations. The Canadian regulator (CRTC) reformed this system in November 2000. These reforms are expected to save competitive service providers millions of dollars.

Colombia: Colombia was under review for the inability of U.S. telecommunications operators to obtain licenses to offer international carrier services consistent with its WTO commitments. Carrier services involve the provision of wholesale transmission capacity – via submarine cables or otherwise – to other telecommunications operators and Internet service providers. Colombia's failure to license such services affects tens of millions of dollars of investment and deprives Colombian users of much-needed international bandwidth for Internet services and other applications. In mid-2001, Colombia's legislature enacted legislation to address this problem.

EU Member States: The 2001 review focused on alleged anticompetitive behavior by the dominant incumbent carriers in Germany, France, Italy, Spain and the United Kingdom. These problems related to local loop unbundling (i.e. competitors' ability to lease subscriber lines) and actions by the dominant incumbent carrier to slow down, degrade, and, in some cases, deny access to the local loop by a new entrant. The European Commission appears to share U.S. concern about these practices and has taken positive steps at the EU level to address them. The United States continues to work closely with the EU to monitor how EU Member States are addressing these issues.

Japan: As in past years, Japan represented an important focus of the 2001 Section 1377 review. Principal concerns raised in the review relate to: (1) the lack of effective dominant carrier regulation, including retail price regulation; (2) the lack of a fully independent regulator with effective enforcement powers; (3) burdensome licensing and filing requirements; (4) above-cost interconnection rates in both the wired and wireless markets; and (5) the lack of an effective rights-of-way regime. Japan has taken important steps to address aspects of these problems, particularly through legislation passed in mid-2001. USTR will continue to vigorously monitor implementation of this legislation and development of further competitive safeguards under the U.S.-Japan Regulatory Reform and Competition Policy Initiative.

Mexico: The United States remains concerned with trade barriers in Mexico's $12 billion telecommunications market affecting international services. Mexican measures do not permit effective competition in its international telecommunications services market. These measures deny other competitive

Mexican carriers the opportunity to provide lower-cost alternatives to U.S. companies linking with Mexico – alternatives many competitive Mexican phone companies are eager to offer. As a result, wholesale telecommunications rates for U.S.-Mexico calls are still roughly four times their cost. These inflated rates cost U.S. companies and consumers about $600 million a year.

Our concerns relate to WTO dispute settlement proceedings initiated on August 17, 2000, when the United States initiated WTO consultations with Mexico regarding a wide range of measures affecting telecommunications services. The United States and Mexico held such consultations on October 10, 2000 but did not resolve the dispute. Therefore, on November 10, 2000, the United States requested the establishment of a panel and additional consultations with the Government of Mexico. These additional consultations, held on January 16, 2001, did not resolve the dispute.

Since the initial U.S. request for consultations, Mexico has taken steps to address several barriers to telecommunications trade. However, Mexico has not yet addressed trade barriers affecting international telecommunications services.

Peru: In the 2001 review, USTR noted the reduction in interconnection rates in Peru, which had been subject to Section 1377 review since 2000. In December 2000, the Peruvian regulator (OSIPTEL) reduced all fixed-line interconnection rates to 1.68 cents per minute, down from 2.9 cents per minute. Rates are expected to continue to decline to .96 cents per minute by July 2002, which should put Peru's interconnection rates at among the lowest in Latin America. In addition, OSIPTEL is reportedly developing a methodology for analyzing the cost of terminating calls onto mobile networks.

South Africa: The 2001 review continued to note very serious concerns with alleged barriers in South Africa's market for value added network services (VANS). Specifically, Telkom, South Africa's state-owned monopoly supplier of basic telecommunications services, continues to deny certain U.S. service suppliers the network capacity they need to supply such services. At the time of the review, USTR noted progress in efforts by South Africa's telecommunications regulator to resolve these and related issues. In addition, in late March, South Africa's Minister of Communications took a major step forward, declaring that VANS should have the right to offer a broader range of data services. However, since that time the South African Parliament enacted legislation, which appears to impose new impediments on the ability of VANS to offer their services. The United States is closely monitoring developments in South Africa to ensure that the new legislation is consistent with South Africa's WTO commitments.

Taiwan: The 2001 review identified serious limitations on the competitive offering of telecommunications services and expressed concern that such limitations appeared to be inconsistent with the commitments undertaken by Taiwan as part of its bilateral WTO accession negotiations with the United States to liberalize its telecommunications market by July 1, 2001. Since that time, Taiwan has pledged to take steps to address key concerns. The U.S. Government continues to work with Taiwan to ensure that Taiwan fulfills its WTO commitments.

5. Government Procurement

Executive Order 13116 of March 31, 1999, reinstituted certain elements of Title VII of the 1988 Omnibus Trade and Competitiveness Act, as amended (expired 1996). The Executive Order required the USTR to identify countries that: (1) are not in compliance with their obligations under the WTO Government Procurement Agreement (GPA), Chapter 10 of the North American Free Trade Agreement, or other agreements relating to government

procurement to which those countries and the United States are parties; or (2) maintain, in government procurement, a significant pattern or practice of discrimination against U.S. products or services, which results in identifiable harm to U.S. businesses when those countries' products or services are acquired in significant amounts by the U.S. Government.

In 2001, based on public responses to a *Federal Register* notice, consultations with the private sector, and its own information, the USTR determined that no countries met the criteria for Title VII identification. The 2001 report, however, did take note of questionable government procurement practices that the Administration is monitoring and addressing in ongoing consultations with the relevant foreign governments. The report also described U.S. efforts to eliminate discriminatory foreign procurement practices by building and strengthening the international rule of law in a wide range of multilateral, regional, and bilateral fora.

6. 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 or entities 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, including representation, 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 pursuant to the five-year "sunset" provisions of the U.S. antidumping law and in conformity with 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; and 57 in 2001. 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; and 30 in 2001. In 2000, Commerce revoked 120 antidumping duty orders and continued 13 antidumping duty orders under its sunset review procedures; in 2001, 4 antidumping duty orders were revoked and 3 were continued under those procedures.

7. 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: 28 in 1986; 8 in 1987; 17 in 1988; 7 in 1989; 7 in 1990; 11 in 1991; 22 in 1992; 5 in 1993; 7 in 1994; 2 in 1995; 1 in 1996; 6 in 1997; 11 in 1998; 10 in 1999; 7 in 2000; and 18 in 2001. The number of CVD orders imposed in and since 1986 are: 13 in 1986; 14 in 1987; 7 in 1988; 6 in 1989; 2 in 1990; 2 in 1991; 4 in 1992; 16 in 1993; 1 in 1994; 2 in 1995; 2 in 1996; 0 in 1997; 1 in 1998; 6 in 1999; 6 in 2000, and 6 in 2001. In 2000, Commerce conducted sunset reviews of 54 of its outstanding countervailing measures. Also in 2000, 29 measures were revoked pursuant to these sunset procedures and 25 measures remained in force. In 2001, Commere initiated sunset reviews of 2 of its outstanding countervailing measures. No measures were revoked pursuant to these sunset procedures, while 2 measures remained in force.

8. 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 2001, the USITC instituted 24 new Section 337 investigations and three ancillary proceedings. During the year, the USITC issued two limited exclusion orders covering imports from foreign firms. The President permitted these exclusion orders to become final.

9. Safeguard Actions (Section 201)

Section 201 of the Trade Act of 1974 provides a procedure whereby the President may grant temporary import relief to a domestic industry seriously injured by increased imports. 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, 2002, the United States had safeguard measures in place on two imported products: certain steel wire rod (wire rod); and circular welded carbon quality line pipe (line pipe).

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.

During 2001, the WTO Appellate Body issued a report finding that the U.S. safeguard measure on lamb meat was inconsistent with the Safeguards Agreement and GATT 1994. After consultations with the U.S. industry, the United States decided to continue providing adjustment assistance to the industry through FY 2003 and to terminate the safeguard effective November 15, 2001.

On October 19, 2001, a WTO panel issued a report finding that the U.S. measure on line pipe was inconsistent with the Safeguards Agreement and GATT 1994 in that it imposed a TRQ inconsistent with Article XIII of GATT 1994, and 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. The United States has appealed aspects of this report to the Appellate Body, which should issue its report by February, 2002.

On June 1, 2001, the safeguard measure on wheat gluten expired. The U.S. Department of Agriculture subsequently instituted an adjustment assistance program to facilitate U.S. wheat gluten producers' adjustment to import competition.

On June 22, 2001, the Administration requested the USITC to commence an investigation of certain steel products. (The President excluded from his request all steel products already subject to a safeguard measure.) On October 24, 2001, the USITC announced that it had made affirmative injury determinations or was equally divided with respect to imports of 16 of the 33 product categories under consideration. On December 7, 2001, the USITC announced its recommendations as to the safeguard measure the President should impose for each of the 16 product categories for which it made an affirmative determination. On December 19, 2001, the USITC issued its report explaining its injury determinations and recommended safeguard measures. Under the statute, the President has up to 75 days from receipt of this report to announce the safeguard measures he intends to take. (*See further discussion in Chapter V under steel policy.*)

10. 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 imports. Available assistance includes job retraining, trade readjustment allowances (TRA), job search, relocation, and other reemployment services. The program expired on September 30, 2001. However, the Administration is committed to working with Congress for the rapid renewal of TAA. Funds have been appropriated by the Congress to continue program operations despite the lapse in authorization.

The NAFTA Implementation Act established the North American Free Trade Agreement Transitional Adjustment Assistance program (NAFTA-TAA). Workers seeking NAFTA-TAA services and benefits must file a petition with the Governor's designated representative in the State where the workers' firm is located. For workers to be eligible to apply for NAFTA-TAA, the Secretary of Labor

must certify that members of the workers group have become or are threatened to become totally or partially separated from their employment; that the sales and/or production at the workers' firm have declined; and that either (1) increased imports from Canada and/or Mexico of articles like or directly competitive with those produced by the petitioning workers have contributed importantly to the actual or threatened separations and to the declines in sales and/or production at the workers' firm or (2) that there has been a shift of production from the petitioning workers' firm to Canada or Mexico. Certification under the NAFTA-TAA program does not in any way imply that the Agreement itself caused the separations.

The U.S. Department of Labor administers the TAA and NAFTA-TAA programs through the Employment and Training Administration (ETA). Workers certified as eligible to apply for adjustment assistance may apply for TAA and NAFTA-TAA benefits and services at the nearest office of the State Employment Security Agency. Under the TAA program, workers must be enrolled in approved training, or must have successfully completed approved training, in order to be eligible for TRA. A State may waive this requirement if training is not feasible or appropriate. Under the NAFTA-TAA program, in order to be eligible for TRA, workers must be enrolled in approved training within six 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. No waivers of these requirements are permitted under NAFTA-TAA.

Fact-finding investigations were instituted for 2,269 TAA petitions in fiscal year (FY) 2001. In FY 2001, 1003 certifications were issued covering an estimated 134,695 workers, whereas 622 petitions covering an estimated 60,428 workers resulted in denials of eligibility to apply. Fact-finding investigations were instituted for 1,289 NAFTA-TAA petitions in FY 2001. In FY 2001, 556 NAFTA-TAA certifications were issued covering an estimated 78,914 workers, whereas 441 NAFTA-TAA petitions covering an estimated 46,961 workers resulted in denials of eligibility to apply.

Under the TAA program, the number of workers who entered training during FY 2001 is estimated to be 26,700; and during the same year, an estimated 31,300 began receiving Trade Readjustment Allowances (TRA). Under the NAFTA-TAA program, the number of workers who entered training during FY 2001 is estimated to be 4,700; during the same year, an estimated 2,500 began receiving TRA. Total funding for training, job search, relocation, and State administrative expenses under TAA was $94.3 million in FY 2001 and under NAFTA-TAA was $35.7 million in FY 2001. Total funding for TRA under TAA was $248 million and under NAFTA-TAA was $27 million in FY 2001.

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, through September 30, 2001. Since Congress included an appropriation for the program in Commerce's FY 2002 appropriation EDA is continuing to operate the program. 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.

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 2001, EDA provided $ 10.5

million in funding to the TAACs. That amount included $ 0.183 million in defense adjustment funding, which is used to assist trade-impacted firms that also have been affected by defense downsizing or are located in areas that have been affected by defense downsizing.

TAACs assist firms in completing petitions for certification of eligibility. In FY 2001, EDA certified 179 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 2001, the APRC approved 118 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 adjustment 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 permits EDA to provide technical assistance for industry-wide projects. However, EDA has used the available funds to maintain the TAAC network.

The Emergency Steel Loan Guarantee Act of 1999 and the Emergency Oil and Gas Guaranteed Loan Program Act (also enacted in 1999) created the Emergency Steel Loan Guarantee Board and the Emergency Oil and Gas Guarantee Loan Board. The boards are authorized to provide loan guarantees to steel companies and to qualified oil and gas companies in amounts for up to 85 percent of the loan principal. The programs have been structured to fulfill the two objectives of the legislation: to assist steel and oil and gas firms injured by the import crises and to protect government funds by guaranteeing only sound loans.

In FY 2001, the Emergency Steel Loan Guarantee Board did not approve any new offers of guarantee to qualified steel companies, but did complete one previously approved loan guarantee for $110 million. Congress extended the authority of the Board to offer guarantees for another two years until December 31, 2003.

The Emergency Oil and Gas Guarantee Loan Board did not approve any new offers of guarantee during FY 2001. During FY 2001, it completed two previously approved loan guarantees totaling almost $2.9 million. After the end of FY 2001, it completed a final loan guarantee for $1.5 million that was previously approved by the Board in FY 2001. The Board's authority to extend offers of guarantee to qualified oil and gas companies ended on December 31, 2001 and was not extended by Congress.

VII. Trade Policy Development

A. Congressional Affairs

In 2001, USTR worked closely with the 107th Congress to advance a trade agenda to best serve America's farmers, workers, businesses and consumers.

Important and considerable progress was made to restore trade negotiating authority to the President. On December 6, the House of Representatives passed the Bipartisan Trade Promotion Authority Act of 2001. On December 18, the Senate Finance Committee reported this legislation out favorably by a vote of 18-3. The Senate is expected to take up this legislation in early 2002.

Last year, the Congress approved two agreements: the Jordan Free Trade Agreement and the Vietnam Bilateral Trade Agreement. Both are important components of a strong trade-liberalizing agenda.

USTR also worked with Congress to reject a resolution of disapproval regarding Normal Trade Relations with China.

Regrettably, three important programs, the Andean Trade Preferences Act, the Generalized System of Preferences and the Trade Adjustment Assistance program lapsed in 2001. Hopefully, Congress will act to renew these programs in early 2002.

USTR consulted closely with Congress on negotiations regarding a Free Trade Area of the Americas, the Doha WTO Ministerial, the US-Chile Free Trade Agreement, and the US-Singapore Free Trade Agreement. Consultations also took place regarding Congressional calls for a US-Australia Free Trade Agreement.

USTR officials testified before Congress on such issues as Trade Promotion Authority, WTO negotiations, pending WTO disputes, Jordan FTA, U.S.-Vietnam Bilateral Trade Agreement, Free Trade Area of the Americas, Chile FTA, Singapore FTA, Steel 201 investigation, softwood lumber, and many other issues of Congressional interest.

USTR consulted closely with Congress on a number of trade-related issues, including Steel 201 investigations, U.S. lamb safeguard actions, U.S.-Canada Softwood Lumber, China's WTO Accession, pending WTO disputes (including Foreign Sales Corporation, beef hormones, bananas, the 1916 Act, and wheat gluten), OECD Shipbuilding, U.S. Mexico cross-border trucking, conflict diamonds, AGOA implementation, and the Cambodia Textile Agreement.

The Office of Congressional Affairs continued to respond in a timely manner to all requests for information from Congressional offices and Committees. In addition, Congressional Affairs transmitted statutorily required reports to Congress on a timely basis. Congressional Affairs also continued to provide trade-related briefing materials for foreign trips by Congressional delegations. USTR looks forward to maintaining and improving its close working relationship with Congress in 2002.

B. 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 negotiation 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, Defense and the Environmental Protection Agency are, respectively, the Agricultural Policy Advisory Committee (APAC), Labor Advisory Committee (LAC), Defense Policy Advisory Committee (DPACT), 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 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 2001, 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. In 2001, USTR addressed sessions of the NGA, NCSL, the American Economic Development Council, the American Legislative Exchange Council, and other state and local organizations regarding the Administration's top trade priorities.

There is significant support among state and local officials for market-opening initiatives. This past year, Trade Promotion Authority for the President was endorsed by the U.S. Conference of Mayors, the National Conference of State Legislatures, the American Legislative Exchange Council, and the National Governors Association's Economic Development and Commerce Committee on behalf of the nation's Governors.

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.

2001 Outreach Efforts

The 2001 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

Throughout 2001, 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 for the President. 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 2001, IAPL worked on public outreach, logistical and security preparations for the WTO Ministerial in Doha, Qatar. This included the accreditation of USTR advisory committees to attend the WTO Ministerial, and the coordination of a series of briefings and dissemination of information for advisors and the public regarding the Doha agenda. For the first time ever, USTR utilized live and recorded webcasts during the course of the WTO Ministerial in Doha, Qatar to brief cleared trade advisors and the public regarding the status of negotiations. The USTR website was also updated several times a day with current information, as well as the results of the Ministerial Declaration launching new global trade negotiations at the WTO.

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 Buenos Aires, and subsequent meetings of the Trade Negotiations Committee. USTR facilitated the public dissemination of the draft text of the nine chapters of the FTAA, fulfilling a promise made by Western Hemisphere leaders at the April Summit of the Americas in Quebec City to make the trade negotiation process more transparent and accessible to the public. USTR also took note of recommendations made by the Americas Business Forum, issued invitations for public comment from the FTAA civil society committee, and briefed advisors and the public regarding the ongoing environmental review of the negotiations.

iv. Benefits of NAFTA

USTR disseminated information to advisory committees, state and local governments, and the public regarding the benefits of NAFTA to America in terms of building jobs and economic growth. In coordination with the governments of Canada and Mexico, USTR prepared an informational brochure, "NAFTA at Seven: Building on a North American Partnership." The brochure explains how NAFTA has led to increased opportunity and prosperity in all three countries; has raised standards of living; and has helped promote the effective enforcement of environmental and labor laws. It is available on USTR's website.

v. China Accession to the WTO

USTR briefed and facilitated consultations with advisory committees and other stakeholders on issues regarding China's accession to the WTO, on implementation of China's WTO obligations, and the legislation granting permanent Normal Trade Relation (NTR) status for China.

vi. 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 underway to conclude free trade agreements with Singapore and Chile. USTR also briefed advisors and the public regarding environmental reviews of agreements.

vii. Monitoring and Compliance Activities

USTR briefed and facilitated consultations with advisors and other stakeholders on disputes including the European Community regime for the importation, sale, and distribution of bananas; European Community beef hormones import restrictions; the case brought by the E.U. against the U.S. Foreign Sales Corporation; the Shrimp-Turtle WTO case; 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.

viii. 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.

ix. 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. USTR's internet homepage serves as a vehicle to communicate to the public. For the first time ever, USTR utilized live and recorded webcasts from the WTO Ministerial in Doha, Qatar to brief cleared trade advisors and the public regarding the status of negotiations. During 2001, 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. USTR is also undertaking a survey of advisory committee members to explore ways to improve the website content, including posting of reading room documents. The USTR internet address is http://www.ustr.gov.

C. Policy Coordination

By law, USTR plays the leading role in the development of policy on trade and trade-related investment. Under the Trade Expansion Act of 1962, the President 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 60 subcommittees responsible for specialized areas and several task forces that work on particular issues. The TPSC regularly seeks advice from the public on its policy decisions and negotiations through Federal Register notices and public hearings.

Through the interagency process, USTR assigns responsibilities 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 taken up by the TPRG (Deputy USTR/Under Secretary level).

Member agencies of the TPRG and the TPSC 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, as well as particularly important or controversial trade-related issues.

During the interagency review stage, advice is generally 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.

As 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 2001

I. 2001 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 2001 to a value of approximately $3.2 trillion.[2] This decline in trade represented a sharp change from the strong growth of 17 percent in 2000, and was the also first decline in total trade in nearly two decades, since the 3 percent decline in 1982. The decline in trade in 2001 largely reflected the slowdown of the U.S. economy into recession and a slowdown of a number of trade partners' economies. World economic growth in 2001 is estimated to be at its lowest pace since 1992 when the world economy grew by 2 percent. This slowdown was occurring even prior to the tragedy of September 11. U.S. trade of goods and services and U.S. trade of goods alone exhibited similar declines, both down 3 percent. U.S. trade in services also declined, down 1 percent in the past year.

Both U.S. exports and imports were similarly affected. Exports of goods and services, and earnings on investment declined by 4 percent in 2001, falling sharply from the 14 percent increase in 2000. It was the first decline in total exports since 1985 (down 2 percent). Imports of goods and services, and payments on investment declined by 4 percent in 2001, significantly lower than the expansion of 19 percent in 2000 (their highest growth rate since 1984). This was the first decline in total imports since 1991 (down 3 percent).

Despite the trade decline in 2001, 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[3] and for roughly 16 percent of world services trade. The value of trade has increased 24-fold since 1970, and 70 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 1970-2001 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 10.8 percent per year since 1970, compared to U.S. gross domestic product (GDP) whose growth rate averaged 7.7 percent per year. In real terms, the growth in trade was more than double the pace of GDP growth, 6.6 percent versus 3.1 percent.

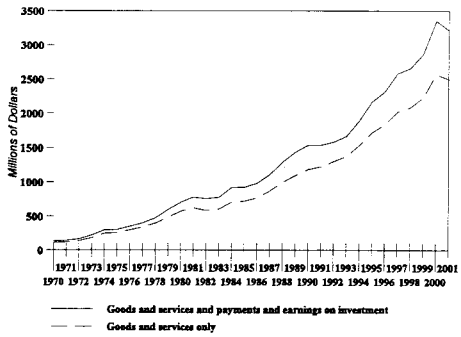
[1] Earnings on foreign investment are considered trade because they are conceptually the payment made to foreign residents for the service rendered by the use of foreign capital. Beyond the overview section, however, this chapter deals with goods and services trade, excluding foreign investment earnings. All trade values are nominal unless otherwise indicated.

[2] In this Chapter, 2001 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 22-fold since 1970 and 63 percent since 1994.

Figure 1:
U.S. Trade Growth



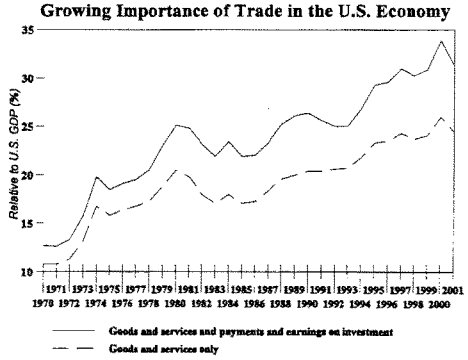
Total exports + imports
Source: U.S. Department of Commerce.

The value of trade in goods and services, including earnings and payments on investment, was 31.4 percent of the value of U.S. GDP in 2001 (*figure 2*). This represented a decline from the corresponding figure in 2000 (34 percent), but was still an increase from the ratio in 1994 (27 percent), and 1970 (13 percent). For goods and services, excluding investment earnings and payments, U.S. trade represented 24.4 percent of U.S. GDP in 2001, down from 26 percent in 2000, but 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 2001 is 20-fold greater than 1970 and 58 percent greater than 1994. U.S. imports of goods and services is 28-fold greater than 1970 and 82 percent greater than 1994.

With the dollar decline in U.S. imports outpacing that of exports, the total deficit on goods and services trade (excluding earnings and payments on foreign investment) declined by approximately $25 billion from $376 billion in 2000 (3.8 percent of GDP) to $351 billion in 2001 (3.4 percent of GDP). This marked the first decline in the overall U.S. goods and services deficit since 1995 (down $0.3 billion), and the largest decline since 1991 (down $50 billion). The U.S. deficit in goods trade alone decreased by $20 billion from $452 billion in 2000 (4.6 percent of GDP) to $432 billion in 2001 (4.2% of GDP). This marked the first decline in the U.S. goods trade deficit since 1991 (down $35 billion). The services trade surplus, however, slightly increased from $76 billion in 2000 to $81 billion in 2001 (still 0.8 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 declined by 6 percent in 2001, as compared to the 14 percent increase of the preceding year. Manufacturing exports, accounting for 88 percent of total goods exports, also declined 6 percent in 2001 (*table 1*). High technology exports, a subset of manufacturing exports, declined 10 percent in 2001. However, agriculture exports, accounting for 7 percent of total goods exports, increased 4 percent in 2001.

Most of the major end-use categories for goods exports also declined in 2001 (*figure 3*). Exports of capital goods were down 8 percent in 2001, while autos and autoparts were down 7 percent and industrial supplies and materials were down 6 percent. Exports of foods, feeds, and beverages increased slightly (up 2 percent) in 2001, while exports of consumer goods remained relatively flat (down less than 1 percent). Capital goods and industrial supplies and materials remained the largest categories for U.S. exports in 2001, at 44 percent and 22 percent, respectively.

Since 1994, exports of capital goods have risen 60 percent, while consumer goods have increased 50 percent. Exports of advanced technology products have increased 69 percent while exports of manufactured products overall, of which capital goods and high technology products are subcomponents, have increased 50 percent. Exports of agricultural products have increased 19 percent since 1994. Of the $226 billion increase in goods exports since 1994, capital goods accounted for 54 percent of the increase, industrial materials and supplies accounted for 18 percent and consumer goods accounted for 13 percent.

On a regional basis, U.S. goods exports in 2001 declined to nearly all of the major regions (*table 2*), except China and Latin America (excluding Mexico). U.S. exports also declined to both high income (down 6 percent) and low to middle

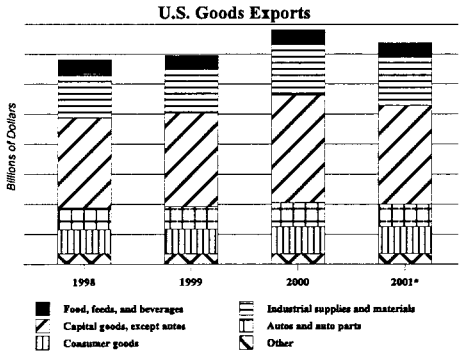
Table 1:
U.S. Goods Exports

Exports:	1998	1999	2000	2001*	00-01*	94-00*
	Billions of Dollars				*Percent Change*	
Total (BOP basis)	670.4	684.6	772.2	728.3	-5.7	44.8
Food, feeds, and beverages	46.4	45.5	47.5	48.6	2.5	15.9
Industrial supplies and materials	148.3	147.0	171.9	161.6	-6.0	33.1
Capital goods, except autos	299.4	310.9	357.0	327.7	-8.2	59.8
Autos and auto parts	72.4	75.1	80.2	74.7	-6.8	29.4
Consumer goods	80.3	82.0	90.6	90.1	-0.5	50.2
Other	35.4	35.3	34.8	35.5	2.2	34.1
Addendum: Agriculture	52.0	48.2	53.0	55.3	4.3	19.4
Addendum: Manufacturing	595.2	611.8	691.5	647.9	-6.3	50.4
Addendum: High technology	186.4	200.3	227.4	203.7	-10.4	68.7

*** Annualized based on January-November 2001 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 2001 data

Source: U.S. Department of Commerce, Census Basis.

Table 2:
U.S. Goods Exports to Selected Countries/Regions

Exports to:	1998	1999	2000	2001*	00-01*	94-00*
	Billions of Dollars				*Percent Change*	
Canada	156.6	166.6	178.9	164.7	-8.0	43.9
European Union	149.0	151.8	165.1	161.5	-2.1	49.9
Japan	57.8	57.5	64.9	58.5	-9.8	9.4
Mexico	78.8	86.9	111.3	101.6	-8.8	99.8
China	14.2	13.1	16.2	19.2	18.6	106.8
Pacific Rim, except Japan and China	95.3	103.2	121.5	105.4	-13.2	24.0
Latin America, except Mexico	63.4	55.2	59.3	59.3	0.0	42.2
Addendum: High Income Countries	394.4	406.3	442.9	416.8	-5.9	39.1
Addendum: Low to Middle Income Countries	287.3	289.1	338.7	321.2	-5.2	50.9

*** Annualized based on January-November 2001 data.**

Source: U.S. Department of Commerce, Census Basis.

income countries (down 5 percent). Since 1994, however, U.S. export growth from low and middle income countries has been significantly higher than that from high income countries (up 51 percent vs. up 39 percent). The share of low and middle income countries in U.S. total goods exports was 44 percent to 2001.

Goods exports to China continued to increase in 2001, up 19 percent, though slightly less than the 2000 increase of 23 percent. Most of the U.S. export growth to China was in capital goods, which were up 29 percent. Exports of capital goods and industrial supplies and materials accounted for nearly 85 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 relatively flat in 2001, up less than $10 million. In 2000, exports had grown 7.5 percent. Capital goods accounted for most of U.S. export growth, while exports of consumer goods declined 11 percent. U.S. exports to Latin America excluding Mexico have increased by 42 percent since 1994.

Exports to our NAFTA partners declined 9 percent in 2001, but are up 87 percent since 1993, the year before NAFTA implementation started. Over 36 percent of aggregate U.S. goods exports went to NAFTA countries in 2001, up from nearly 31 percent in 1993.

U.S. exports to Canada, the largest U.S. export market accounting for 23 percent of U.S. exports, declined by 8 percent in 2001. U.S. exports to Canada of both autos and autoparts and capital goods declined in 2001, both down 11 percent. Despite this decline, U.S. exports to Canada are up by nearly 44 percent since 1994.

U.S. exports to Mexico, the second largest single country export market accounting for 14 percent of U.S. exports, declined by roughly 9 percent in 2001. The decline in U.S. exports to

Mexico marked the first decline since 1995, the year of the peso crisis. U.S. exports of industrial supplies, capital goods, and consumer goods exhibited declines of 12 percent, 10 percent, and 12 percent, respectively. Still, however, U.S. exports to Mexico have nearly doubled since 1994.

Export sales to Japan, after increasing 13 percent in 2001, declined 10 percent in 2001. U.S. exports to Japan have declined in four of the past five years. Japan continues to be mired in economic stagnation, with total industrial production down 3.6 percent between 1994 and October 2001 (down 12 percent between October 2000 and October 2001). Japan's GDP is estimated to have declined one percent in 2001. Accordingly, U.S. exports to Japan are down across the board: 14 percent in industrial supplies, 13 percent in capital goods, 11 percent in autos and autoparts, 7 percent in consumer goods, and 4 percent in foods, feeds, and beverages. Since 1994, U.S. exports to Japan are up only 9 percent.

Goods exports from the United States to the Asian Pacific Rim countries (excluding Japan and China) declined by 13 percent in 2001, reversing the export growth trend that has occurred since the 1998 Asian financial crisis. U.S. exports, after declining by 17 percent in 1998, had grown by 8 percent in 1999 and 18 percent in 2000. Most of the export decline was in capital goods and industrial supplies, down 16 percent and 12 percent, respectively. Since 1994, U.S. exports to the Asian Pacific Rim are up 24 percent.

U.S. exports to the European Union were down 2 percent in 2001. Exports grew in consumer goods (up 12 percent) and autos and autoparts (up 14 percent), but declined in capital goods and industrial supplies (down 7 percent and 6 percent, respectively). In 2001, the EU accounted for 22 percent of aggregate U.S. exports. Since 1994, U.S. exports to the EU have increased by nearly 50 percent.

B. Import Growth

U.S. goods imports declined 5 percent in 2001, the first decline in imports since 1991, the year of the last U.S. recession. The decline in U.S. imports also reversed an increasing import growth trend over the past 3 years (up 5 percent in 1998, up 12 percent in 1999, and up 19 percent in 2000) *(table 3 and figure 4)*. A major factor in this decline has been the overall weakness in the U.S. economy. Real GDP growth over the first three quarters of 2001 has slowed considerably, (up 1.3 percent in the first quarter on an annualized basis, up 0.3 percent in the second quarter, and down 1.3 percent in the third quarter).

Manufacturing imports, accounting for 83 percent of total goods imports, declined by 6 percent in 2001. High technology imports, a subset of manufacturing imports, declined by 11 percent in 2001. However, agriculture imports, accounting for 3 percent of total goods imports, increased by 1 percent in 2001.

Most of the end-use categories of goods imports also declined in 2001. Capital goods imports declined by 13 percent in 2001, industrial supplies and materials declined by 6 percent, and autos and autoparts declined by 4 percent. U.S. imports of consumer goods and foods, feeds, and beverages, however, increased by nearly 2 percent. Capital goods, consumer goods, and industrial supplies and materials accounted for most of U.S. imports in 2001, at 26 percent, 25 percent, and 24 percent, respectively.

Since 1994, U.S. imports of consumer goods have nearly doubled, while imports of industrial supplies and materials, capital goods, and autos and autoparts have increased 74 percent, 64 percent, and 60 percent, respectively. Imports of advanced technology products have doubled, imports of manufactured products have increased 71 percent, and imports of agricultural products have increased 53 percent since 1994.

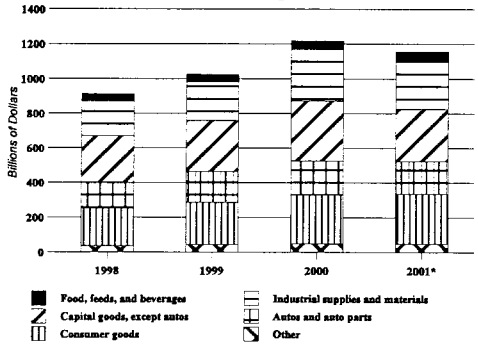
Table 3:
U.S. Goods Imports

Imports:	1998	1999	2000	2001*	00-01*	94-00*
	Billions of Dollars				*Percent Change*	
Total (BOP Basis)	917.1	1,030.0	1,224.4	1,160.6	-5.2	73.6
Food, feeds, and beverages	41.2	43.6	46.0	46.8	1.7	51.0
Industrial supplies and materials	200.1	222.0	299.8	282.6	-5.7	74.3
Capital goods, except autos	269.5	295.3	346.7	302.4	-12.8	64.0
Autos and auto parts	148.7	179.0	195.9	189.1	-3.5	59.9
Consumer goods	217.0	241.7	281.4	285.8	1.6	95.4
Other	35.4	43.0	48.3	48.5	0.3	127.9
Addendum: Agriculture	35.7	36.7	39.2	39.7	1.2	52.8
Addendum: Manufacturing	792.4	882.7	1,012.9	956.1	-5.6	71.4
Addendum: High technology	156.8	181.2	222.1	197.5	-11.1	101.3

*** Annualized based on January-November 2001 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 2001 data.

Source: U.S. Department of Commerce, Census Basis.

Table 4:
U.S. Goods Imports from Selected Countries/Regions

Imports from:	1998	1999	2000	2001*	00-01*	94-01*
	Billions of Dollars				*Percent Change*	
Canada	173.3	198.7	230.8	219.9	-4.7	71.3
European Union	176.4	195.2	220.0	222.0	0.9	85.9
Japan	121.8	130.9	146.5	127.8	-12.8	7.2
Mexico	94.6	109.7	135.9	131.9	-3.0	166.5
China	71.2	81.8	100.0	102.7	2.7	164.7
Pacific Rim, except Japan and China	134.7	147.1	171.5	148.7	-13.3	44.0
Latin America, except Mexico	50.3	58.5	73.3	68.4	-6.8	77.8
Addendum: High Income Countries	497.2	552.8	630.7	602.7	-4.4	56.6
Addendum: Low to Middle Income Countries	414.7	471.9	587.3	552.5	-5.9	98.5

* Annualized based on January-November 2001 data.

Source: U.S. Department of Commerce, Census Basis.

Of the $492 billion increase in goods imports since 1994, consumer goods increased 28 percent, while industrial materials and supplies and capital goods both increased 25 percent.

On a regional basis, U.S. goods imports declined from nearly all of the major regions, except the European Union and China which exhibited moderate growth (*table 4*). U.S. imports from high income countries and low and middle income countries also declined, by 4 percent and 6 percent respectively. Since 1994, however, U.S. import growth to low and middle income countries has been significantly higher than that to high income countries (up 99 percent vs. up 57 percent). The share of low and middle income countries in U.S. total goods imports was 48 percent to 2001.

U.S. goods imports from the European Union, accounting for 19 percent of total U.S. imports, stayed relatively level in 2001 (up only 1 percent). Increasing import categories included consumer goods (up 7 percent), autos and autoparts (up 2 percent) and foods, feeds, and beverages (up less than 1 percent). Imports of industrial supplies and materials declined 6 percent while capital goods were down slightly. Imports from the EU have increased 86 percent since 1994.

Imports from our NAFTA partners declined 4 percent in 2001, but are up by 133 percent since 1993, the year before NAFTA implementation started. Nearly 31 percent of aggregate U.S. goods imports were from NAFTA countries in 2001, up from 26 percent in 1993.

U.S. imports from Canada, the largest single country supplier of goods to the United States accounting for 19 percent of U.S. exports, declined by 5 percent in 2001. U.S. imports of capital goods, autos and autoparts, and consumer goods declined in 2001, down 15

percent, 10 percent, and 2 percent, respectively. However, imports of foods, feeds, and beverages and industrial supplies and materials grew in 2001, up 12 percent and 3 percent, respectively. Despite the overall import decline from Canada, U.S. imports from Canada have grown by 71 percent since 1994.

U.S. imports from Mexico, the third largest single country supplier of goods to the United States accounting for nearly 12 percent of U.S. imports, declined by 3 percent in 2001. 2001 marked the first decline in U.S. imports from Mexico since 1986. U.S. imports of industrial supplies from Mexico declined 13 percent in 2001, while imports of capital goods and autos and autoparts both declined by 1 percent. However, U.S. imports of foods, feeds, and beverages increased by 3 percent. U.S. imports from Mexico have grown 167 percent since 1994.

Imports from Japan, the second largest single country supplier of goods to the United States, declined 13 percent in 2001, and have increased only 7 percent since 1994, in sharp contrast to strong import growth from Japan in the 1980s. Purchases from Japan in 2001 accounted for 11 percent of total U.S. imports, as compared to 18 percent in 1994. U.S. imports from Japan declined in nearly all of the major end use categories in 2001: down 23 percent in capital goods, down 13 percent in foods, feeds, and beverages, down 11 percent in industrial supplies, and down 6 percent in autos and autoparts. U.S. imports of consumer goods, however, increased by 1 percent in 2001.

Although U.S. imports from China increased by 3 percent in 2001, this marked a significant decline from the double-digit import growth exhibited since 1983. U.S. imports from China were up 22 percent in 2000 and were up by 165 percent since 1994. U.S. imports from China accounted for 9 percent of total U.S. goods imports in 2001. 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 66 percent of U.S. imports from China in 2001.

Imports from Latin America (excluding Mexico) declined by 7 percent in 2001, but were up by 78 percent since 1994. U.S. imports of foods, feeds, and beverages were down 9 percent in 2001, while imports of industrial supplies were down by 11 percent.[5] U.S. imports of capital goods and autos and autoparts, however, were up 6 percent and 4 percent, respectively, in 2001.

Imports from the Pacific Rim (excluding Japan and China) declined 13 percent in 2001, but were up 44 percent since 1994. This region represented 13 percent of total U.S. imports in 2001. U.S. imports of capital goods, industrial supplies, and consumer goods declined by 21 percent, 8 percent, and 6 percent, respectively, while imports of autos and autoparts and foods, feeds, and beverages increased by 18 percent and 2 percent, respectively.

III. Services Trade

A. Export Growth

U.S. exports of services declined nearly 3 percent in 2001, the only decline in services exports in the past 40 years *(table 5 and figure 5)*. Since 1994, U.S. services exports have increased by 41 percent. U.S. services exports accounted for 39 percent of the level of U.S. goods exports in 2001, down slightly from 40 percent in 1994.

The decline in U.S. services exports in 2001 was led by the passenger fares and travel categories, down 13 percent and 11 percent, respectively.

[5] U.S. imports of industrial supplies accounted for more than half of U.S. imports from Latin America in 2001.

These tourism-related categories together accounted for one-third of total U.S. services exports.[6] Exports of other transportation services (freight) also declined, down 7 percent in 2001. Only two of the major services export categories, the other private services category (including business and professional services, education, and financial services) and the royalties and licensing fees category, exhibited export growth in 2001. U.S. exports of other private services were up 4 percent in 2001, while exports of royalties and licensing fees services were up 1 percent.

Since 1994, nearly all of the major services export categories have grown. Export growth has been led by the other private services category (up 83 percent) and the royalties and licensing fees category (up 44 percent). The travel and other transportation categories also were up 26 percent and 19 percent, respectively. Of the $83 billion increase in U.S. services exports between 1994 and 2001, the other private services category accounted for 61 percent of the increase, the travel services category accounted for 18 percent of the increase, and the royalties and licensing fees category accounted for 14 percent of the increase.

Detailed sectoral breakdowns for exports of the other private services category are available only through 2000. In 2000, other private services exports totaled $107.6 billion. Of this, U.S. exports to business related parties (to a foreign parent or affiliate) accounted for $31.6 billion, or 29 percent of total other private service exports. For the remaining exports of other private services to unaffiliated parties, the values of exports in 2000 were: business, professional and technical services, $28.0 billion; financial services, $17.0 billion; education, $10.3 billion; insurance premiums, $8.9 billion; and telecommunications, $3.8 billion. The largest exporting categories within the business, professional and technical services category were construction, engineering, architectural, and mining services ($5.3 billion) and installation, maintenance and repair of equipment services ($4.2 billion).

Japan was the largest purchaser of U.S. private services exports in 2000, accounting for 12% of total U.S. private services exports. The top 5 purchasers of U.S. services exports in 2000 were: Japan ($34.2 billion), the United Kingdom ($30.1 billion), Canada ($23.2 billion), Germany ($16.0 billion), and Mexico ($14.0 billion). Regionally, the United States exported $78.7 billion to the Asia/Pacific Region ($44.4 billion excluding Japan), $90.0 billion to the EU, $37.2 billion to NAFTA countries, and $28.5 billion to Latin America (excluding Mexico).

B. Import Growth

Services imports by the United States also declined in 2001, down almost 7 percent to $203 billion *(table 6, figure 6)*. This was the first decline in services imports since 1992. Although the rate of the decline in imports was greater than that of exports in 2001 (down 6.5 percent vs. down 3.2 percent), import growth has been greater than export growth since 1994 (up 54 percent vs. up 41 percent). U.S. imports of services in 2001 were led by two of the six major services import categories: the travel category and other private services category. These two categories accounted for over half of total services imports in 2001.

Nearly all of the major services import categories exhibited declines in 2001, mostly ranging between 5 percent and 11 percent. The largest decline occurred in travel services

[6] Travel accounted for 26 percent and passenger fares accounted for 6 percent.

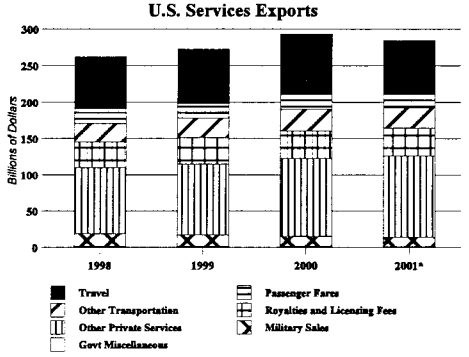
Table 5:
U.S. Services Exports

Exports:	1998	1999	2000	2001*	00-01*	94-01*
	Billions of Dollars				*Percent Change*	
Total (BOP basis)	262.3	272.8	293.5	284.1	-3.2	41.3
Travel	71.3	74.7	82.0	73.4	-10.6	25.6
Passenger Fares	20.1	19.8	20.7	18.1	-12.8	6.4
Other Transportation	25.6	26.9	30.2	28.2	-6.5	18.8
Royalties and Licensing Fees	35.6	36.4	38.0	38.4	1.0	43.9
Other Private Services	91.3	98.1	107.6	112.4	4.4	82.8
Transfers under U.S. Military Sales Contracts	17.5	15.9	14.1	12.9	-8.6	0.5
U.S. Government Miscellaneous Services	0.9	0.9	0.9	0.9	-0.1	-2.9

*** Annualized based on January-November 2001 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.

imports, down 11 percent in 2001, but up 31 percent since 1994. Imports of other private services declined 9 percent in 2001, but were up 65 percent since 1994. On the import growth side, payments of royalties and licensing fees increased 4 percent in 2001 and were up nearly 186 percent since 1994. Of the $71 billion increase in U.S. services imports between 1994 and 2001, the other private services category accounted for 28 percent of the increase, and the travel services category accounted for 19 percent of the increase.

As with exports, detailed sectoral breakdowns for imports of other private services are available only through 2000. In 2000, other private services imports totaled $54.7 billion. Of this, U.S. imports from business related parties (from a foreign parent or affiliate) accounted for $25.3 billion or 46 percent of total other private service imports. For the remaining imports of other private services from unaffiliated parties, the values of imports in 2000 were: insurance premiums, $27.9 billion; business professional and technical services, $7.8 billion; telecommunications, $5.4 billion; financial services, $4.5 billion; and education, $2.1 billion. The largest importing categories within the business, professional and technical services category were research, development and testing services ($851 million), legal services ($839 million), and computer and data processing services ($837 million).

In the import sector, the United Kingdom remained our largest supplier of private services, providing $26.9 billion to the United States in 2000. This accounted for 13% of total U.S. imports of private services in 2000. The United States imported $17.2 billion from Japan, our second largest supplier, and $16.3 billion from Canada, our third largest supplier. Germany and Mexico were our fourth and fifth largest import suppliers, exporting $11.4 billion and $11.0 billion worth of services to the United States, respectively, in 2000. Regionally, the United States imported $74.7 billion of services from the EU, $51.3 billion from the Asia/Pacific region ($34.1 billion excluding Japan), $27.3 billion from NAFTA, and $11.1 billion from Latin America (excluding Mexico).

IV. The U.S. Trade Deficit

The U.S. goods and services deficit declined by $25 billion in 2001 to a level of $351 billion (*table 7*). The U.S. goods trade deficit alone decreased by $20 billion to $432 billion in 2001. However, the services trade surplus slightly increased by $5 billion to $81 billion in 2001.

As a share of U.S. GDP, the goods and services trade deficit was 3.4 percent of GDP in 2001, a decline from the 3.8 percent level in 2000, but still up from the 1.3 percent level of 1995-1997 (*table 8*). For goods alone, the trade deficit was 4.2 percent of GDP in 2001, down from 4.6 percent in 2000, but up from 2.4 percent in 1997. For services alone, the U.S. trade surplus was 0.8 percent of GDP in 2001, the same as in 2000.

The regional distribution of the goods trade deficit for the past four years is shown in table 9.

Table 6:
U.S. Services Imports

Imports:	1998	1999	2000	2001*	00-01*	94-01*
	Billions of Dollars				*Percent Change*	
Total (BOP basis)	182.4	189.2	217.0	203.0	-6.5	53.9
Travel	56.5	58.9	64.5	57.4	-11.0	31.2
Passenger Fares	20.0	21.3	24.2	22.9	-5.6	75.0
Other Transportation	30.4	34.1	41.1	38.5	-6.4	47.8
Royalties and Licensing Fees	11.2	12.6	16.1	16.7	3.8	185.7
Other Private Services	49.3	46.1	54.7	50.0	-8.5	64.7
Direct Defense Expenditures	12.2	13.3	13.6	14.6	7.4	42.6
U.S. Government Miscellaneous Services	2.8	2.8	2.9	2.9	1.6	14.3

*** Annualized based on January-November 2001 data.**

Source: U.S. Department of Commerce, Balance of Payments Basis.

Table 7
U.S. Trade Balances with the World

Balance:	1998	1999	2000	2001*
	Billions of Dollars			
Goods and Services (BOP Basis)	-166.8	-261.8	-375.7	-351.1
Goods (BOP Basis)	-246.7	-345.4	-452.2	-432.2
Services (BOP Basis)	79.9	83.6	76.5	81.1

*** Annualized based on January-November 2001 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:	1998	1999	2000	2001*
	Percent			
Goods and Services (BOP Basis)	-1.9	-2.8	-3.8	-3.4
Goods (BOP Basis)	-2.8	-3.7	-4.6	-4.2
Services (BOP Basis)	0.9	0.9	0.8	0.8

* Annualized based on January-November 2001 data.

Source: U.S. Department of Commerce.

Table 9
U.S. Goods Trade Balances with Selected Countries/Regions

Balance:	1998	1999	2000	2001*
				Billions of Dollars
Canada	-16.7	-32.1	-51.9	-55.2
European Union	-27.3	-43.4	-55.0	-60.5
Japan	-64.0	-73.4	-81.6	-69.2
Mexico	-15.9	-22.8	-24.6	-30.3
China	-56.9	-68.7	-83.8	-83.5
Pacific Rim, except Japan and China	-39.4	-43.9	-50.0	-43.3
Latin America, except Mexico	13.1	-3.3	-14.1	-9.1
Addendum: High Income Countries	-102.7	-146.4	-187.8	-185.8
Addendum: Low to Middle Income Countries	-127.4	-182.8	-248.6	-231.2

* Annualized based on January-November 2001 data.

Source: U.S. Department of Commerce, Census Basis.

ANNEX II

Background Information on the WTO

Doha Declarations

Doha Ministerial Declaration . . . . . .

Doha Declaration on the TRIPs Agreement and Public Health . . . . . .

Doha Declaration on Implementation-Related Issues and Concerns . . . . . .

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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 December 18, 2001 (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
Mexico	January 1, 1995	Suriname	January 1, 1995
Moldova	July 26, 2001	Swaziland	January 1, 1995
Mongolia	January 29, 1997	Sweden	January 1, 1995
Morocco	January 1, 1995	Switzerland	July 1, 1995
Mozambique	August 26, 1995	Taiwan (referred to in the WTO as Chinese Taipei)	December 11, 2001
Myanmar	January 1, 1995	Tanzania	January 1, 1995
Namibia	January 1, 1995	Thailand	January 1, 1995
Netherlands - For the Kingdom in Europe and for the Netherlands Antilles	January 1, 1995	The Gambia	October 23, 1996
New Zealand	January 1, 1995	Togo	May 31, 1995
Nicaragua	September 3, 1995	Trinidad and Tobago	March 1, 1995
Niger	December 13, 1996	Tunisia	34786
Nigeria	January 1, 1995	Turkey	March 26, 1995
Norway	January 1, 1995	Uganda	January 1, 1995
Oman	November 9, 2000	United Arab Emirates	April 10, 1996
Pakistan	January 1, 1995	United Kingdom	January 1, 1995
Panama	September 6, 1997	United States	January 1, 1995
Papua New Guinea	June 9, 1996	Uruguay	January 1, 1995
Paraguay	January 1, 1995	Venezuela	January 1, 1995
Peru	January 1, 1995	Zambia	January 1, 1995
Philippines	January 1, 1995	Zimbabwe	March 5, 1995
Poland	July 1, 1995		
Portugal	January 1, 1995		
Qatar	January 13, 1996		
Romania	January 1, 1995		

2002 BUDGET FOR THE WTO SECRETARIAT

PART		SECTION	Original 2002 Estimates	Post Doha Additional Requirements	Revised Proposal CRP(01)25	Proposed Reductions: Reduced New Posts	Proposed Reductions: Other cost	Revised 2002 Estimates
A	1	Staff (Work/years)		-				
		(a) Salary	62,209,700	980,900	63,190,600	(403,900)		62,786,700
		(b) Pensions	12,273,600	193,800	12,467,400	(79,800)		12,387,600
		(c) Other Common Staff costs	10,163,500	773,400	10,936,900	(344,400)		10,592,500
	2	Temporary Assistance	11,927,100	1,430,000	13,357,100	-	(450,000)	12,907,100
					-	-		-
B	3	Communications		-	-	-		-
		(a) Telecommunications	637,000	-	637,000	-		637,000
		(b) Postage charges	1,327,000	250,000	1,577,000	-	(50,000)	1,527,000
	4	Building Facilities		1,000,000	1,000,000	-		1,000,000
		(a) Rental	249,600	-	249,600	-		249,600
		(b) Utilities	1,696,500	-	1,696,500	-	(50,000)	1,646,500
		(c) Maintenance and Insurance	923,000	-	923,000	-		923,000
	5	Permanent Equipment	3,690,800	112,500	3,803,300	(52,500)	(50,000)	3,700,800
	6	Expendable Equipment	1,343,700	-	1,343,700	-		1,343,700
	7	Contractual Services		-	-	-		-
		(a) Reproduction	1,421,000	-	1,421,000	-		1,421,000
		(b) Office Automation / Informatics	2,206,800	90,000	2,296,800	(7,000)	(50,000)	2,239,800
		(c) Other	244,000	-	244,000	-		244,000
					-	-		-
C	8	Staff Overhead Costs			-	-		-
		(a) Training	430,000	-	430,000	-		430,000
		(b) Insurance	1,112,500	3,400	1,115,900	(1,400)		1,114,500
		(c) Joint Services	542,000	-	542,000	-		542,000
		(d) Miscellaneous	46,500	15,000	61,500	(7,000)		54,500
	9	Missions		-	-	-		-
		(a) Official	1,241,100	-	1,241,100	-		1,241,100
		(b) Technical Co-operation	1,198,200	-	1,198,200	-		1,198,200
	10	Trade Policy Training Courses	1,542,000	954,000	2,496,000	-		2,496,000
	11	Contribution to ITC	15,113,850	-	15,113,850	-		15,113,850
	12	Various		-	-	-		-
		(a) Representation and Hospitality	258,000	-	258,000	-		258,000
		(b) Dispute Settlement Panels	1,337,000	-	1,337,000	-		1,337,000
		(c) Permanent Group of Experts/	30,000	-	30,000	-		30,000
		(d) Appellate Body		-	-	-		-
		(e) Library	583,500	-	583,500	-		583,500
		(f) Publications	203,000	-	203,000	-	(10,000)	193,000
		(g) Public Information Activities	260,000	-	260,000	-	(50,000)	210,000
		(h) External Auditors	70,000	-	70,000	-	(20,000)	50,000
		(i) Ministerial Meeting	400,000	-	400,000	-		400,000
		(j) ISO	58,900	-	58,900	-		58,900
		(k) Other	73,000	-	73,000	-		73,000
	13	Unforeseen Expenditure	100,000	-	100,000	-		100,000
				-	-			-
		Sub-total	134,912,850	5,803,000	140,715,850	(896,000)	(730,000)	139,089,850
		Infrastructure	422,000	-	422,000		(422,000)	-
		Geneva Week / Short Trade Policy Courses for LDCs	1,500,000	-	1,500,000		(276,000)	1,224,000
		Total	136,834,850	5,803,000	142,637,850	(896,000)	(1,428,000)	140,313,850
						(2,324,000)		

2002 BUDGET FOR THE APPELLATE BODY AND ITS SECRETARIAT

PART	SECTION	2002 Estimates
A	1 Staff(Work/years)	
	(a) Salary	1,500,200
	(b) Pensions	296,400
	(c) Other Common Staff costs	244,400
	2 Temporary Assistance	36,000
B	3 Communications	
	(a) Telecommunications	6,500
	(b) Postage charges	
	4 Building Facilities	
	(a) Rental	
	(b) Utilities	13,000
	(c) Maintenance and Insurance	0
	5 Permanent Equipment	47,200
	6 Expendable Equipment	17,700
	7 Contractual Services	
	(a) Reproduction	15,000
	(b) Office Automation / Informatics	0
	(c) Other	
C	8 Staff Overhead Costs	
	(a) Training	
	(b) Insurance	5,000
	(c) Joint Services	
	(d) Miscellaneous	2,000
	9 Missions	
	(a) Official	10,000
	(b) Technical Co-operation	
	10 Trade Policy Training Courses	
	11 Contribution to ITC	
	12 Various	
	(a) Representation and Hospitality	1,000
	(b) Dispute Settlement Panels	
	(c) Permanent Group of Experts/ Arbitration under GATS	
	(d) Appellate Body Members	618,200
	(e) Library	3,400
	(f) Publications	
	(g) Public Information Activities	
	(h) External Auditors	
	(i) Ministerial Meeting	
	(j) ISO	
	(k) Other	
	13 Unforeseen Expenditure	
	TOTAL	2,816,000

SCALE OF CONTRIBUTIONS FOR 2002
(Minimum contribution of 0.015 per cent)

MEMBERS	2001 CONTRIBUTION CHF	2002 CONTRIBUTION %	2002 CONTRIBUTION CHF	INTEREST EARNED* CHF	2002 NET CONTRIBUTION CHF
Albania	19,935	0.015	21,315		21,315
Angola	81,069	0.057	80,997	(241)	80,756
Antigua and Barbuda	19,935	0.015	21,315		21,315
Argentina	709,686	0.510	724,710		724,710
Australia	1,717,068	1.218	1,730,778	(10,422)	1,720,356
Austria	2,022,738	1.438	2,043,398	(11,763)	2,031,635
Bahrain	99,675	0.068	96,628	(582)	96,046
Bangladesh	136,887	0.105	149,205		149,205
Barbados	26,580	0.020	28,420	(68)	28,352
Belgium	3,686,646	2.683	3,812,543	(17,216)	3,795,327
Belize	19,935	0.015	21,315	(90)	21225
Benin	19,935	0.015	21,315	(87)	21,228
Bolivia	35,883	0.026	36,946	(168)	36,778
Botswana	51,831	0.041	58,261		58,261
Brazil	1,391,463	0.988	1,403,948	(1,141)	1,402,807
Brunei Darussalam	61,134	0.044	62,524	(335)	62,189
Bulgaria	131,571	0.094	133,574	(177)	133,397
Burkina Faso	19,935	0.015	21,315		21,315
Burundi	19,935	0.015	21,315		21,315
Cameroon	38,541	0.027	38,367	(243)	38,124
Canada	5,172,468	3.914	5,561,794	(29,044)	5,532,750
Central African Republic	19,935	0.015	21,315		21,315
Chad	19,935	0.015	21,315		21,315
Chile	445,215	0.311	441,931	(1,209)	440,722
China, People's Rep. of		2.973	4,224,633		4,224,633
Colombia	337,566	0.233	331,093	(456)	330,637
Congo	34,554	0.024	34,104		34,104
Costa Rica	126,255	0.104	147,784	(577)	147,207
Côte d'Ivoire	98,346	0.068	96,628	(18)	96,610
Croatia	205,995	0.147	208,887		208,887
Cuba	71,766	0.064	90,944	(438)	90,506
Cyprus	91,701	0.064	90,944	(452)	90,492
Czech Republic	707,028	0.511	726,131	(4,344)	721,787
Democratic Republic of the Congo	33,225	0.024	34,104		34,104
Denmark	1,330,329	0.948	1,347,108	(8,013)	1,339,095
Djibouti	19,935	0.015	21,315		21,315
Dominica	19,935	0.015	21,315	(78)	21,237
Dominican Republic	159,480	0.125	177,625		177,625
Ecuador	122,268	0.085	120,785		120,785
Egypt	360,159	0.266	377,986	(2,243)	375,743
El Salvador	69,108	0.058	82,418	(234)	82,184
Estonia	82,398	0.063	89,523	(346)	89,177
European Communities	0	0.000	0		0
Fiji	23,922	0.016	22,736	(140)	22,596
Finland	944,919	0.672	954,912	(5,242)	949,670
France	7,663,014	5.541	7,873,761	(408)	7,873,353
Gabon	47,844	0.034	48,314	(319)	47,995
Gambia	19,935	0.015	21,315		21,315
Georgia	21,264	0.015	21,315		21,315

MEMBERS	2001 CONTRIBUTION CHF	2002 CONTRIBUTION %	2002 CONTRIBUTION CHF	INTEREST EARNED* CHF	2002 NET CONTRIBUTION CHF
Germany	12,912,564	9.291	13,202,511	(47,398)	13,155,113
Ghana	46,515	0.042	59,682	(234)	59,448
Greece	437,241	0.311	441,931	(1,785)	440,146
Grenada	19,935	0.015	21,315	(69)	21,246
Guatemala	79,740	0.063	89,523	(396)	89,127
Guinea	19,935	0.015	21,315		21,315
Guinea-Bissau	19,935	0.015	21,315		21,315
Guyana	19,935	0.015	21,315	(79)	21,236
Haiti	19,935	0.015	21,315		21,315
Honduras	50,502	0.039	55,419	(209)	55,210
Hong Kong, China	4,791,045	3.345	4,753,245	(30,793)	4,722,452
Hungary	526,284	0.413	586,873	(3,180)	583,693
Iceland	59,805	0.045	63,945	(351)	63,594
India	1,100,412	0.830	1,179,430	(1,777)	1,177,653
Indonesia	1,234,641	0.831	1,180,851	(286)	1,180,565
Ireland	1,265,208	1.141	1,621,361	(8,246)	1,613,115
Israel	736,266	0.548	778,708	(4,314)	774,394
Italy	6,244,971	4.407	6,262,347	(21,284)	6,241,063
Jamaica	79,740	0.057	80,997	(400)	80,597
Japan	9,519,627	6.629	9,419,809	(42,322)	9,377,487
Jordan	94,359	0.066	93,786	(87)	93,699
Kenya	69,108	0.047	66,787	(304)	66,483
Korea, Republic of	3,387,621	2.381	3,383,401	(13,182)	3,370,219
Kuwait	287,064	0.194	275,674	(518)	275,156
Kyrgyz Republic	19,935	0.015	21,315		21,315
Latvia	67,779	0.051	72,471	(382)	72,089
Lesotho	19,935	0.015	21,315		21,315
Liechtenstein	37,212	0.027	38,367	(236)	38,131
Lithuania		0.083	117,943		117,943
Luxembourg	394,713	0.297	422,037	(2,005)	420,032
Macao, China	85,056	0.062	88,102	(460)	87,642
Madagascar	19,935	0.015	21,315	(129)	21,186
Malawi	19,935	0.015	21,315		21,315
Malaysia	1,946,985	1.313	1,865,773	(8,090)	1,857,683
Maldives	19,935	0.015	21,315	(74)	21,241
Mali	19,935	0.015	21,315		21,315
Malta	66,450	0.048	68,208	(397)	67,811
Mauritania	19,935	0.015	21,315		21,315
Mauritius	58,476	0.041	58,261	(339)	57,922
Mexico	2,607,498	2.106	2,992,626	(3,761)	2,988,865
Moldova		0.015	21,315		21,315
Mongolia	19,935	0.015	21,315		21,315
Morocco	216,627	0.160	227,360	(1,079)	226,281
Mozambique	19,935	0.015	21,315		21,315
Myanmar, Union of	43,857	0.032	45,472	(61)	45,411
Namibia	41,199	0.029	41,209	(209)	41,000
Netherlands, Kingdom of the	4,571,760	3.625	5,151,125	(27,140)	5,123,985
New Zealand	385,410	0.266	377,986	(2,310)	375,676
Nicaragua	23,922	0.020	28,420	(44)	28,376
Niger	19,935	0.015	21,315		21,315
Nigeria	295,038	0.204	289,884		289,884

Norway	1,231,983	0.859	1,220,639	(7,460)	1,213,179
Oman	139,545	0.099	140,679		140,679
Pakistan	260,484	0.185	262,885		262,885
Panama	175,428	0.124	176,204	(272)	175,932
Papua New Guinea	51,831	0.033	46,893	(279)	46,614
Paraguay	99,675	0.064	90,944		90,944
Peru	196,692	0.137	194,677	(497)	194,180
Philippines	881,127	0.628	892,388		892,388
Poland	944,919	0.703	998,963	(5,179)	993,784
Portugal	826,638	0.609	865,389	(583)	864,806
Qatar	83,727	0.076	107,996	(289)	107,707
Romania	241,878	0.170	241,570	(1,083)	240,487
Rwanda	19,935	0.015	21,315		21,315
Saint Lucia	19,935	0.015	21,315	(27)	21,288
Senegal	31,896	0.023	32,683	(197)	32,486
Sierra Leone	19,935	0.015	21,315		21,315
Singapore	3,059,358	2.080	2,955,680	(13,511)	2,942,169
Slovak Republic	283,077	0.205	291,305	(1,650)	289,655
Slovenia	235,233	0.169	240,149	(1,215)	238,934
Solomon Islands	19,935	0.015	21,315		21,315
South Africa	749,556	0.521	740,341	(3,902)	736,439
Spain	3,291,933	2.468	3,507,028	(16,747)	3,490,281
Sri Lanka	127,584	0.095	134,995	(599)	134,396
St. Kitts and Nevis	19,935	0.015	21,315	(120)	21,195
St. Vincent and the Grenadines	19,935	0.015	21,315	(23)	21,292
Suriname	19,935	0.015	21,315		21,315
Swaziland	23,922	0.018	25,578	(147)	25,431
Sweden	2,049,318	1.497	2,127,237	(12,588)	2,114,649
Switzerland	2,154,309	1.536	2,182,656	(7,533)	2,175,123
Tanzania	35,883	0.025	35,525		35,525
Thailand	1,503,099	0.999	1,419,579	(8,335)	1,411,244
Togo	19,935	0.015	21,315		21,315
Trinidad and Tobago	62,463	0.045	63,945	(199)	63,746
Tunisia	183,402	0.134	190,414	(644)	189,770
Turkey	1,113,702	0.792	1,125,432	(1,951)	1,123,481
Uganda	25,251	0.020	28,420	(98)	28,322
United Arab Emirates	708,357	0.519	737,499	(2,189)	735,310
United Kingdom of Great Britain and Northern Ireland	7,962,039	5.862	8,329,902	(49,194)	8,280,708
United States of America	20,773,599	15.723	22,342,383	(18,783)	22,323,600
Uruguay	90,372	0.064	90,944		90,944
Venezuela	445,215	0.315	447,615	(1,449)	446,166
Zambia	29,238	0.021	29,841		29,841
Zimbabwe	45,186	0.034	48,314	(88)	4822
TOTAL	132900000	100	142100000	-476855	141623145

* Interest earned in 2000 under the Early Payment Encouragement Scheme (L/6384) and to be deducted from the 2002 contribution.

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
Harmonized System (HS) changes: A collective waiver provides 22 members additional time to finalize the conversion of their tariff classification systems to the 1996 HS nomenclature. Zambia, Sri Lanka and Nicaragua were granted individual waivers to finalize conversions from pre-HS tariff systems to the Harmonized System.	April 30, 2002	May 9, 2001 (collective) October 31, 2001 (individual)
Haiti - Customs Valuation: To allow a 3-year extension for the application of the Customs Valuation Agreement.	January 30, 2003	December 20, 2001
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
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
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

WTO SECRETARIAT PERSONNEL STATISTICS

Number of Staff Members by Job Category				
Country	Senior	Professional	Support	Total
Argentina		9	6	15
Australia		7	4	11
Austria		2	2	4
Barbados		1	0	1
Belgium		5	0	5
Benin		1	0	1
Bolivia		3	1	4
Brazil		2	2	4
Burkina Faso	1	0	0	1
Canada		26	6	32
Chile		3	4	7
Colombia		5	3	8
Congo		1	0	1
Costa Rica		1	0	1
Cuba		0	1	1
Denmark		1	1	2
Egypt		6	0	6
Estonia		1	0	1
Finland		2	2	4
France	1	63	149	213
Germany		11	4	15
Ghana		1	0	1
Greece		3	1	4
Honduras		0	1	1
Hong Kong		1	0	1
Hungary	1	0	2	3
India		9	4	13
Indonesia		1	0	1
Ireland		4	11	15
Italy		11	7	18
Ivory Coast		0	1	1
Japan		3	0	3
Korea		2	0	2
Malawi		1	0	1
Malaysia		1	1	2
Mauritius		1	1	2
Mexico		2	1	3
Morocco		1	0	1
Netherlands		7	1	8
Norway		3	1	4
New Zealand	1	3	1	5
Nigeria		1	0	1

Number of Staff Members by Job Category				
Country	Senior	Professional	Support	Total
Pakistan		1	0	1
Papua New Guinea		1	0	1
Paraguay		0	1	1
Peru		2	8	10
Philippines		6	0	6
Poland		2	2	4
Portugal		1	1	2
Romania		2	1	3
Rwanda		1	0	1
Senegal		0	1	1
South Africa		2	1	3
Spain		33	23	56
Sri Lanka		2	2	4
Sweden		3	2	5
Switzerland		22	20	42
Tanzania		1	0	1
Thailand		2	0	2
Tunisia		3	1	4
Turkey		2	0	2
United Kingdom		28	70	98
Uruguay		5	4	9
United States	1	21	4	26
Venezuela	1	4	0	5
Zambia		1	0	1
Zimbabwe		1	0	1
TOTAL	6	351	359	716

Note:

Professional Staff includes temporary translators and interpreters

Source: WTO Secretariat

WTO ACCESSION APPLICATIONS AND STATUS (as of 1-7-02)[1]

Applicant	Status of Multilateral and Bilateral Work
Algeria (1987)	GATT 1947 accession process never activated. Second WTO Working Party scheduled for February 7, 2002 to review updated documentation and initial goods and services market access offers.
Andorra (1997)	WP meeting on October 13, 1999 reviewed legislative implementation schedule and goods and services market access offers. Review of legislative implementation and revised market access offers expected at second WP meeting in 2002.
Armenia (1993)	WP meeting on June 24, 1999 reviewed the draft WP report and protocol Legislative implementation underway. Negotiations for commitments on tariffs and services completed. Informal plurilateral and WP meetings to review outstanding issues in agricultural supports and protocol expected in early 2002.
Azerbaijan (1997)	First WP meeting to convene in late March 2002 to review initial documentation. No market access offers to date.
Belarus (1993)	WP meeting held on March 5, 2001 with bilateral negotiations on goods and services market access negotiations on the margins. Little progress in WTO implementation or trade regime liberalization recorded since previous WP meeting in April 1998.
Bosnia Herzegovina (1999)	Application accepted at July1999 General Council; has not yet submitted initial documentation to activate the accession negotiations.
Bhutan * (1999)	Application accepted at October 1999 General Council; expected to submit initial documentation to activate the accession negotiations during 2002.
Cambodia * (1995)	Second WP meeting to convene in mid-February 2002 to continue review of the foreign trade regime and agenda for legislative implementation of WTO. Initial market access offers circulated in December 2001.
Cape Verde * (2000)	Application accepted at July 2000 General Council; has not yet submitted initial documentation to activate the accession negotiations.
China (1986)	China became the 143rd Member of the World Trade Organization on December 11, 2001.
Iran	Application for accession to the WTO first circulated in September 1996; under consideration in the General Council since July 2001.
Kazakhstan (1996)	WP meeting held July 12-13, 2001. Legislative implementation underway. U.S. comments on revised market access offers transmitted in May 2001. Revised offers and updated agenda for enactment of WTO legislation expected in 2002.
Laos * (1998)	Initial documentation submitted in March 2001. No working party meetings or market access offers to date.
Lebanon (1999)	Initial documentation submitted in June 2001. No market access offers to date. First WP meeting anticipated in late May, after circulation of written responses to initial questions and comments.
Libya	Application for accession to the WTO first circulated in December 2001; will be considered at the first General Council meeting in 2002.
Lithuania (1994)	Lithuania became the 141st Member of the WTO on May 31, 2001.
Former Yugoslav Republic of Macedonia (1995)	WP meetings held March 15, and December 7, 2001, with negotiation of goods and services market access offers on the margins. Further market access bilaterals and agricultural plurilateral meetings expected in March 2002. Next formal WP meeting expected in May 2002 to review progress of legislative implementation of WTO provisions and draft WP report.
Moldova (1993)	Moldova became the 142nd Member of the WTO on July 26, 2001.

[1] "Applicant" column includes date the Working Party (WP) 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)	GATT 1947 accession process suspended in 1994. First WTO WP meeting held May 22, 2000, and additional information provided in October 2000. Market access offers discussed bilaterally in September 2000. Revised offers expected soon, with opportunity for additional bilateral and WP meetings in 2002.
Russia (1993)	WP meetings held June 23-24 (formal) and December 10 (informal), 2001. Intensive bilateral and multilateral work on protocol, agriculture, and goods and services market access during 2001 continued during January 23-24, 2002 formal WP meeting. Legislative implementation ongoing. Initial draft of Working Party report to be circulated during first quarter 2002.
Samoa * (1998)	Initial documentation submitted in February 2000 with additional information in November 2000 and August 2001. First WP meeting expected in March 2002.
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; will be considered at the first General Council meeting in 2002.
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. Revised market access offers and second WP meeting expected in second half of 2002.
Ukraine (1993)	WP meeting held June 13-14, 2001. Persistent non-tariff barriers and lack of IPR protection undermines progress achieved to date in bilateral goods and services market access negotiations. Comprehensive revised goods and services offers circulated in December 2001. Bilateral and Working Party discussions in 2002 will focus on need for realistic legislative agenda to implement WTO-consistent trade regime and elimination of nontariff barriers. WP to consult in early February 2002 on next steps.
Uzbekistan (1995)	Circulation of initial documentation completed in April 2001. First WP meeting expected in May 2002. 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)	Last WP meeting in November 2000 completed initial review of the trade regime. Next WP meeting, expected in April 2002, will address plans for legislative implementation of WTO provisions. Goods and services market access offers expected in early 2002.
Yemen * (2000)	Application accepted at July 2000 General Council; has not yet submitted initial documentation to activate the accession negotiations.
Yugoslavia (2001)	Application accepted at February 2001 General Council; initial documentation to activate the accession negotiations to be circulated in early 2002. No market access offers to date.

WORLD TRADE ORGANIZATION

WT/DSB/19
29 March 2000
(00-1284)

INDICATIVE LIST OF GOVERNMENTAL AND NON-GOVERNMENTAL PANELISTS

To assist in the selection of panelists, the DSU provides in Article 8.4 that the Secretariat shall maintain an indicative list of governmental and non-governmental individuals.

In accordance with the proposals for the administration of the indicative list of panelists approved by the DSB on 31 May 1995, the list should be completely updated every two years. For practical purposes, the proposals for the administration of the indicative list approved by the DSB on 31 May 1995 are reproduced as an Annex to this document.

The attached is an updated consolidated list of governmental and non-governmental panelists.[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)

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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
	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
	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
	HÄBERLI, Mr. C	Trade in Goods
	INEICHEN-FLEISCH, Ms. M.-G.	Trade in Goods and Services
	KRAFFT, Mr. M-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

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

1. 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

[1] WT/DSB/19.

	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

WORLD TRADE ORGANIZATION

WT/DSB/W/172
5 October 2001

(01-4843)

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
EUROPEAN COMMUNITIES		
FRANCE	STERN, Mme. B.	Trade in Goods and Services
MEXICO	AGUILAR ÁLVAREZ, Mr. G.	Trade in Goods and Services; TRIPS
	AMIGO CASTAÑEDA, Mr. J.	TRIPS
	DE MATEO VENTURINI, Mr. F.	Trade in Services
	JASSO TORRES, Mr. H.	Trade in Goods
	ORTEGA GÓMEZ, Mr. A.	Trade in Goods and Services; TRIPS
	PEREZCANO DÍAZ, Mr. H.	Trade in Goods and Services; TRIPS
	RAMÍREZ HERNÁNDEZ, Mr. R.	Trade in Goods and Services
	REYES, Ms. L.H.	Trade in Goods
	TRASLOSHEROS HERNÁNDEZ, Mr. J.G.	Trade in Goods and Services; TRIPS
	ZABLUDOVSKY KUPER, Mr. J.	Trade in Goods and Services; TRIPS

[1] Curricula Vitae containing more detailed information are available on request from the WTO Secretariat (Council Division – Room 2025).

NIGER	TANKOANO, Mr. A.	Trade in Goods and Services; TRIPS

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.

WORLD TRADE ORGANIZATION

WT/DSB/W/174
26 October 2001

(01-5272)

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	MAKUC, Mr. A.	Trade in Goods and Services
	PÉREZ GABILONDO, Mr. J.L.	Trade in Goods; TRIPS
	RUIZ, Mr. J. A.	Trade in Goods and Services

[1] Curricula Vitae containing more detailed information are available on request from the WTO Secretariat (Council Division – Room 2025).

WORLD TRADE ORGANIZATION

WT/DSB/W/179
7 December 2001

(01-6240)

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
AUSTRALIA	KENYON, Mr. D.	Trade in Goods and Services
INDIA	NARAYANAN, Mr. S.	Trade in Goods; TRIPS
ISRAEL	HOROVITZ, Mr. D.	Trade in Goods and Services
	POLINER, Mr. H.Z.	TRIPS

[1] Curricula Vitae containing more detailed information are available on request from the WTO Secretariat (Council Division – Room 2025).

MEMBERSHIP OF THE WTO APPELLATE BODY

The membership of the WTO Appellate Body is as follows:

Mr. G M Abi-Saab (Egypt),
Mr. James Bacchus (United States),
Professor Claus-Dieter Ehlermann (Germany),
Justice Florentino Feliciano (the Philippines),
Mr. A V Ganesan (India),
Mr. Julio Lacarte Muro (Uruguay),
Mr. Yasuhei Taniguchi (Japan),
Professor Luiz Olavo Baptisa
Mr. John S. Lockhart
Professor Giorgio Sacerdoti

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 practised 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.

Claus-Dieter Ehlermann

Professor Claus-Dieter Ehlermann of Germany, born 1931, is an internationally-recognized authority on international economic law who currently holds the Chair of Economic Law at the European University Institute in Florence and is Honorary Professor at the University of Hamburg. In May 1995, after more than 34 years of service for the European Commission, he retired from his post of Director-General of the Directorate General for Competition to the Commission.

In 1961 Professor Ehlermann joined the Legal Service of the European Commission and rose to become its head in 1977. He served as Director-General of the Legal Service for ten years until 1987 when he was appointed spokesman of the Commission and special adviser of the President on institutional questions. In 1990 he became Director-General of the Directorate-General for Competition, bringing him into close contact with competition authorities in the United States (within the framework of the bilateral US-EU Cooperation Agreement negotiated in 1990/91) and in Japan, Australia and New Zealand. He also assisted the fledgling competition authorities in the transition economies of Central and Eastern Europe.

Since 1972, Professor Ehlermann has also pursued an academic career, teaching Community Law in Bruges, Brussels, Hamburg, and, since May 1995, in Florence. He has written more than 160 publications which, since 1991, have dealt primarily with competition law and policy, industrial policy and international cooperation. He also serves as a member on several academic advisory bodies, in particular with respect to law reviews.

Florentino Feliciano

Mr. Justice Florentino Feliciano of the Philippines, born 1928, is Senior Associate Justice of the Supreme Court of the Philippines and Vice-Chairman of the Academic Council of the Institute of International Business Law and Practice of the International Chamber of Commerce in Paris.

Before joining the Judiciary in 1986, Mr. Feliciano had been a Member since 1962 of the law firm Sycip, Salazar, Feliciano and Hernandez, where he was extremely involved in trade and corporate law cases and transactions concerning anti-dumping, intellectual property rights, banking and insurance services, shipping and telecommunications.

Mr. Feliciano also has extensive experience as an arbitrator in international investment and commercial disputes at the International Centre for Settlement of Investment Disputes in Washington, and at the ICC in Paris. He has been on the Arbitrators Panel of the American Arbitration Association in New York and was also a Member of the Asian Development Bank Administrative Tribunal.

Having graduated in law from the University of the Philippines, Mr. Feliciano went on to earn his Masters and Doctorate Degrees in law from Yale University. He taught in the Faculty of Law of the University of the Philippines and of Yale University. A Member of Institut de Droit International, he has lectured at the Hague Academy of International Law. He has written and published on various aspects of international business law and public international law.

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 (1986-1989) 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.

Julio Lacarte Muro

Mr. Julio Lacarte Muro of Uruguay, born 1918, was a career diplomat who has been involved with the GATT/WTO trading system since its creation almost fifty years ago and has participated in all eight rounds of multilateral trade negotiations under the GATT.

Mr. Lacarte served as the Deputy Executive Secretary of the GATT in 1947-48. He returned to the GATT as Uruguay's Permanent Representative in 1961-66 and 1982-92, during which periods he served as Chairman of the Council, the Contracting Parties, several dispute settlement panels, and the Uruguay Round negotiating groups on dispute settlement and institutional questions.

Mr. Lacarte has also served as the Deputy Director of the International Trade and Balance-of-Payments Division of the United Nations and as the Director of Economic Cooperation among Developing Countries of UNCTAD. He has also been Uruguay's Ambassador to several countries, including the European Communities, India, Japan, the United States and Thailand.

In his academic career, Mr. Lacarte has been a professor at the International Association of Comparative Law and at the University of Comparative Law at Strasbourg University. He has written several publications, including a recently-published book covering all the subject matter of the Uruguay Round from its inception to the Marrakesh Final Act.

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.

John S. Lockhart

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

Examples of information available on the WTO home page include:

Descriptions of the Structure and Operations of the WTO, such as:

WTO Organizational Chart

Membership

Biographic backgrounds

General Council activities

WTO News, such as:

Status of dispute settlement cases

Schedules of future WTO meetings

Press Releases on Appointments to WTO Bodies, Appellate Body Reports and Panel Reports, and others

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

On-line document database where one can find and download official documents

Working Procedures for Appellate Review

Legal Texts of the WTO agreements

Special Studies on key WTO issues

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)

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)
- Agreements on Trade in Textiles and Textile Products (signed February 1, 1997; provisional implementation pending final exchange of notes)

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

- 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)
- Wine Accord (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 Untied 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)

France

- Memorandum of Understanding Relating to the Development of Technology-Based Joint Ventures between Small United States and French Companies (February 1986)

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)

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)

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)

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)

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)

Oman

- Exchange of notes extending bilateral agreement on Trade in Textiles and Textile Products (November 25, 2000)

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)

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)
- 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 Trade in Textiles and Textile Products (1997)
- Agreement on Market Access (February 20, 1998)
- Extension to Agreement on Trade in Textiles and Apparel Products (December 15, 2000)
- Understanding on Government Procurement (August 23, 2001)
- Extension to Agreement on Trade in Textiles and Apparel Products (November 16, 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.)

Poland

- Comprehensive Trade Package on Tariff Reduction (June 15, 2001)

Russia

- Bilateral Investment Treaty (signed June 17, 1992; pending approval by Russian Parliament and exchange of instruments of ratification)

Uzbekistan

- Bilateral Investment Treaty (signed December 16, 1994; pending exchange of instruments)

III. Other Trade-Related Agreements and Declarations

Following is a list of other trade-related agreements and declarations negotiated by the Office of the United States Trade Representative from January 1993 through 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)

Chile

- U.S.-Chile Joint Commission on Trade and Investment (May 19, 1998)

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)

South Africa

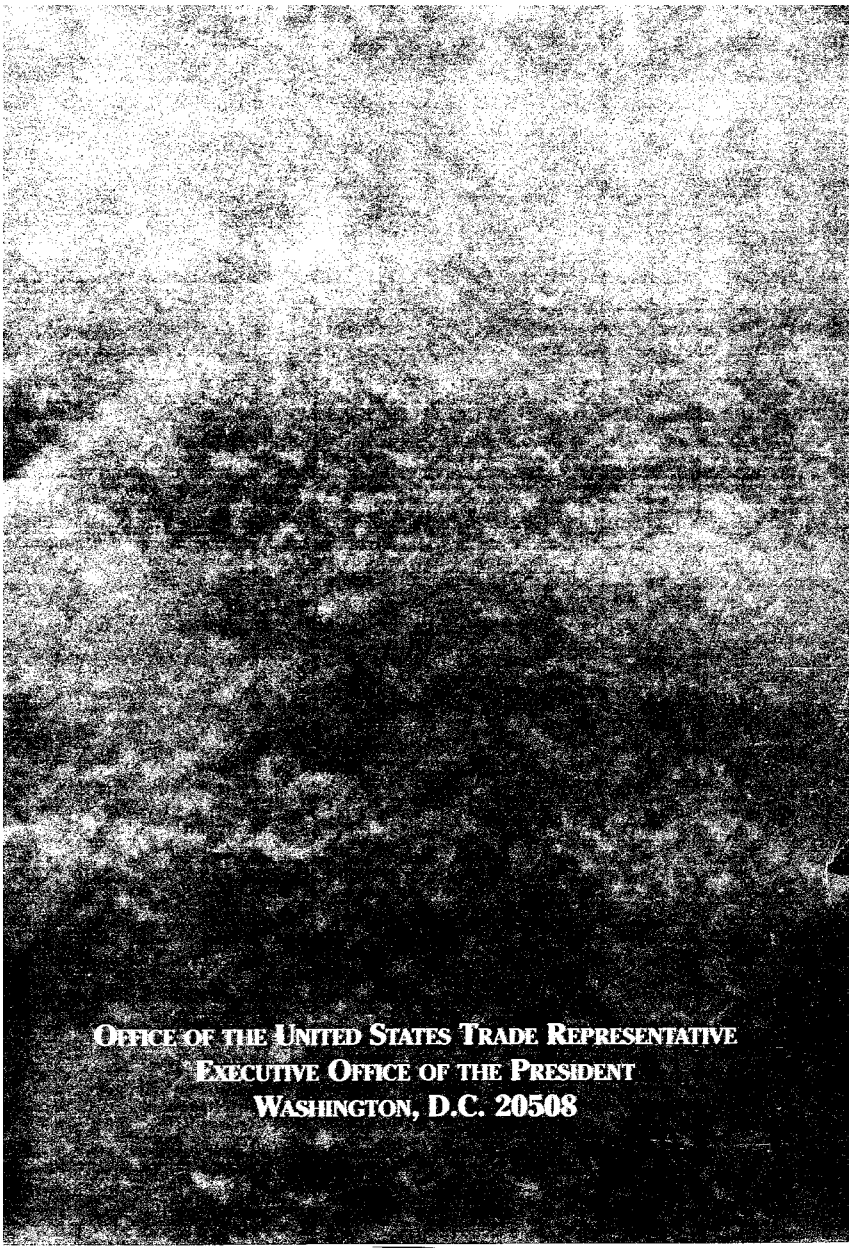
- U.S.-South Africa Trade and Investment Framework Agreement (February 18, 1999)

Turkey

- U.S.-Turkey Trade and Investment Framework Agreement (September 29, 1999)

Uruguay

- U.S.-Uruguay Bilateral and Commercial Trade Review (May 20, 1999)



OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
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