

Trade negotiations

Consistent high-level expressions of support for an early conclusion of the Doha Round failed to translate into the necessary breakthroughs in the detailed talks in Geneva. Nevertheless, useful technical work continued in the negotiating groups on agriculture and non-agricultural market access. Other negotiations also advanced.

Doha Development Agenda

16

Trade negotiations in 2009	16
Agriculture	17
Market access for non-agricultural goods	18
Services	19
Trade-related aspects of intellectual property rights (TRIPS)	21
Trade and development	23
Trade and environment	24
Trade facilitation	25
WTO rules	26
Dispute Settlement Understanding	27



Pascal Lamy at a meeting of the Trade Negotiations Committee in 2009.

Doha Development Agenda

At the Fourth Ministerial Conference in Doha, Qatar, in November 2001, WTO member governments agreed to launch new trade negotiations. They also agreed to work on other issues, in particular the implementation of the current WTO agreements. The entire package is called the Doha Development Agenda (DDA). The negotiations take place in the Trade Negotiations Committee (TNC) and its subsidiaries, which are usually regular councils and committees meeting in 'special session' or specially created negotiating groups. The Chairs of the nine negotiating bodies report to the TNC, chaired by the WTO Director-General, which coordinates their work.

Trade negotiations in 2009

Consistent high-level expressions of support for an early conclusion of the Doha Round failed to translate into the necessary breakthroughs in the detailed talks in Geneva. Nevertheless, useful technical work continued in the negotiating groups on agriculture and non-agricultural market access. Other negotiations also advanced. Against the backdrop of the global economic crisis, the WTO Director-General, who chairs the Trade Negotiations Committee, highlighted the significant contribution that a successful conclusion to the Round could make in combating recession and social instability.

The TNC held four informal meetings in 2009 to hear reports from the various negotiating groups. Some progress was made on the Doha Round 'modalities' for opening markets for agricultural and industrial goods, intended to set the broad outlines – such as formulas or approaches for tariff reductions – for final commitments when the Round is concluded. Other negotiating groups also advanced. But the pace of the negotiations remained frustratingly slow.

After a 'mini-ministerial' meeting in New Delhi urged an intensification of work in Geneva, the TNC in September decided to bring top officials from capitals for a week each month to give added impetus to the talks. This arrangement continued in 2010 in the run-up to a high-level 'stocktaking' meeting at the end of March.

Following the appointment in April 2009 of the new Chair, David Walker of New Zealand, the Agriculture Negotiating Group adopted a two-track work programme. The first track deals with highly technical issues concerning the base data needed to calculate tariff and subsidy reduction commitments and how to prepare and set out the schedules in which these commitments will be inscribed. The second track involves informal consultations on outstanding issues of substance in the draft modalities issued by the previous Chair of the agriculture negotiations in December 2008.

In the Negotiating Group on Non-Agricultural Market Access (NAMA), much of 2009 was devoted to discussion of non-tariff barriers to trade in industrial goods, such as incompatible technical standards that hinder imports. Negotiators also spent considerable time on the technical exercise of scheduling commitments. In addition, there were small group meetings to consider elimination of tariffs in a number of specific industrial sectors, led by the sponsors of these initiatives.

In other areas of the Doha Development Agenda, the Chairs continued their consultations with WTO members in various formats with a view to advancing the substantive work.



A series of international gatherings in 2009 provided strong political support for the negotiations. Meetings of the G-20 underscored the need to reject protectionism and isolationism in times of financial uncertainty, and committed its members to strive for agreement on agriculture and NAMA modalities so as to conclude the Doha Round in 2010. In September, the G-20 called for a WTO meeting to take stock of progress in the negotiations by the end of March 2010. However, these declarations of support for bringing the Doha Round to a speedy conclusion failed to translate into a breakthrough in the talks in Geneva.

In January 2009 the Director-General issued the first of a series of quarterly reports monitoring trade-related developments arising out of the global economic crisis, which saw the biggest drop in world trade in 60 years. WTO members broadly welcomed these reports as an opportunity for the organization to demonstrate its worth, not only as a negotiating forum, but as a bulwark against protectionism.

Seventh WTO Ministerial Conference

The Seventh Ministerial Conference in Geneva at the end of 2009 provided an opportunity for ministers to exchange views on the WTO agenda, including the Doha Round. There was strong convergence on the importance of trade and the Round in assisting economic recovery and the alleviation of poverty in developing countries.

Ministers stressed the centrality of the development dimension, including issues of specific concern to least-developed countries. They further reaffirmed the need to conclude the Doha Round in 2010 and for a stocktaking exercise in the first quarter. There was also broad support for building on progress made to date and not attempting to reopen issues that had been tentatively settled. Ministers pointed out that, while priority was being given to agriculture and NAMA, it remained important to advance in other areas on the agenda, including services, rules and trade facilitation (see page 12).

Agriculture

In 2009, agriculture negotiators made steady progress on technical tasks that would enable them to close gaps and put their Doha Round commitments into legally binding schedules. The work programme for the year followed two tracks. On one track, negotiators discussed the organization and presentation of data necessary to calculate commitments. On the other, the new Chair of the Negotiating Group, David Walker, held consultations with smaller groups of WTO members on issues that are bracketed (i.e. not yet agreed) or otherwise annotated in the agricultural draft modalities and associated documentation.

In the technical discussions, members focused on the development of electronic tables for data presentation that would make the future calculation of Doha Round commitments transparent and verifiable. Members also submitted national data essential for the calculation of base commitments, including data on the total value of agricultural production and domestic consumption. These submissions were then examined in data verification meetings.

The Chair's consultations covered the issues that remained unresolved in the December 2008 agriculture modalities texts, notably the so-called special safeguard mechanism (SSM), which has been one of the most contentious subjects in the agriculture negotiations. The SSM would allow developing countries to raise tariffs temporarily in order to deal with import surges and falling prices, and there were constructive discussions on how to frame this mechanism to address the concerns of both importing and exporting members. Negotiators also had a useful dialogue on the issue of tropical products (i.e. a proposal to accelerate tariff reductions by developed countries on tropical products) and preference erosion (i.e. erosion of the value of trade preferences, such as duty-free access to these products, enjoyed by some developing countries).

Trade negotiations



Background

At the end of 2008, the Chair of the Negotiating Group issued a further revision of the draft agriculture 'modalities' setting out the broad outlines for final commitments on cutting tariffs and subsidies for farm goods and indicating a number of flexibilities for developing countries and specific situations. The revision captured progress made during that year and highlighted the remaining gaps in positions of WTO members.



David Walker was elected Chair of the Negotiating Group on Agriculture on 22 April 2009. He is the third New Zealand ambassador to chair the agriculture negotiations.



Luzius Wasescha, Chair of the Negotiating Group on Non-Agricultural Market Access.

Market access for non-agricultural goods

The Negotiating Group on Non-Agricultural Market Access (NAMA) had a quieter year than usual in 2009 but some very useful work was undertaken in the area of non-tariff barriers (NTBs) to imports of industrial goods. Negotiators also discussed preparation and presentation of the schedules that will contain each WTO member's legally binding NAMA commitments. The groups considering elimination of tariffs in specific industrial sectors continued technical work but there was no advance on the revised draft 'modalities' presented by the Chair, Luzius Wasescha (Switzerland), in December 2008.

NTBs are any measures other than tariffs that protect domestic industry, and can range from stifling customs formalities to incompatible technical standards that keep imports out. As tariff protection has come down over the years, barriers to imports posed by non-tariff measures have become relatively more important. Initially, negotiators had expected to address NTBs in detail once the overall NAMA modalities were adopted. However, at the start of 2009, as the situation in relation to the modalities remained unclear, NTBs were identified as an area where useful work could be done in the interim.

Several dedicated sessions provided an opportunity for an exchange of questions and answers on various NTB proposals. Towards the end of the year, these question-and-answer sessions were replaced by negotiations in smaller groups that focused on five proposals identified in the 2008 draft modalities text as meriting particular attention. These relate to autos, electronics, remanufacturing, labelling of textiles, clothing, footwear and travel goods, and a mechanism for preventing and resolving NTB disputes. Two additional proposals submitted in 2009 were also included because they related to several of the earlier proposals. The Chair intends to hold consultations in 2010 on how to handle all other NTB proposals.

The negotiating group also considered the preparation and presentation of the schedules where NAMA commitments will be inscribed. A workshop on electronic negotiating files (electronic schedules) was organized in July. This workshop was useful not only because it familiarized WTO members with the content of schedules but also because it demonstrated the complexity of the scheduling exercise.

Discussions on eliminating tariffs in 12 specific industrial sectors, including autos, chemicals, pharmaceuticals and electronics, continued to be led by the sponsors of these sectoral initiatives. During the first half of 2009, the sponsors undertook detailed technical work that would enable talks to proceed on the basis of factual numbers, sector-by-sector simulations, and country-by-country analysis. The second half of the year was dedicated to outreach activities by them.

Other issues such as 'case-specific flexibilities' – requests by Argentina, the Bolivarian Republic of Venezuela and South Africa for additional flexibilities – remain pending. No substantive discussions were held on these requests during the year.



Negotiations on trade in services are overseen by the Council for Trade in Services, meeting in special session, and its subsidiary bodies. In 2009 the services negotiations were marked by the resumption of talks on market access, which had been dormant since the failure of the July 2008 meeting of ministers to agree 'modalities' for market access for agricultural and non-agricultural products. Progress was also made in negotiating an 'LDC waiver' that would provide legal cover for preferences given to services and service suppliers of least-developed countries (LDCs).

Market access

A long shadow was cast over the negotiations in services by the failure during the year to achieve real progress in other areas of the Doha Round. Nonetheless, four 'clusters' of negotiations were held in 2009, and some progress was reported on market access issues.

The clusters included numerous bilateral and plurilateral meetings on market access over a wide range of service sectors and modes of supply. Unlike market access for goods, where general formulas will be applied, market access for services is negotiated between trading partners mainly on a request-offer basis. WTO members reported that they had gained a better understanding of certain technical issues in requests and offers, and had received clarifications in some cases on signals made by ministers at the July 2008 'signalling conference', where they indicated possible future market openings in services.

In support of the market access talks, in April the WTO Secretariat organized a successful one-day workshop on technical and legal issues concerning the scheduling of specific commitments, and a half-day workshop on financial services.

Treatment of LDCs

Throughout the year, a small consultative group continued its discussions on the text of an 'LDC waiver'. The text would provide legal justification for preferences granted to LDC members, reflecting the 'special priority' to be accorded to them under Article IV:3 of the General Agreement on Trade in Services (GATS). In late November the Chair of the Special Session of the Council for Trade in Services held a consultation at which a draft text was circulated for discussion, for later distribution to the entire membership. Some issues remained unresolved in the draft, including the precise scope of the waiver and its duration.

Financial services

The Committee on Trade in Financial Services held four formal meetings in 2009. At these meetings, it continued to monitor progress on the acceptance of the Fifth Protocol to the GATS containing the results of the 1997 negotiations on financial services, which have yet to be accepted by Brazil, Jamaica and the Philippines. In addition, the committee carried out the eighth transitional review of China's implementation of its specific commitments in financial services, as mandated by its protocol of accession.

The committee continued to study trade-related aspects of Islamic finance, and held a dedicated discussion on the issue. It also considered proposals for work in three different areas. Pakistan has called for the organization of a dedicated exchange on e-finance, a background note by the Secretariat on recent e-finance developments, and a discussion on the adequacy of the current classification of financial services. The United States has proposed a workshop on trade in non-life insurance services. Meanwhile, Argentina, Ecuador, India and South Africa have put forward a broad work programme on the impact of the financial crisis. This proposal foresees two stages: first, a workshop with international organizations and outside experts, and a note by the Secretariat reviewing the analyses carried out elsewhere on the effects of financial bailouts; and, second, a study by the Secretariat on the impact of bailouts on trade in financial services.

In 2009 the services negotiations were marked by the resumption of talks on market access.

Trade negotiations



Argentina, Ecuador, India and South Africa have put forward a broad work programme on the impact of the financial crisis.

Domestic regulation

The Working Party on Domestic Regulation held four formal meetings and several informal meetings in 2009. Its mandate is to develop disciplines to ensure that licensing requirements and procedures, qualification requirements and procedures, and technical standards do not constitute unnecessary barriers to trade in services.

Work during the year continued to focus on the development of generally applicable disciplines. Discussions in this regard are based primarily on an informal note by the Chair, which contains draft provisions of possible disciplines.

At the meeting of the Special Session of the Council for Trade in Services in November 2009, the Chair reported that, while some progress had been made on technical questions, more focused work was needed. There was little convergence regarding the level of ambition associated with the disciplines, and more was required for the working party to move ahead.

Specific commitments

The Committee on Specific Commitments oversees the implementation of services commitments and the application of the procedures for modifying schedules of commitments. The underlying objective is to improve the technical accuracy and coherence of schedules and lists of most-favoured nation (MFN) exemptions.

These list services where WTO members have claimed exemption from the principle of non-discrimination between trading partners. All MFN exemptions are being reviewed in the Doha negotiations.

During 2009 the committee held four formal meetings. Discussions continued to focus on the relationship between existing schedules and the new schedules that would result from the current negotiations. The committee agreed to work on the assumption that, at the end of the Doha Round, each WTO member would have one single schedule containing all its commitments, which would replace its current schedules. The new schedules would be annexed to the final protocol. However, there were divergent views on whether particular language was needed in the protocol to ensure that the new commitments would accord no less favourable treatment than that provided under the existing schedules. The committee also discussed how to proceed with the verification of services schedules at the end of the negotiations.

GATS rules

The Working Party on GATS Rules held three formal meetings and several informal meetings in 2009, focused on three areas on which the GATS mandates further negotiations. These are emergency safeguard measures that would permit countries temporarily to suspend commitments in the event of a surge in services imports, government procurement of services and subsidies to services or their suppliers.

Throughout 2009 the Chair conducted consultations on the formulation of a work programme for an exchange of information on services subsidies. Informal technical discussions were also launched on the definition of 'domestic industry' in the context of emergency safeguard measures for services trade; the procedural and transparency rules in a proposal on government procurement; and the definition of subsidies in services trade.

To facilitate discussions, the Secretariat prepared background notes on each topic. A series of documents on safeguards-type rules for services in regional trade agreements was also updated. While there was general agreement with the work programme proposed by the Chair, little progress was made on other issues, and the level of ambition expressed by most members remained low.



Trade-related aspects of intellectual property rights (TRIPS)

The Council on Trade-Related Aspects of Intellectual Property Rights, meeting in special session, continued its negotiations on the establishment of a multilateral system ('register') for notifying and registering geographical indications (GIs) for wines and spirits. The TRIPS Council in regular session considered, among other things, the monitoring of members' obligations regarding their technology transfer incentives and the grounds for dispute settlement under the TRIPS Agreement. The Director-General continued his consultations on outstanding implementation issues concerning the scope of protection of GIs other than for wines and spirits, and the linkage between TRIPS and the Convention on Biological Diversity.

Negotiations on a GI register

The GI register for wines and spirits is intended to facilitate the protection of geographical indications. These are place names (or sometimes other terms or signs associated with a place) used to identify products as originating from a location which gives them particular qualities, reputation or other characteristics. Champagne and Tequila are well-known examples. The TRIPS Agreement mandates negotiations on establishing a register, and work has continued since 1996. In 2005 the Hong Kong Ministerial Declaration called for the talks to be 'intensified'.

There are currently three proposals under consideration by the TRIPS Special Session:

- a 2003 proposal by Hong Kong, China
- the so-called 'Joint Proposal' of 2005, revised in 2008, from a group of countries that want the register to be essentially a source of information about national protection of registered GIs
- the 'W/52' proposal put forward in 2008 by a group of over 100 countries as part of a package also covering other TRIPS issues; concerning the register, this proposal is considered to create a stronger expectation of protection of GIs once entered on the register.

During 2009, following a call by WTO members for intensification of technical work, the Chair of the Special Session issued a list of questions to focus discussion on practical examples and technical aspects of the different proposals on the table, and to try and identify common ground. Proponents of the W/52 proposal continued to respond to questions from other members, in particular regarding its legal implications. Proponents of the Joint Proposal explained the effect that implementation would have on their domestic systems of intellectual property protection. Hong Kong, China, introduced some hypothetical case studies.

While the technical discussions were detailed and useful, members remained divided on the two key issues: the legal consequences of registration; and whether or not a member could elect not to be bound by those consequences.

The TRIPS Special Session was chaired by Trevor Clarke (Barbados) until November 2009. Before stepping down as Chair, he circulated a report on his own responsibility which described the work done during his tenure as Chair, the status of the various issues and the way forward, including five suggested guiding principles for further work. Karen Tan (Singapore) then acted as Chair on an interim basis.

Trade negotiations

Trade negotiations



Incentives for technology transfer were discussed at a workshop organized by the WTO Secretariat in 2009. Experts from developed and developing countries discussed the operation of the system and how it could be improved.

Incentives for technology transfer

In October 2009 the TRIPS Council, in regular session, undertook its seventh annual review of the incentives given to companies by developed countries to transfer technology to least-developed countries (LDCs). For this review, developed countries provided detailed information on the incentives they make available.

The TRIPS Agreement requires incentives for technology transfer to LDCs, and ministers agreed at Doha in 2001 that the TRIPS Council would 'put in place a mechanism for ensuring the monitoring and full implementation of the obligations'. This mechanism was set up by a Council decision in 2003, detailing the information to be supplied by developed countries on how their domestic technology transfer incentives are functioning in practice.

At the request of the LDC Group, the WTO Secretariat organized a workshop in 2009 to discuss transfer of technology under the TRIPS Agreement. A number of developed countries explained their reports in more detail. Experts from developed countries and LDCs discussed the operation of the system and how it could be improved.

Disputes over intellectual property protection

In general, disputes can be brought under the WTO Dispute Settlement Mechanism not only if an agreement or commitment has been violated, but also if an expected benefit under an agreement has been nullified without violating the letter of the agreement. For disputes over intellectual property protection, the TRIPS Agreement prescribed a five-year moratorium on such 'non-violation and situation complaints' and this moratorium has been extended by a series of Ministerial Conferences.

In 2009 the Council continued to consider the scope and modalities for such complaints. Members disagree on whether these complaints should be allowed at all, or whether this could be the legitimate basis for a dispute. In the absence of consensus, the Seventh Ministerial Conference further extended the moratorium, in line with a recommendation of the TRIPS Council. Thus members agreed not to initiate such disputes for the time being. Ministers directed the Council to continue examining the scope and modalities for these disputes, and to make recommendations to the next Ministerial Conference to be held in 2011.

Consultations on outstanding implementation issues

The Director-General continued to consult on GI extension and the relationship between TRIPS and the Convention on Biological Diversity (CBD), as called for by the 2005 Hong Kong Ministerial Declaration, which deals with these questions as 'outstanding implementation issues'.

The first issue concerns the possible extension to other products of the 'higher' or 'enhanced' level of protection that is currently only required for geographical indications for wines and spirits. Members differ on whether such an extension would help their trade in such products, or whether increasing the level of protection would create an unnecessary legal and commercial burden.

The other issue concerns the relationship between the TRIPS Agreement and the CBD: whether – and, if so, how – TRIPS should do more to promote the CBD objective of equitably sharing the benefits that arise when genetic resources are used in research and industry. The main focus has been on proposals to amend the TRIPS Agreement to require patent applicants to disclose the source or the country providing genetic resources and associated traditional knowledge. A range of alternative proposals has also been submitted.

From March 2009, the Director-General undertook these consultations personally with interested delegations, and through open-ended information sessions. The consultations concentrated on technical questions, with a view to assisting members to understand more fully each other's interests and concerns and shedding light on the technical aspects of the two issues. The consultations did not address the question of whether, and if so how, these matters should be linked to the broader negotiating agenda. The 'W/52' proposal referred to above advocates formally including them in the Doha Round negotiations but other WTO members are strongly opposed.



In 2009, work in the Special Session of the Committee on Trade and Development focused on refining a mechanism for monitoring the implementation and effectiveness of 'special and differential treatment' provisions for developing countries. In the absence of new ideas and given the persistent divergence of views, the various proposals relating to specific WTO agreements were not addressed in any substantial manner.

Work of the Special Session

During 2009 the Special Session held four formal meetings and a large number of informal consultations.

Agreement-specific proposals

Until the end of 2008, the Special Session had concentrated its efforts on reviewing six of the remaining 16 Agreement-specific proposals, three relating to the Agreement on Sanitary and Phytosanitary Measures, and three relating to the Agreement on Import Licensing. While WTO members were able to clarify certain elements in some of the proposals, no textual amendments were made.

The Chair had initially intended to continue work on the Agreement-specific proposals in 2009. However, he decided that, in the absence of any new ideas or language, members would merely reiterate well-known positions which would risk unravelling the progress already made. As a result, the Agreement-specific proposals were not addressed in any substantial manner during the year.

On 'Category II' Agreement-specific proposals – those referred to other relevant WTO bodies for consideration – limited progress was made. This was largely because issues raised in some of these proposals form an integral part of the Doha Round talks and progress is thus tied to the conclusion of the negotiations. The WTO Secretariat catalogued proposals being addressed in the Doha Round so as to enable the Chair, in collaboration with the other Chairs, to assess how best to expedite progress on the remaining Category II proposals.

Monitoring mechanism

In 2009 the work in the Special Session focused on further refining the elements of a monitoring mechanism on the implementation and effectiveness of provisions on special and differential treatment. Discussions were initially based on a 'non-paper' (an unofficial document) put forward by the previous Chair as well as submissions tabled by developed and developing countries. The present Chair subsequently revised the non-paper, distinguishing between the elements where there was a greater degree of convergence and those where further work was required. In November, the Chair prepared a second revision of his non-paper which will form the basis of further work.



Background

Development issues and the interests of developing countries lie at the heart of the WTO's work. Many WTO agreements contain provisions which give developing countries special rights and allow developed countries to treat them more favourably than other WTO members. Examples of these 'special and differential treatment' provisions include longer time periods for implementing agreements or measures to increase trading opportunities. Making the provisions more precise, effective and operational is the task of the Special Session of the Committee on Trade and Development.

Trade negotiations



Background

The Working Group on Trade and Transfer of Technology was set up to examine the relationship between trade and transfer of technology and to make recommendations on steps that might be taken, within the WTO's mandate, to increase the flow of technology to developing countries.

Trade and transfer of technology

In 2009 the Working Group on Trade and Transfer of Technology held four formal sessions, during which WTO members continued to examine the relationship between trade and transfer of technology, and considered possible recommendations on steps to increase the flow of technology to developing countries.

Relationship between trade and transfer of technology

Work on the relationship between trade and transfer of technology in 2009 was based largely on a World Bank study and a presentation by the Food and Agriculture Organization of the United Nations (FAO).

The World Bank study, entitled *Global Economic Prospects: Technology Diffusion in the Developing World*, underscores the crucial roles in development played by trade, foreign direct investment, technology innovation and access to technology. The presentation by the FAO highlighted the link between technology transfer and productivity gains in agriculture.

Both organizations stressed the lessons to be learned from the experience of countries that had undergone rapid technological development in the last few decades. Technology was a catalyst for development in a number of Asian countries that had climbed a steep industrialization curve in a very short time.

Increasing the flow of technology to developing countries

WTO members focused their discussion on a document submitted by India, Pakistan and the Philippines entitled *Facilitating Access to Information on Appropriate Technology Sourcing – A Step to Increase Flows of Technology to Developing Countries*. Members noted that provisions on technology transfer were incorporated in several international agreements, including the Montreal Protocol which has a financing mechanism for technology transfer in relation to eliminating chemicals that deplete the earth's ozone layer. This was seen as a possible model for the work on technology transfer in the Working Group.

Trade and environment

Negotiations on trade and environment are conducted in the Committee on Trade and Environment meeting in special session. In 2009 the committee agreed a work programme covering the two main components of the negotiations – the relationship between the WTO and multilateral environmental agreements (MEAs), and the elimination of barriers to trade in environmental goods and services.

Multilateral environmental agreements

The committee continued to discuss proposals on the relationship between the WTO and MEAs, with a view to clarifying the ideas put forward by WTO members and identifying some areas of common ground. The proposals cover both the relationship between specific trade obligations set out in MEA and WTO rules, and cooperation between WTO and MEA secretariats, including procedures for regular information exchange and criteria for granting observer status to MEAs. In the next phase, members will consider the proposals with the objective of developing a draft text.



Environmental goods and services

The committee undertook further technical work in connection with negotiations to reduce or eliminate tariff and non-tariff barriers (NTBs) to environmental goods and services, including climate-friendly goods and technologies. As part of this technical work, the WTO Secretariat organized a workshop on environmental goods and services with experts from governments, the private sector and international organizations. This event allowed participants to gain a better understanding of the different areas or categories of environmental goods and services, such as renewable energy, air pollution control, and water and waste water treatment. The workshop also addressed some development-related issues, including technology transfer.

A number of members have submitted lists of environmental goods and services of interest to them, which will provide a basis for further consideration of the coverage of the negotiations. There is as yet no agreement on which goods and services should be included, or on how to tackle the tariffs and NTBs involved. The needs of developing countries will also have to be addressed, with a view to achieving a result that is beneficial from a trade, environment and development perspective.

Trade facilitation

Negotiations on trade facilitation continued to move forward in 2009, culminating in December in a draft negotiating text that will form the basis of work in 2010. The negotiations aim to facilitate cross-border trade, partly by improving WTO rules relating to transit of goods, customs formalities and transparency of trade regulations, and partly by enhancing technical assistance and capacity building and promoting cooperation between customs authorities. The main intended beneficiaries are developing and least-developed countries (LDCs).

In 2009 the Negotiating Group on Trade Facilitation, chaired by Eduardo Sperisen-Yurt (Guatemala), reviewed the various proposals from WTO members with a view to refining the language and identifying additional areas of common ground. This exercise, and focused technical discussions, led to the tabling of a first draft consolidated negotiating text in December 2009. Although it requires additional work, the text will allow members to base their further negotiations on a single document.

In the margins of the week-long meetings of the negotiating group, members also held a number of workshops and briefing sessions on selected topics.

To allow all countries to fully engage in and benefit from the negotiations, several donor governments provided funding for the participation of officials based in country capitals. A total of 129 officials from African and LDCs participated in three meetings of the negotiating group in 2009, and donor governments have indicated their willingness to continue this programme in 2010.

In its second year of operation, the WTO's technical assistance programme to assess trade facilitation needs conducted 34 national needs assessments. These were undertaken by the WTO Secretariat with the cooperation of experts from donors and other regional and international organizations, including the Organisation for Economic Co-operation and Development, the United Nations Conference on Trade and Development, the World Customs Organization and the World Bank.

Trade negotiations



The elimination of barriers to trade in environmental services and goods, such as climate-friendly goods, was discussed by the Committee on Trade and Environment.

Trade negotiations



Background

The Food and Agriculture Organization (FAO) of the United Nations reports that 80 per cent of world fish stocks are either fully exploited or overexploited. Meanwhile, governments around the world continue to provide billions, and by some accounts, tens of billions, of dollars in subsidies to the fisheries sector. The Doha Ministerial Conference launched negotiations to clarify and improve WTO disciplines on fisheries subsidies, and at the Hong Kong Ministerial Conference in 2005 there was broad agreement on strengthening those disciplines, including through a prohibition of certain forms of fisheries subsidy that contribute to overcapacity and overfishing. The challenge now facing the negotiating group is to develop stronger rules while respecting the important policy concerns of WTO members, particularly developing and least-developed countries.



The Negotiating Group on Rules began considering specific proposals for stronger disciplines on subsidies that encourage overcapacity and overfishing.

WTO rules

In 2009 the Negotiating Group on Rules focused on an intensive line-by-line review of draft texts of the Agreement on Anti-Dumping and the Agreement on Subsidies and Countervailing Measures that were issued by the Chair in December 2008.

The negotiating group also reviewed the issues raised by the Chair, Guillermo Valles Galmés (Uruguay), in an accompanying 'roadmap' on fisheries subsidies and began considering specific proposals for stronger disciplines on subsidies that encourage overcapacity and overfishing.

During 2009, negotiators worked intensively on the basis of new draft texts of the Agreement on Anti-Dumping (see page 42) and the Agreement on Subsidies and Countervailing Measures (see page 41) issued by the Chair in December 2008. The new texts reflected a 'bottom-up' approach, providing draft legal language only in areas where some degree of convergence appeared to exist. In other areas, the texts contained brackets, indicating issues where no convergence of views was emerging and summarizing in general terms the range of views regarding those issues.

The negotiating group pursued a 'three pillar' approach, discussing draft legal language where provided and bracketed items where no text was provided, as well as reverting to issues and proposals that had not been reflected in the Chair's text but were still of interest to WTO members. By the end of 2009, the negotiating group had virtually completed the review of the Chair's texts, and planned to finish that process by spring 2010.

The December 2008 draft texts were accompanied by a 'roadmap' for further discussion of fisheries subsidies. The negotiating group systematically reviewed all the major issues involved by addressing specific questions posed by the Chair in the roadmap. By the end of the year, it had completed this review and had begun to consider substantive proposals from members. These reflect alternative approaches to strengthening disciplines on subsidies that promote overcapacity and overfishing.

On regional trade agreements (RTAs), the negotiations have so far resulted in a General Council Decision on a Transparency Mechanism for RTAs, which has been applied provisionally since 2007. In order for the mechanism to be adopted on a permanent basis, WTO members need to review, and if necessary modify, it as part of the overall results of the current round of trade negotiations. Members will also review the legal relationship between the mechanism and relevant WTO provisions on RTAs.



Negotiations towards improvement and clarification of the WTO's Dispute Settlement Understanding (DSU) – the rules and procedures governing the settlement of disputes – continued in 2009.

The Chair of the Dispute Settlement Body (DSB) Special Session conducted a series of consultations on the various issues contained in the draft text issued by him in July 2008, which WTO members had endorsed as a basis for further work in November 2008. Each week of consultations ended with a brief informal meeting of the DSB Special Session, where the Chair reported on progress and discussed future steps with the membership.

The discussions in 2009 were useful in consolidating the basis of the work and in clarifying the issues under discussion. However, much work remains to be done to achieve convergence on improvements and clarifications to the DSU. In early 2010 the Chair will consult with members on how best to carry forward the negotiating process towards a rapid conclusion of the negotiations. These negotiations are part of the Doha Development Agenda but they are not part of the 'Single Undertaking' (a single package of about 20 subjects, to be signed eventually by each country with a single signature).