

PRESS PACK

World Trade Organization 4th Ministerial Conference Doha

9–13 November 2001

Contents

Director-General's letter to journalists	1
Background	3
Least-developed countries (LDCs)	6
Agriculture	9
Sanitary and phytosanitary (SPS) measures	11
Trade in services	14
Implementation issues	19
Intellectual property (TRIPS)	22
Textiles and clothing	28
Information technology (IT) products	30
Trade and environment	32
Trade and investment	37
Trade and competition policy	39
Transparency in government procurement	41
Trade facilitation	43
Trade and labour standards	45
Disputes	48
Electronic commerce	53
Members and accession	55
Regional trade agreements	60
Some facts and figures	62
Glossary of terms	66

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NOTE

These briefing notes describe the situation as it exists at the time of going to press
(mid October 2001)

They are designed to help journalists and the public understand the key issues of the Doha Ministerial Conference. While every effort has been made to ensure the contents are accurate, they are not legal interpretations of the WTO agreements, nor do they prejudice member governments' positions in the conference and in future negotiations.

FURTHER INFORMATION CAN BE FOUND IN VARIOUS WTO PUBLICATIONS, INCLUDING:

10 Benefits of the WTO

10 Common Misunderstandings about the WTO

The WTO in brief

Trading into the Future: Introduction to the WTO. In booklet and interactive electronic versions, obtainable from WTO publications, downloadable from the WTO website <http://www.wto.org>

Guide to the Uruguay Round Agreements. By the WTO Secretariat, published jointly by the WTO and Kluwer Law International

Focus magazine. The WTO's electronic newsletter, available on the website.

The WTO website: <http://www.wto.org>
to see basic information about the WTO, click on "THE WTO" in the top banner of most pages

The WTO Ministerial Conference website: <http://www.wto-ministerial.org>

Some of these, including these briefing notes,
are also available on the CD-ROM included in the press pack.

DIRECTOR-GENERAL'S LETTER TO JOURNALISTS

Ministers to shape the future in Doha

Dear Friends,

Welcome to Doha.

During the course of this Ministerial Conference, 142 governments will shape the future of the global trading system in the 21st century. It's no exaggeration to say that what ministers decide here in the next few days, will determine whether the World Trade Organization remains at the centre of trade policy concerns over the next few years.

Others have said that if the WTO fails to embark on an ambitious work programme here in Doha that the organization will be consigned to hibernation or become irrelevant.

I don't agree with that. We will still be the most important global arbiter of commercial disputes between nations, we will still provide technical assistance and training to governments hungry to participate more extensively in the global trading system and we will still conduct the important Trade Policy Reviews.

But I believe it's true that the trade focus in many nations will shift away from Geneva if we fall short of success in Doha. I've said it many times because I believe it: trade liberalization negotiations will take place next year, the only question is whether they are conducted, bilaterally, regionally or multilaterally.

Regional trade agreements can make an important contribution to the global economy, but they are no substitute for a multilateral system of non-discriminatory trade rules. At a time when global cooperation is as important as it has ever been, a failure to improve one of the most important pillars of the international architecture would be not only unfortunate but dangerous.

Apart from the need to strengthen the system and the organization, there is the obvious need to send signals of confidence to a world in which the largest economies all face the prospect of recession. The last time that the European Union, Japan and the United States were all in recession together was in 1975. The economic vitality of these three members matters a great deal and not just to those who live there. When the big economies contract it means fewer exports from the developing world and less foreign direct investment to poor countries. This will mean fewer jobs in developing countries and lower prospects of raising living standards.

Agreeing to launch an ambitious work programme in Doha will not have immediate consequences for the global economy. But it will send a very strong signal that the WTO member governments are aware of the need for action on issues that are of great importance to our citizens.

Not all our member governments favour embarking on an ambitious work programme and I have been criticized for calling on members to begin a broad-based work programme at Doha. I accept differences of view on this point, but it's important not to lose sight of the fact that on matters of

real substance, the only way to change the rules and workings of the WTO is through negotiations. This is, after all, a negotiating forum.

When developing countries say they have not received all the benefits they expected from the Uruguay Round and that the WTO should do better for them, I agree. But does anyone seriously believe that we will get substantive changes to our rules on agriculture, textiles or trade remedies through any avenue other than negotiations?

We need to face up to the fact that there are things in our organization that could work better. Not all our critics are wrong. This organization needs to do more to assist poor countries through market access and increased technical assistance. We need to do a better job of assuring our peoples that WTO rules are not a threat to the preservation of the environment. We need to work to reduce imbalances in a global agricultural system which results in rich countries spending roughly \$1 billion a day in subsidies which are often wasteful and trade distorting. Reducing these subsidies and paring back the barriers to imports from developing countries would result in benefits to the developing countries equal to three times the level of Official Development Assistance provided by rich countries.

Moreover, we need to look at the way the organization is run. As superb as the dispute settlement system is, it has some problems which need to be addressed. The banana dispute has highlighted the need to address how and when a member government can retaliate against another for failure to implement a ruling from the Dispute Settlement Body. We need to examine ways in which developing countries can participate more fully in the benefits of the dispute settlement system.

We also need to serve our member governments better through a system of technical assistance that is adequately financed. Our current budget covers only a fraction of our technical assistance costs and the remainder must be made up through trust fund contributions. I appreciate the generosity of those members that have contributed to these trust funds. But without adequate resources in the core budget, we cannot properly plan our technical assistance activities beyond the current year. We need to find ways of addressing the development deficit through enhanced training and programmes which bring those governments that cannot afford offices in Geneva more into the fold.

Unless all members are fully engaged in the process of negotiating and feel confident that they comprehensively understand the issues, we run the risk of creating new implementation problems in the future. Any negotiations that are launched in Doha cannot be completed if some members feel marginalized from the process and the way to address this problem is through more and better targeted technical assistance.

I have no illusions as to the challenge ahead. Finding a satisfactory compromise on issues like implementation, patentability of essential medicines, agriculture, the environment, investment and competition will not be easy to achieve. But find it we must, because the price of failure is too high.

Mike Moore
WTO Director-General

BACKGROUND

The Doha 'ministerial': Culmination of a two-year process

See also:

- > The WTO website: <http://www.wto.org>

To reach information on the ministerial conference, follow:
... > **the wto** > **ministerial conferences** (under **decision-making**)
or click on the ministerial homepage:
<http://www.wto-ministerial.org>

Preparation for the Doha Ministerial Conference began in January 2000, shortly after the unsuccessful 3rd Ministerial Conference held in Seattle in December 1999.

Director-General Mike Moore and 1999 General Council Chairman Ali Mchumo unveiled for member governments a four point plan of confidence building measures designed to get the organization back on its feet and functioning again. The measures included:

- Specific initiatives to assist least-developed countries (LDCs), including a call for greater market access.
- A special mechanism for discussing and negotiating implementation issues
- A comprehensive examination of technical cooperation and capacity building activities
- Procedures for ensuring more active and effective participation of all member governments in the WTO

Each of these four measures has proven successful. On the question of the LDCs, 29 countries have committed themselves to further opening their markets to exports from LDCs. The General Council also agreed to establish an Implementation Review Mechanism, through special sessions of the Council, which has met regularly in formal and informal mode to discuss and negotiate implementation issues. (See implementation press brief, on page 19).

The Director-General has led a comprehensive review of technical cooperation and capacity building which, though still in progress, has already resulted in greater efficiency. Moreover, Mr. Moore has worked with heads of other organizations to strengthen the Integrated Framework¹ of technical assistance for Least Developed Countries.

On the question of more effective participation among member governments, 2000 General Council Chairman Kare Bryn of Norway and 2001 Chairman Stuart Harbinson of Hong Kong, China have instituted a system of frequent open-ended and informal heads of delegation meetings, complemented with consultations in other formats. The objective of this sort of system is to meet regularly to consult with and inform all members of WTO activities across a broad spectrum of consultations.

¹ The six organizations involved in the Integrated Framework are the World Trade Organization, UNCTAD, the World Bank, the International Monetary Fund, the United Nations Development Programme and the International Trade Centre.

January 2000 also marked the launch of mandated negotiations in the areas of agriculture and services. These two-sectors of economic activity account for roughly two thirds of global output and about the same fraction of global employment. Negotiations in these sectors have advanced well to this point with 121 member governments submitting proposals in agriculture and 50 governments submitting proposals in services. Although serious bargaining aimed at securing concessions has not yet started, many member governments have said they are pleased with the progress to date.

As those negotiations proceeded, members began preparing in early 2001 for the WTO's 4th Ministerial Conference. The organization is mandated by the terms of the Marrakesh Agreement to hold its conference every two years.

On 8 February 2001, the General Council, which is the WTO's day-to-day governing body, agreed to accept an offer by the government of Qatar to host the conference. The General Council Chairman and the Director-General received from the Council, a mandate to work with members on formulating organizational and issue-related aspects of the preparation for the meeting.

General Council Chairman Stuart Harbinson, offered members a checklist on 20 April 2001 of possible subjects for inclusion in the discussions. Member governments accepted this checklist as the basis for future work. Since April, the Chairman and the Director-General have held hundreds of consultations with delegations in a variety of formats ranging from heads of delegation meetings to one-on-one discussions. The approach has won praise from member governments, particularly developing country members, for its openness, transparency and efficiency.

Chairman Harbinson and Director-General Moore have established a "bottom-up" approach to the process by encouraging a proponent driven system where those in favour of including certain topics on the agenda would meet in an effort to raise support for their positions. WTO member governments held a series of meetings outside the formal General Council process to test levels of support on a range of issues which included non-agricultural market access, investment, competition, environment, fisheries subsidies and reform of the Dispute Settlement Understanding.

These sessions served as a method of producing inputs to Chairman Harbinson's process.

During the first half of 2001, Director-General Moore met regularly with trade ministers and urged them to work more intensively to bridge differences between positions. He stressed to them the importance of avoiding a failure at Doha.

On 24 July 2001, Chairman Harbinson and Director-General Moore released a report on the state of play regarding the negotiations. This report, which the Director-General referred to as a "reality check" offered a sobering assessment of the situation as it stood then. The General Council met on 30-31 July and debated the way to move beyond what virtually all members considered to be an impasse. In speaking to the General Council, Mr. Moore warned that "the situation is fragile, and without generosity, good manners and good will, the process could implode and become unmanageable. Unless the reality we now see is taken to heart and acted upon, the passage of time will change the reality for the worse, and the process could become unmanageable."

At the end of July meeting there was a general acknowledgement that progress on the implementation issue was essential to moving the process forward. Chairman Harbinson told member governments that it was essential to use the August break to examine positions and to prepare for intensive consultations during the stretch run to Doha.

Returning to work on 4 September, the General Council heard from Chairman Harbinson that delegations could not expect Ministers to arrive in Doha with all issues still unresolved. The strategy of

leaving all issues to be settled by Ministers had failed at Seattle, he said, and could not be expected to work in Doha.

Throughout September, Chairman Harbinson held intensive consultations with delegations in a wide array of formats, in a bid to uncover bottom-line or at least more compatible positions.

On 26 September the Chairman and the Director-General released to members two documents, one a draft Ministerial Declaration and the other a draft decision on implementation related issues and concerns. The Chairman stressed that no portion of either text was agreed and that no element of either could be considered agreed until all elements were agreed. The texts represented the best judgement of the two men on "what the market could bear" in terms of an outline for a future work programme.

In parallel with Chairman Harbinson's efforts, the Director-General maintained close contact with Ministers. During the last several months, the Director-General has met face to face with more than 100 Ministers whom he encouraged to show the necessary flexibility to ensure that the Ministerial Conference would be completed successfully.

Throughout October, Chairman Harbinson held informal open-ended heads of delegation meetings on implementation issues and the issues contained in the draft Ministerial Declaration. Members accepted both documents as the basis for negotiation, while stressing that there were elements in each document to which they were less than favourably inclined.

The process succeeded in narrowing differences, but ultimately differences between members governments have remained. On certain key issues, it is clear that resolution can only come at the Ministerial Conference itself.

ENDS

LEAST-DEVELOPED COUNTRIES (LDCS) Towards free market access for least-developed countries

In the last few years WTO members have concentrated a lot of efforts into improving the condition of least-developed countries (LDCs) inside the multilateral trading system, both in terms of market access and technical assistance. Measures taken in the framework of the WTO can help LDCs increase their exports to other WTO members and attract investment.

In many developing countries, pro-market reforms have encouraged faster growth, diversification of exports, and more effective participation in the multilateral trading system. Excluding countries at war or in transition, export growth in developing countries has risen from 4.3% a year in the 1980s to 6.4% in the 1990s. Growth in GDP per person has risen from 0.4% year to 1.5% per year.

Even the least-developed countries are doing slightly better, though not as well as other developing countries. Again, excluding countries at war or in transition, export growth in LDCs has risen from 2.9% a year in the 1980s to 3.2% in the 1990s. And whereas GDP per person fell by 0.6% a year in the 1980s, it rose by 0.8% a year in the 1990s.

Specifically, the WTO has “delivered” for LDCs in the following areas:

First, there have been significant improvements in market access opportunities for LDCs. Twenty eight WTO members have pledged market access improvements. Many of them have actually agreed to drop all barriers and provide “duty-free and quota-free” treatment to all LDC exports. They join a number of other countries who already provide open markets. The average non-weighted tariff applied by major trading partners to LDCs exports has fallen from 10.6% in 1997 to 6.9% in the first quarter of 2001.

For example:

- Canada, effective 1 September 2000, added a further 570 tariff lines to the list of goods from LDCs eligible for duty-free treatment. About 90% of all LDC imports will now receive duty-free treatment;
- New Zealand, since 1 July 2001, offers duty-free and quota-free access to all imports from LDCs
- The European Union, Norway and Switzerland provide duty-free, quota-free market access for all LDC exports (except arms). A transition period is in place for a few specific products.
- Japan in December 2000, announced its “99%-initiative on Industrial Tariffs”. Following implementation, in April 2001, the coverage of duty and quota-free treatment for LDCs industrial product exports increased from 94 to 99% and includes textile and clothing exported from LDCs;
- The US has further elaborated on the African Growth and Opportunity Act (AGOA) adopted in May 2000. Thirty four Sub-Saharan countries have been designated as beneficiaries under AGOA in October 2000, who can avail new GSP benefits from 1835 tariff lines as from December 2000.

- Hungary, the Czech Republic and the Slovak Republic provide duty free and quota free access to all imports from LDCs.
- Egypt notified tariff reductions ranging from 10% to 20% of existing applied duties for 77 products of export interest to LDCs, and provides duty free access for about 50 products. In addition, Egypt bound customs duties, with a 10% reduction for industrial products imported from LDCs.

Second, the Integrated Framework (IF) — the joint IMF, ITC, UNCTAD, UNDP, World Bank and WTO technical assistance program for LDCs — has been redesigned and is in operation on a Pilot Basis in Cambodia, Madagascar and Mauritania. It will help LDCs mainstream trade into their national development plans and strategies for poverty reduction. It will help ensure trade, as an engine for growth, is central to development plans. It will also ensure that trade-related technical assistance and capacity building is delivered within a coherent policy framework rather than on a stand-alone basis. The possibility of the extension of the IF Pilot Scheme is being examined, based on progress reported at the Fourth WTO Ministerial Conference.

The agencies have set up a Trust Fund for the Integrated Framework to which several donor countries contributed in total \$6.2 million.

The first-ever joint seminar of the six agencies of the Integrated Framework was held in January 2001. It demonstrated the rationale and techniques for mainstreaming trade into LDCs' development plans and poverty reduction strategy papers and showed how the re-designed Integrated Framework can operate as a mechanism for poverty reduction and delivery of trade-related technical assistance.

Technical assistance to enable LDCs implement their rights and obligations under WTO Agreements is also being provided. For instance, under the Joint Initiative on Technical Cooperation for LDCs by WIPO and WTO, assistance is being offered to make best use of the intellectual property system of these countries.

Third, WTO members are currently looking at means to assist as much as possible those LDCs in the process of joining the WTO. LDCs acceding to the WTO have to learn and to understand how the WTO works. They need to draft domestic laws that comply with WTO rules. They need to establish mechanisms for enforcing those rules. And they need to negotiate with existing members suitable conditions of entry to the WTO. LDCs currently in the process of accession to the WTO are: Bhutan, Cambodia, Cape Verde, Lao People's Democratic Republic, Nepal, Samoa, Sudan, Vanuatu and Yemen. In addition, Ethiopia and Sao Tome & Principe are WTO observers.

Fourth, WTO members have taken a host of initiatives to help LDCs participate more fully at the WTO. These include:

- activities for non-resident members and Observers to ensure that those countries not represented in Geneva can still follow the daily business of the WTO and still be an integral part of the WTO process;
- the "Geneva Week": an annual event bringing together senior officials from capitals and European-based missions — not only of LDCs but also of other small economies — to learn and exchange views concerning critical areas of the WTO work;
- improvement of the WTO's Trade Policy Review Mechanism: as well as shedding light on a country's trade rules, it now helps trade policy capacity building and the mainstreaming of trade priorities into national development plans and poverty reduction strategies;
- expansion of the WTO training and policy courses;

- establishment of WTO reference centres connecting LDCs' capitals to WTO sources of information through the Internet;
- establishment of a new programme to fund interns within country missions in Geneva;
- facilitating the participation of LDCs at WTO Ministerials — for example, financing LDC trade ministers' travel and hotel expenses.

Fifth, and finally, the WTO provides a forum where LDCs can and do raise particular problems relating to food safety and quality standards. Indeed, LDCs can find it difficult to comply in their exports with developed countries' sanitary standards. WTO agreements limit importing countries' scope to impose arbitrary requirements on LDCs' exports, and encourage the use of internationally developed standards. The Director-General himself has initiated high-level discussions with the secretariats of international standard-setting bodies to improve LDCs' participation and capacity to make full use of international standards.

LDCs in the WTO

The WTO recognizes as least-developed countries (LDCs) those countries which have been designated as such by the United Nations. There are currently 49 least-developed countries on the UN list, 30 of which to date have become WTO members.

These are:

Angola; Bangladesh; Benin; Burkina Faso; Burundi; Central African Republic; Chad; Congo, Democratic Republic of the; Djibouti; Gambia; Guinea; Guinea Bissau; Haiti; Lesotho; Madagascar; Malawi; Maldives; Mali; Mauritania; Mozambique; Myanmar; Niger; Rwanda; Senegal; Sierra Leone; Solomon Islands; Tanzania; Togo; Uganda; Zambia.

Nine additional least-developed countries are in the process of accession to the WTO. They are: Bhutan; Cambodia; Cape Verde; Laos; Nepal; Samoa; Sudan; Vanuatu and Yemen.

Furthermore, Ethiopia and Sao Tome & Principe are WTO Observers.

ENDS

AGRICULTURE

Current negotiations, implementation, and Doha

See also:

- > *An outline of the WTO's Agriculture Agreement in the section on agriculture in "Trading into the Future" (pages 17–19 in the printed version, or go to http://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm3_e.htm on the WTO website).*
- > *Detailed information on agriculture in the WTO can be found at http://www.wto.org/english/tratop_e/agric_e/agric_e.htm and on the agriculture negotiations (including all current proposals) at http://www.wto.org/english/tratop_e/agric_e/negoti_e.htm*

Introduction

Up to 1995, GATT rules were largely ineffective in disciplining agricultural trade. In particular, export subsidies came to dominate many areas of world agricultural trade, while the disciplines on import restrictions were often flouted.

The 1986–1994 Uruguay Round went a long way towards changing all that. Agricultural trade is now firmly within the multilateral trading system. The Agriculture Agreement, together with individual countries' commitments to reduce export subsidies, domestic support and import barriers on agricultural products were a significant first step towards reforming agricultural trade.

The reform brought all agricultural products (as listed in the agreement) under multilateral disciplines, including "tariff bindings" — WTO members have bound themselves to maximum tariffs on virtually all agricultural products, while a significant number of industrial tariffs remain unbound.

Current negotiations: second phase began in March 2002

- > *See "WTO Agriculture negotiations: the issues, and where we are now" for explanations and details of the issues, proposals and discussions. This can also be browsed or downloaded from the agriculture negotiations pages of the WTO website at http://www.wto.org/english/tratop_e/agric_e/negoti_e.htm*

The negotiations are now in their second phase. The first phase began in early 2000 and ended with a stock-taking meeting on 26–27 March 2001. Altogether, 126 member governments (89% of the 142 members) submitted 45 proposals and three technical documents. Six negotiating meetings (officially called "Special Sessions" of the Agriculture Committee) were held: in March, June, September and November 2000, and February and March 2001.

In the second phase, the meetings are largely "informal", with a record of proceedings taking the form of a summary report by the chairperson to formal meetings (i.e formal "Special Sessions"). The work programme decided at the March 2001 stock-taking meeting set a timetable of six informal meetings in May, July, September and December 2001, and February and March 2002. The September and December 2001 and March 2002 sessions are also followed by formal meetings.

The first phase consisted of countries submitting proposals containing their starting positions for the negotiations. The meetings discussed each of these proposal in turn. In the second phase, the discussions are by topic, and include more technical details, which is needed in order to find a way to allow members to develop specific proposals and ultimately reach a consensus agreement on changes to rules and commitments in agriculture.

The first three informal meetings of Phase 2 covered: tariff quota administration; tariffs; “amber”, “green” and “blue box” domestic supports; export subsidies; export credits; state trading enterprises; export taxes and restrictions; food security; food safety; rural development; geographical indications; and the special agricultural safeguard. Among the topics to be discussed in future meetings are: environment; trade preferences; food aid; consumer information and labelling; and sectoral initiatives.

Implementation: three issues settled

- > *Details in the Agriculture Committee vice chairman's report to the General Council, document G/AG/11, 28 September 2001, available at:*
http://www.wto.org/english/tratop_e/agric_e/implementation2001_e.htm

On 27 September 2001, the Agriculture Committee reached a decision on three issues of implementation — developing countries' concerns about implementing the current WTO agreements (*see also page 19*).

- **Export credits, export credit guarantees or insurance programmes** (which come under provisions dealing with the circumvention of agricultural export subsidy commitments): The committee agreed on future work both in its regular meetings and its special negotiating sessions, and to report to the General Council in late 2002. If OECD members reach agreement on agricultural export credits, the committee will also consider how this might be brought into the WTO.
- **Improving the effectiveness of the implementation of the ministerial decision on the possible negative effects of the reform programme on least-developed and net-food-importing developing countries:** the decision covers food aid, technical and financial assistance, financing normal levels of commercial imports of basic foodstuffs (including, “an inter-agency panel of financial and commodity experts be established [...] to explore ways and means for improving access by least-developed and WTO net food-importing developing countries to multilateral programs and facilities to assist with short term difficulties in financing normal levels of commercial imports of basic foodstuffs, as well as the concept and feasibility of the proposal for the establishment of a revolving fund”); and review and follow up in late 2002.
- **Tariff quotas to be administered transparently, equitably and without discrimination:** A number of developed countries have supplied additional information on their tariff quota administration as part of increasing transparency following a decision by the WTO General Council. The Agriculture Committee noted that the General Council has also said this should not place undue new burdens on developing countries, and it agreed to keep the issue under review.

The Ministerial Declaration

Article 20 of the Agriculture Agreement requires WTO members to negotiate to continue the reform, starting in 2000. Some countries argue that if these negotiations are to be built into broader talks covering other subjects, then in return WTO members should agree on more ambitious targets for the agriculture negotiations. This is proving to be one of the more difficult areas in the preparations for the Ministerial Conference.

The draft ministerial declaration circulated at the end of September 2001 lists seven topics and says there will be further consultations on what the declaration should say on these: the current negotiations and the active participation of developing countries; the long-term objective of reform in agriculture; the direction or aims of reform in market access, domestic support and export competition; special and differential treatment for developing countries; non-trade concerns; the schedule for the rest of the negotiation (currently there is no timetable); which body should handle the agriculture negotiations.

ENDS

SANITARY AND PHYTOSANITARY (SPS) MEASURES

Food safety, etc

This briefing document focuses on the SPS issues raised in the lead-up to the Doha Ministerial Conference.

- > *An outline of member countries' obligations under the WTO's SPS Agreement can be found in the section on agriculture in "Trading into the Future" (page 19 in the printed version, or go to http://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm3_e.htm on the WTO website).*
- > *More details can be found in the WTO booklet on the SPS Agreement or on the WTO website at http://www.wto.org/english/tratop_e/sps_e/spsund_e.htm and http://www.wto.org/english/tratop_e/sps_e/sps_e.htm*

Sanitary and phytosanitary measures deal with food safety and animal and plant health standards. The WTO does not set the standards. The WTO's SPS Agreement encourages member countries to use standards set by international organizations (*see box*), but it also allows countries to set their own standards.

These standards can be higher than the internationally agreed ones, but the agreement says they should be based on scientific evidence, should not discriminate between countries, and should not be a disguised restriction to trade.

The provisions strike a balance between two equally important objectives: helping governments protect consumers, and animal and plant health against known dangers and potential hazards; and avoiding the use of health and safety regulations as protectionism in disguise.

The following issues are among those raised in the lead up to the 2001 ministerial conference in Doha. Most were first raised in the preparations for the Seattle ministerial conference in 1999. They come under the heading of "**implementation** [of the existing Uruguay Round agreements]" (*see also page 19*). At the time of writing, it is uncertain whether these issues will lead to negotiations to amend the SPS Agreement itself. So far, no country has formally asked to reopen the agreement. Some countries have said some issues in the agreement need to be clarified. This could be dealt with, for instance by decisions or declarations from the Ministerial Conference or General Council.

Equivalence

SPS measures reduce risks to consumers, animals or plants to acceptable levels. Different measures could be equivalent in providing the same level of health protection against risks of disease or contamination. Article 4 of the SPS Agreement requires governments — under certain conditions — to recognize other governments' equivalent measures. The main question is how to establish that an exporting country's measures are equivalent to those used in the importing country.

In the WTO, developing countries in particular say developed countries are not doing enough to accept that actions they are taking on exported products — in particular inspection and certification procedures — are equivalent to the importing developed countries' requirements even when the measures are different, because the measures provide the same level of health protection. In October 2000, the General Council assigned the SPS Committee to examine these developing-country concerns.

Among the points raised in the committee since then are:

- Different ways of achieving the level of protection required by the importing country: using the same measure; accepting that different individual measures applied to individual products can be equivalent; or accepting that different systems (such as national control systems) are equivalent.
- Whether formal equivalence agreements (such as recognizing each others' veterinary measures) are necessary — some members have argued that these are not necessary and could be too complicated to negotiate.
- The need for transparency and information — members said they would inform each other through the WTO when they recognize that other members' measures have equivalent results.
- How to determine and compare the “appropriate level of protection” against a hazard or risk of a hazard such as disease. Members have discussed the need for the importing country to provide a clear description of the level of protection.

Members have been discussing a draft decision on implementing Article 4, i.e. equivalence.

Voluntary commitments and reasonable time periods

A number of members, developing countries in particular, say the agreement is too vague on some points. They want to see this tightened through a ministerial declaration or some other means. They would also like some voluntary commitments turned into mandatory ones.

Two issues are the advance warning governments should provide when they draft new regulations, and the time developing countries should be allowed to adapt their exports to developed countries' new standards. The SPS Agreement uses phrases such as “a reasonable” period of time. Some countries want this to be clarified — specifying six months or a year, for example.

Several countries want the whole of Article 10, which deals with special and differential treatment for developing countries, to be mandatory.

Some countries see the clarification as part of improving the implementation of the SPS Agreement. Others say it involves interpreting or modifying the agreement and therefore it should be included in the new negotiations.

Other developing-country concerns

In addition to seeking clarification on the above issues, a number of developing countries have expressed concern about their lack of resources for implementing the agreement. Among the burdens are:

- developing countries' difficulty in participating effectively in drafting and agreeing the relevant international standards.
- monitoring new regulations in their export markets
- the difficulty of demonstrating sufficient scientific evidence to justify their own measures or challenge those of others

These countries are calling for both technical assistance, and more time to comply.

Risk and precaution

The recent debate surrounding some food safety and animal health issues — including disputes in the WTO over the use of hormones in beef production and over regulations for salmon — raises the

question of whether the SPS Agreement's preference for scientific evidence goes far enough in dealing with possible risks for consumers and producers.

A phrase that has emerged in the debate is the "precautionary principle", a kind of "safety first" approach to deal with scientific uncertainty. To some extent, Article 5.7 of the SPS Agreement addresses this, but some governments have said outside the WTO that they would like the principle strengthened. The "precautionary principle" has been discussed in the SPS Committee, but there have been no proposals so far for altering existing agreements. It has also been raised by the EU, Japan, Switzerland and some other countries in the current agriculture negotiations.

Genetically modified organisms and biotechnology

These issues possibly span several WTO agreements, including SPS, Agriculture, Intellectual Property (TRIPS) and Technical Barriers to Trade (TBT). They have also been discussed in the Trade and Environment Committee.

Although member governments have notified a large number of regulations related to GMOs to the SPS Committee, most of the discussion on the subject has been in the TBT Committee with the focus on labelling regulations.

In the current agriculture negotiations, some members have called for clarity in the WTO rules as applied to products of new technologies.

ENDS

TRADE IN SERVICES

The work programme and the current negotiations

- > *An outline of the WTO's General Agreement on Trade in Services (GATS) can be found in the section on services in "Trading into the Future" (page 21 in the printed version, or go to http://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm5_e.htm on the WTO website).*
- > *For more details on services trade in the WTO follow the path ...> **trade topics** > **services** on the WTO website or go directly to http://www.wto.org/english/tratop_e/serv_e/serv_e.htm. For the services negotiations, follow ...> **trade topics** > **services** and look for "**work in the WTO**" or go directly to http://www.wto.org/english/tratop_e/serv_e/s_negs_e.htm*

Contents

Overview of current work	14
Explanation of GATS	16

OVERVIEW OF CURRENT WORK

The WTO's General Agreement on Trade in Services (GATS) contains separate mandates for a heavy work programme covering a wide range of subjects. Work on some of the subjects started in 1995, as mandated, soon after the GATS came into force in January 1995. Work on other subjects, including the negotiations to further liberalize international trade in services, started in 2000, also as mandated. All these subjects come under the current work programme, some of which involves negotiations and some calls for study and review. As yet, no deadlines have been set for conclusion of work on any of these subjects — with one exception: the negotiations on safeguards (see below *GATS rules*).

Negotiations to further liberalize trade in services (Articles XIX and IV.3)

Negotiations to further liberalize international trade in services started in early 2000 as mandated by the GATS (Article XIX). Now in their second year, the negotiations are continuing actively with the full commitment by all members.

The first phase of the negotiations concluded successfully in March 2001 when members agreed on the guidelines and procedures for the negotiations. Agreement on the guidelines marks the fulfilment of a key element in the negotiating mandate as laid down in the GATS. By agreeing these guidelines, members have not only set the objectives, scope and method for the negotiations in a clear and balanced manner, but also unequivocally endorsed some of the fundamental principles of the GATS — i.e. members' right to regulate and to introduce new regulations on the supply of services in pursuit of national policy objectives; their right to specify which services they wish to open to foreign suppliers and under which conditions; and the overarching principle of flexibility for developing and least-developed countries. The guidelines, therefore, reflect great sensitivity towards the public policy concerns in relation to important sectors such as health-care, public education and cultural industries, while stressing the importance of achieving higher levels of liberalization and ensuring effective market access.

Since March 2001, the negotiations have moved into a more intensive phase of discussing specific proposals. So far, around 100 proposals have been submitted by 50 members covering a wide range of services sectors, the movement of natural persons and other issues such as the treatment of small and medium-sized enterprises, transparency of regulations, classification issues and MFN exemptions. members have agreed to review progress in March 2002.

Work on GATS rules (Articles X, XIII, and XV)

Negotiations started in 1995 and are continuing on the development of possible disciplines that are not yet included in the GATS: rules on emergency safeguard measures, government procurement and subsidies. Work so far has concentrated on safeguards, where members have agreed to conclude the negotiations by March 2002. But the results will come into effect at the same time as the results of the current services negotiations — for which no deadline has been fixed as yet. Rules on safeguards will define the procedures and disciplines under which a member can introduce temporary measures to limit market access in situations of market disruptions.

Work on domestic regulations (Article VI.4)

Work started in 1995 to establish disciplines on domestic regulations — i.e. the requirements foreign service suppliers have to meet in order to operate in a market. The focus is on qualification requirements and procedures, technical standards and licensing requirements. By December 1998, members had agreed disciplines on domestic regulations for the accountancy sector. Since then, members have been engaged in developing general disciplines for all professional services and, where necessary, additional sectoral disciplines. All the agreed disciplines will be integrated into the GATS and become legally binding by the end of the current services negotiations.

Review and negotiations concerning MFN exemptions (Annex on Article II)

Work on this subject started in 2000. When GATS came into force in 1995, members were allowed a once-only opportunity to take an exemption from the MFN principle of non-discrimination between a member's trading partner. The measure for which the exemption was taken is described in a member's MFN exemption list, indicating to which member the more favourable treatment applies, and specifying its duration. In principle, these exemptions should not last for more than ten years. As mandated by the GATS, all these exemptions are currently being reviewed to examine whether the conditions which created the need for these exemptions in the first place still exist. And in any case, they are part of the current services negotiations.

Treatment of autonomous liberalization (Article XIX)

The negotiating guidelines and procedures agreed by members in March 2001 (*see above*) also stated that, based on multilaterally-agreed criteria, account shall be taken and credit shall be given in the negotiations for autonomous liberalization undertaken by members since previous negotiations and that members shall endeavour to develop such criteria prior to the start of negotiations on specific commitments. Members are continuing their discussions on various issues including the relationship between credit and binding of commitments, how to assess the value of the liberalization measures and hence of the credit to be granted, and multilateral versus bilateral treatment of autonomous liberalization.

Assessment of trade in services (Article XIX)

Preparatory work on this subject started in early 1999. The GATS mandates that members conduct an assessment of trade in services with reference to the objectives of the agreement, including those related to increasing the participation of developing countries in services trade. The negotiating guidelines also restate this mandate, make this a standing item on the members' agenda, and state that the negotiations shall be adjusted in the light of the results of the assessment. Members have generally acknowledged that the dearth of statistical information and other methodological problems make it impossible to conduct an empirical assessment of trade in services. However, they are continuing their discussions with the assistance of several papers produced by the Secretariat.

Review of air transport services (Annex on Air Transport Services)

At present, most of the air transport sector — traffic rights and services directly related to traffic rights — is excluded from the coverage of the GATS. However, the GATS mandates a review by members of this situation. The purpose of the review, which started in early 2000, is to decide whether additional air transport services should be covered by the GATS. The review could develop into a negotiation in its own right, resulting in an amendment of the GATS itself by adding new services to its coverage and by adding specific commitments on these new services to national schedules.

EXPLANATION OF GATS

The GATS is the first ever agreement of multilateral, legally-enforceable rules covering international trade in services. It was negotiated in the Uruguay Round. GATS has three elements: the main text containing general obligations and disciplines; annexes dealing with rules for specific sectors; and individual countries' specific commitments to provide access to their markets, including indications of where countries are temporarily not applying the "most-favoured-nation" principle of non-discrimination. These commitments — like tariff schedules for trade in goods — are an integral part of the agreement. So are the temporary withdrawals of most-favoured-nation treatment.

General obligations and disciplines

Total coverage

The agreement covers all internationally-traded services — for example, banking, telecommunications, tourism, professional services, etc. The agreement also defines four ways of trading services:

- services supplied from one country to another (e.g. international telephone calls), officially known as "cross-border supply"
- consumers or firms making use of a service in another country (e.g. tourism), officially known as "consumption abroad"
- a foreign company setting up subsidiaries or branches to provide services in another country (e.g. foreign banks setting up operations in a country), officially "commercial presence"
- individuals travelling from their own country to supply services in another (e.g. fashion models or consultants), officially "presence of natural persons"

Most-favoured-nation (MFN) treatment

Favour one, favour all. MFN means treating one's trading partners equally on the principle of non-discrimination. Under GATS, if a country allows foreign competition in a sector, equal opportunities in that sector should be given to service providers from all other WTO members. (This applies even if the country has made no specific commitment to provide foreign companies access to its markets under the WTO.)

MFN applies to all services, but some special temporary exemptions have been allowed. When GATS came into force, a number of countries already had preferential agreements in services that they had signed with trading partners, either bilaterally or in small groups. WTO members felt it was necessary to maintain these preferences temporarily. They gave themselves the right to continue giving more favourable treatment to particular countries in particular services activities by listing "MFN exemptions" alongside their first sets of commitments. In order to protect the general MFN principle, the exemptions could only be made once; nothing can be added to the lists. They are currently being reviewed as mandated, and will normally last no more than ten years.

Commitments on market access and national treatment

Individual countries' commitments to open markets in specific sectors — and how open those markets will be — are the outcome of negotiations. The commitments appear in “schedules” that list the sectors being opened, the extent of market access being given in those sectors (e.g. whether there are any restrictions on foreign ownership), and any limitations on national treatment (whether some rights granted to local companies will not be granted to foreign companies). So, for example, if a government commits itself to allow foreign banks to operate in its domestic market, that is a market-access commitment. And if the government limits the number of licences it will issue, then that is a market-access limitation. If it also says foreign banks are only allowed one branch while domestic banks are allowed numerous branches, that is an exception to the national treatment principle.

These clearly defined commitments are “bound”: like bound tariffs for trade in goods, they can only be modified after negotiations with affected countries. Because “unbinding” is difficult, the commitments are virtually guaranteed conditions for foreign exporters and importers of services and investors in the sector to do business.

Transparency

GATS says governments must publish all relevant laws and regulations, and set up enquiry points within their bureaucracies. Foreign companies and governments can then use these inquiry points to obtain information about regulations in any service sector. And they have to notify the WTO of any changes in regulations that apply to the services that come under specific commitments.

Regulations: objective and reasonable

Since domestic regulations are the most significant means of exercising influence or control over services trade, the agreement says governments should regulate services reasonably, objectively and impartially. When a government makes an administrative decision that affects a service, it should also provide an impartial means for reviewing the decision (for example a tribunal).

Recognition

When two (or more) governments have agreements recognizing each other's qualifications (for example, the licensing or certification of service suppliers), GATS says other members must also be given a chance to negotiate comparable pacts. The recognition of other countries' qualifications must not be discriminatory, and it must not amount to protectionism in disguise. These recognition agreements have to be notified to the WTO.

International payments and transfers

Once a government has made a commitment to open a service sector to foreign competition, it must not normally restrict money being transferred out of the country as payment for services supplied (“current transactions”) in that sector. The only exception is when there are balance-of-payments difficulties, and even then the restrictions must be temporary and subject to other limits and conditions.

Progressive liberalization

The Uruguay Round was only the beginning. GATS requires more negotiations, which began in early 2000. The goal is to take the liberalization process further by increasing the level of commitments in schedules.

The annexes: services are not all the same

International trade in goods is a relatively simple idea to grasp: a product is transported from one country to another. Trade in services is much more diverse. Telephone companies, banks, airlines and accountancy firms provide their services in quite different ways. The GATS annexes reflect some of the diversity.

Movement of natural persons

This annex deals with negotiations on individuals' rights to stay temporarily in a country for the purpose of providing a service. It specifies that the agreement does not apply to people seeking permanent employment or to conditions for obtaining citizenship, permanent residence or permanent employment.

Financial services

Instability in the banking system affects the whole economy. The financial services annex says governments have the right to take prudential measures, such as those for the protection of investors, depositors and insurance policy holders, and to ensure the integrity and stability of the financial system. It also excludes from the agreement services provided when a government is exercising its authority over the financial system, for example central banks' services. Negotiations on specific commitments in financial services continued after the end of the Uruguay Round and ended in late 1997.

Telecommunications

The telecommunications sector has a dual role: it is a distinct sector of economic activity; and it is an underlying means of supplying other economic activities (for example electronic money transfers). The annex says governments must ensure that foreign service suppliers are given access to the public telecommunications networks without discrimination. Negotiations on specific commitments in telecommunications resumed after the end of the Uruguay Round. This led to a new liberalization package agreed in February 1997.

Air transport services

Under this annex, traffic rights and directly related activities are excluded from GATS's coverage. They are handled by other bilateral agreements. However, the annex establishes that the GATS will apply to aircraft repair and maintenance services, marketing of air transport services and computer-reservation services. Members are currently reviewing the annex.

ENDS

IMPLEMENTATION ISSUES

Central to WTO future work programme

No area of WTO work has received more attention or generated more controversy in the last two years than the issue of implementation.

For many developing countries the issue of the implementation of Uruguay Round agreements has been the focal point of WTO activity since before the 2nd Ministerial Conference held in Geneva in May 1998.

The issue involves all WTO agreements and all WTO member governments. While it is difficult to forecast the outcome of any discussions on the issue ahead of the Conference, it is certain that the question of implementation will not only be at the center of ministerial activity during the meeting but that any broader work programme undertaken by the WTO will be contingent on resolving the issue in a satisfactory manner.

“Member governments have worked very hard on the issue of implementation and there is a growing recognition that implementation is central to our work. Developing countries have won,” said Director-General Mike Moore. “They have succeeded in focusing the attention of all governments on the difficulties they have faced in implementing our agreements. It is also clear that further efforts to rebalance past agreements in any significant way will require new negotiations. Implementation can thus become another key building block in our future work. Many small countries have expressed concern about a more complex set of negotiations and their capacity to cope unless the WTO increases its capacity to provide technical assistance. They worry that unless such assistance is provided in advance of any conclusion to the round, there will be more implementation problems in the future. Clearly, no broad-based work programme can take place without a resolution to these difficult issues.”

Different WTO member governments see the issue in different ways. For many developing countries, and particularly for the least-developed countries, capacity constraints have been a major obstacle to the full implementation of Uruguay Round agreements. A lack of financial, human and institutional resources has prevented governments in these countries from putting the often highly complex Uruguay Round agreements into effect.

In addition to these capacity constraints, some developing countries take the view that the Uruguay Round agreements have not delivered the economic benefits that had been expected. Officials from these countries believe that agreements on textiles, subsidies, agriculture, intellectual property protection, anti-dumping, sanitary and phytosanitary measures and trade-related investment measures do not adequately reflect the interests and concerns of developing countries and need to be “re-balanced.”

Some developed countries had initially been reluctant to engage in the implementation debate and officials from these countries took the line that addressing the concerns spelled out in recent years by developing countries amounts to amending or renegotiating the Uruguay Round agreements. While some governments have said they are prepared to entertain such a prospect, they have made it clear that those proposals requiring amending agreements can only be addressed inside a wider set of negotiations encompassing areas of interest to their citizens.

The issue has been at the forefront of the preparations for the Doha Ministerial Conference. The debate was galvanized when a group of seven countries, chaired by Uruguay, put forward a compromise paper incorporating elements of the Seattle proposals and offered a structure for dealing with this is-

sue. Under the terms of this paper, some issues would be decided immediately, others would be decided at Doha while the remainder would be settled in negotiations after Doha.

The paper did not go as far as many developing countries would have liked and went further than some developed countries thought was politically possible. But this text succeeded in shifting the debate and has been an important element in subsequent attempts to bridge the gap by the Chairman of the General Council, Stuart Harbinson (Hong Kong, China) together with Director-General Mike Moore.

Mr. Harbinson and the Director-General issued a paper on 28 September 2001 which listed two annexes, one for immediate decision and the other for decision at Doha. The text formed the basis for negotiations up to the Ministerial Conference.

Background timeline on the implementation debate

The current implementation debate arises from a decision by Ministers at the Geneva Ministerial Conference in 1998. At that Conference, Ministers agreed that implementation must be an important part of future work at the WTO. Paragraphs 8 and 9 of the Ministerial Declaration spell out their commitments:

8. *Full and faithful implementation of the WTO Agreement and Ministerial Decisions is imperative for the credibility of the multilateral trading system and indispensable for maintaining the momentum for expanding global trade, fostering job creation and raising standards of living in all parts of the world. When we meet at the Third Session we shall further pursue our evaluation of the implementation of individual agreements and the realization of their objectives. Such evaluation would cover, inter alia, the problems encountered in implementation and the consequent impact on the trade and development prospects of Members. We reaffirm our commitment to respect the existing schedules for reviews, negotiations and other work to which we have already agreed.*
9. *We recall that the Marrakesh Agreement Establishing the World Trade Organization states that the WTO shall provide the forum for negotiations among its Members concerning their multilateral trade relations in matters dealt with under the agreements in the Annexes to the Agreement, and that it may also provide a forum for further negotiations among its Members concerning their multilateral trade relations, and a framework for the implementation of the results of such negotiations, as may be decided by the Ministerial Conference. we decide that a process will be established under the direction of the General Council to ensure full and faithful implementation of existing agreements, and to prepare for the Third Session of the Ministerial Conference. This process shall enable the General Council to submit recommendations regarding the WTO's work programme, including further liberalization sufficiently broad-based to respond to the range of interests and concerns of all Members, within the WTO framework, that will enable us to take decisions at the Third Session of the Ministerial Conference. In this regard, the General Council will meet in special session in September 1998 and periodically thereafter to ensure full and timely completion of its work, fully respecting the principle of decision-making by consensus. The General Council's work programme shall encompass the following:*
 - (a) *recommendations concerning:*
 - (i) *the issues, including those brought forward by Members, relating to implementation of existing agreements and decisions;*

- (ii) *the negotiations already mandated at Marrakesh, to ensure that such negotiations begin on schedule;*
- (iii) *future work already provided for under other existing agreements and decisions taken at Marrakesh;*
- (b) *recommendations concerning other possible future work on the basis of the work programme initiated at Singapore;*
- (c) *recommendations on the follow-up to the High-Level Meeting on Least-Developed Countries;*
- (d) *recommendations arising from consideration of other matters proposed and agreed to by Members concerning their multilateral trade relations.*

Prior to the Seattle Ministerial Conference in December 1999, a group of developing countries presented the General Council with a list of some 150 elements for consideration on the implementation agenda. The eight pages of elements were broken down into two categories 1) issues to be decided before that Ministerial Conference and 2) issues to be agreed within one year of the Seattle conference. The issue of implementation was perhaps the single most discussed issue in the run-up to Seattle, but as with all other elements of the preparation for that meeting, there was no consensus on an agreement.

Following the Seattle conference, member governments agreed on a new approach to working on the issue. On 8 May 2000, the General Council established a framework for discussion and negotiation of the implementation issue which was known as the Implementation Review Mechanism (IRM). The IRM consists of special sessions of the General Council meeting exclusively on this question. Special Sessions of the IRM were held on 22 June–3 July and 18 October 2000.

On 15 December 2000 the General Council adopted a decision on seven implementation measures. All member governments accepted that these measures, which were mainly related to points of clarification regarding subsidies, were modest in nature. Nonetheless, the decisions were an indication that the process itself was well established and that implementation issues were at the core of WTO work

Additional Special Sessions of the General Council devoted to implementation took place on 27 April 2001 and 3 October 2001. The session on 3 October was set to reach agreement on a roster of issues laid out by Chairman Harbinson. But informal heads of delegation meetings revealed that members could not agree on that roster so the formal Special Session was suspended after only a few minutes. At time of printing, it was uncertain as to whether some implementation issues could be agreed prior to the Doha Ministerial meeting.

ENDS

INTELLECTUAL PROPERTY (TRIPS) Negotiations, implementation and TRIPS Council work

This briefing document focuses on the TRIPS issues raised in the lead-up to the Doha Ministerial Conference. It does not cover all the issues regularly handled in the TRIPS Council.

- > *An outline of the WTO's TRIPS Agreement can be found in the section on intellectual property in "Trading into the Future" (page 25 in the printed version, or go to http://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm6_e.htm on the WTO website).*
- > *More details can be found on the WTO website. Follow ... > **trade topics** > **intellectual property** or go straight to http://www.wto.org/english/tratop_e/trips_e/trips_e.htm.*

In a nutshell

Intellectual property (or more accurately trade-related aspects of intellectual property rights or TRIPS) appears on the agenda for the Doha Ministerial Conference in a number of ways. These are the main points — more detailed explanations follow:

- **Negotiations on geographical indications.** Already under negotiation in the TRIPS Council, which oversees work in this area in the WTO, is a **multilateral system for notifying and registering geographical indications**. No deadline has been set for completing these talks, and one proposal is for ministers to set a deadline for concluding the negotiations.

In addition, a number of countries want to negotiate **expanding to additional products the "higher" level of protection** currently given under the TRIPS Agreement to geographical indications for wines and spirits.

- **A separate declaration on TRIPS and health.** In the preparations, members have been negotiating a declaration clarifying the relationship between intellectual property protection and access to medicines or public health. This statement will probably be separate from the main ministerial declaration.
- **Work on clarifying the relationship between the WTO TRIPS Agreement and UN Convention on Biological Diversity and other issues** such as the protection of traditional knowledge, and new technological developments.
- **Implementation issues**, including current obligations on technology transfer under the TRIPS Agreement, and a technical issue known as "non-violation" cases.

The discussions have covered proposed timetables and deadlines. These include: the TRIPS Council completing a report by the end of 2002 leading to decisions or discussions in the next (i.e. the 5th) Ministerial Conference; completing negotiations within the overall timetable for negotiations set in the Doha declaration; or combinations of these.

Geographical indications

Geographical indications are place names or names associated with a place used to identify the origin and quality, reputation or other characteristics of products (for example, "Champagne", "Tequila" or "Roquefort"). Protection required under the TRIPS Agreement is defined in two articles.

All products are covered by **Article 22**. This says geographical indications have to be protected in order to avoid misleading the public and to prevent unfair competition.

Article 23 provides a higher or enhanced level of protection for geographical indications for wines and spirits (subject to a number of exceptions, they have to be protected even if misuse would not cause the public to be misled). A number of countries want to extend this level of protection to a wide range of other products, including food and handicrafts. The agreement allows exceptions, such as when a name has become a common (or “generic”) term.

Information that members have supplied during a fact-finding exercise shows that countries employ a wide variety of legal means to protect geographical indications: ranging from specific geographical indications laws to trademark law, consumer protection law, or common law. The TRIPS Agreement and current TRIPS work in the WTO takes account of that diversity.

The agreement calls for negotiations on two aspects of geographical indication protection, although it does not say when these should take place, nor when they should end:

- the creation of a multilateral system for notifying and registering geographical indications for wines (the 1996 Singapore Ministerial Conference also called for preliminary work on “spirits”) (Article 23.4).
- increasing protection for individual geographical indications under Article 23 (Article 24.1).

The multilateral register. Since 1998, a number of proposals for a system for notifying and registering geographical indications for wines (and spirits) have already been submitted to the TRIPS Council. In all cases, participation in the system would be voluntary. One group of proposals sees the system as a database: members would report the geographical indications that they protect, and other members would take the information into account when they provide their own protection. Another group includes obligations — subject to certain conditions — for WTO members to protect the names listed in the register.

Extending the higher level of protection. A number of countries have proposed extending the higher level of protection beyond wines and spirits to other products, including handicrafts, agricultural products and other beverages. In the preparations for the Doha ministerial declaration, the discussion has included the question of whether there should be negotiations on this subject at all, or whether further study is needed before any decision is reached on whether to negotiate. WTO members have also discussed whether any negotiations would be for all products, or only some — and whether those would have to be decided in advance.

Some members have linked this to the current negotiations on agriculture, saying that they would only agree on substantial progress in agriculture if there is similar progress on geographical indications. Some others have described it as a condition for negotiating further reductions in industrial tariffs. Some developing countries have raised this as an “implementation” issue (*see page 19*).

One proposal has even been submitted to the agriculture negotiations themselves, describing protection for geographical indications as a market access issue for agricultural products. According to this argument, geographical indications improve product differentiation, which is an important feature of competition. Consumers would benefit because they are offered more choice with more information about product quality. Producers would also benefit because they can develop quality products and are free from unfair or misleading competition in markets that import their products, according to this argument.

> for more on the agriculture negotiations:
follow this path on the WTO website ... > **trade topics** > **agriculture** ... **negotiations**

or go to straight to http://www.wto.org/english/tratop_e/agric_e/negoti_e.htm
or see the press briefing note on agriculture

TRIPS and health

> see also the fact sheet on TRIPS and pharmaceutical patents,
on the WTO website at
http://www.wto.org/english/tratop_e/trips_e/pharmpatent_e.htm

The fact that all members agree on the need for a ministerial statement on TRIPS and health, shows that everyone agrees that this issue is vitally important. All members also share the view that intellectual property protection is necessary for creating new medicines, and that the TRIPS Agreement must be respected.

The objective of a ministerial text on TRIPS and health is to clarify what governments can do under the TRIPS Agreement, and to reduce their uncertainties about using the flexibilities that are built into the agreement. A separate declaration on this subject seems to be favoured among most WTO members.

Among the flexibilities most commonly discussed are compulsory licensing and parallel imports. Compulsory licensing is when governments authorize other manufacturers to make a drug under licence without the patent owner's approval. This is allowed under certain conditions in the TRIPS Agreement .

Parallel importing is where a product sold more cheaply in one country is imported into another without the patent holder's permission. Countries' laws differ on whether they allow parallel imports. The TRIPS Agreement simply states that governments cannot bring legal disputes to the WTO on this issue.

One issue member governments have discussed is the scope of the proposed ministerial declaration. Some favour emphasizing public health objectives as a whole. Others prefer to focus more specifically on ensuring poorer populations have access to medicines, particularly to deal with large-scale, life-threatening epidemics (or "pandemics") such as HIV/AIDS, malaria, tuberculosis and other diseases.

Many developing countries have proposed that the declaration should state that nothing in the TRIPS Agreement prevents governments from undertaking public health policies, and that members should refrain from bringing legal disputes to the WTO on this subject.

Some developed countries want to ensure that clarifications do not weaken legal rights and obligations under the agreement. They want ministers to affirm strongly that intellectual property protection helps health policies by encouraging new drugs to be invented — a view that all members share, although with differing degrees of emphasis. And they are reluctant to accept restraints on their right to use the dispute settlement procedures.

One of the details being discussed is the difficult question of how countries with limited manufacturing capabilities can take advantage of compulsory licensing. At the centre of the discussion is a provision in the TRIPS Agreement which says that products made under a compulsory licence must be supplied predominantly for the domestic market.

Article 27.3(b) and beyond: plant varieties, biodiversity, traditional knowledge, benefit-sharing

Article 27 of the TRIPS Agreement defines the types of inventions which have to be eligible for patent protection and those which can be exempt. These include both products and processes, and they cover all fields of technology.

Part (b) of paragraph 3 (i.e. **Article 27.3(b)**) covers biotechnological inventions. It is currently under review in the TRIPS Council, as required by the TRIPS Agreement. Some countries have broadened the discussion to cover biodiversity and traditional knowledge. They are now seeking a ministerial statement on the subject.

Broadly speaking, Article 27.3(b) allows governments to exclude plants, animals and “essentially” biological processes (but micro-organisms, and non-biological and microbiological processes have to be eligible for patents). However, plant *varieties* have to be eligible either for patent protection or through a system created specifically for the purpose (“*sui generis*”), or a combination of the two. For example, countries could enact a plant varieties protection law based on a model of the International Union for the Protection of New Varieties of Plants (UPOV).

The review of Article 27.3(b) began in 1999 as required by the TRIPS Agreement. The topics raised in the TRIPS Council’s discussions include: the pros and cons of various types of protection for new plant varieties (patents, UPOV, etc); how to handle moral and ethical issues (e.g. whether invented life forms should be eligible for protection); how to deal with traditional knowledge and the rights of the communities where genetic material originates (including benefit sharing when inventors in one country have rights to creations based on material obtained from another country); and whether there is a conflict between the TRIPS Agreement and the UN Convention on Biological Diversity (CBD).

Countries have expressed a range of opinions on all these subjects. For example, one proposed idea would require patent applicants to disclose the origin of genetic material used, which advocates say would make benefit sharing easier to implement. An alternative view emphasizes benefit sharing through prior agreement between the researchers and the host country where the genetic material originates, instead of disclosure in patent applications.

Some are seeking clarification on issues such as the meaning of the term “micro-organism” and the difference between “biological” and “microbiological” processes. Some countries say life forms and living creatures should not be patented and that ethical questions should also be discussed.

Some developing countries want to make sure that the TRIPS Agreement takes account of more specific concerns such as allowing their farmers to continue to save and exchange seeds that they have harvested, and preventing anti-competitive practices which threaten developing countries’ “food sovereignty”. And so on.

Many of these points underlie the discussions on the draft ministerial declaration, although the text will not go into detail — it will establish a means of addressing these points.

New technologies

New technologies can cover anything from biotechnology to electronic commerce. Members differ on whether the ministerial declaration’s portion on TRIPS should refer to the TRIPS Agreement keeping abreast of new technologies as a whole. Some biotechnology issues are raised under Article 27.3(b), biodiversity and benefit sharing. The TRIPS Council’s discussions on e-commerce have raised a number of questions including Internet domain names and electronic trading in copyrighted material.

The TRIPS Council is also following discussions outside the WTO, particularly in the World Intellectual Property Organization.

Non-violation cases (Article 64.2)

In principle, disputes in the WTO involve allegations that a country has violated an agreement or broken a commitment.

Under the goods agreement (GATT) and the services (GATS) specific commitments, countries can complain to the Dispute Settlement Body if they can show that they have been deprived of an expected benefit because of some governmental action (for example a new production subsidy on an item on which a tariff concession has been made) — even if it does not violate one of these agreements. The purpose of allowing these “non-violation” cases is to preserve the balance of advantage (such as market-access opportunities) struck during multilateral negotiations.

The TRIPS Agreement (Article 64.2) temporarily banned non-violation disputes. It says non-violation complaints cannot be brought to the WTO dispute settlement procedure during the first five years of the WTO Agreement (i.e. 1995–99)

There are different views about whether this ban continues. However, the TRIPS Council has continued its discussion on whether non-violation complaints should be allowed in intellectual property, and if so, to what extent. At least one country says non-violation cases should be allowed in order to discourage members from engaging in “creative legislative activity” that would allow them to get around their TRIPS commitments. Some would like to see the ban continued, and have been calling for ministers to state this in their Doha declaration. Some have suggested additional safeguards.

Opinions also differ as to whether non-violation cases can now automatically be brought to the WTO dispute settlement procedure, or whether the TRIPS Agreement requires the “scope and modalities” of non-violation cases to be sorted out first.

Developing countries’ compliance

On 1 January 2000, developing countries had to comply with the TRIPS Agreement. (Least-developed countries have until 1 January 2006, with the possibility of a further delay.) The TRIPS Council has begun a two-year programme of reviewing the developing countries’ TRIPS-related laws. A number of developing countries say they have difficulty implementing the agreement and have asked for some deadlines to be postponed, particularly the 2006 deadline for least-developed countries, and more generally, developing countries’ obligations on pharmaceutical and biotechnological inventions. Some developed countries say it is too soon to consider postponing the 2006 deadline.

Technology transfer

In the preparations for the Doha Ministerial Conference, technology transfer has been discussed as an “implementation” issue — i.e. among the problems developing countries say they face in implementing the current WTO agreements. Developing countries stress that technology transfer is a key part of the TRIPS Agreement since it appears in the objectives (Article 7), principles (Article 8), and a number of other articles. They propose action to promote more effective implementation of technology transfer provisions in general (Articles 7 and 8), and developed countries’ obligations to provide incentives for their enterprises and institutions to transfer technology to least-developed countries (Article 66.2)

Review of the TRIPS Agreement

The TRIPS Council began reviewing the TRIPS Agreement in 2000, as required by Article 71.1. Some countries want the review to focus on an examination of how well the TRIPS Agreement has met its objectives and principles.

The objectives are spelt out in Article 7 which says “The protection and enforcement of intellectual property rights should contribute to the promotion of technological innovation and to the transfer and dissemination of technology, to the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare, and to a balance of rights and obligations.”

The principles (Article 8) allow countries to “adopt measures necessary to protect public health and nutrition, and to promote the public interest in sectors of vital importance to their socio-economic and technological development, provided that such measures are consistent with the provisions of” the TRIPS Agreement; and to take action “to prevent the abuse of intellectual property rights by right holders or the resort to practices which unreasonably restrain trade or adversely affect the international transfer of technology.”

Some other members want the review to be based on actual experience with implementation.

ENDS

TEXTILES AND CLOTHING

Nearing the penultimate stage

At the end of the Uruguay Round, developing countries considered the Agreement on Textiles and Clothing (ATC), which provides for the gradual dismantling of bilateral import quotas over a ten-year period, to have been a major result in their favour. Today — nearly at the penultimate stage of ATC implementation — many developing countries are calling for the acceleration of trade liberalization in this sector to redress what they consider to be an imbalance in the implementation of the Uruguay Round results.

Developing countries look at textiles and clothing — exports of which amounted to \$356 billion in 2000 representing 7.7% of world trade in manufactures — as one major manufacturing sector in which they have competitive advantage. They also believe that trade success in this area would be an important step up in the industrial development ladder.

In the former GATT, the Multifibre Arrangement (MFA) governed a large portion of the exports of textiles and clothing from developing countries, to the main developed countries. Under the MFA (1974-94), developed countries were able to establish quotas on textiles and clothing outside normal GATT rules.

The ATC requires members to liberalize trade in textiles and clothing in two ways. Members must progressively bring (“integrate”) all textiles and clothing products under normal WTO rules in four steps (16% for the first stage in 1995-97, a further 17% at the second stage for 1998-2001, a further 18% for the third stage in 2002-04 and the remaining 49% in the final stage on 1 January 2005). Members that maintain quota restrictions (Canada, the European Union, and the United States), must progressively enlarge the quotas by increasing the annual growth rates by a set percentage at each stage. When the products subject to quotas are integrated, the quotas are removed.

A special safeguard mechanism protects members from damaging surges in imports during this transitional period. A quasi-judicial body — the Textiles Monitoring Body (TMB) — supervises the implementation of the ATC, including the examination of disputes.

The Council for Trade in Goods, assisted by a report from the TMB, conducts a major review of the ATC implementation before the end of each stage of the integration process. At the review of the first stage of integration held in 1997-1998, developing-country textile exporters voiced serious concerns over what they view as lack of meaningful commercial benefits for them as the major importers had opted to integrate products of less export interest to developing countries with few quotas being removed. They have also criticized new restrictions imposed by a major importer through the use of the ATC safeguards as well as other measures taken by importing countries such as anti-dumping actions and changes in country-of-origin rules.

There is also the fear that with most of the quotas being kept for the final stage, the major importers might not be able to meet their obligations. A group of developing-country exporters (the ITCB) has suggested that to secure liberalization of the sector, major importers be required to take immediate steps to improve the quality of these implementation programmes.

The major importing members maintain that they have been observing scrupulously the requirements of the Agreement. In turn, they have criticized a lack of market-access improvements in other members in this.

The Goods Council in October 2001 conducted its second major review of ATC implementation. In a comprehensive report on the second integration stage, the TMB noted that despite a higher share of clothing products in the third stage as compared to previous stages, developing exporting countries continue to be seriously disappointed by the significant number of restrictions still in place and the overall lack of higher-value products. On the other hand, the TMB noted that the major importers—Canada, the European Union and the United States—would have complied with the ATC's technical requirement of integrating, by 1 January 2002, at least 51% of their 1990 volume of textile imports into normal WTO rules and that their textile and clothing imports have been increasing continuously.

The TMB has also pointed to the sharp decrease in the use of transitional safeguard measures during the second integration stage. This could be explained by the realization among members of the stiff requirements for justifying such measures as laid out in the results of the dispute settlement process on the early cases.

The TMB has also commended Norway for eliminating, on a unilateral basis, all its restrictions on textiles and clothing on 1 January 2001—four years ahead of schedule.

Agreement on Textiles and Clothing

*Operation of the integration process of Article 2
(paragraphs 6 and 8)*

% of volume of 1990 imports

ENDS

INFORMATION TECHNOLOGY (IT) PRODUCTS

Free trade for a dynamic trade sector

A WTO agreement is helping push the information technology revolution forward. At the beginning of this year, most of the world trade in information technology products (worth \$769 billion in 1999 for office and telecom equipment, a large part of which are IT products) became completely free of tariffs under the WTO Information Technology Agreement (ITA). This agreement has been reducing customs duties on IT products such as computers and telecom equipment since 1997, and benefiting offices and consumers across the globe through lower prices.

From the 29 participants that negotiated the ITA during WTO's First Ministerial Conference in Singapore in December 1996, membership has now risen to 56 that account for 93% of world trade in IT products. The new participants include many developing countries, transition economies and even governments currently negotiating their WTO membership. At an IT symposium organized by the WTO Secretariat in July 1999, several industry representatives attested to the dynamic role of information technology in promoting economic growth in developing countries.

Participation in the ITA means that the country must eliminate tariffs and all other duties and charges on covered IT imports from all WTO members by 1 January 2000. Some participants have been granted longer implementation periods for a few products. The agreement lists in two annexes the products covered, which can be grouped into the following six categories: computers, software, telecom equipment, semiconductors, semiconductor manufacturing equipment and scientific instruments.

Talks on expanding the product coverage (or "ITA II") began in 1997 when participants began proposing additional IT products for tariff elimination. Negotiations intensified in 1998 during which some participants tabled a joint ITA II list. The talks, however, failed to produce an ITA II list acceptable to all participants. One point of contention was the proposed addition of certain electronic consumer goods that are also used with computer products.

At the Seattle Ministerial Conference, there were reports of movement towards an ITA II deal. Since then, consultations among delegations on ITA II have continued, and another attempt for ITA II at the Doha Ministerial cannot be discounted.

The current ITA deals only with the elimination of tariffs and not with other trade barriers. At the WTO's IT symposium in 1999, industry representatives complained that different national safety standards and import licensing requirements have resulted in additional shipment costs — through delays and additional paperwork — that have reduced the benefits of ITA tariff cuts. In the ITA Committee, participants have agreed to examine non-tariff barriers.

In November 2000, the ITA Committee approved a one-year work programme on non-tariff measures (NTMs) facing IT products. During the first phase, the Committee will compile an inventory of NTMs that have been identified by participants as impediments to trade in ITA products. During the second phase, participants will examine the economic and developmental impact of such measures on trade in IT products and the benefits which would accrue to participants from addressing their undue trade-distorting effects. The third phase would be completed by November 2001 when the Committee meets to consider the outcomes of Phase I and II.

So far, the following NTMs have been nominated for consideration by the Committee: divergent national standards and regulatory procedures or "type approval" — Australia; regulatory environment and the level of regulation, disparity of national standards, conformity assessment and testing re-

quirements, customs procedures — European Union; stringent rules of origin requirements — Mauritius; cumbersome conformity assessment procedures and excessive technical standards — Hong Kong, China; origin requirements — Japan; different national conformity assessment requirements and import licensing requirements — Canada.

Leading traders in office and telecom equipment, 1999 (US\$ billions)

Exporters		Importers	
1. United States	125.66	1. United States	178.84
2. Japan	91.27	2. United Kingdom	51.74
3. Singapore	60.60	3. Germany	50.30
4. Chinese Taipei	45.10	4. Japan	44.05
5. Malaysia	38.44	5. Hong Kong, China	43.55
6. United Kingdom	36.63	6. Singapore	42.28
7. Korea	34.61	7. Netherlands	31.73
8. Hong Kong, China	34.21	8. France	34.37
9. Germany	31.82	9. China	30.49
10. Netherlands	30.36	10. Chinese Taipei	28.79

ITA participants

Albania; Australia; Bulgaria; Canada; Costa Rica; Croatia; Cyprus; Czech Republic; El Salvador; Estonia; European Communities (and its 15 member states); Georgia; Hong Kong, China; Iceland; India; Indonesia; Israel; Japan; Jordan; Korea; Kyrgyz Republic; Latvia; Lithuania; Macao, China; Malaysia; Mauritius; New Zealand; Norway; Oman; Philippines; Poland; Romania; Singapore; Slovak Republic; Slovenia; Switzerland (with Liechtenstein); Chinese Taipei; Thailand; Turkey; United States.

ENDS

TRADE AND ENVIRONMENT

The Trade and Environment Committee, and Doha preparations

Background

When Ministers approved the results of the Uruguay Round negotiations in Marrakesh in April 1994, they took a decision to begin a comprehensive work programme (see below) on trade and environment in the WTO. During the past six years, this work programme has provided the focus of discussions in the Committee on Trade and Environment (CTE). The CTE's main aim is to build a constructive relationship between trade and environmental concerns. The CTE has a two-fold mandate: first "to identify the relationship between trade measures and environmental measures in order to promote sustainable development"; second, "to make appropriate recommendations on whether any modifications of the provisions of the multilateral trading system are required, compatible with the open, equitable and non-discriminatory nature of the system."

This broad-based mandate covers goods, services, and intellectual property rights and builds on work carried out in the previous GATT Group on Environmental Measures and International Trade. Since 1997, the CTE has adopted a thematic approach to its work to broaden and deepen the discussions and to allow all items of the work programme to be addressed in a systematic manner. Discussions of the items on the work programme have been clustered into two main areas: issues relevant to market access and issues related to the linkages between the multilateral environment and trade agendas.

As directed by the Marrakesh Ministerial Decision, the CTE submitted reports on the progress on all items of its work programme to the 1996 Ministerial Conference in Singapore, the 1998 Ministerial Conference in Geneva and the Ministerial Conference in Seattle in 1999. The CTE will submit another report to the 2001 Ministerial Conference in Doha.

Several WTO symposia have been held with representatives of civil society in recent years on the trade and environment interface. The most recent one in July 2001 featured a working session on trade and environment, one of ten topics discussed in a public event entitled "Issues Facing the World Trading System".

Work of the CTE

The CTE has brought environmental and sustainable development issues into the mainstream of the WTO's work. Several important parameters guide the CTE's work. The first is that WTO competency for policy coordination in this area is limited to trade and those trade-related aspects of environmental policies which may result in significant trade effects for its members. In other words, it is not intended that the WTO should become an environmental agency. Nor should it get involved in reviewing national environmental priorities, setting environmental standards or developing global policies on the environment. That will continue to be the task of national governments and of other intergovernmental organizations better suited to the task. The second parameter is that increased national coordination as well as multilateral cooperation is necessary to address environmental concerns. The third is that secure market-access opportunities are essential to help developing countries work towards sustainable development.

The contribution which the multilateral trading system makes to environmental protection was recognized at the United Nations Conference on Environment and Development (the Earth Summit) in

1992, which stated that an open, equitable and non-discriminatory multilateral trading system has a key contribution to make to national and international efforts to better protect and conserve environmental resources and promote sustainable development.

In its first report in 1996, the CTE recognized that trade and environment are important areas of policy-making and that they should be mutually supportive in order to promote sustainable development. The report noted that the multilateral trading system has the capacity to further integrate environmental considerations and enhance its contribution to the promotion of sustainable development without undermining its open, equitable and non-discriminatory character.

Some of the main points of discussion of the CTE's work programme since 1996 include the following:

The relationship between the provisions of the multilateral trading system and trade measures for environmental purposes, including those pursuant to multilateral environmental agreements

A range of provisions in the WTO can accommodate the use of trade-related measures needed for environmental purposes, including measures taken pursuant to multilateral environmental agreements (MEAs). Those that are cited regularly as being of key importance are the provisions relating to non-discrimination (MFN and national treatment) and to transparency. Beyond that, and subject to certain import conditions, Article XX of GATT allows WTO members legitimately to place public health and safety and national environmental goals ahead of their general obligation not to raise trade restrictions or to apply discriminatory trade measures. These provisions have been a major focus of work for the CTE and will be kept under review.

Trade measures applied pursuant to MEAs

Throughout the discussions on this issue in the WTO, it has become clear that the preferred approach for governments to take in tackling transboundary or global environmental problems is through cooperative, multilateral action under an MEA. While some MEAs contain trade provisions, trade restrictions are not the only nor necessarily the most effective policy instrument to use in MEAs. In certain cases they can play an important role. It has also been stated that the WTO already provides broad and valuable scope for trade measures to be applied pursuant to MEAs in a WTO consistent manner.

The CTE has held several Information Sessions with the Secretariats of various MEAs to discuss the trade-related developments in these agreements. At a session in June 2001, the following MEA secretariats gave presentations: Convention on International Trade in Species of Wild Fauna and Flora (CITES); Basel Convention on Transboundary Movements of Hazardous Wastes and their Disposal; Montreal Protocol on Substances that Deplete the Ozone Layer; UN Convention on Biological Diversity (CBD); UN Framework Convention on Climate Change; the Rotterdam (PIC) Convention; the Stockholm (POPs) Convention and the UN Fish Stocks Agreement.

Several MEAs noted that the focus of most environmental agreements is on developing mechanisms to assist parties to comply with their obligations in a flexible and non-confrontational manner, thereby preventing disputes from arising. While CITES and the Montreal Protocol had long-standing mechanisms in place to facilitate compliance, other MEAs, such as the Basel Convention and the recent Rotterdam (PIC) and Stockholm (POPs) Conventions, were in the process of developing non-compliance regimes. The UNFCCC gave a thorough presentation of the non-compliance regime envisaged for the Kyoto Protocol, in which compliance rests on market-based instruments.

It was noted that compliance and enforcement in MEAs, as in the WTO, is a dynamic process. MEAs are designed to facilitate compliance through creating incentives and providing financial and technology transfer; however, there is no one size fits all for compliance in MEAs.

Other MEA secretariats which have participated in the CTE's discussions include: the Montreal Protocol on Substances that Deplete the Ozone Layer; the Intergovernmental Forum on Forests; and the International Tropical Timber Organization.

Dispute settlement

A related item concerns the appropriate forum for the settlement of potential disputes that may arise over the use of trade measures pursuant to MEAs. Should such disputes be addressed in the WTO or to the dispute settlement procedures that exist in the MEAs themselves? There is general agreement that in the event a dispute arises between WTO members who are also signatories to an MEA, they should try first to resolve it through the dispute settlement mechanisms available under that MEA. Were a dispute to arise with a non-party to an MEA, but with another WTO member, the WTO would provide the only possible forum for resolving the dispute.

The CTE agrees that better policy coordination between trade and environmental policy officials at the national level can help prevent situations from arising in which the use of trade measures applied pursuant to the MEAs could become subject to disputes. Furthermore, it is unlikely that problems would arise in the WTO over trade measures agreed and applied among parties to an MEA. In the event of a dispute, however, WTO members are confident that the WTO dispute settlement provisions would be able to tackle any problems which arise in this area, including those cases requiring input from environmental experts. Some governments, however, have said they are interested in clarifying WTO rules to avoid future conflicts.

Eco-labelling

Eco-labelling programmes are important environmental policy instruments. Eco-labelling was discussed extensively in the GATT and the CTE and TBT Committee have had exhaustive discussions on labelling schemes and other related issues. A key WTO requirement is that environmental measures that incorporate trade provisions or that affect trade significantly should not discriminate between home-produced goods and imports, nor between imports from or exports to different trading partners. Non-discrimination is the cornerstone of secure and predictable market access and undistorted competition: consumers are guaranteed a wider choice and producers better access to the full range of market opportunities. Subject to that requirement being met, WTO rules place essentially no constraints on the policy choices available to a country to protect its own environment against damage either from domestic production or from the consumption of domestically produced or imported products.

The CTE has acknowledged that well-designed, eco-labelling programmes can be effective instruments of environmental policy. It notes that in certain cases such programmes have raised significant concerns about possible trade effects. An important starting point for addressing some of these trade effects is to ensure adequate transparency in the preparation, adoption and application of eco-labelling programmes. Interested parties from other countries should also be allowed to voice their concerns. Discussion is continuing on how the use in eco-labelling programmes of criteria based on non-product-related processes and production methods should be treated under the rules of the WTO Agreement on Technical Barriers to Trade.

WTO transparency provisions

The WTO transparency provisions fulfil an important role in ensuring the proper functioning of the multilateral trading system. They help to prevent unnecessary trade restrictions and distortions and ensure that WTO members provide information about changes in their regulations. They can also provide a valuable first step in ensuring that trade and environment policies are developed and implemented in a mutually supportive way. Trade-related environmental measures should not be required to meet more onerous transparency requirements than other measures that affect trade. The CTE has stated that no modifications to WTO rules are needed to ensure adequate transparency for trade-related environmental measures. In 1998 the CTE also established a WTO Environmental Database which can be accessed electronically by WTO members. The WTO Secretariat up-dates this database annually by reviewing all the environment-related notifications.

Export of domestically prohibited goods

During the mid-1980's, concerns were raised by a number of developing country GATT contracting parties that they were importing certain hazardous or toxic products without knowing the full environmental or public health dangers such products could pose. In the late 1980's, a GATT Working Party examined ways of treating trade in goods which are severely restricted or banned for sale on the domestic market of an exporting country. A key consideration was that the importing country should be fully informed about the products it was receiving and have the right to reject them if it felt such products caused environmental or public health problems.

Several MEAs have been negotiated in the last few years to deal with problems of trade in environmentally hazardous products (e.g. the Basel Convention and London Guidelines). The WTO does not intend to duplicate work that has already been accomplished elsewhere in the area of domestically prohibited goods. WTO members, in the context of the CTE, have agreed to support the efforts of the specialized inter-governmental environmental organizations that are helping to resolve such problems. However, they have noted that there may be a complementary role for the WTO to play in this area.

Trade liberalization and sustainable development

The CTE continues to tackle this item of its work programme in the context of the built-in agenda of further trade liberalization initiatives contained in the results of the Uruguay Round negotiations. WTO members participating in the CTE have noted that the removal of trade restrictions and distortions, in particular high tariffs, tariff escalation, export restrictions, subsidies and non-tariff barriers, has the potential to yield benefits for both the multilateral trading system and the environment. Several have said this should be a key objective of future trade liberalization negotiations and could apply to agriculture and fisheries, energy, forestry, non-ferrous metals, textiles and clothing, leather and environmental services. Discussions to date have highlighted areas where the removal of trade restrictions and distortions can be beneficial for the environment, trade and development, providing "win-win-win" opportunities.

Trade in services and TRIPS

The CTE also examines the links between environmental measures and the WTO's services and intellectual property agreements. With respect to the General Agreement on Trade in Services (GATS) and the environment, the CTE has noted that its discussions have so far not led to the identification of any measures that members feel may be applied for environmental purposes to services trade which are not already adequately covered by GATS provisions.

In the case of intellectual property rights, WTO members have acknowledged that the Agreement on Trade-Related Intellectual Property Rights (TRIPS) plays an essential role in facilitating access to and

the transfer of environmentally-sound technology and products. However, further work is required in this area, including clarifying the relationship between the TRIPS Agreement and the Convention on Biological Diversity.

While many governments believe the two agreements to be mutually supportive, some also seek assurances that the agreements are implemented in a complementary manner. Others call on the need to develop an international framework to protect genetic resources and traditional knowledge.

Several intergovernmental organizations have also briefed members of the CTE on related work, including the CBD, the Food and Agriculture Organization (FAO) and the World Intellectual Property Organization (WIPO).

Preparations for Doha

Over the last two years some WTO member governments have sought further discussion in CTE on the precautionary principle. Some believe it is necessary to help to build a common understanding of how to manage risks in situations where there is scientific uncertainty about the effects on human health and the environment. The EU, in particular, has called for the clarification of the use of this principle in the WTO in order to ensure that it is not used in an arbitrary way or as a form of protectionism. Whilst some governments support the emphasis on science-based decision making, several note the lack of an internationally agreed definition of this concept and cautioned against invoking precaution to justify protectionism.

WTO government delegations still have clearly divergent views on whether any negotiations are appropriate in the area of trade and environment, and more specifically on the nature of any further work on the relationship between the WTO and MEAs, on eco-labelling and on precaution. Some have mentioned possible exploration of a future mandate for the CTE on the relationship between the WTO and MEAs, and also regarding further work on eco-labelling in the TBT Committee, provided there are clear commitments not to weaken existing disciplines. However, for other governments this is going either too far or not far enough, at least at the present stage. Precaution remains a rather divisive issue.

The “win-win” or even “win-win-win” situations (for trade, environment and development), specifically with regard to environmentally damaging subsidies, especially in the fisheries area, may require a clarification of the role of the CTE in a negotiating context.

ENDS

TRADE AND INVESTMENT

Negotiate, or continue to study?

Since 1997, WTO members have been engaged in analysis and debate about the relationship between international trade and investment, and its implications for economic growth and development. In the Working Group on the Relationship between Trade and Investment, members have examined a range of international investment instruments and existing agreements, and have debated the possible pros and cons of negotiating a multilateral framework of investment rules in the WTO. UNCTAD has played an important role in this analytical process, particularly in helping WTO delegations better understand the development dimension of this subject.

The WTO already has limited provisions on certain trade aspects of foreign investment. The Agreement on Trade-Related Investment Measures (TRIMs) elaborates on existing GATT provisions prohibiting government requirements for investors to purchase inputs locally or to sell their output domestically rather than exporting it. The General Agreement on Trade in Services (GATS) has rules relating to the establishment by a foreign service supplier of a “commercial presence” in an overseas market.

But the main way in which rules are applied to FDI at present is through government-to-government Bilateral Investment Treaties (BITs). UNCTAD estimates over 1,700 BITs are in operation today, along with around 1,900 double taxation treaties. Historically, most of these treaties were signed between developed and developing countries but recently, the number of BITs among developing countries has been increasing.

For the Doha Ministerial, a number of developed and developing WTO members are supporting proposals—similar to those tabled at the Seattle Ministerial—recommending that a decision be taken to begin negotiating a WTO agreement on foreign direct investment (FDI). They argue that the existing international regime of individual BITs plus regional investment agreements lead to confusion. They say that a WTO agreement would establish a stable, non-discriminatory environment that would increase investment flows.

These members have made it clear that the agreement they are proposing to negotiate in the WTO bears no relationship to the OECD’s Multilateral Agreement on Investment (MAI)—in the WTO, negotiations would start from a blank sheet of paper.

At the same time, many developing countries have made it clear that they are opposed to negotiation on this subject in the WTO, at least for the time being, and prefer to continue the analysis and study in the Working Group. They argue that the existing BITs already provide adequate legal protection to investors, and question whether a WTO agreement would indeed increase investment flows. They have expressed concern that a multilateral agreement would add obligations to developing countries while limiting their ability to align investment inflows with national development objectives.

Reflecting these divergent views, the draft Ministerial Declaration issued on 26 September 2001 contains two options for a decision to be taken in Doha on the nature of the future work on investment in the WTO:

- “We agree to negotiations which shall aim to establish a multilateral framework of rules to secure transparent, stable and predictable conditions for long-term cross-border investment, particularly foreign direct investment. The framework shall reflect in a balanced manner the interests of home and host countries, and take due account of governments’ regulatory responsibilities and eco-

conomic development objectives. It shall include as core elements provisions on scope and definition, transparency, non-discrimination, pre-establishment commitments based on a GATS-type approach, and the settlement of disputes between governments. The special development, trade and financial needs of developing and least-developed country participants shall be taken into account as an integral part of the framework, which shall enable members to undertake obligations commensurate with their individual needs and circumstances. The negotiations shall pay due regard to other relevant WTO provisions and to existing bilateral and regional arrangements on investment. We commit ourselves to ensure that appropriate arrangements are made for the provision of technical assistance and support for capacity building both during the negotiations and as an element of the agreement to be negotiated.”

or

- “The Working Group on the Relationship between Trade and Investment shall undertake further focused analytical work, based on proposals by members. A report on this work shall be presented to the Fifth Session of the Ministerial Conference.”

ENDS

TRADE AND COMPETITION POLICY

Working group set up by Singapore ministerial

As government barriers to trade and investment have been reduced, there have been increasing concerns that the gains from such liberalization may be thwarted by private anti-competitive practices. There is also a growing realization that mutually supportive trade and competition policies can contribute to sound economic development, and that effective competition policies help to ensure that the benefits of liberalization and market-based reforms flow through to all citizens.

Approximately 80 WTO member countries, including some 50 developing and transition countries, have adopted competition laws, also known as “antitrust” or “anti-monopoly” laws. Typically, these laws provide remedies to deal with a range of anti-competitive practices, including price fixing and other cartel arrangements, abuses of a dominant position or monopolization, mergers that limit competition, and agreements between suppliers and distributors (“vertical agreements”) that foreclose markets to new competitors. The concept of competition “policy” includes competition laws in addition to other measures aimed at promoting competition in the national economy, such as sectoral regulations and privatization policies.

The WTO Working Group on the Interaction between Trade and Competition Policy (WGTCP) was established at the Singapore Ministerial Conference in December 1996 to consider issues raised by members relating to the interaction of these two policy fields. Since its initial meeting in July 1997, the Group has examined a wide range of such issues organized into a Chairman’s Checklist. The approximately 180 submissions received by the Working Group from members thus far attest to the keen interest that has been shown by members in the subject.

Since 1999, pursuant to a decision by the General Council of the WTO, the Working Group have been examining the following three topics in addition to the Checklist of Issues:

- the relevance of the fundamental WTO principles of national treatment, transparency, and most-favoured-nation treatment to competition policy and vice versa;
- approaches to promoting cooperation and communication among members, including in the field of technical cooperation; and
- the contribution of competition policy to achieving the objectives of the WTO, including the promotion of international trade.

At the beginning of the year, the Group agreed to also address the following points, as suggested by delegations:

- address concerns by some developing countries 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 programmes;
- continue to explore 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
- continuing focus on the issue of capacity building in the area of competition law and policy.

While the relevance of WTO principles to competition policy and the need for enhanced cooperation among members in addressing anti-competitive practices were affirmed by a number of members, views differed as to the need for action at the level of the WTO to enhance the relevance of competition policy to the multilateral trading system. In particular, while a number of members expressed support for the development of a multilateral framework on competition policy in the WTO, to support the implementation of effective competition policies by member countries and reduce the potential for conflicts in this area, others questioned the desirability of such a framework and favoured bilateral and/or regional approaches to cooperation in this field.

The question of the desirability of developing a multilateral framework on competition policy will now be taken up at the Doha Ministerial Conference. In the preparations for the Conference, a number of members have renewed the call for a WTO framework to support the implementation of effective national competition policies by members and enhance the overall contribution of competition policy to the multilateral trading system while other members have expressed continuing objections to negotiations on this matter.

Reflecting these divergent views, the draft ministerial declaration issued on 26 September 2001 contains two options for a decision to be taken in Doha on the nature of the future work on competition policy in the WTO:

- “We agree to negotiations aimed at enhancing the contribution of competition policy to international trade and development. To this end, the negotiations should establish a framework to address the following elements: 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. In the course of negotiations, full account shall be taken of the situation of developing and least-developed country participants and appropriate flexibility provided to address them. We commit ourselves to ensure that appropriate arrangements are made for the provision of technical assistance and support for capacity building both during the negotiations and as an element of the agreement to be negotiated.”

or

- “The Working Group on the Interaction between Trade and Competition Policy shall undertake further focused analytical work, based on proposals by members. A report on this work shall be presented to the Fifth Session of the Ministerial Conference.”

ENDS

TRANSPARENCY IN GOVERNMENT PROCUREMENT

Applying the fundamental WTO principle of transparency to how governments buy goods and services

For the last four-and-a-half years the WTO has actively pursued a work programme on the subject of transparency in government procurement. This has been based on a mandate adopted by ministers at the WTO Singapore Ministerial Conference held in December 1996 to: “establish a working group to conduct a study on transparency in government procurement practices, taking into account national policies, and, based on this study, to develop elements for inclusion in an appropriate agreement”.

The Singapore mandate reflects the heavy emphasis placed throughout the WTO system of rules and practices on transparency. Transparency is often referred to as one of the three fundamental principles of the WTO, the others being most-favoured-nation and national treatment. The role of transparency is perhaps of greatest importance in situations where the extent to which rules of general application determine trading conditions is limited and the scope for discretionary decision-making is greatest. Government procurement is a notable example. The GATT and now the WTO have for a long time had a plurilateral Agreement, currently with 26 parties out of the 142 WTO members, with detailed requirements in respect of transparency in government procurement. The object of the transparency provisions in this Agreement is not only to ensure that adequate information on procurement opportunities is made available and that decisions are fairly taken, but also to facilitate monitoring of the commitments made under that Agreement not to discriminate against suppliers and supplies from other Parties.

The focus of the multilateral work presently under way on transparency in government procurement is somewhat different. First, as indicated, this work is multilateral in nature and aimed at drawing up an agreement to which all 142 WTO members will be parties. Second, the focus is on transparency as such, rather than on transparency as a vehicle for monitoring market access commitments. However, some members have indicated that they would wish future negotiations to have a broader mandate that could provide, in the long term, for the exploration of the scope for market access on a multilateral basis.

The WTO Working Group on Transparency in Government Procurement, since its first meeting in May 1997, has met 13 times. The Working Group initiated its work by hearing presentations from other intergovernmental organizations which have international instruments and activities relevant to transparency in government procurement, notably the United Nations Commission for International Trade Law (UNCITRAL) and the World Bank. It then considered a WTO comparative study of the transparency-related provisions in existing international instruments on government procurement procedures as well as in national practices. This covered the procedures under the plurilateral WTO Agreement on Government Procurement, the UNCITRAL Model Law and the World Bank Guidelines, as well as available material on national practices.

The next stage in the work of the Working Group was the systematic study of 12 issues that were identified as important in relation to transparency in government procurement. These are: definition and scope of government procurement; procurement methods; publication of information on national legislation and procedures; information on procurement opportunities, tendering and qualification procedures; time-periods; transparency of decisions on qualification; transparency of decisions on contract awards; domestic review procedures; other matters related to transparency; maintenance of records of proceedings; information technology; language; fight against bribery and corruption; information to be provided to other governments; WTO dispute settlement procedures; and technical

cooperation and special and differential treatment for developing countries. Written contributions on national practices, on issues meriting study and setting out ideas for action have been presented by many members to the Working Group. A number of members tabled texts of draft agreements before the Seattle Ministerial Conference.

In addition to these subjects, the Working Group — since the Seattle Ministerial — has also heard experiences of countries on the application of information technology in government procurement. members also have reported on national experiences in respect of regional initiatives and agreements on government procurement in the context of the Free Trade Area of the Americas (FTAA) negotiations and the Government Procurement Experts Group of the Asia-Pacific Economic Cooperation (APEC) as well as a number of regional trade agreements.

The work of the Working Group has shown that there seems no disagreement among members about the importance of transparency in government procurement and of the desirability of the WTO pursuing its work in this area. The differences essentially relate to how this should be done. In the run-up to the Doha Ministerial, a number of members argue that after the intensive work during the past four-and-a-half years, the WTO is now in a position to negotiate a transparency agreement in the context of a new round. A number of developing countries, on the other hand, have expressed concerns about enforcement rules in this area, including application of the WTO dispute settlement system, and whether the issue is ripe for the launching of negotiations.

ENDS

TRADE FACILITATION

Cutting red tape at the border

The issue of trade facilitation brings the WTO right to the customs' gate. Traders from both developing and developed countries have long pointed to the vast amount of red tape that still exists in moving goods across borders. Documentation requirements often lack transparency and are vastly duplicative in many places, a problem often compounded by a lack of cooperation between traders and official agencies. Despite advances in information technology, automatic data submission is still not commonplace.

UNCTAD estimates that the average customs transaction involves 20–30 different parties, 40 documents, 200 data elements (30 of which are repeated at least 30 times) and the re-keying of 60–70% of all data at least once. With the lowering of tariffs across the globe, the cost of complying with customs formalities has been reported to exceed in many instances the cost of duties to be paid. In the modern business environment of just-in-time production and delivery, traders need fast and predictable release of goods. An APEC study estimated that trade facilitation programs would generate gains of about 0.26% of real GDP to APEC, almost double the expected gains from tariff liberalization, and that the savings in import prices would be between 1–2% of import prices for developing countries in the region.

Analysts point out that the reason why many small and medium size enterprises — who as a whole account in many economies for up to 60% of GDP creation — are not active players in international trade, has more to do with red tape rather than tariff barriers. The administrative barriers for enterprises who do not regularly ship large quantities are often simply too high to make foreign markets appear attractive.

For developing-country economies, inefficiencies in areas such as customs and transport can be roadblocks to the integration into the global economy and may severely impair export competitiveness or inflow of foreign direct investment. This is one of the reasons why developing-country exporters are increasingly interested in removing administrative barriers, particularly in other developing countries, which today account for 40% of their trade in manufactured goods.

In all countries, trade facilitation will not only benefit importers and exporters, but also consumers, who currently face higher prices due to red tape in their own import administration. Despite many advances, traders are currently still confronted with severe obstacles in moving goods across borders, as voiced by the trading community at the 1998 WTO Trade Facilitation Symposium, where private-industry representatives gave an overview of the wide range of problems they encounter in their daily trade transactions.

While the WTO has been always been dealing with issues related to the facilitation of trade and WTO rules comprise a variety of provisions that aim to enhance transparency and set minimum procedural standards (such as GATT Articles V, VIII and X or several provisions in agreements like the ones on import licensing, TBT, SPS and others), the WTO legal framework sometimes lacks specific provisions, particularly with respect to customs procedures and documentation and transparency issues. As a separate topic, trade facilitation is a relatively new issue for the WTO. It was added to its agenda less than five years ago, when the Singapore Ministerial directed the Council for Trade in Goods “to undertake exploratory and analytical work... on the simplification of trade procedures in order to assess the scope for WTO rules in this area”.

A lot of such exploratory and analytical work has been done since, with members engaging very constructively in the debate. Delegations agree that simplifying trade procedures can result in considerable savings in time, money and human resources that would benefit each and every economy. Members are also in agreement on the developing countries' need for substantial and comprehensive technical assistance to strengthen their administrative capacities and support their national reform efforts. The importance of such assistance has recently been underlined by donors and recipients at a WTO Trade Facilitation Workshop held in May 2001, calling for the development of a more cooperative and coordinated approach in the future.

Many delegations consider trade facilitation as being ripe for negotiations in the WTO. They believe that after more than four years of exploring and analyzing the scope for WTO rules on this issue, it is now time to move to the next stage and enter the negotiating phase. A group of members advocating the negotiation of new binding trade facilitation rules proposed a two track approach, centered around commitments on border and border-related procedures to expedite the movement, release and clearance of goods. Such rules are suggested to build upon existing WTO provisions (in particular GATT Articles V, VIII and X) and principles such as transparency and due process, simplification, efficiency and non-discrimination. The proposal further provides for the development and implementation of a comprehensive technical assistance program in parallel to negotiations.

On the other hand, there are many developing country members, which, while generally supportive of the objectives of trade facilitation, do not want to take on new legal commitments in the WTO at this point in time. They are concerned that additional rules will exceed their implementation capacities and expose them to dispute settlement. Several delegations also voiced scepticism as to whether there is the need for new binding rules. Some further indicated a preference for trade facilitation work on the national, bilateral or regional level.

ENDS

TRADE AND LABOUR STANDARDS

A difficult issue for many WTO member governments

There is no issue which inspires more intense debate among World Trade Organization member governments than the issue of trade and core labour standards.

Labour standards are not subject to any WTO rules or disciplines at present, and while the issue continues to be a deeply important one for some developed country governments, it seems unlikely that the issue will be taken up in any official way at the Doha Ministerial Conference.

Advocates for including labour standards on the WTO's agenda of future work maintain rights including the freedom to bargain collectively, freedom of association, elimination of discrimination in the workplace and the elimination of workplace abuse (including forced labour and certain types of child labour) are matters which should be considered in the WTO. In the past, member governments have suggested that a WTO working party be established to examine the link between trade and core labour standards. Other member governments have suggested that a working group involving a number of international organizations be established to examine the social issues that are affected by globalization.

But developing countries have another view. Member governments from the developing world believe attempts to introduce this issue into the WTO represent a thinly veiled form of protectionism which is designed to undermine the comparative advantage of lower-wage developing countries. Officials from these countries say that workplace conditions will improve through economic growth and development, which would be hindered should rich countries apply trade sanctions to their exports for reasons relating to labour standards. Application of such sanctions, they say, would perpetuate poverty and delay developmental efforts including those aimed at improving conditions in the workplace.

The issue of trade and labour standards has been with the WTO since its birth. In April 1994, when trade ministers gathered in Marrakesh to sign the treaty that formed the WTO, nearly all ministers expressed a view on this issue. The Chairman of that conference concluded that there was no consensus among member governments at the time, and thus no basis for agreement on the issue. The Marrakesh agreement itself states in the preamble that "relations in the field of trade and economic endeavour should be conducted with a view to raising standards of living (and) ensuring full employment ...". In addition, Article XX of the General Agreement on Tariffs and Trade 1994, states that governments may restrict imports "relating to the products of prison labour."

At the first WTO Ministerial Conference in Singapore in December 1996, the issue was taken up and addressed in the Ministerial Declaration. Ministers stated:

"We renew our commitment to the observance of internationally recognized core labour standards. The International Labour Organization (ILO) is the competent body to set and deal with these standards, and we affirm our support for its work in promoting them. We believe that economic growth and development fostered by increased trade and further trade liberalization contribute to the promotion of these standards. We reject the use of labour standards for protectionist purposes, and agree that the comparative advantage of countries, particularly low-wage developing countries, must in no way be put into question. In this regard, we note that the WTO and ILO secretariats will continue their existing collaboration."

Existing collaboration between the WTO and ILO secretariats includes participation by the WTO in meetings of ILO bodies, the exchange of documentation and informal cooperation between the two secretariats. Director-General Mike Moore meets regularly with ILO Director-General Juan Somavia.

At the 3rd Ministerial Meeting in Seattle in December 1999, the issue of core labour standards was perhaps the most divisive issue on the agenda. In the run-up to the meeting, both the United States and the European Union put forward proposals for addressing the issue of labour standards inside the WTO. Although, officials from both members said they did not envision the use of trade sanctions in the context of the labour standards issue, both proposals were fiercely opposed by developing country governments.

At the conference itself, the US, EU and other developed country governments fought to get the issue addressed in a working group and succeeded. Debate in that group was intense and there was strong disagreement among members. On his way to the conference, Former-US President Bill Clinton, told a Seattle newspaper that he believed that trade sanctions might one day be used in retaliation for labour-standard violations. When the story appeared the next day, the impact on the conference was substantial. Developing-country delegates hardened their resolve and although there was serious debate on how the issue may be discussed inside an international framework, consensus on any role for the WTO on the question of labour standards was not attained.

Since the Seattle Ministerial Conference, governments from around the world have turned their attention to the ILO as the forum for addressing this question. During the June 2001 meeting of the ILO governing body, the Working Party on the Social Dimension of Globalization reached several agreements on how it might proceed with its work. It was agreed informally that the technical capabilities of the Working Party needed to be addressed and that issues for further discussion needed to be decided in advance. There was general agreement that trade liberalization and employment and investment, with special emphasis on poverty reduction, should be issues taken up by the Working Party.

There was also general agreement that a permanent forum for exchange of views should be established. High-level meetings could be arranged on an *ad hoc* basis. Members agreed generally as well that the ILO contribution to the international policy framework on the question of globalization needed to be enhanced and that a report on the social dimension of globalization could be written. Views differed on the issues that such a report may cover.

There was further the idea that a global commission of eminent personalities could be formed to examine the social aspects of globalization, but no agreement was reached on this point, though there was consensus that it was an idea worth pursuing in the future.

Among the ideas discussed was that the report on globalization could be written by this commission and that the commission could be launched under the aegis of the United Nations Secretary General Kofi Annan. Additionally, there was discussion that the commission might be serviced by a secretariat, under ILO organization, that may include representatives from the secretariats of other interested organizations. Final decisions on all of these elements will be taken by the ILO's governing body which meets in November 2001.

The actions taken in June 2001 follow on from the ILO's 1998 adoption of the *Declaration on Fundamental Principles and Rights at Work and its Follow-up*. This declaration states that ILO member governments endorse some basic principles included in ILO core conventions. (These conventions are the fundamental workplace rights and include: freedom of association and recognition of the right to collective bargaining; elimination of all forms of forced labour; the effective abolition of child labour and the elimination of discrimination in hiring and employment practices.)

ILO members agreed to respect and promote these core conventions even if they have not ratified all of them. The ILO issues annual reports in which ILO officials obtain information from governments which have not ratified all conventions on any changes that may have taken place in national laws or regulations which may impact on these fundamental labour rights.

In 1999, ILO member governments also agreed to prohibit and eliminate the worst forms of child labour. These practices were defined as all forms of slavery, child prostitution and pornography, the use of children to traffic in drugs and work which is likely to harm the health, safety or morals of children. ILO member governments said they recognized that child labour is largely a function of poverty and that the long-term solution to the elimination of exploitative and harmful child labour is through sustained economic growth.

ENDS

DISPUTES

The dispute settlement system

- > A more detailed account of the dispute settlement procedure can be found in "Trading into the Future" (page 38 in the printed version or http://www.wto.org/english/thewto_e/whatis_e/tif_e/disp0_e.htm)
- > For more information on disputes in general, go to the WTO website and follow the path ... > **trade topics** > **dispute settlement**, or go directly to http://www.wto.org/english/tratop_e/dispu_e/dispu_e.htm

Overview

After more than six years of operation the dispute settlement system of the WTO continues to be used extensively by the WTO members. Up until 1 October 2001 some 240 complaints had been brought by members. In some 56 cases the dispute was resolved by a final Panel or Appellate Body Report. In quite a number of cases further reports have been handed down on the implementation of the Panel or Appellate Body Report and (in five cases) on the level of the authorized suspension of concessions and other obligations (so-called retaliation).

It is clear that developed countries are the biggest users of the system: they file almost twice as many complaints as developing countries; two-thirds of these are directed at other developed countries, while developing countries also direct about two-thirds of their complaints against developed countries. The United States and the European Communities are the biggest users of the system by far: the United States is complainant in some 70 cases and respondent in 56; the European Communities is complainant in 55 cases and respondent in 32. Naturally, these two are also the biggest users of the appeals system. Research has demonstrated that if the number of cases in which the United States and the European Communities are involved is corrected for the volume of their trade and the number of countries with which they trade, they are not disproportionate users compared to other members of the WTO. Of the developing countries Brazil and India are the heaviest users. They have resorted to the system and responded to complaints in about the same amount as Canada (the third ranking developed country user of the system): between 10 and 20 cases as complainant and respondent each.

How disputes are resolved

The **Dispute Settlement Understanding (DSU)** is the legal text that spells out the rules and procedures for settling disputes in the WTO. It contains 27 articles, is a legally binding negotiated agreement among all the WTO member governments, and is the ultimate means of enforcing the WTO's trade rules. That makes it the backbone of the multilateral trading system.

Disputes in the WTO arise when one government accuses another of violating an agreement or being in breach of its commitments. Briefly, the dispute settlement system has three stages, with rules, procedures and strict timeframes for each stage.

- **First: consultations** between the governments involved in the dispute. They have 60 days to reach a mutually agreed settlement. If they don't, the complaining government that initiated the dispute can move the dispute to the next stage.
- **Second: the legal stage** where the case is examined by an independent **panel** of three legal/technical experts. The panel has between six to nine months to complete its examination and to produce a detailed report with its findings based on written and oral statements by the governments involved.

If the panel report is appealed, a standing **Appellate Body** has between two to three months to examine the appeal and produce a detailed report with its findings. The DSB then considers whether to adopt both the panel and the Appellate Body reports. Normally the reports are adopted because the rules say they can only be rejected by consensus.

If the DSB rules that the accused country is innocent, the case stops there. But if the accused country is found to have violated an agreement or commitment, the dispute moves into its final stage.

- **Third: implementation.** The government concerned is given a reasonable period of time to implement the DSB's ruling. Throughout this reasonable period of time, the DSB monitors how the government concerned is implementing the ruling, to ensure full compliance. If at the end of the reasonable period of time it appears that there is no implementation or that compliance is controversial between the parties to the dispute, two things can happen: the party that has "lost" may offer (trade) compensation; or, if that is not acceptable to the party that "won", the latter may request authorization to retaliate. In order to determine whether there has been less than full compliance in the first place, the DSU provides for a special procedure (often referred to as the "implementation" or "compliance" panel).

"Sequencing" problem: However, on the first occasion when this special procedure was initiated in late 1998 (in the "bananas" case), it gave rise to a serious divergence of interpretations among the members, particularly between two of the parties to the dispute — the US and the EC. The issue became known as the "sequencing" problem and resulted from the fact that this procedure is described without sufficient detail fashion in the DSU text and, in particular, that a literal reading of the text seems to provide that an authorization to retaliate should be given priority over an application of the procedure for the special implementation panel.

The review of the Dispute Settlement Understanding (DSU) 1998–1999

The review of the Dispute Settlement Understanding was mandated by a ministerial decision at Marrakesh (1994), to be completed by the end of 1998. Many subjects and possible improvements to the DSU were discussed during the review process, but without much result. The period for the review was extended to the summer of 1999, but again without success. According to a group of WTO members, chaired by Japan, it was important to remedy at least one major problem, commonly called the "sequencing" problem, and some smaller issues directly or indirectly linked to it. To this end, they took the initiative to present a draft amendment to the Third Ministerial Conference of the WTO at Seattle in December 1999. The Conference ended indecisively as did the official review of the DSU. In late 2000 and early 2001, a group of members tried to revive the discussion on the proposed amendment, but without success. By late September 2001, informal discussions had started among members on the possibility of the Doha Ministerial Conference agreeing to launch negotiations on possible amendments to the DSU.

The solution to the 'sequencing' problem in implementation (Articles 21 and 22)

The DSU does not spell out clear procedures for handling a possible disagreement on whether the accused government has implemented the DSB's ruling fully or not. Members now agree in principle that it is first necessary to determine whether there has been proper implementation before moving to the questions of compensation and retaliation. They also agree that the judgement has to be made within the WTO system and not unilaterally.

The main difference of opinion appears to be over the amount of time needed to determine whether the accused government has implemented correctly, which in turn depends on the procedures to be followed to reach a decision.

For example, do the two sides have to try to settle this new disagreement by consulting each other, and if so, for how long? Must the DSB meet — and if so, how many times — to refer the matter to the panel or Appellate Body for a judgement?

Should the panel make the judgement with the possibility of an appeal? Or should it only be made by the Appellate Body if the original matter had been appealed, or by the panel if it had not?

Must the DSB adopt the judgement automatically or must there be a consensus to adopt? How quickly can authority to retaliate be requested? And if the amount of retaliation is challenged, how long should the arbitration take?

Transparency and access to the dispute settlement system

Panel and Appellate Body reports (and all other WTO documents relating to specific disputes) are published on the WTO website immediately after distribution to all member governments. However, panel and appeals deliberations are confidential, giving rise to complaints, particularly by non-governmental organizations (NGOs), that the proceedings of the dispute settlement system lack transparency.

Some governments say the WTO system is exclusively intergovernmental in nature. In their view, if an NGO wants to make an argument to a panel it should convince one of the governments involved in the dispute to present that argument to the panel. Other governments hold the view that the credibility of the system would be enhanced if it were more open and that openness would have no significant disadvantages.

It should be noted that the Appellate Body ruled (in the “Shrimp/Turtle” case) that panels have the right to accept submissions that they have not requested from sources other than governments involved in the dispute (such as NGOs). It should also be noted that Article 18.2 of the DSU states:

“... Nothing in this Understanding shall preclude a party to a dispute from disclosing statements of its own positions to the public. Members shall treat as confidential information submitted by another member to the panel or the Appellate Body which that member has designated as confidential. A party to a dispute shall also, upon request of a member, provide a non-confidential summary of the information contained in its written submissions that could be disclosed to the public.”

Disputes facts and stats

Situation as of 1 October 2001

To date, **239** disputes have been brought to the WTO, of which:

- 38** were withdrawn following consultations;
- 103** are under consultations;
- 26** are being examined by panels;
 - 2** subject of panel reports which have been appealed;
- 36** are in implementation stage following adoption by DSB of panel & appellate reports;
- 21** implemented;
- 9** closed without the need for implementation;
- 4** authority for panel elapsed.

Number of disputes involving some of the biggest users of the DSU

Disputes involving	as complainant	as respondent	with developing countries	
			US/EC/Japan as complainant	US/EC/Japan as Respondent
United States	69	56	29	22
EC	55	32	23	13
Japan	8	12	3	0
Developing countries	79	92	–	–

WTO members involved in disputes

	as complainant (case nos.)	total	as respondent (case nos.)	total
Argentina	35, 111, 207, 226	4	56, 77, 121, 123, 145, 155, 157, 164, 171, 189, 190, 196, 233, 238	14
Australia	35, 91, 169, 178, 217	5	18, 21, 57, 106, 119, 126	6
Belgium			80, 127, 210	3
Brazil	4, 69, 70, 71, 112, 154, 190, 208, 209, 216, 217, 218, 219, 222, 224, 239	16	22, 30, 46, 51, 52, 65, 81, 116, 183, 197, 199, 229	12
Canada	7, 9, 10, 18, 20, 35, 46, 48, 92, 135, 137, 144, 153, 167, 180, 194, 221, 234, 236	19	31, 103, 113, 114, 117, 139, 142, 170, 222	9
Chile	14, 97, 217, 227, 232, 238	6	87, 109, 110, 193, 207, 220, 226, 228, 230	9
Colombia	78, 188, 228, 230	4	181	1
Costa Rica	24, 185, 187	3		
Czech Rep.	159	1	148	1
Denmark			83	1
Ecuador	27, 237	2	182, 191	2
Egypt			205, 211	2
European Communities	8, 15, 38, 39, 40, 42, 53, 54, 63, 66, 73, 75, 77, 79, 81, 85, 87, 88, 96, 98, 100, 107, 108, 110, 114, 116, 117, 118, 120, 121, 136, 138, 142, 145, 146, 147, 149, 150, 151, 152, 155, 157, 160, 165, 166, 176, 183, 186, 189, 193, 200, 212, 213, 214, 217, 225	56	7, 9, 12, 13, 14, 16, 17, 25, 26, 27, 48, 62, 69, 72, 104, 105, 115, 124, 134, 135, 137, 140, 141, 153, 154, 158, 172, 174, 209, 219, 223, 231	32
France			131, 173	2
Greece			125, 128	2
Guatemala	16, 27, 158, 220	4	60, 156	2
Honduras	16, 27, 158, 201	4		
Hong Kong, China	29	1		
Hungary	143, 148	2	35, 159	2
India	19, 32, 33, 34, 58, 134, 140, 141, 168, 206, 217, 229, 233	13	50, 79, 90, 91, 92, 93, 94, 96, 120, 146, 149, 150, 175	13
Indonesia	123, 217	2	54, 55, 59, 64	4
Ireland			68, 82, 129	3
Japan	6, 51, 55, 64, 95, 139, 162, 184, 217	9	8, 10, 11, 15, 28, 42, 44, 45, 66, 73, 76, 147	12
Korea	89, 99, 179, 202, 215, 217	6	3, 5, 20, 40, 41, 75, 84, 98, 161, 163, 169	11
Malaysia	58	1	1	1
Mexico	16, 27, 49, 60, 156, 158, 182, 191, 234	9	53, 101, 132, 203, 204, 216, 232	7
Netherlands			130	1
New Zealand	35, 72, 93, 113, 177	5		
Nicaragua			188, 201	2
Pakistan	58, 192	2	36, 107	2
Panama	105, 158	2		
Peru	12, 231	2	112, 227	2
Philippines	22, 61	2	74, 102, 195, 215	4
Poland	122, 235	2	19	1
Portugal			37	1
Romania			198	1
Singapore	1	1		
Slovak Rep.			133, 143, 235	3
South Africa			168	1
Sri Lanka	30	1		
Sweden			86	1
Switzerland	94, 119, 133	3		
Thailand	17, 35, 47, 58, 181, 205, 217	7	122	1

	as complainant (case nos.)	total	as respondent (case nos.)	total
Trinidad & Tobago			185, 187	2
Turkey	211	1	29, 34, 43, 47, 208, 237	6
United Kingdom			67	1
United States	3, 5, 11, 13, 16, 21, 26, 27, 28, 31, 35, 36, 37, 41, 43, 44, 45, 50, 52, 56, 57, 59, 62, 65, 67, 68, 74, 76, 80, 82, 83, 84, 86, 90, 101, 102, 103, 104, 106, 109, 115, 124, 125, 126, 127, 128, 129, 130, 131, 132, 158, 161, 163, 164, 170, 171, 172, 173, 174, 175, 195, 196, 197, 198, 199, 203, 204, 210, 223	69	2, 4, 6, 24, 32, 33, 38, 39, 49, 58, 61, 63, 78, 85, 88, 89, 95, 97, 99, 100, 108, 111, 118, 136, 138, 144, 151, 152, 160, 162, 165, 166, 167, 176, 177, 178, 179, 180, 184, 186, 192, 194, 200, 202, 206, 212, 213, 214, 217, 218, 221, 224, 225, 234, 236, 239	56
Uruguay	25	1		
Venezuela	2	1	23	1

ENDS

ELECTRONIC COMMERCE

Work programme

The growing importance of electronic commerce in global trade led the members of the WTO to adopt a declaration on global electronic commerce on 20 May 1998 at their second Ministerial Conference in Geneva, Switzerland. The declaration directed the General Council of the WTO to establish a comprehensive work programme to examine all trade-related issues arising from electronic commerce, and to present a report on the progress of the work programme at the third Ministerial Conference of the WTO. The declaration setting up the work programme included the statement that “members will continue their current practice of not imposing customs duties on electronic transmission”. The work programme was adopted by the WTO General Council on 25 September 1998.

Under the work programme, issues related to electronic commerce were examined by the Council for Trade in Services, the Council for Trade in Goods, the Council for TRIPS and the Committee on Trade and Development. During the course of the work programme a number of background notes on the issues were produced by the WTO Secretariat and many member governments submitted documents outlining their own thoughts. A seminar on “Government Facilitation of E-commerce for Development” was held 14 June 2001 under the auspices of WTO Committee on Trade and Development. Speakers from developing and developed countries, international organizations and the private sector addressed issues related to e-commerce and development. The results of the seminar are available on the WTO website at http://www.wto.org/english/tratop_e/devel_e/sem04_e/sem04_e.htm

Each of the WTO bodies working on e-commerce issues have produced reports for the General Council on progress in their work programme. The following is a summary of the main points which emerge from these reports and from a dedicated discussion on e-commerce issues held under the auspices of the General Council on 15 June 2001:

- Three types of on-line services transactions were identified:
 - Transactions for a service which is completed entirely on the Internet from selection to purchase and delivery.
 - Transactions involving “distribution services” in which a product, whether a good or a service, is selected and purchased on-line but delivered by conventional means.
 - Transactions involving the telecommunication transport function, including provision of Internet services.
- The vast majority of on-line services transactions are considered services which are covered by the General Agreement on Trade in Services (GATS).
- WTO member governments hold the general view that the GATS does not distinguish between technological means of supplying a service.
- The general view of member governments is that the provisions of the GATS apply to the supply of services through electronic means.
- A difference of views has emerged with respect to whether certain products (e.g. software and books) when delivered electronically should be classified as goods or services. Such products, until relatively recently, had been delivered through conventional means whereby they were

contained in a physical carrier and classified and regulated as goods. The question now arises as to whether such products, when delivered electronically, should still be treated as goods and therefore subject to the rules of the GATT or, should they be classified as services and be subject to the framework of the GATS. In either case, members of the WTO would need to take a decision with respect to these products.

- Questions are raised about how the Telecommunications annex of the GATS should relate to access to and use of Internet access services. Many Internet service providers (ISPs) and services may benefit from the Annex provisions ensuring fair and reasonable access to the leased circuits they obtain from public telecom operators. But some member governments wonder if, or to what extent, ISPs themselves should be obliged by the Annex to offer such access to others.

Copies of the reports to the General Council by the Council for Trade in Services, the Council for Trade in Goods, the Council for TRIPS and the Committee on Trade and Development are available on the WTO Internet site: Follow the path ... > trade topics > electronic commerce and look for "work on electronic commerce in the WTO".

ENDS

MEMBERS AND ACCESSION

Becoming a member of the WTO

Any state or customs territory having full autonomy in the conduct of its trade policies is eligible to accede to the WTO on terms agreed between it and WTO members (Article XII of the WTO Agreement).

The accession process commences with the submission of a formal written request for accession pursuant to Article XII of the WTO Agreement. This request is considered by the General Council which establishes a Working Party to examine the accession request and to submit recommendations to the General Council which may include a Protocol of Accession. The Working Party is open to all members of the WTO.

Established procedures require the applicant government to present to Working Party members a memorandum covering all aspects of its trade and legal regime. This memorandum forms the basis for detailed fact finding by the Working Party. After examining all aspects of the existing trade and legal regimes of the acceding government, the Working Party goes into the substantive part of the multilateral negotiations involved in accession, i.e. determining the terms and conditions of entry. These terms and conditions, involving commitments to observe WTO rules and disciplines upon accession, and transitional periods if any, are finally incorporated in the Draft Report of the Working Party and the Protocol of Accession.

At the same time, the applicant government engages in bilateral negotiations with interested Working Party members on concessions and commitments on market access for goods and services. This bilateral process determines the specific benefits for WTO members in permitting the applicant to accede to the WTO.

Once both the Working Party's Draft Report and Protocol of Accession and the market-access commitments in goods and services are completed to the satisfaction of members of the Working Party, the "accession package" is presented to the General Council or the Ministerial Conference for adoption. Once approved, the applicant is then free to sign the Protocol. Thirty days after the applicant government notifies the WTO Secretariat that it has completed its ratification procedures, the applicant government becomes a member of the WTO.

Questions are often raised as to when a WTO applicant can accede to the WTO and whether it joins the WTO as a developing or a developed country. These questions are an inherent part of each WTO accession negotiation. Basically, this involves the granting of certain flexibilities in the implementation of WTO rules and disciplines — a matter determined in the negotiation process. While accession processes vary in length and can take several years to complete, much depends on the speed with which the applicant government is able to adjust its trade and legal regime to the requirements of WTO rules and disciplines.

Because each accession Working Party takes decisions by consensus, WTO members must be in agreement that their individual concerns have been met and that all outstanding issues have been resolved in the course of their deliberations.

Since the WTO was established on 1 January 1995, 29 countries have become WTO members. These are: Albania, Angola, Benin, Bulgaria, Chad, Congo, Croatia, Democratic Republic of Congo, Ecuador, Estonia, Fiji, Gambia, Georgia, Grenada, Haiti, Jordan, Latvia, Lithuania, Kyrgyz Republic,

Moldova, Mongolia, Niger, Oman, Panama, Papua New Guinea, Qatar, Saint Kitts and Nevis, Solomon Islands, and the United Arab Emirates.

With 30 governments still in the queue for membership to the WTO, accession will remain a major challenge for WTO members in the years ahead.

Applicants

The following 30 governments have requested to join the WTO and their applications are currently being considered by WTO accession working parties or, as in the case of the People's Republic of China and Chinese Taipei and Vanuatu pending approval by the Ministerial Conference. Each of the governments listed below has WTO observer status.

Algeria
Andorra
Armenia
Azerbaijan
Bahamas
Belarus
Bosnia Herzegovina
Bhutan
Cambodia
Cape Verde
People's Republic of China
Kazakhstan
Lao People's Democratic Republic
Lebanon
Former Yugoslav Republic of Macedonia
Nepal
Russian Federation
Samoa
Saudi Arabia
Seychelles
Sudan
Chinese Taipei
Tajikistan
Tonga
Ukraine
Uzbekistan
Vanuatu
Vietnam
Yemen
Federal Republic of Yugoslavia

Membership of the World Trade Organization

142 governments as of 26 July 2001

Member	Date of membership
Albania	8 September 2000
Angola	1 December 1996
Antigua and Barbuda	1 January 1995
Argentina	1 January 1995
Australia	1 January 1995
Austria	1 January 1995
Bahrain	1 January 1995
Bangladesh	1 January 1995
Barbados	1 January 1995
Belgium	1 January 1995
Belize	1 January 1995
Benin	22 February 1996
Bolivia	13 September 1995
Botswana	31 May 1995
Brazil	1 January 1995
Brunei Darussalam	1 January 1995
Bulgaria	1 December 1996
Burkina Faso	3 June 1995
Burundi	23 July 1995
Cameroon	13 December 1995
Canada	1 January 1995
Central African Republic	31 May 1995
Chad	19 October 1996
Chile	1 January 1995
Colombia	30 April 1995
Congo	27 March 1997
Costa Rica	1 January 1995
Côte d'Ivoire	1 January 1995
Croatia	30 November 2000
Cuba	20 April 1995
Cyprus	30 July 1995
Czech Republic	1 January 1995
Democratic Republic of the Congo	1 January 1997
Denmark	1 January 1995
Djibouti	31 May 1995
Dominica	1 January 1995
Dominican Republic	9 March 1995
Ecuador	21 January 1996
Egypt	30 June 1995
El Salvador	7 May 1995
Estonia	13 November 1999
European Union	1 January 1995
Fiji	14 January 1996
Finland	1 January 1995
France	1 January 1995
Gabon	1 January 1995
Gambia	23 October 1996
Georgia	14 June 2000
Germany	1 January 1995
Ghana	1 January 1995
Greece	1 January 1995
Grenada	22 February 1996

Member	Date of membership
Guatemala	21 July 1995
Guinea Bissau	31 May 1995
Guinea	25 October 1995
Guyana	1 January 1995
Haiti	30 January 1996
Honduras	1 January 1995
Hong Kong, China	1 January 1995
Hungary	1 January 1995
Iceland	1 January 1995
India	1 January 1995
Indonesia	1 January 1995
Ireland	1 January 1995
Israel	21 April 1995
Italy	1 January 1995
Jamaica	9 March 1995
Jordan	11 April 2000
Japan	1 January 1995
Kenya	1 January 1995
Korea	1 January 1995
Kuwait	1 January 1995
Kyrgyz Republic	20 December 1998
Latvia	10 February 1999
Lesotho	31 May 1995
Liechtenstein	1 September 1995
Lithuania	31 May 2001
Luxembourg	1 January 1995
Macao, China	1 January 1995
Madagascar	17 November 1995
Malawi	31 May 1995
Malaysia	1 January 1995
Maldives	31 May 1995
Mali	31 May 1995
Malta	1 January 1995
Mauritania	31 May 1995
Mauritius	1 January 1995
Mexico	1 January 1995
Moldova	26 July 2001
Mongolia	29 January 1997
Morocco	1 January 1995
Mozambique	26 August 1995
Myanmar	1 January 1995
Namibia	1 January 1995
Netherlands — including Netherlands Antilles	1 January 1995
New Zealand	1 January 1995
Nicaragua	3 September 1995
Niger	13 December 1996
Nigeria	1 January 1995
Norway	1 January 1995
Oman	9 November 2000
Pakistan	1 January 1995
Panama	6 September 1997
Papua New Guinea	9 June 1996
Paraguay	1 January 1995
Peru	1 January 1995
Philippines	1 January 1995
Poland	1 July 1995
Portugal	1 January 1995

Member	Date of membership
Qatar	13 January 1996
Romania	1 January 1995
Rwanda	22 May 1996
Saint Kitts and Nevis	21 February 1996
Saint Lucia	1 January 1995
Saint Vincent & the Grenadines	1 January 1995
Senegal	1 January 1995
Sierra Leone	23 July 1995
Singapore	1 January 1995
Slovak Republic	1 January 1995
Slovenia	30 July 1995
Solomon Islands	26 July 1996
South Africa	1 January 1995
Spain	1 January 1995
Sri Lanka	1 January 1995
Suriname	1 January 1995
Swaziland	1 January 1995
Sweden	1 January 1995
Switzerland	1 July 1995
Tanzania	1 January 1995
Thailand	1 January 1995
Togo	31 May 1995
Trinidad and Tobago	1 March 1995
Tunisia	29 March 1995
Turkey	26 March 1995
Uganda	1 January 1995
United Arab Emirates	10 April 1996
United Kingdom	1 January 1995
United States	1 January 1995
Uruguay	1 January 1995
Venezuela	1 January 1995
Zambia	1 January 1995
Zimbabwe	3 March 1995

ENDS

REGIONAL TRADE AGREEMENTS

Regionalism and the multilateral trading system

Most WTO members are now also parties to regional trade agreements (RTAs). These have expanded vastly in number, scope and coverage and their number is still growing. It is estimated that more than half of world trade is now conducted under preferential trade agreements. RTAs are found in every continent. Among the best known are the European Union, the European Free Trade Association (EFTA), the North American Free Trade Agreement (NAFTA), the Southern Common Market (MERCOSUR), the Association of Southeast Asian Nations (ASEAN), and the Common Market of Eastern and Southern Africa (COMESA).

From its inception, the GATT — and now the WTO — has allowed member countries to conclude customs unions and free-trade areas, as an exception to the fundamental principle of non-discrimination set in the most-favoured-nation clause of Article I. Conditions for trade in goods were set in GATT Article XXIV. The main principle is that the purpose of a RTA should be to facilitate trade between the constituent countries and not to raise barriers to the trade of other WTO members not parties to the RTA. During the Uruguay Round, Article XXIV was clarified to some extent and updated by an Understanding of interpretation. Preferential trade arrangements on goods between developing-country members are regulated by an “Enabling clause” dating from 1979. For trade in services, the conclusion of RTAs is governed by GATS Article V.

Non-reciprocal preferential agreements involving selected developing and developed countries require WTO members to seek a waiver from WTO rules. Among the best known examples of such agreements are the US-Caribbean Basin Economic Recovery Act and the Cotonou Agreement recently signed by the EC and the ACP countries to replace the Lomé Convention; the waiver for the latter is still under consideration in the WTO.

Work within the Committee on Regional Trade Agreements

During the GATT years, the examination of RTAs was conducted in individual working parties. In order to ensure consistency in their examination, the General Council established in February 1996 a single Committee to oversee all RTAs, the Committee on Regional Trade Agreements (CRTA). In addition to examining individual regional agreements, another important duty of the Committee is to consider the systemic implications of the RTAs for the multilateral trading system and the relationship between them. The Committee is also mandated to develop procedures to facilitate and improve the examination process and to ensure that the reporting on the operation of the regional agreements is adequately carried out by the parties to the agreements.

To date, over 200 RTAs have been notified to the GATT/WTO. Of these, 121 agreements notified under GATT Article XXIV, 19 agreements under the Enabling Clause and 12 under GATS Article V are still into force today. The CRTA has currently under examination more than 100 agreements.

- Since its establishment, the CRTA has succeeded in structuring and improving the examination process, in particular with respect to schedules for examination and the standardized presentation of basic information concerning RTAs. In the last three years, the CRTA has endeavoured to find ways to evaluate each agreement through its assessment of the consistency of each examined RTA with the corresponding WTO provisions. These legal yardsticks, however, are open to different readings by members and no consensus on this account has yet been found. Thus, there is an increasing backlog of reports on the examination of individual RTAs.

- The expansion and extent of regional trade agreements make it important to analyze whether the system of WTO rights and obligations as it relates to regional trade agreements needs to be further clarified. There is no common understanding among WTO members on whether RTAs favour or contradict the development of the multi-lateral trading system, whether they function as “building blocks” or “stumbling blocks”. One view is that RTAs, by moving generally at a faster pace than the multi-lateral trading system, represent a way of strengthening it. The positive effect of RTAs on the integration of developing countries in the world economy is also emphasized. Other members consider that, in today’s circumstances, a redefinition of the relationship between RTAs and the multilateral trading system is required, to achieve a better synergy between the two. It is argued that a further re-interpretation of rules drafted 50 years ago would not suffice to take into account the fundamental changes observed in the nature and scope — both geographical and in coverage — of RTAs and their increasingly overlapping membership.

What is at stake?

Issues raised by the regionalism debate are pluri-dimensional and inter-linked. Some are primarily legal. For example, Article XXIV requires that “substantially all the trade” between the constituent members be covered by the RTA, and the same condition is laid by GATS Article V which requires a “substantial sectoral coverage” in services. But there is no agreement among members on the meaning of these wordings, and in fact many agreements omit from their coverage large and sensitive areas such as agriculture and textiles. Hence the difficulties encountered by WTO members in assessing consistency of RTAs.

Other issues are more institutional in nature and highlight possible discrepancies between rules in RTAs and in the WTO system. Trade rules have, over time, evolved from tariff reduction into regulatory policy, both at the regional and at the multilateral level. This is true, for instance, in such areas as anti-dumping, subsidies, or standards; the more so since some recent RTAs include provisions not covered by the WTO such as investment or competition policies.

Finally and most importantly, there is the economic dimension. Today, this goes far beyond the effects of tariff preferences on RTA members and third parties. Rather, given the large and increasing number of free trade agreements and their overlapping membership, at issue is the impact of regional agreements on the shaping and development of world trade itself. Whatever happens at Doha, this will be one of the most important challenges that trade policymakers in all continents will have to face over the next few years.

At Seattle, some WTO members wanted to include on the agenda of the WTO Ministerial conference a review of GATT Article XXIV and GATS Article V. With the increasing backlog of examination reports not agreed and the question of the consistency of important RTAs examined *vis-à-vis* WTO rules, the relationship between regionalism and multilateralism has become a critical systemic issue which is likely to need a political push in the next WTO Ministerial Conference in Doha.

ENDS

SOME FACTS AND FIGURES

Data for Doha

(All figures from the WTO unless source specified)

World trade and output

Selected Indicators, 1948-2000

	1948	1950	1973	1990	2000	Average annual change %			
						1948-73	1973-00	1948-00	1990-00
World merchandise exports									
Billion current \$	58	61	579	3,338	6,186	9.7	9.2	9.4	6.0
Billion constant 1990\$	304	376	1797	3,338	6,627	7.4	5.0	6.1	6.9
Exports per capita, 1990\$	123	149	458	645	1,094	5.4	3.3	4.3	5.4
World exports of manufactures									
Billion current \$	22	23	348	2,390	4,630	11.7	10.1	10.8	6.8
Billion constant 1990\$	93	112	955	2,390	5,031	9.8	6.3	8.0	7.7
Exports per capita, 1990\$	38	44	244	455	831	7.8	4.6	6.1	6.2
World output (Indices, 1990=100)									
Total merchandise production	16.9	18.4	64.3	100.0	126.5	5.5	2.5	3.9	2.4
— manufacturing output	10.9	12.8	60.3	100.0	130.2	7.1	2.9	4.9	2.7
GDP (billion, 1990\$)	3,935	4,285	13,408	22,490	28,115	5.0	2.8	3.9	2.3
GDP per capita (1990\$)	1,591	1,700	3,420	4,280	4,642	3.1	1.1	2.1	0.8
GDP (billion, current \$, at market rates) ^a	...	775	4,908	22,490	32,236	8.4	7.2	7.7	3.7
World population (million)	2,473	2,521	3,920	5,255	6,057	1.9	1.6	1.7	1.4
Exports of goods and services, to GDP, at constant 1987 prices, %	...	8.0	14.9	19.7	29.5

a Growth rates refer to 1950 instead of 1948.

Sources: Population: UN World Population Prospects. GDP, current: IMF World Economic Outlook. GDP, 1987 prices: World Bank and WTO. Trade: WTO International Trade Statistics

World trade and output growth by sector, 2000

(Annual percentage change in volume)

	Exports	Output
Manufactures	14.5	6.0
Agricultural products	8.0	1.0
Mining products	0.5	3.5
Total merchandise	12.0	4.5
GDP		4.0

Source: WTO International Trade Statistics 2001

World exports of merchandise and commercial services, 1990–2001

(Billion dollars and percentage)

	Value	Annual percentage change			
	2000	1990–2000	1999	2000	2001
Merchandise	6186	6.0	4.0	12.5	1.0
Commercial services	1435	6.0	2.0	6.0	...

Source: WTO International Trade Statistics 2001

Least-developed countries (LDCs), merchandise exports by selected country group, 1990–2000

(Billion dollars and percentage)

	Value	Annual percentage change			
	2000	1990–2000	1998	1999	2000
Total LDCs	34	7	-6	12	28
Oil exporters (4) a	15	11	-30	50	63
Exporters of manufactures (7) b	11	14	20	5	23
Commodity exporters (29)	8	1	-1	-6	-3
LDCs with civil strife (6) c	1	-7	-12	-8	-3
World	6186	6.0	-1.5	4.0	12.5

a Angola, Equatorial Guinea, Sudan and Yemen.

b Bangladesh, Cambodia, Lao People's Dem. Rep., Lesotho, Madagascar, Myanmar and Nepal.

c Afghanistan, Burundi, Congo Dem. Rep, Rwanda, Sierra Leone and Somalia.

Source: WTO International Trade Statistics 2001

Developing economies trade and output growth, 1990-2000

(Annual percentage change)

	Developing economies			World
	1999	2000	1990–2000	1990–2000
GDP	3.0	5.2	4.5	2.8
Merchandise export volume	7.0	15.0	9.0	7.0
Merchandise import volume	4.5	15.5	8.0	7.0
Merchandise export value	9.5	24.0	9.0	6.0
Merchandise import value	4.0	21.0	9.0	6.0

Source: WTO International Trade Statistics 2001

Gulf Cooperation Council states, merchandise trade

	Total merchandise trade 2000 \$bn	Trade per capita 2000 \$	Average annual change %			
			Exports growth 1990–2000	Exports growth 2000	Imports growth 1990–2000	Imports growth 2000
Bahrain	10.3	15,540	4.3	39.7	2.2	28.5
Kuwait	27.2	12,810	10.7	60.0	6.7	0.1
Oman	16.4	6,780	7.5	56.7	6.5	7.8
Qatar	12.7	22,500	9.2	30.0	7.0	33.6
Saudi Arabia	114.4	5,340	6.6	65.6	2.3	8.2
United Arab Emirates	71.8	26,810	6.8	28.6	11.0	4.1

Source: WTO International Trade Statistics 2001

Acceding countries' merchandise trade: China, Chinese Taipei, Vanuatu

	Total merchandise trade 2000	Trade per capita 2000 \$	Average annual change %			
			Exports growth 1990–2000	Exports growth 2000	Imports growth 1990–2000	Imports growth 2000
China	\$ 474.4bn	370	14.9	27.7	15.5	35.8
Taipei, Chinese	\$ 288.3bn	12,930	8.2	22.1	9.8	26.2
Vanuatu	\$ 95m	470	2.8	-3.8	-3.1	-27.1

Source: WTO International Trade Statistics 2001

GATT/WTO: 50 years of tariff reductions

MFN tariff reduction of industrial countries for industrial products, excluding petroleum

Implementation period	Round covered	Weighted tariff reduction
1948–63	First five GATT rounds (1947–62) ^a	-36
1968–72	Kennedy Round (1964–67) ^b	-37
1980–87	Tokyo Round (1973–1979) ^c	-33
1995–99	Uruguay Round (1986–94) ^d	-38

Note: Tariff reductions for the first five trade rounds refer to US only

a Source: US Tariff Commission, Operations of the Trade Agreements Program, 1st to 13th report covering June 1934 to June 1960

b refers to four markets: US, Japan, EC(6), and UK.
Source: Ernest H Preeg, *Traders and Diplomats*, Tables 13-1 to 13-4 and WTO calculations based on 1964 import values

c refers to eight markets: US, EU(9), Japan, Austria, Finland, Norway, Sweden, Switzerland
Source: GATT, COM.TD/W/315, 4.7.1980, p.20–21 and WTO calculations

d refers to eight markets: US, EU(12), Japan, Austria, Finland, Norway, Sweden, Switzerland
Source: GATT, *The Results of the Uruguay Round of Multilateral Trade Negotiations*, November 1994, Appendix Table 5 and WTO calculations

52 years of GATT/WTO 1948-2000

- Merchandise trade in real terms grew by **6%** annually, or **22 fold**.
- Merchandise output grew by **4%** annually, or **7 fold**.
- The ratio of goods and services to GDP rose from **8%** in 1950 to **29.5%** in 2000 (measured in constant 1987 prices)
- Aggregate world trade in **2000** was **\$7.6 trillion**, of which **\$6.2 trillion** (81%) was merchandise and **\$1.4 trillion** (19%) was commercial services. (Merchandise trade in **1948** was **\$58 billion**.)
- GDP per capita grew by **2%** annually.
- On average, per capita income is nearly **3 times** higher in 2000 than in 1948.

FDI flows and global integration

- Global FDI flows grew **53 fold** (or **16%** annually) between 1973 and 2000.
- Global FDI flows reached **\$1271 billion** in 2000 (**\$24 billion** in 1973, **\$60 billion** in 1985).
- Global FDI inward stock rose **10 fold** since 1980 or **12%** annually.
- Global FDI inward stock stood at **\$6,310 billion** in 2000.
- Cross-border mergers & acquisitions topped **\$1,144 billion** in 2000, nearly 8 times the average of **\$145 billion** during 1990-94.
- The ratio of FDI inward stock to GDP nearly tripled between 1980 and 2000 globally, from **6.0%** to **17.3%**.
- For developing countries, the corresponding ratio almost tripled from **10.2%** to **28.0%**.
- For least-developed countries, the ratio rose five fold from **2.8%** in 1980 to **14.2%** in 2000.

(Source: UNCTAD, *World Investment Report 2001*.)

Duty-free treatment for imports from least-developed countries

- In 2000, US imports from the 48 least-developed countries (LDCs) amounted to **\$8.9 billion** or **0.7%** of total US merchandise imports.
- If US granted duty-free treatment to imports from LDCs, the US tariff revenue loss would be **\$673 million** out of a total US tariff revenue of **\$19,700 million**.

(Source: *US Department of Commerce*.)

Global benefits from 40% cuts in trade protection

(Figures from World Bank conference paper "Agriculture & Non-Agricultural Liberalization in the Millennium Round", October 1999)

Estimated global gains as a result of **40%** cuts in protection by 2005 in the following areas:

- | | |
|---|------------------------|
| • Agricultural subsidies & market price support | \$69.3 billion |
| • Tariffs on manufactures & mining products | \$69.6 billion |
| • Business, finance & construction services | \$21.6 billion |
| • Trade, transport & government services | \$332.6 billion |

ENDS

GLOSSARY OF TERMS

An informal press guide to 'WTO speak'

Contents

General	66
Tariffs	67
Non-tariff measures	67
Textiles and clothing	68
Agriculture/SPS	69
Intellectual property	70
Investment	72
Dispute settlement	72
Services	73
Regionalism/trade and development	73
Trade and environment	75

GENERAL

GATT General Agreement on Tariffs and Trade, which has been superseded as an international organization by the WTO. An updated General Agreement is now one of the WTO's agreements.

GATT 1947 The old (pre-1994) version of the GATT.

GATT 1994 The new version of the General Agreement, incorporated into the WTO, which governs trade in goods.

Members WTO governments (first letter capitalized, in WTO style).

MFN Most-favoured-nation treatment (GATT Article I, GATS Article II and TRIPS Article 4), the principle of not discriminating between one's trading partners.

national treatment The principle of giving others the same treatment as one's own nationals. GATT Article III requires that imports be treated no less favourably than the same or similar domestically-produced goods once they have passed customs. GATS Article XVII and TRIPS Article 3 also deal with national treatment for services and intellectual property protection.

TPRB, TPRM The **Trade Policy Review Body** is General Council operating under special procedures for meetings to review trade policies and practices of individual WTO members under the **Trade Policy Review Mechanism**.

transparency Degree to which trade policies and practices, and the process by which they are established, are open and predictable.

Uruguay Round Multilateral trade negotiations launched at Punta del Este, Uruguay in September 1986 and concluded in Geneva in December 1993. Signed by Ministers in Marrakesh, Morocco, in April 1994.

TARIFFS

binding, bound see “tariff binding”

electronic commerce The production, advertising, sale and distribution of products via telecommunications networks.

free-rider A casual term used to infer that a country which does not make any trade concessions, profits, nonetheless, from tariff cuts and concessions made by other countries in negotiations under the most-favoured-nation principle.

Harmonized System An international nomenclature developed by the World Customs Organization, which is arranged in six digit codes allowing all participating countries to classify traded goods on a common basis. Beyond the six digit level, countries are free to introduce national distinctions for tariffs and many other purposes.

ITA Information Technology Agreement, or formally the Ministerial-Declaration on Trade in Information Technology Products, under which participants will remove tariffs on IT products by the year 2000.

ITA II Negotiations aimed at expanding ITA’s product coverage.

nuisance tariff Tariff so low that it costs the government more to collect it than the revenue it generates.

schedule of concessions List of bound tariff rates.

tariff binding Commitment not to increase a rate of duty beyond an agreed level. Once a rate of duty is bound, it may not be raised without compensating the affected parties.

tariff escalation Higher import duties on semi-processed products than on raw materials, and higher still on finished products. This practice protects domestic processing industries and discourages the development of processing activity in the countries where raw materials originate.

tariff peaks Relatively high tariffs, usually on “sensitive” products, amidst generally low tariff levels. For industrialized countries, tariffs of 15% and above are generally recognized as “tariff peaks”.

tariffs Customs duties on merchandise imports. Levied either on an ad valorem basis (percentage of value) or on a specific basis (e.g. \$7 per 100 kgs.). Tariffs give price advantage to similar locally-produced goods and raise revenues for the government.

WCO World Customs Organization, a multilateral body located in Brussels through which participating countries seek to simplify and rationalize customs procedures.

NON-TARIFF MEASURES

anti-dumping duties Article VI of the GATT 1994 permits the imposition of anti-dumping duties against dumped goods, equal to the difference between their export price and their normal value, if dumping causes injury to producers of competing products in the importing country.

circumvention Measures taken by exporters to evade anti-dumping or countervailing duties.

countervailing measures Action taken by the importing country, usually in the form of increased duties to offset subsidies given to producers or exporters in the exporting country.

dumping Occurs when goods are exported at a price less than their normal value, generally meaning they are exported for less than they are sold in the domestic market or third-country markets, or at less than production cost.

NTMs Non-tariff measures such as quotas, import licensing systems, sanitary regulations, prohibitions, etc.

price undertaking Undertaking by an exporter to raise the export price of the product to avoid the possibility of an anti-dumping duty.

PSI Preshipment inspection — the practice of employing specialized private companies to check shipment details of goods ordered overseas — i.e. price, quantity, quality, etc.

QRs Quantitative restrictions — specific limits on the quantity or value of goods that can be imported (or exported) during a specific time period.

rules of origin Laws, regulations and administrative procedures which determine a product's country of origin. A decision by a customs authority on origin can determine whether a shipment falls within a quota limitation, qualifies for a tariff preference or is affected by an anti-dumping duty. These rules can vary from country to country.

safeguard measures Action taken to protect a specific industry from an unexpected build-up of imports — governed by Article XIX of the GATT 1994.

subsidy There are two general types of subsidies: export and domestic. An export subsidy is a benefit conferred on a firm by the government that is contingent on exports. A domestic subsidy is a benefit not directly linked to exports.

tariffication Procedures relating to the agricultural market-access provision in which all non-tariff measures are converted into tariffs.

trade facilitation Removing obstacles to the movement of goods across borders (e.g. simplification of customs procedures).

VRA, VER, OMA Voluntary restraint arrangement, voluntary export restraint, orderly marketing arrangement. Bilateral arrangements whereby an exporting country (government or industry) agrees to reduce or restrict exports without the importing country having to make use of quotas, tariffs or other import controls.

TEXTILES AND CLOTHING

ATC The WTO Agreement on Textiles and Clothing which integrates trade in this sector back to GATT rules within a ten-year period.

carry forward When an exporting country uses part of the following year's quota during the current year.

carry over When an exporting country utilizes the previous year's unutilized quota.

- circumvention** Avoiding quotas and other restrictions by altering the country of origin of a product.
- CTG** Council for Trade in Goods — oversees WTO agreements on goods, including the ATC.
- integration programme** The phasing out of MFA restrictions in four stages starting on 1 January 1995 and ending on 1 January 2005.
- ITCB** International Textiles and Clothing Bureau — Geneva-based group of some 20 developing country exporters of textiles and clothing.
- MFA** Multifibre Arrangement (1974-94) under which countries whose markets are disrupted by increased imports of textiles and clothing from another country were able to negotiate quota restrictions.
- swing** When an exporting country transfers part of a quota from one product to another restrained product.
- TMB** The Textiles Monitoring Body, consisting of a chairman plus ten members acting in a personal capacity, oversees the implementation of ATC commitments.
- transitional safeguard mechanism** Allows members to impose restrictions against individual exporting countries if the importing country can show that both overall imports of a product and imports from the individual countries are entering the country in such increased quantities as to cause — or threaten — serious damage to the relevant domestic industry.

AGRICULTURE/SPS

- Agenda 2000** EC's financial reform plans for 2000–06 aimed at strengthening the union with a view to receiving new members. Includes reform of the CAP (see below).
- border protection** Any measure which acts to restrain imports at point of entry.
- BSE** Bovine spongiform encephalopathy, or “mad cow disease”.
- box** Category of domestic support. **Green box:** supports considered not to distort trade and therefore permitted with no limits. **Blue box:** permitted supports linked to production, but subject to production limits and therefore minimally trade-distorting. **Amber box:** supports considered to distort trade and therefore subject to reduction commitments.
- Cairns Group** Group of agricultural exporting nations lobbying for agricultural trade liberalization. It was formed in 1986 in Cairns, Australia just before the beginning of the Uruguay Round. Current membership: Argentina, Australia, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Guatemala, Indonesia, Malaysia, New Zealand, Paraguay, Philippines, South Africa, Thailand and Uruguay.
- CAP** Common Agricultural Policy — The EU's comprehensive system of production targets and marketing mechanisms designed to manage agricultural trade within the EU and with the rest of the world.
- Codex Alimentarius** FAO/WHO commission that deals with international standards on food safety.

distortion When prices and production are higher or lower than levels that would usually exist in a competitive market.

deficiency payment Paid by governments to producers of certain commodities and based on the difference between a target price and the domestic market price or loan rate, whichever is the less.

EEP Export enhancement programme — programme of US export subsidies given generally to compete with subsidized agricultural exports from the EU on certain export markets.

food security Concept which discourages opening the domestic market to foreign agricultural products on the principle that a country must be as self-sufficient as possible for its basic dietary needs.

internal support Encompasses any measure which acts to maintain producer prices at levels above those prevailing in international trade; direct payments to producers, including deficiency payments, and input and marketing cost reduction measures available only for agricultural production.

International Office of Epizootics Deals with international standards concerning animal health.

multifunctionality Idea that agriculture has many functions in addition to producing food and fibre, e.g. environmental protection, landscape preservation, rural employment, etc. *See non-trade concerns.*

non-trade concerns Similar to multifunctionality. The preamble of the Agriculture Agreement specifies food security and environmental protection as examples. Also cited by members are rural development and employment, and poverty alleviation.

peace clause Provision in Article 13 of the Agriculture Agreement says agricultural subsidies committed under the agreement cannot be challenged under other WTO agreements, in particular the Subsidies Agreement and GATT. Expires at the end of 2003.

reform process/programme The Uruguay Round Agriculture Agreement starts a reform **process**. It sets out a first step, in the process, i.e. a **programme** for reducing subsidies and protection and other reforms. Current negotiations launched under Article 20 are for continuing the reform **process**.

SPS regulations Sanitary and Phytosanitary regulations — government standards to protect human, animal and plant life and health, to help ensure that food is safe for consumption.

variable levy Customs duty rate which varies in response to domestic price criterion.

INTELLECTUAL PROPERTY

Berne Convention Treaty, administered by WIPO, for the protection of the rights of authors in their literary and artistic works.

CBD Convention on Biological Diversity

compulsory licensing For patents: when the authorities license companies or individuals other than the patent owner to use the rights of the patent — to make, use, sell or import a product under patent (i.e. a patented product or a product made by a patented process) — without the permission

of the patent owner. Allowed under the TRIPS Agreement provided certain procedures and conditions are fulfilled. *See also government use.*

counterfeit Unauthorized representation of a registered trademark carried on goods identical or similar to goods for which the trademark is registered, with a view to deceiving the purchaser into believing that he/she is buying the original goods.

exhaustion The principle that once a product has been sold on a market, the intellectual property owner no longer has any rights over it. (A debate among WTO member governments is whether this applies to products put on the market under compulsory licences.) Countries' laws vary as to whether the right continues to be exhausted if the product is imported from one market into another, which affects the owner's rights over trade in the protected product. *See also parallel imports.*

geographical indications Place names (or words associated with a place) used to identify products (for example, "Champagne", "Tequila" or "Roquefort") which have a particular quality, reputation or other characteristic because they come from that place

government use For patents: when the government itself uses or authorizes other persons to use the rights over a patented product or process, for government purposes, without the permission of the patent owner. *See also compulsory licensing.*

intellectual property rights Ownership of ideas, including literary and artistic works (protected by copyright), inventions (protected by patents), signs for distinguishing goods of an enterprise (protected by trademarks) and other elements of industrial property.

IPRs Intellectual property rights.

Lisbon Agreement Treaty, administered by WIPO, for the protection of geographical indications and their international registration.

Madrid Agreement Treaty, administered by WIPO, for the repression of false or deceptive indications of source on goods.

mailbox Refers to the requirement of the TRIPS Agreement applying to WTO members which do not yet provide product patent protection for pharmaceuticals and for agricultural chemicals. Since 1 January 1995, when the WTO agreements entered into force, these countries have to establish a means by which applications of patents for these products can be filed. (An additional requirement says they must also put in place a system for granting "exclusive marketing rights" for the products whose patent applications have been filed.)

parallel imports When a product made legally (i.e. not pirated) abroad is imported without the permission of the intellectual property right-holder (e.g. the trademark or patent owner). Some countries allow this, others do not.

Paris Convention Treaty, administered by WIPO, for the protection of industrial intellectual property, i.e. patents, utility models, industrial designs, etc.

piracy Unauthorized copying of materials protected by intellectual property rights (such as copyright, trademarks, patents, geographical indications, etc) for commercial purposes and unauthorized commercial dealing in copied materials.

Rome Convention Treaty, administered by WIPO, UNESCO and ILO, for the protection of the works of performers, broadcasting organizations and producers of phonograms.

TRIPS Trade-Related Aspects of Intellectual Property Rights.

UPOV International Union for the Protection of New Varieties of Plants (Union internationale pour la protection des obtentions végétales)

Washington Treaty Treaty for the protection of intellectual property in respect of lay-out designs of integrated circuits.

WIPO World Intellectual Property Organization.

INVESTMENT

export-performance measure Requirement that a certain quantity of production must be exported.

FDI Foreign direct investment.

local-content measure Requirement that the investor purchase a certain amount of local materials for incorporation in the investor's product.

product-mandating Requirement that the investor export to certain countries or region.

trade-balancing measure Requirement that the investor use earnings from exports to pay for imports.

TRIMS Trade-related investment measures.

DISPUTE SETTLEMENT

Appellate Body An independent seven-person body that, upon request by one or more parties to the dispute, reviews findings in panel reports.

automaticity The "automatic" chronological progression for settling trade disputes in regard to panel establishment, terms of reference, composition and adoption procedures.

DSB Dispute Settlement Body — when the WTO General Council meets to settle trade disputes.

DSU The Uruguay Round Understanding on Rules and Procedures Governing the Settlement of Disputes.

nullification and impairment Damage to a country's benefits and expectations from its WTO membership through another country's change in its trade regime or failure to carry out its WTO obligations.

panel Consisting of three experts, this independent body is established by the DSB to examine and issue recommendations on a particular dispute in the light of WTO provisions.

SERVICES

accounting rate In telecoms, the charge made by one country's telephone network operator for calls originating in another country.

commercial presence Having an office, branch, or subsidiary in a foreign country.

GATS The WTO's General Agreement on Trade in Services.

general obligations Obligations which should be applied to all services sector at the entry into force of the agreement.

Initial commitments Trade liberalizing commitments in services which members are prepared to make early on.

modes of delivery How international trade in services is supplied and consumed. Mode 1: cross border supply; mode 2: consumption abroad; mode 3: foreign commercial presence; and mode 4: movement of natural persons.

multi-modal Transportation using more than one mode. In the GATS negotiations, essentially door-to-door services that include international shipping.

national schedules The equivalent of tariff schedules in GATT, laying down the commitments accepted — voluntarily or through negotiation — by WTO members.

natural persons People, as distinct from juridical persons such as companies and organizations.

offer A country's proposal for further liberalization.

protocols Additional agreements attached to the GATS. The Second Protocol deals with the 1995 commitments on financial services. The Third Protocol deals with movement of natural persons.

prudence, prudential In financial services, terms used to describe an objective of market regulation by authorities to protect investors and depositors, to avoid instability or crises.

schedule "Schedule of Specific Commitments" — A WTO member's list of commitments regarding market access and bindings regarding national treatment.

specific commitments See "schedule".

REGIONALISM/TRADE AND DEVELOPMENT

ACP African, Caribbean and Pacific countries. Group of 71 countries with preferential trading relation with the EU under the former Lomé Treaty now called the Cotonou Agreement.

Andean Community Bolivia, Colombia, Ecuador, Peru and Venezuela.

APEC Asia Pacific Economic Cooperation forum.

ASEAN Association of Southeast Asian Nations. The seven ASEAN members of the WTO — Brunei, Indonesia, Malaysia, Myanmar, the Philippines, Singapore and Thailand — often speak in the WTO as one group on general issues. The other ASEAN members are Laos and Vietnam.

- Caricom** The Caribbean Community and Common Market comprises 15 countries.
- CTD** The WTO Committee on Trade and Development
- Customs union** Members apply a common external tariff (e.g. the EC).
- EC** European Communities (official name of the European Union in the WTO).
- EFTA** European Free Trade Association.
- free trade area** Trade within the group is duty free but members set own tariffs on imports from non-members (e.g. NAFTA).
- G15** Group of 15 developing countries acting as the main political organ for the Non-Aligned Movement.
- G77** Group of developing countries set up in 1964 at the end of the first UNCTAD (originally 77, but now more than 130 countries).
- G7** Group of seven leading industrial countries: Canada, France, Germany, Italy, Japan, United Kingdom, United States.
- GRULAC** Informal group of Latin-American members of the WTO.
- GSP** Generalized System of Preferences — programmes by developed countries granting preferential tariffs to imports from developing countries.
- HLM** WTO High-Level Meeting for LDCs, held in October 1997 in Geneva.
- ITC** The International Trade Centre, originally established by the old GATT and is now operated jointly by the WTO and the UN, the latter acting through UNCTAD. Focal point for technical co-operation on trade promotion of developing countries.
- LDCs** Least-developed countries.
- MERCOSUR** Argentina, Brazil, Paraguay and Uruguay.
- NAFTA** North American Free Trade Agreement of Canada, Mexico and the US.
- Quad** Canada, EC, Japan and the United States.
- SACU** Southern African Customs Union comprising Botswana, Lesotho, Namibia, South Africa and Swaziland.
- S&D** “Special and differential treatment” provisions for developing countries. Contained in several WTO agreements.
- UNCITRAL** United Nations Centre for International Trade Law, drafts model laws such as the one on government procurement.
- UNCTAD** The UN Conference on Trade and Development.

TRADE AND ENVIRONMENT

Agenda 21 The Agenda for the 21st Century — a declaration from the 1992 Earth Summit (UN Conference on the Environment and Development) held in Rio de Janeiro.

Article XX GATT Article listing allowed “exceptions” to the trade rules.

Basel Convention An MEA dealing with hazardous waste.

BTA Border tax adjustment

CITES Convention on International Trade in Endangered Species. An MEA.

CTE The WTO Committee on Trade and Environment.

EST Environmentally-sound technology.

EST&P EST and products.

ex ante, ex post Before and after a measure is applied.

LCA Life cycle analysis — a method of assessing whether a good or service is environmentally friendly.

MEA Multilateral environmental agreement.

Montreal Protocol An MEA dealing with the depletion of the earth’s ozone layer.

PPM Process and production method.

TBT The WTO Agreement on Technical Barriers to Trade.

waiver Permission granted by WTO members allowing a WTO member not to comply with normal commitments. Waivers have time limits and extensions have to be justified.

ENDS