

PRESS PACK
BRIEFING NOTES

World Trade Organization
5th Ministerial Conference
Cancún, Mexico

10–14 September 2003

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NOTE

These briefing notes describe the situation as it exists at the time of going to press (mid-August 2003)

They are designed to help journalists and the public understand the key issues of the Cancún 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 the negotiations.

In addition, some simplifications are used in order to keep the text simple and clear.

In particular, the words "country" and "nation" are frequently used to describe WTO members, whereas a few members are officially "customs territories", and not necessarily countries in the usual sense of the word (see list of members). The same applies when participants in trade negotiations are called "countries" or "nations".

Where there is little risk of misunderstanding, the word "member" is dropped from "member countries (nations, governments)", for example in the descriptions of the WTO agreements. Naturally, the agreements and commitments do not apply to non-members.

And, for easier reading, article numbers in GATT and GATS have been translated from Roman numbers into European digits.

MORE INFORMATION

These briefing notes focus on issues in the Doha Agenda and Cancún Ministerial Conference. More background information can be found on the WTO website and in various WTO publications, including:

10 Benefits of the WTO

10 Common Misunderstandings about the WTO

The WTO in brief

GATS, Fact and Fiction

Understanding the WTO. In booklet and interactive electronic versions. You can obtain this from WTO publications, or browse or download electronic versions 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

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

ON THE WEBSITE

www.wto.org

You can find more information on WTO activities and issues on **the WTO website**. The site is created around “**gateways**” leading to various subjects — for example, the “trade topics” gateway or the “Doha Development Agenda” gateway. Each gateway provides links to all material on its subject.

References in this text show you where to find the material. This is in the form of a path through gateways, starting with one of the navigation links in the top right of the homepage or any other page on the site. For example, to find material on the agriculture negotiations, you go through this series of gateways and links:

www.wto.org > trade topics > goods > agriculture > agriculture negotiations

You can follow this path, either by clicking directly on the links, or via drop-down menus that will appear in most browsers when you place your cursor over the “trade topics” link at the top of any web page on the site.

The path for basic information about the WTO is: **www.wto.org > the WTO**



For information on the Doha Development Agenda, the path is:

www.wto.org > trade topics > the Doha agenda

or click on the “d” icon wherever you see it on the website

THE WTO MINISTERIAL CONFERENCE WEBSITE

Temporarily: see link on homepage www.wto.org

Permanently: **www.wto.org > the WTO > decision making > Ministerial Conferences**

DIRECTOR-GENERAL'S LETTER TO JOURNALISTS

Cancún should pave the way for timely DDA conclusion

Dear Friends,

Welcome to Cancún. This Ministerial Conference marks an important stop on the road to completing the Doha Development Agenda (DDA) round of trade negotiations. A productive and successful outcome at this Fifth Ministerial Conference will go a very long way towards ensuring that we deliver an ambitious result in these negotiations by the 1 January 2005 deadline that was mandated by ministers at our 2001 conference in the Qatar capital.

An ambitious outcome for these negotiations would represent an important component in resolving the problems that face us today. The global economy has entered a worrisome slowdown, the challenges of sustainable development are ever more pressing and an uncertain geopolitical situation reinforces the need to enhance global cooperation across the board. While the trading system does not offer a complete solution to these problems, it certainly offers an important contribution.

The question many of you have asked me is: What will constitute a successful outcome in Cancún? The first point I would make is that this meeting, however it concludes, will be different from the meetings in Seattle or Doha in one very important respect – the result will not be a binary outcome. In Seattle and Doha, WTO member governments had to decide whether to launch a round or not. In Cancún, the objective is a bit more subtle and diverse.

In the Doha Ministerial Declaration, ministers set for themselves, three tasks for the Fifth Ministerial Conference "to take stock of progress in the negotiations, to provide any necessary political guidance, and take decisions as necessary."

All of these elements will be of great importance to our work between now and the end of next year.

My own stocktaking of our progress to date would be somewhat mixed. While we have made good progress in some areas, and overall made much greater progress than we saw over the same period of time in the Uruguay Round, we have had our share of disappointments as well. The good work that has been done in pushing forward the negotiations on modalities in agriculture and non-agricultural market access, cannot disguise the fact that we did not agree on those modalities by the prescribed target dates. We have made good progress in the areas of rules and services, but missed deadlines for resolving the important issues of implementation, special and differential treatment for developing countries, reforming the Dispute Settlement Understanding and of course agreeing on the modalities for agriculture.

(We have missed as well the deadline for resolving the vitally important question of enhancing access to medicines for the poorest countries, which lack the capacity to manufacture generic drugs under license. This issue is of major importance to the WTO, not only because of its humanitarian nature, but because resolution of this will underscore for developing countries the fact that this organization is capable of addressing their most pressing concerns.)

Despite these setbacks, however, negotiators from all 146 of our member governments have continued to work hard to find solutions.

It is difficult to predict ahead of time the exact nature of the political guidance our ministers will give us in Cancún. Such predictions are always tricky when trying to assess the needs and wants of 146 different players. But I'm certain all ministers will prod their negotiators to bring about an ambitious end to these negotiations, on time. This guidance, of course, will have to be translated into action at the negotiating table.

I have been impressed with the involvement of all of the ministers in this round. What is perhaps, even more impressive is the involvement I have seen at the head of state and government level. I have met with more than 60 heads of state and government during my year in office and I would suggest that the commitment of these leaders to the global trading system is unprecedented. At each of these meetings, I have urged the leaders to push their ministers and their negotiators to carry out the commitments taken at the highest level. I can assure all of you that I will continue to press governments on this point for the remainder of this year and throughout 2004.

The decisions that will be taken here cover a wide range of issues. Ministers must decide whether or not to agree on the modalities, or framework, for negotiations in the so-called Singapore issues of investment, competition, transparency in government procurement and trade facilitation. Ministers are mandated to agree as well on a system for notification and registration of the geographical indications for wines and spirits.

Ministers are also to consider the recommendations that will be put forward by WTO bodies including General Council recommendations for action on issues involving small economies and from the Committee on Trade and Environment on future action on several issues, which could include the desirability of future negotiations in some areas.

Of course, the fact that we have missed some important deadlines means that the decision-making aspect of our work in Cancún will be more burdensome than was envisaged in Doha. Decisions will no doubt be required in the areas of agriculture, non-agricultural market access, implementation and special and differential treatment.

For me, the key issue will be agriculture because it is so important for so many of our members, developed and developing. Although governments have shown great leadership in setting aside their disappointment on the failure to agree modalities in agriculture and have continued to work hard in all aspects of our work, the linkage between agriculture and the other areas of our negotiations is clear to everyone. There can be no doubt that an ambitious result on agriculture modalities would set in train a powerful momentum across the board and significantly improve the chances of our finishing a successful round on schedule.

Given the wide variety of opinion on all issues before the WTO, the term "successful" is a subjective one. But I think we could all agree that any successful result must incorporate two elements. The first element concerns development. The Doha round is the first global negotiation to place the issues of developing countries at its very core.

The second element concerns the level of ambition. Governments set a high level of ambition for themselves in Doha and they did so because of their

concerns about the economy and the problems facing developing countries in their efforts to alleviate poverty.

Today, these problems are not only still with us and action by governments is essential. This is why we need to give more opportunities for economic growth and development. One way to address all of these concerns, is through the successful conclusion of the Doha negotiations. A good outcome here in Cancún will make that important objective more attainable.

Supachai Panitchpakdi
WTO Director-General

THE DOHA DEVELOPMENT AGENDA

Doha launches negotiations, TNC oversees them

ON THE WEBSITE:

www.wto.org > [trade topics](#) > [Doha agenda](#)

www.wto.org > [the WTO](#) > [decision-making](#) > [ministerial conferences](#)

When Ministers assembled in November 2001 at the Fourth World Trade Organization Ministerial Conference in Doha, Qatar, the international trading system and the WTO itself were at a crossroads.

The 1999 Seattle Ministerial Conference had failed to launch a round of global negotiations for setting new trade rules. This had raised questions as to the viability of an organization charged with overseeing a global system involving so many players and so many issues. The fact that all decisions in the organization are taken on the basis of consensus led to doubts about the WTO's efficiency.

But the breakthrough conference in Doha eased a great many of those fears. The launch of the Doha Development Agenda (DDA) negotiations at that conference, bolstered confidence around the world in the WTO and its trading system. This was particularly felt in the developing countries, which see greater market access for their products as one of the key tools for achieving development objectives. Moreover, at a time of economic and political uncertainty, ministers from what was then a membership of 142 governments, underscored that global problems can be addressed through a multilateral framework.

WTO ministerial conferences

Officially, this meeting is the Fifth WTO Ministerial Conference. The ministerial conference is the organization's highest-level decision-making body. It meets "at least once every two years", as required by the Marrakesh Agreement Establishing the World Trade Organization — the WTO's founding charter.

The Cancún ministerial will be the fifth since the WTO was created on 1 January 1995.

Singapore:

9–13 December 1996

Geneva:

18 and 20 May 1998

Seattle:

30 November–3 December 1999

Doha:

9–13 November 2001

Cancún:

10–14 September 2001

The Doha mandate

In agreeing to launch a "broad and balanced" work programme with development at its core, ministers in Doha directed their officials in Geneva to undertake a series of negotiations and to address a variety of other concerns through work in various WTO councils and committees.

This programme of work was spelt out in two declarations — a **main declaration** and one on **intellectual property (TRIPS) and public health** — and one **decision on implementation**. Implementation matters refer to the difficulties faced in many developing countries in putting current WTO agreements into place.

The main declaration spelled out a series of negotiating objectives and intermediate deadlines and mandated 1 January 2005 as the date for completing the Doha Development Agenda. Among the issues included for negotiations (details can be found in the other briefing notes in this pack) are agriculture, services, industrial tariffs, implementation, environment and some areas of intellectual property. Ministers agreed as well, that further negotiations would be possible in other areas including trade and investment, some other aspects of implementation and environment, competition policy, trade facilitation and transparency in government procurement.

Although not part of the "single undertaking" or interconnected negotiations, a reform of the Dispute Settlement Understanding (the WTO agreement covering dispute settlement) was also agreed by ministers. Ministers set a target date of 31 May 2003 for completing this reform. Work in this area was not completed and ministers in Cancún are expected to provide guidance on how these reform efforts should be pursued.

Ministers committed themselves to addressing "the particular vulnerability of least-developed countries and the special structural difficulties they face in the global economy" and agreed to a series of items in the declaration which dealt specifically with these concerns.

As part of this effort, ministers urged development partners to “significantly” increase their contributions to WTO technical assistance and capacity programmes for least-developed countries, and threw their support behind the Integrated Framework for Trade-Related Technical Assistance to Least-Developed Countries (IF). (The partner organizations in the Integrated Framework are the WTO, the World Bank, the International Monetary Fund, the UN Conference on Trade and Development, the UN Development Programme and the International Trade Centre.)

Ministers further instructed the WTO Director-General to co-ordinate Integrated Framework activities with the five other partner international organizations and to report to the Fifth Ministerial Conference in Cancún on technical assistance efforts and all other issues affecting least-developed countries.

Ministers agreed that this Fifth Ministerial Conference would “take stock of progress in the negotiations, provide any necessary political guidance and take decisions as necessary.” To oversee the conduct of the negotiations themselves, the Doha Declaration established the Trade Negotiations Committee, under the authority of the General Council, which was charged with monitoring the negotiations and devising the procedures and guidelines for these talks.

Since then ...

In January 2002, WTO member governments assembled for the first meeting of the Trade Negotiations Committee (TNC) and agreed on the structure of the negotiations launched at Doha. They elected the WTO Director-General *ex officio* to chair the committee.

The Trade Negotiations Committee established seven negotiating bodies, on agriculture, services, non-agricultural market access, rules, trade and environment, a multilateral register for geographical indications for wines and spirits, and reform of the Dispute Settlement Understanding.

Since the Trade Negotiations Committee’s first meeting, negotiations on agriculture, services, environment, intellectual property, and the Dispute Settlement Understanding have been conducted in “Special Sessions” of the regular committees and councils where these issues are discussed. New negotiating groups were created for non-agricultural market access and rules. The Trade Negotiations Committee and all other negotiating bodies and groups operate under the authority of the General Council, as mandated by ministers in Doha. Chairpersons for the other negotiating bodies and groups were selected from WTO delegations based in Geneva.

A sixth Special Session, this one of the Trade and Development Committee, was also established to examine questions related to special and differential treatment of developing countries. The precise status of this group as a negotiating body was not formally agreed by member governments. Nonetheless, the Special Session of the Trade and Development Committee conducted detailed on-going work on the question of special and differential treatment, and the Chairman of this Special Session reported often to the Trade Negotiations Committee, along with the other seven chairs, although the chairman said these reports were “without prejudice to the position of any member on the nature of the Special Session of the Committee on Trade and Development.”

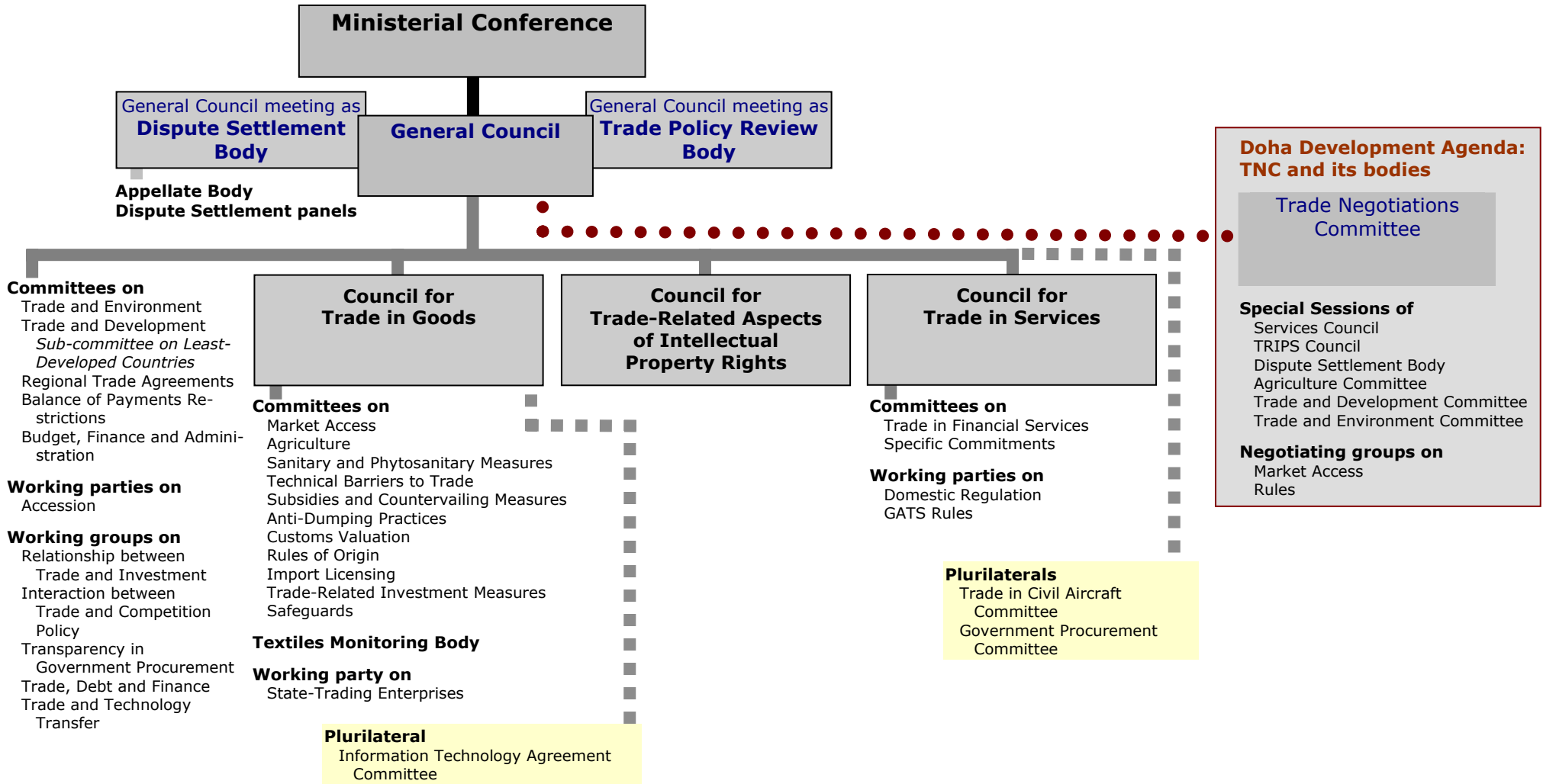
Work on special and differential treatment was taken up directly by the General Council in February 2003.

Procedures established by member governments in 2002 mandated that negotiations conducted in the Trade Negotiations Committee and the other negotiating bodies be carried out in a transparent manner in line with the best practices established in the General Council and other bodies. The Chairman of the Trade Negotiations Committee and the chairs of the other negotiating bodies were instructed to report to the General Council on their work. The Trade Negotiations Committee was also given the responsibility of monitoring the calendar of meetings to ensure that, as far as possible, only one negotiating body meets at a time. The General Council also mandated that minutes of meetings be circulated as quickly as possible, in all three official WTO languages, to ensure delegations and capitals are fully informed of all developments related to the negotiations.

ENDS

WTO structure

All WTO members may participate in all councils, committees, etc, except Appellate Body, Dispute Settlement panels, Textiles Monitoring Body, and plurilateral committees.



Key

- Reporting to General Council (or a subsidiary)
- - - Reporting to Dispute Settlement Body
- ■ ■ ■ ■ Plurilateral committees inform the General Council or Goods Council of their activities, although these agreements are not signed by all WTO members
- ● ● ● ● Trade Negotiations Committee reports to General Council

The General Council also meets as the Trade Policy Review Body and Dispute Settlement Body

AGRICULTURE

Where there's a will, there **MUST** be a way

ON THE WEBSITE:

www.wto.org > [trade topics](#) > [goods](#) > [agriculture](#)

www.wto.org > [trade topics](#) > [goods](#) > [agriculture](#) > [agriculture negotiations](#)

www.wto.org > [trade topics](#) > [goods](#) > [agriculture](#) > [agriculture negotiations](#) > [negotiations backgrounder](#)

DOHA DECLARATION: Paragraphs 13–14

After three and a half years, the agriculture negotiations have reached a critical stage: members have missed the 31 March 2003 deadline for agreeing on “modalities” but are committed to intensify work so as to establish the modalities as soon as possible.

Since the missed 31 March deadline, negotiators have been busy sorting out a number of important and complex technical issues that are a necessary part of the package.

The modalities would describe how the final agreement — due by 1 January 2005 — would be shaped. They are targets (including numerical targets), and issues related to rules, that members will use to achieve the objectives set out in the Doha Ministerial Declaration: “substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support”. A draft has been on the table since February, with a minor revision in March.

Members will follow the final version of the modalities to produce their offers or “comprehensive draft commitments”. The Doha Ministerial Declaration’s original target for achieving this was the Fifth Ministerial Conference (the Cancún meeting). Clearly this target will also be missed.

The negotiators’ failure to produce the modalities is not for lack of trying. In the three years before the end of March, the commitment to negotiate was unprecedented, not least judging by the number and range of countries involved. But the negotiators lacked their governments’ decisions at a political level, which would start the much-needed move towards a consensus on the main questions.

The negotiations are difficult because of the wide range of views and interests among member governments, and the complexity of many issues. They aim to contribute to further liberalization of agricultural trade. This will benefit those countries which can compete on quality and price rather than on the size of their subsidies. That is particularly the case for many developing countries whose economies depend on an increasingly diverse range of primary and processed agricultural products, exported to an increasing variety of markets, including to other developing countries.

Origins

Up to 1995, international trade rules under the former General Agreement on Tariffs and Trade (GATT) 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 WTO 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. The reform also set maximum limits on subsidies, representing reductions from past levels.

The negotiations: before Doha — 2000–2001

The Uruguay Round agreement was only the first phase of the reform. Article 20 of the Agriculture Agreement committed members to start negotiations on continuing the reform at the beginning of 2000. The article clearly sets out the direction of the reform — “substantial progressive reductions in support and protection resulting in fundamental reform”.

The negotiations began in early 2000 under Article 20. (They take place in “Special Sessions” of the Agriculture Committee.) Their **first phase** ended with a stock-taking meeting on 26–27 March 2001. Altogether, 126 member governments (89% of the then 142 members) submitted 45 proposals and three technical documents. This phase consisted of countries submitting proposals containing their starting positions for the negotiations, on all major areas of the agriculture negotiations and a few new ones. Because the proposals were starting positions, and because so many countries were involved, the positions were diverse and the differences considerable.

In the **second phase**, the meetings were 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”). In this phase, the discussions included more technical details, and were necessary 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. Despite the greater depth, the positions remained unchanged.

The second phase ended in March 2002. By then the talks were already under the modified mandate of the Doha Development Agenda.

The Doha mandate — from 2002

The 14 November 2001 Doha Ministerial Declaration set a new mandate by making the objectives more precise, building on the work carried out so far, confirming and elaborating the objectives, and setting a timetable with deadlines. Agriculture is now part of the single undertaking in which all the negotiations are to end by 1 January 2005.

The declaration reconfirmed the long-term objective already agreed in Article 20: to establish a fair and market-oriented trading system through a programme of fundamental reform. The programme encompasses strengthened rules, and specific commitments on government support and protection for agriculture. The purpose is to correct and prevent restrictions and distortions in world agricultural markets.

Without prejudging the outcome, member governments committed themselves to comprehensive negotiations aimed at:

- market access: substantial improvements
- exports subsidies: reductions of, with a view to phasing out, all forms of these
- domestic support: substantial reductions for supports that distort trade

The declaration made special and differential treatment for developing countries integral throughout the negotiations, both in countries’ new commitments and in any relevant new or revised rules and disciplines. It said the outcome should be effective in practice and should enable developing countries to meet their needs, in particular in food security and rural development. The ministers also took note of the non-trade concerns (such as environmental protection, food security, rural development, etc.) reflected in the negotiating proposals already submitted, and they confirmed that the negotiations would take non-trade concerns into account, as provided for in the Agriculture Agreement.

Since then ...

From March 2002 to March 2003 the negotiations went through a “**modalities phase**”. Member governments focused their discussions more on technical work — on detailed possibilities for each of the three main areas of the Agriculture Agreement (the “three pillars”): export subsidies/competition; market access; and domestic support. Special treatment for developing countries was an integral part of all

of these, and non-trade concerns were taken into account. In December 2002, chairperson Stuart Harbinson circulated an overview paper bringing together all these ideas.

In February, he circulated a first draft of the "modalities", followed by a revision in March based on negotiators' comments (official WTO document TN/AG/W/1/Rev.1). The draft focuses on bridging differences — the search for the compromises that are necessary for a final agreement.

MODALITIES PAPER ON THE WEBSITE:

www.wto.org > [trade topics](#) > [goods](#) > [agriculture](#) > [agriculture negotiations](#) > "Revised 'modalities' draft circulated" (under "news of the negotiations")

In the 31 March negotiations meeting, the day the "modalities" deadline was missed, chairperson Harbinson told delegations that the failure to meet the deadline was "certainly a setback. We must all be disappointed that all our efforts have not come to fruition."

He added: "I get a strong sense from all sides of a continuing commitment to the Doha mandate. I have also been told by many delegates that they are committed to continue working on the issues before us. We should not gloss over the difficulties, but we must also look to the future."

He concluded: "The task ahead and our common responsibility is simple and clear — we must continue working together towards completing the job given to us by ministers in Doha as soon as possible."

Since then, negotiators have worked hard to sort out technical issues such as the domestic support categories (various "boxes"), tariffs, tariff quotas (including their administration), export credits, food aid, various provisions for developing countries, provisions for countries that recently joined the WTO, trade preferences, how to measure domestic consumption (a proposed reference for several provisions), and so on.

EXPLANATIONS OF THESE ISSUES ON THE WEBSITE:

www.wto.org > [trade topics](#) > [goods](#) > [agriculture](#) > [agriculture negotiations](#) > [negotiations backgrounder](#)

For the Cancún Ministerial Conference, members hope that ministers will be able to resolve outstanding key issues at a political level so that modalities can be produced.

ENDS

SERVICES

Negotiations and other work

ON THE WEBSITE:

www.wto.org > [trade topics](#) > [services](#)

www.wto.org > [trade topics](#) > [services](#) > [services negotiations](#)

DOHA DECLARATION: [Paragraph 15](#)

The Doha mandate

“The negotiations on trade in services shall be conducted with a view to promoting the economic growth of all trading partners and the development of developing and least-developed countries. We recognize the work already undertaken in the negotiations, initiated in January 2000 under Article XIX of the General Agreement on Trade in Services, and the large number of proposals submitted by Members on a wide range of sectors and several horizontal issues, as well as on movement of natural persons. We reaffirm the Guidelines and Procedures for the Negotiations adopted by the Council for Trade in Services on 28 March 2001 as the basis for continuing the negotiations, with a view to achieving the objectives of the General Agreement on Trade in Services, as stipulated in the Preamble, Article IV and Article XIX of that Agreement. Participants shall submit initial requests for specific commitments by 30 June 2002 and initial offers by 31 March 2003.”

— Para 15 of Doha Ministerial Declaration, 14 November 2001

What is expected at Cancún?

“The Fifth Session of the Ministerial Conference will take stock of progress in the negotiations, provide any necessary political guidance, and take decisions as necessary.”

— Para 45 of Doha Ministerial Declaration, 14 November 2001

Background

The WTO’s **General Agreement on Trade in Services (GATS)** commits member governments to undertake a wide-ranging work programme, some of which had to start immediately after the GATS came into effect in January 1995. As part of this work programme, negotiations on specific market access commitments to further liberalize trade in services were mandated to start five years later. Accordingly, in early 2000, member governments started these negotiations. From the beginning of 2001, the main focus of the discussions was the members’ proposals which helped explain each other’s interests and priorities in the negotiations.

In March 2001, negotiators fulfilled a key element in their mandate by establishing the negotiating guidelines and procedures. By agreeing these guidelines, members set the objectives, scope and method for the negotiations in a clear and balanced manner. The guidelines unequivocally endorsed some of GATS’ fundamental principles — 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 are therefore sensitive to public policy concerns in important sectors such as health-care, public education and cultural industries, while stressing the importance of liberalization in general, and ensuring foreign service providers have effective access to domestic markets.

The Doha Ministerial Declaration of 14 November 2001 reaffirmed the negotiating guidelines and established some key elements of the timetable including the deadline of **1 January 2005** for concluding the negotiations as part of a single undertaking.

Developments since Doha

Negotiations to improve market access commitments

Following the Doha Ministerial Conference in November 2001, negotiators continued discussing members' proposals to liberalize a wide range of sectors as well as the movement of natural persons (i.e. the entry and temporary stay of people supplying a service, either self-employed or employees of a services company). The proposals raised issues for multilateral discussions such as services classification issues, market access barriers, regulatory and other policy issues. The discussion helped negotiators to exchange views and to inform each other of their respective interests in the negotiations.

More than 150 proposals have been submitted covering sectors such as professional services, telecommunications, tourism, financial services, distribution services, construction services, energy services, maritime transport, postal/courier services and environmental services. There were also several proposals dealing with the movement of natural persons. There were no proposals on health services. On education services, there were four proposals, all of which dealt with private education services, in particular non-academic education such as language training, vocational courses, corporate training and educational testing services.

These discussions helped negotiators to become better prepared for the more focused bilateral market access negotiations (known as the "request/offer" stage), which were due to start in the second half of 2002 as indicated in the Doha Declaration.

Requests Member governments started exchanging initial requests for specific market access commitments from July 2002. (Since the requests are exchanged bilaterally, the Secretariat has no accurate means of verifying the numbers. However, based on informal indications, approximately 30 members have sent off requests to almost all participants.)

Offers In response to these initial requests, the following 27 members (counting the EU as one member) have submitted initial offers so far (by 20 June 2003): Argentina, Australia, Bahrain, Canada, Czech Republic, EU, Fiji, Hong Kong China, Iceland, Israel, Japan, Korea, Liechtenstein, Macao China, Mexico, New Zealand, Norway, Panama, Paraguay, Poland, St Kitts and Nevis, Senegal, Slovenia, Switzerland, Chinese Taipei, US, and Uruguay. Several other members are preparing their initial offers and are expected to submit them in the near future.

The initial offers so far represent improvements relating to 642 specific commitments, 363 of which are improvements to existing commitments and the remaining 279 are new sector-specific commitments.

The bilateral bargaining will continue as members negotiate to get the best possible market access commitments from each other until the deadline of 1 January 2005.

Other elements of the GATS work programme

GATS rules Negotiations started in 1995 and are continuing on the development of possible disciplines that are not yet included in GATS: rules on emergency safeguard measures, government procurement, and subsidies. Work so far has concentrated on safeguards. These are temporary limitations on market access to deal with market disruption, and the negotiations aim to set up procedures and disciplines for governments using these. The negotiations — which have been difficult — are due to end in March 2004, but the results will come into effect at the same time as those of the current services negotiations.

Domestic regulations 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 disciplines for specific sectors. All the agreed disciplines will be integrated into GATS and become legally binding by the end of the current services negotiations.

MFN exemptions 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 most-favoured-nation (MFN) principle of non-discrimination between a member's trading partners. The services trade 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 10 years. As mandated by 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. In any case, they are part of the current services negotiations.

Autonomous liberalization Countries that have liberalized on their own initiative since the last multilateral negotiations want that to be taken into account when they negotiate market access in services. The negotiating guidelines and procedures that members agreed in March 2001 for the GATS negotiations also call for criteria for taking this "autonomous" or unilateral liberalization into account. These were agreed on 6 March 2003.

Special treatment for least-developed countries GATS mandates members to establish how to give special treatment to least-developed countries during the negotiations. (These "modalities" cover both the scope of the special treatment, and the methods to be used.) The least-developed countries began the discussions in March 2002 when they submitted an informal paper outlining some of the key elements which they proposed should be included in the modalities. As a result of subsequent discussions, the least-developed countries submitted a formal draft text in early May 2003. Members are continuing to discuss this draft.

Assessment of trade in services Preparatory work on this subject started in early 1999. GATS mandates that members assess trade in services, including the GATS objective of increasing the developing countries' participation in services trade. The negotiating guidelines reiterate this, requiring the negotiations to be adjusted in response to the assessment. Members generally acknowledge that the shortage of statistical information and other methodological problems make it impossible to conduct an assessment based on full data. However, they are continuing their discussions with the assistance of several papers produced by the Secretariat.

Air transport services At present, most of the air transport sector — traffic rights and services directly related to traffic rights — is excluded from GATS' coverage. However, 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 GATS. The review could develop into a negotiation in its own right, resulting in an amendment of GATS itself by adding new services to its coverage and by adding specific commitments on these new services to national schedules.

ENDS

MARKET ACCESS, NON-AGRICULTURAL PRODUCTS Still sorting out 'modalities'

ON THE WEBSITE:

www.wto.org > [trade topics](#) > [goods](#) > [market access](#)

www.wto.org > [trade topics](#) > [goods](#) > [market access](#) > [market access negotiations](#)

DOHA DECLARATION: Paragraph 16

Negotiators have missed the 31 May 2003 deadline for "modalities" setting out how tariffs should be reduced and how other market access issues should be handled. But a lot of ground has been covered and the Cancún Ministerial Conference will assess progress in the negotiations.

The Doha mandate

At the Doha Ministerial Conference in November 2001, ministers agreed to start negotiations to further liberalize trade in non-agricultural goods. To this end, the Negotiating Group on Market Access was created at the first meeting of the Trade Negotiations Committee, in early 2002.

The ministers agreed to launch tariff-cutting negotiations on all non-agricultural products. The aim is "to reduce, or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs, and tariff escalation, as well as non-tariff barriers, in particular on products of export interest to developing countries". The product coverage shall be comprehensive and without a priori exclusions.

These negotiations shall take fully into account the special needs and interests of developing and least-developed countries, and recognize that these countries do not need to match or reciprocate in full tariff-reduction commitments by other participants.

At the start, participants had to reach agreement on how ("**modalities**") to conduct the tariff-cutting exercise. (In the Tokyo Round, the participants used an agreed mathematical formula to cut tariffs across the board; in the Uruguay Round, participants negotiated tariff cuts using a variety of methods). The agreed procedures would include studies and capacity-building measures that would help least-developed countries participate effectively in the negotiations.

While average customs duties are now at their lowest levels after eight GATT Rounds, certain tariffs continue to restrict trade, especially on exports of developing countries — for instance "tariff peaks", which are relatively high tariffs, usually on "sensitive" products, amidst generally low tariff levels.

Another example is "tariff escalation", in which higher import duties are applied 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. The negotiations are to end by 1 January 2005 and the Fifth Ministerial Conference in Cancún, September 2003, will take stock of progress.

Since then ...

By June 2003, the negotiating group had met 17 times, 10 of those formally. Members have submitted more than 40 papers as a contribution to the debate. These proposals deal with the "modalities" for the negotiations, covering tariff reductions, how to deal with non-tariff barriers, how to give developing countries special and differential treatment, and the possible effects of the reduction in tariffs on the development policies of some countries and on their fiscal revenues, etc. The "modalities" include the criteria to be used to define environmental goods, since the Doha Declaration includes a mandate to negotiate the reduction of tariffs in this particular sector of goods, a subject transferred from the Trade and Environment Committee to this negotiating group.

At a three-day meeting in late May, the negotiating group's chairperson introduced an initial "Draft Elements of Modalities" (official WTO document TN/MA/W/35).

MODALITIES PAPER ON THE WEBSITE:

www.wto.org > [trade topics](#) > [market access](#) > [negotiations](#) > [draft modalities](#)

The chairperson stressed that the draft was a set of basic elements that would need to be adjusted, completed, refined, or further expanded. There was a detailed discussion on the main elements — the formula for tariff reductions, approach for specific sectors, and special and differential treatment.

The formula On the formula, there was consensus on the need for one formula applicable to all, but delegations debated whether the formula proposed in the paper would be able to meet all of their needs.

Sectors The draft contained a proposal for completely eliminating tariffs in the following seven sectors: electronics and electrical goods; fish and fish products; footwear; leather goods; motor vehicle parts and components; stones, gems and precious metals; and textiles and clothing. These sectors are considered important for the exports of developing and least-developed countries.

In the discussion of the sectoral proposals, some members said they should be able to choose whether to eliminate the tariffs — this should not be compulsory. Some questioned why the seven sectors were chosen, and some wanted some of the sectors deleted or other sectors added.

Special and differential treatment for developing countries There was a lot of discussion on these provisions and their relationship with the formula. Most of the points raised were about flexibility for developing countries — allowing them longer implementation periods for tariff reductions; and allowing them to keep 5% of tariff lines "unbound" (i.e. not legally committed in the WTO), provided that these do not exceed 5% of imports. Least-developed country participants would not be required to undertake reduction commitments. But as part of their contribution to this round of negotiations, they are expected to substantially increase the number of products whose maximum tariff rates are legally bound in the WTO.

New members The negotiating group noted that countries that have recently joined the WTO should be given special treatment because, as part of their membership agreement, they made extensive commitments to open their markets, with tariff reductions still gradually taking place.

Non-tariff barriers Members have concentrated their work so far on notifying the measures their exporters face. Once the negotiating group has finished the notification and clarification, it will discuss "modalities" to deal with these non-tariff barriers.

At Cancún

Ministers are expected to assess progress in the negotiations, which are scheduled to be completed by 1 January 2005.

ENDS

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

ON THE WEBSITE:

www.wto.org > [trade topics](#) > [intellectual property](#)

DOHA DECLARATION: Paragraphs 17–19

The WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) has a wide ranging work programme covered by three mandates that ministers set at the Doha Ministerial Conference:

- The Doha Ministerial Declaration (Paragraphs 17–19)
- The separate Declaration on the TRIPS Agreement and Public Health
- The Decision on Implementation-Related Issues and Concerns

This briefing note contains an explanation of the following subjects in the TRIPS work programme:

- TRIPS and public health (see page 16)
- Geographical indications in general (see page 18)
- Geographical indications: the multilateral register for wines and spirits (see page 19)
- Geographical indications: extending the "higher level of protection" beyond wines and spirits (see page 21)
- Reviews of TRIPS provisions: particularly Art.27.3(b), biodiversity and traditional knowledge (see page 22)
- Non-violation complaints (Art.64.2) (see page 24)
- Technology transfer (see page 25)

Key dates

- Report to the General Council — solution on compulsory licensing and lack of pharmaceutical production capacity: by end of 2002
- Report to TNC — action on outstanding implementation issues under Paragraph 12: by end of 2002
- Deadline — negotiations on geographical indications registration system (wines and spirits): by 5th Ministerial Conference, 2003 (in Cancún, Mexico)
- Deadline — negotiations specifically mandated in Doha Declaration: by 1 January 2005
- Least-developed countries to apply pharmaceutical patent provisions: 2016

TRIPS and public health

An issue that has arisen recently is how to ensure patent protection for pharmaceutical products does not prevent people in poor countries from having access to medicines — while at the same time maintaining the patent system's role in providing incentives for research and development into new medicines.

Flexibilities such as "**compulsory licensing**" are written into the TRIPS Agreement — governments can issue compulsory licenses to allow a competitor to produce the product or use the process under licence, but only under certain conditions aimed at safeguarding the legitimate interests of the patent holder.

Parallel importing is also possible. This is where a product sold by the patent owner 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.

(These flexibilities do not have to be put into practice. They are sometimes used as a means of bargaining. For example the threat of a compulsory licence can encourage a patent holder to reduce the price.)

But some governments were unsure of how these flexibilities would be interpreted, and how far their right to use them would be respected. The African Group (all the African members of the WTO) were among the members pushing for clarification.

The Doha mandate

A large part of this was settled when WTO ministers issued a special **Declaration on TRIPS and Public Health** at the Doha Ministerial Conference in November 2001.

In the main declaration, they stressed that it is important to implement and interpret the TRIPS Agreement in a way that supports public health — by promoting both access to existing medicines and the creation of new medicines.

In the separate declaration, they agreed that the TRIPS Agreement does not and should not prevent members from taking measures to protect public health.

They underscored countries' ability to use the flexibilities that are built into the TRIPS Agreement, in particular compulsory licensing and parallel importing.

And they agreed to extend exemptions on pharmaceutical patent protection for least-developed countries until 2016. (The TRIPS Council completed the legal drafting task on this in mid-2002.)

On one remaining question, they assigned further work to the TRIPS Council — to sort out how to provide extra flexibility, so that countries unable to produce pharmaceuticals domestically can import patented drugs made under compulsory licensing. (This is sometimes called the "Paragraph 6" issue, because it comes under that paragraph in the separate Doha declaration on TRIPS and health.)

The issue arises because Article 31(f) of the TRIPS Agreement says products made under compulsory licensing must be "predominantly for the supply of the domestic market". This applies directly to countries that **can** manufacture drugs — it limits the amount they can export when the drug is made under compulsory licence. And it has an indirect impact on countries **unable** to make medicines and therefore wanting to import generics. They would find it difficult to find countries that can supply them with drugs made under compulsory licensing.

The TRIPS Council had to find a solution and report to the General Council on this by the end of 2002.

Since then ...

After almost a year of discussion and negotiation, the TRIPS Council considered a draft decision at the end of December 2002. The draft received very wide support. But there was no consensus and at the time of writing the issue remains unresolved.

The 16 December 2002 draft takes the form of a waiver. It would allow countries that can make drugs to export drugs made under compulsory licence to countries that cannot manufacture them.

The waiver would last until the TRIPS Agreement is amended. It would include provisions on transparency (which would give a patent-owner some opportunity to react by offering a lower price), and special packaging and other methods to avoid the medicines being diverted to rich-country markets. An annex would describe what a country needs to do in order to declare itself unable to make the pharmaceuticals domestically. And over 20 developed countries would announce that they would not import under this decision.

Almost all members said that in the spirit of compromise they could join a consensus supporting the 16 December 2002 draft, even though most of them felt the text was far from ideal.

Developing countries had various concerns, mainly about what they considered to be burdensome conditions, such as on transparency and preventing the medicines being diverted to the wrong markets. Developed countries were concerned that the decision did not go far enough in preventing the medicines being diverted to the wrong markets. Some said they would have preferred a different legal route.

At least one country, the United States, said the draft was too open-ended on the range of diseases the decision would cover.

The draft decision refers to drugs needed to address the public health problems recognized in Paragraph 1 of the original declaration that ministers issued in Doha. This says: "We recognize the gravity of the public health problems afflicting many developing and least-developed countries, especially those resulting from HIV/AIDS, tuberculosis, malaria and other epidemics."

Further attempts to break the deadlock took place in January and February 2003, but they failed. Since then, discussions have taken place outside the WTO.

The issue remained on the TRIPS Council's agenda, and at the 4–5 June 2003 meeting, the chairperson concluded that he intended to remain in close contact with delegations, with a view to resuming consultations as soon as developments show that this would be useful. He urged delegations to continue to dialogue with each other, and to look for ways of resolving the final problems in the text of 16 December 2002. He stressed the desirability of finding a multilateral solution before the Cancún Ministerial Conference, preferably in time for the 24 July General Council meeting, when the TRIPS Council, like other subsidiary bodies, was expected to report, before the Ministerial Conference.

Geographical indications in general

Geographical indications are place names (in some countries also words 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**, which defines a **standard level of protection**. 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. Among the exceptions that the agreement allows are: when a name has become a common (or "generic") term (for example, "cheddar" now refers to a particular type of cheese not necessarily made in Cheddar, in the UK), and when a term has already been registered as a trademark (for example, in Italy "Parma" is a type of ham from the region of the city of Parma, but in Canada it is a registered trademark for ham made by a Canadian company).

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.

Two issues are debated under the Doha mandate: creating a **multilateral register for wines and spirits**; and **extending the higher (Article 23) level of protection** beyond wines and spirits. Both are as contentious as any other subject on the Doha agenda.

Geographical indications 1: the multilateral register for wines and spirits

This negotiation, which takes place in dedicated "special sessions" of the TRIPS Council, deals with wines and spirits, which are given a higher level of protection for geographical indications (TRIPS Article 23) than other products (which are protected under Article 22). This means the wines' and spirits' names should, in principle, be protected even if there is no risk of misleading consumers or of unfair competition.

The negotiations for creating a multilateral register for geographical indications for wines and spirits are required under Article 23.4 of the TRIPS Agreement. Work began in July 1997, but the negotiations are now under the Doha Agenda (the Doha Declaration's paragraph 18). They are separate from the question of whether the higher level of protection given to wines and spirits should be extended to other products, although some countries have said they want the higher level of protection to be extended to other products and the register to cover those other products.

The Doha mandate

The WTO TRIPS Council had already started work on a multilateral registration system for geographical indications for wines and spirits over four years before the Doha meeting. The Doha Declaration sets a deadline for completing the negotiations: the Fifth Ministerial Conference in 2003.

Since then ...

Two sets of proposals have been submitted over the years, representing the two main lines of argument in the negotiations. The latest are (documents downloadable from Documents Online <http://docsonline.wto.org> on the WTO website):

- The "**joint paper**", documents: **TN/IP/W/5** from Argentina, Australia, Canada, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Japan, Namibia, New Zealand, the Philippines, Chinese Taipei and the US; and **TN/IP/W/6**, a communication from Argentina, Australia, Canada, Chile, New Zealand and the US.

This group proposes a voluntary system where notified geographical indications would be registered in a database. Those governments choosing to participate would have to consult the database when taking decisions on protection in their countries. Non-participating members would be "encouraged" but "not obliged" to consult the database.

- The "**EU proposal**" (document **IP/C/W/107/Rev.1**) whose objectives have been supported in document **TN/IP/W/3** signed by Bulgaria, Cyprus, the Czech Republic, the EU, Georgia, Hungary, Iceland, Malta, Mauritius, Moldova, Nigeria, Romania, the Slovak Republic, Slovenia, Sri Lanka, Switzerland and Turkey.

This proposes that the registration would establish a "presumption" that the geographical indication is to be protected in all other countries — a presumption that can be challenged on certain grounds. The TRIPS Agreement allows some exceptions to the obligation to protect geographical indications, for example if a term has become generic or if it does not fit the definition of a geographical indication. Under the EU proposal, once a term has been registered, no country could refuse protection on these grounds, unless it had challenged the term within 18 months.

Hungary has a slightly modified proposal with an arbitration system to settle differences (document **IP/C/W/255**)

Hong Kong, China has recently proposed a compromise in which registering a term would enjoy a less limited "presumption" in participating countries than under the EU proposal (document **TN/IP/W/8**).

The Secretariat has produced a document compiling the various positions so far: **TN/IP/W/7/Rev.1**, dated 23 May 2003 (with a correction, **TN/IP/W/7/Rev.1/Corr.1** dated 20 June), also available on Documents Online (<http://docsonline.wto.org>).

At the heart of the debate are a number of key questions. What legal effect, if any, would a registration system need to have within member countries, if the register is to serve the purpose of "facilitating protection" (the phrase used in Article 23.4)? And to what extent, if at all, should the effect apply to countries not participating in the system. There is also the question of the administrative and financial costs for individual governments and whether they would outweigh the possible benefits.

Opinions are strongly held on both sides of the debate, with some highly detailed arguments presented by both sides.

The draft text

The chairperson circulated a "draft text" on 16 April 2003. This was discussed for the first time at the 29–30 April meeting and continued in June and July. Where members differ strongly, the text includes options, A, B, and B1 and B2.

"A" represents the "joint paper" (TN/IP/W/5) by the US, Canada, Australia, Chile, Argentina, Japan and others (full list above).

"B" represents the Europeans. This is further split into two variants:

"B1": the EU version, where a challenge is handled by bilateral consultations. If the question remains unresolved, the challenging country does not have to protect the geographical indication.

"B2": the Hungarian proposal (supported by Switzerland), which proposes settling unresolved challenges by arbitration.

As an idea of what the paper contains, its headings are:

- Preamble
- Participation
- Notification (substantive conditions, contents, language, form, circulation and publication)
- Registration (with options A, B, B1 and B2 on challenge, etc)
- Legal effects in participating members (with options A, B, B1 and B2)
- Legal effects in non-participating members (with options A, B, B1 and B2)
- Legal effects in least-developed country members
- Modifications of notifications and registrations
- Withdrawals
- Fees and costs
- Contact point

Headings not yet containing draft text deal with: the committee or other body responsible for the system, the administering body (e.g. the WTO or WIPO Secretariat), how to withdraw from the system, reviews, and when the system would start to operate.

Since the June meeting, the chairperson has continued consultations. The deadline for agreement is the Cancún Ministerial Conference.

Geographical indications 2: extending the "higher level of protection" beyond wines and spirits

A number of countries want to negotiate extending to other products the higher level of protection (Article 23) currently given to wines and spirits. Others oppose the move, and the debate in the TRIPS Council has included the question of whether the Doha Declaration provides a mandate for negotiations.

The issue is linked to the agriculture negotiations. Some countries have said that progress in this aspect of geographical indications would make it easier for them to agree to a significant deal in agriculture. Others reject the view that the Doha Declaration makes this part of the balance of the negotiations. At the same time, the European Union has also proposed negotiating the protection of specific names of specific agricultural products as part of the agriculture negotiations.

The Doha mandate

The Doha Declaration notes that the TRIPS Council will handle this under the declaration's paragraph 12 (which deals with implementation issues). Paragraph 12 says "negotiations on outstanding implementation issues shall be an integral part" of the Doha work programme. Where there is not a specific negotiating mandate in the Doha Declaration, implementation issues "shall be addressed as a matter of priority by the relevant WTO bodies, which shall report to the Trade Negotiations Committee [TNC], established under paragraph 46 below, by the end of 2002 for appropriate action."

Delegations interpret Paragraph 12 differently. Many developing and European countries argue that the so-called outstanding implementation issues are already part of the negotiation and its package of results (the "single undertaking"). Others argue that these issues can only become negotiating subjects if the Trade Negotiations Committee decides to include them in the talks — and so far it has not done so.

Since then ...

This difference of opinion over the mandates means that the discussions have had to be organized carefully. At first they continued in the TRIPS Council. More recently (in 2003), they have been the subject of informal consultations chaired by Director-General Supachai Panitchpakdi.

Members remain deeply divided, with no conclusion in sight, although they are ready to continue discussing the issue.

Those advocating the extension (including Bulgaria, China, the Czech Republic, the EU, Hungary, Liechtenstein, Kenya, Mauritius, Nigeria, Pakistan, the Slovak Republic, Slovenia, Sri Lanka, Switzerland, Thailand and Turkey) see the higher level of protection as a means of marketing their products, and they object to other countries "usurping" their terms.

Those opposing extension argue that the existing (Article 22) level of protection is adequate, and that providing enhanced protection would be expensive. They also reject the "usurping" accusation particularly when migrants have taken the methods of making the products and the names with them to their new homes. For this reason, the debate has been described as one between "old world" and "new world" countries. But the description is not entirely accurate since the countries opposing extension include Japan, Chinese Taipei, and some Southeast Asian countries as well as the US, Canada, Australia, New Zealand, Argentina and a number of other Latin American countries.

Reviews of TRIPS provisions: particularly Art.27.3(b), biodiversity and traditional knowledge

Two reviews have been taking place in the TRIPS Council, as required by the TRIPS Agreement: a review of Article 27.3(b) which deals with patentability or non-patentability of plant and animal inventions, and the protection of plant varieties, and a review of the entire TRIPS Agreement (required by Article 71.1).

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 generally 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. The Doha Declaration has linked these issues.

'Patentable inventions'

In general, inventions eligible for patenting must be **new**, involve an **inventive step** (or be **non-obvious**) and be **capable of industrial application** (or be **useful**). Article 27 also lists inventions which governments do not have to make eligible for patent protection.

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, many countries have enacted a plant varieties protection law based on a model of the International Union for the Protection of New Varieties of Plants (UPOV).

Before Doha

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:

- how to apply the existing TRIPS provisions on whether or not to patent plants and animals, and whether they need to be modified
- the meaning of effective protection for new plant varieties (i.e. alternatives to patenting such as the 1978 and 1991 versions of UPOV). This includes the question of allowing traditional farmers to continue to save and exchange seeds that they have harvested, and preventing anti-competitive practices which threaten developing countries' "food sovereignty"
- how to handle moral and ethical issues, e.g. to what extent invented life forms should be eligible for protection
- how to deal with traditional knowledge and genetic material, and the rights of the communities where these originate (including disclosing the source of genetic material, and benefit sharing when inventors in one country have rights to inventions based on material obtained from another country)
- whether there is a conflict between the TRIPS Agreement and the UN Convention on Biological Diversity (CBD)

The Doha mandate

The Doha Declaration says that work in the TRIPS Council on the reviews (Article 27.3(b) or the whole of the TRIPS Agreement under Article 71.1) or any other implementation issue should also look at: the relationship between the TRIPS Agreement and the UN Convention on Biodiversity; the protection of traditional knowledge and folklore; and other relevant new developments that member governments raise in the review of the TRIPS Agreement. It adds that the TRIPS Council's work on these topics is to be guided by the TRIPS Agreement's objectives (Article 7) and principles (Article 8), and must take development fully into account.

Since then ...

The discussion in the TRIPS Council has gone into considerable detail with a number of ideas and proposals for dealing with these complex subjects. Among the newest papers are (documents available from Documents Online <http://docsonline.wto.org> on the WTO website):

- **EU (IP/C/W/383)**: including a proposal to examine a requirement that patent applicants disclose the origin of genetic material, with legal consequences outside the scope of patent law.
- **Switzerland (IP/C/W/400)**: proposing an amendment to WIPO's Patent Cooperation Treaty (and, by reference, WIPO's Patent Law Treaty) so that domestic laws ask patent applicants to disclose the origins of genetic resources and traditional knowledge. Failure to disclose could hold up a patent being granted, or affect its validity.
- **Brazil, Cuba, Ecuador, India, Peru, Thailand, Venezuela (IP/C/W/403)**. This paper develops earlier proposals on disclosure of the origins of biological resources and traditional knowledge, "prior informed consent" for exploitation (a term used in the Biological Diversity Convention), and equitable benefit sharing. This group wants the TRIPS Agreement to be amended to make disclosure an obligation. The paper also looks at weaknesses of alternative methods such as contracts.
- **The African Group (IP/C/W/404)**. This looks at possible areas of agreement and areas of divergence and includes a draft decision on traditional knowledge designed to prevent "misappropriation". The African Group wants to outlaw patenting of all life forms (plants, animals, microorganisms) and wants sui generis protection for plant varieties to preserve farmers rights to use and share harvested seeds. It proposes requirements on disclosure similar to those in IP/C/W/403 (above).

Some developed countries oppose additional requirements to disclose the source of genetic material or traditional knowledge, and information on prior informed consent and benefit sharing. They say contractual agreements between researchers and the communities owning the traditional knowledge or genetic materials are enough.

A key question that has emerged is whether discussions on these subjects have developed far enough for them to be handled immediately in the WTO — a view many developing countries support — or whether they should wait for technical discussions in WIPO to be sorted out — the view of several developed countries such as Canada and the US.

The review of the TRIPS Agreement (under Article 71.1)

There has been very little discussion and no proposals on this under the Doha agenda.

Non-violation complaints (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), or because of any other situation — even if these do not violate an agreement. The purpose of allowing these “non-violation” cases is to preserve the balance of benefits (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). (This was extended in Doha.)

At the same time, the TRIPS Council has discussed whether non-violation complaints should be allowed in intellectual property, and if so, to what extent and how (“scope and modalities”) they could be brought to the WTO’s dispute settlement procedures.

At least two countries (the US and Switzerland) say 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. Most would like to see the ban continued or made permanent. Some have suggested additional safeguards.

The Doha mandate

The Doha Decision on Implementation-Related Issues and Concerns (in Paragraph 11.1) instructs the TRIPS Council to make a recommendation to the Cancún Ministerial Conference. Until then, members have agreed not to file non-violation complaints under TRIPS.

In May 2003, the TRIPS Council chairperson listed four possibilities for a recommendation: **(1)** banning non-violation complaints in TRIPS completely, **(2)** allowing the complaints to be handled under the WTO’s dispute settlement rules, **(3)** allowing non-violation complaints but subject to special “modalities” (i.e. ways of dealing with them), and **(4)** extending the moratorium.

In response, most members favoured banning non-violation complaints completely (option 1), or extending the moratorium (option 4).

However, no consensus was possible, and further work is need to prepare for a decision in Cancún.

Technology transfer

Developing countries, in particular, see technology transfer as part of the bargain in which they have agreed to protect intellectual property rights. The TRIPS Agreement includes a number of provisions on this. For example, it requires developed countries' governments to provide incentives for their companies to transfer technology to least-developed countries (Article 66.2).

Least-developed countries want this requirement to be made more effective. In Doha, ministers agreed that the TRIPS Council would "put in place a mechanism for ensuring the monitoring and full implementation of the obligations". The council adopted a decision setting up this mechanism in February 2003. It details the information developed countries are to supply by the end of the year, on how their incentives are functioning in practice.

This is now being implemented, and will be reviewed in full when the TRIPS Council meets in November 2003. At the same time, the question of technology transfer continues to be raised under various TRIPS headings such as TRIPS and Public Health.

ENDS

TRADE AND INVESTMENT

From bilaterals to a multilateral agreement?

ON THE WEBSITE:

www.wto.org > *trade topics* > *investment and trade*

DOHA DECLARATION: Paragraphs 20–22

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. Because the mandate came from the 1996 Singapore Ministerial Conference, trade and investment is sometimes described as one of four “Singapore issues”.

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. The UN Conference on Trade and Development (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. The WTO Agreements on Trade-Related Intellectual Property Rights, on Subsidies and the plurilateral Government Procurement Agreement also touch on foreign investment.

But the main way in which rules are applied to foreign direct investment at present is through government-to-government Bilateral Investment Treaties (BITs). UNCTAD estimates over 2,100 bilateral treaties are in operation today. Historically, most of these treaties were signed between developed and developing countries but recently, the number of treaties among developing countries has been increasing.

Foreign direct investment inflows have risen from US\$203 billion in 1990 to \$735 billion in 2001, according to UNCTAD. Developing countries received \$238 billion of the foreign direct investment inflows in 2001. In the working group, members have recognized that foreign direct investment is important for development, such as helping increase export competitiveness and technology transfer.

The Doha mandate

At the 2001 Doha Ministerial Conference, the ministers recognized “the case for constructing a multilateral framework to secure transparent, stable and predictable conditions for long-term cross-border investment, particularly facing foreign direct investment”. They gave the Working Group a new and more ambitious mandate on this subject, and agreed that negotiations on an investment agreement would take place after the next ministerial conference in Cancún “on the basis of a decision to be taken, by explicit consensus at that Session on the modalities of negotiations [i.e. how the negotiations are to be conducted].” The final part of the sentence, dealing with negotiations, was discussed at length and reflects widely different sensitivities among WTO member governments.

Ministers also instructed the working group to clarify a number of core issues and to examine some broader objectives that would need to be taken into account — in particular the need to incorporate a solid “development dimension” into any prospective agreement.

The WTO was also tasked with producing a much more extensive and intensive programme of technical assistance in cooperation with other agencies, in particular UNCTAD.

Since then ...

Since the Doha Ministerial Conference, the working group has focused on clarifying a number of core issues, such as: the definition of the issues and what they cover (their "scope"); transparency; non-discrimination; ways of dealing with commitments on the entry of foreign investment, based on a list of things members are willing to do rather than general commitments with lists of exceptions (a "GATS-type positive list approach"); development provisions; exceptions and balance-of-payments safeguards; consultation; and dispute settlement.

Its work has also been guided by a number of principles spelled out in the Doha declaration such as the need to balance the interests of countries where foreign investment originates and where it is invested, countries' right to regulate investment, development, public interest and individual countries' specific circumstances. It also emphasizes support and technical cooperation for developing and least-developed countries, and coordination with other international organizations such as UNCTAD.

For Cancún

For Cancún, ministers have to decide whether there is an "explicit consensus" on modalities that would allow negotiations to go ahead, leading to new WTO rules on trade and investment.

A number of developed and developing WTO members argue that after seven years of study and analysis ministers should now launch negotiations for a WTO agreement on foreign direct investment. They argue that the existing international regime of individual bilateral investment treaties plus regional investment agreements leads 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 consider that the Working Group had not completed its analysis and study of the subject. They argue that the existing bilateral investment treaties 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.

ENDS

TRADE AND COMPETITION POLICY

Dealing with cartels and other anti-competitive practices

ON THE WEBSITE:

www.wto.org > *trade topics* > *competition policy*

DOHA DECLARATION: Paragraphs 23–25

As government barriers to trade and investment have been reduced, there have been increasing concerns that the gains from this 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 “anti-trust” 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 regulations within specific economic sectors, and privatization policies.

The WTO Working Group on the Interaction between Trade and Competition Policy 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. (Because the mandate came from the 1996 Singapore Ministerial Conference, trade and competition policy is sometimes described as one of four “Singapore issues”.)

The Doha mandate

The 2001 Doha declaration provides that “negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that session on modalities of negotiations [i.e. how the negotiations are to be conducted].” That reference to negotiations was discussed at length and reflects widely different sensitivities among WTO member governments.

Since then ...

In the period up to the 2003 Cancún Ministerial Conference, as required by the Doha Declaration, the working group has focused on clarifying:

- core principles including transparency, non-discrimination and procedural fairness, and provisions on “hardcore” cartels (i.e. groups of companies that secretly fix prices)
- ways of handling voluntary cooperation on competition policy among WTO member governments
- support for progressive reinforcement of competition institutions in developing countries through capacity building

The declaration says the work must take full account of developmental needs. It includes technical cooperation and capacity building, on such topics as policy analysis and development, so that developing countries are better placed to evaluate the implications of closer multilateral cooperation for various developmental objectives. Cooperation with other organizations such as the UN Conference on Trade and Development (UNCTAD) is also included.

One focus of discussions in the working group is on international hardcore cartels. Price fixing across borders by private companies is estimated to raise costs to consumers (including businesses) in the affected industries by 20-40%. In the 1990s, international cartels were found to be operating in a large number of industries, including graphite electrodes, vitamins, citric acid, seamless steel tubes, lysine and

bromine. Developing countries, which imported large amounts of these products, were overcharged by billions of dollars. Since individual countries are hard-pressed to fight these cartels alone, international cooperation is critical in dealing effectively with this phenomenon.

In the run-up to the Cancún conference, developed members and a number of developing countries have pointed to fighting hard-core cartels as one reason for the establishment of a WTO framework in this area, in addition to supporting the implementation of effective national competition policies by members and enhancing the overall contribution of competition policy to the multilateral trading system. On the other hand, a number of developing countries continue to express concern over additional burdens a new WTO agreement might bring, especially for members that do not currently have competition laws.

In Cancún

In Cancún, ministers have to decide whether there is an "explicit consensus" on modalities that would allow negotiations to go ahead, leading to new WTO rules on trade and competition policy.

ENDS

TRANSPARENCY IN GOVERNMENT PROCUREMENT

Ready to negotiate an agreement, or not yet?

ON THE WEBSITE:

www.wto.org > *trade topics* > *government procurement*

DOHA DECLARATION: Paragraph 26

For the last six years the WTO has actively pursued a work programme on 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". (Because the mandate came from the Singapore meeting, transparency in government procurement is sometimes described as one of four "Singapore issues".)

The Doha mandate

At the Doha Ministerial Conference, in November 2001, the ministers went a step further and stated that "recognizing the case for a multilateral agreement on transparency in government procurement and the need for enhanced technical assistance and capacity building in this area. We agree that negotiations will take place after the Fifth Session of the Ministerial Conference (Cancún) on the basis of a decision to be taken, by explicit consensus, at that session on modalities of the negotiations".

The mandate reflects the heavy emphasis on transparency placed throughout the WTO's system of rules and practices. Transparency is often referred to as one of the three fundamental principles of the WTO (the others being non-discrimination and stability/predictability). The final part of the sentence, dealing with negotiations, was discussed at length and reflects widely different sensitivities among WTO member governments.

In the background: the plurilateral agreement

Transparency is perhaps most important in situations where general rules can only have a limited effect on trading conditions, and where governments are freest to make decisions at their discretion. Government procurement is a notable example.

A Government Procurement Agreement was first negotiated in the Tokyo Round in the 1970s, and entered into force on 1 January 1981. It was updated in the Uruguay Round. The agreement is "plurilateral", meaning that only some WTO members have signed it — currently the number is 28.

The plurilateral agreement's purpose is more than just transparency. The aim is to open up as much government procurement as possible to international competition, through general rules and obligations, and schedules (or lists) of national entities in each member country whose procurement is subject to the agreement. A large part of the general rules and obligations deals with tendering procedures.

Transparency is one means of achieving the objective. The transparency provisions aim to ensure that adequate information on procurement opportunities is made available and that decisions are fairly taken. They also aid monitoring to ensure that signatory governments abide by their commitments under that agreement — commitments not to discriminate against suppliers and supplies from other signatory countries.

But only 28 members are applying these provisions.

The multilateral exercise: transparency

The focus of the multilateral work currently underway, on transparency in government procurement, is somewhat different. First, the work is multilateral, aiming to produce an agreement that all 146 WTO members will sign. Second, the focus is on transparency as such, rather than on transparency as a vehicle for monitoring market access commitments. However, some members say they want future negotiations to have a broader mandate — in the long term it could mean exploring the possibility of market access at a multilateral level.

The WTO Working Group on Transparency in Government Procurement held its first meeting in May 1997. It began 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 study comparing 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.

Next came the systematic study of 12 issues identified as important for 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.

Many members have supplied information on their national practices, suggestions on issues meriting study, and ideas for action. Several countries have described their experiences in using information technology in government procurement, and their experiences in regional arrangements such as in the Free Trade Area of the Americas (FTAA) negotiations, the Government Procurement Experts Group of the Asia-Pacific Economic Cooperation (APEC), and others.

In the working group, members agree that transparency in government procurement is important, and that the WTO should pursue its work in this area. The differences among them are essentially about how this should be done. A number of members argue that after the intensive work of the past six years, the WTO is now in a position to negotiate a transparency agreement in the context of a new round. On the other hand, a number of developing countries are concerned about enforcement rules in this area, including the use of the WTO dispute settlement system. They doubt whether the issue is ripe enough to launch negotiations.

In Cancún, ministers have to decide whether there is an "explicit consensus" on modalities that would allow negotiations to go ahead, leading to new WTO rules on transparency in government procurement.

ENDS

TRADE FACILITATION

Cutting red tape at the border

ON THE WEBSITE:

www.wto.org > *trade topics* > *goods* > *trade facilitation*

DOHA DECLARATION: Paragraph 27

Making trade flow more easily, without the hindrance of bureaucratic procedures — trade facilitation — brings the WTO right to the customs' gate.

The problem

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 programmes 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 — which 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 that 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 repeatedly by the trading community.

WTO provisions

The WTO has always dealt with issues related to the facilitation of trade, and WTO rules include a variety of provisions that aim to enhance transparency and set minimum procedural standards. Among them are GATT Articles 5, 8 and 10 — which deal with freedom of transit for goods, fees and formalities connected with importation and exportation, and publication and administration of trade regulations. There are also several provisions in agreements such as Import Licensing, Technical Barriers to Trade, Sanitary and Phytosanitary Measures, Customs Valuation, Rules of Origin and Preshipment Inspection.

But the WTO legal framework lacks specific provisions in some areas, particularly on customs procedures and documentation, and transparency.

The Singapore mandate

As a separate topic, trade facilitation is a relatively new issue for the WTO. It was added to the organization's agenda only about seven years ago, when the Singapore Ministerial Conference in December 1996 directed the Goods Council "to undertake exploratory and analytical work ... on the simplification of trade procedures in order to assess the scope for WTO rules in this area". (Because the mandate came from the Singapore meeting, trade facilitation is sometimes described as one of four "Singapore issues".)

A lot of "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 Doha mandate

At the Fourth Ministerial Conference in Doha, in November 2001, Ministers agreed that negotiations on trade facilitation will take place after the Fifth Ministerial Conference in Cancún, on the basis of a decision to be taken, by explicit consensus, in Cancún on "modalities" of the negotiations. The exact wording in the declaration was discussed at length and reflects widely different sensitivities among WTO member governments about the prospect of negotiations.

In the meantime, ministers said in Doha, the Goods Council should carry out a specific work programme:

- to review, and as appropriate, clarify and improve GATT Articles 5, 8 and 10
- to identify members' trade facilitation needs and priorities, particularly those of developing and least-developed countries.

Ministers further committed themselves to providing adequate technical assistance and support for capacity building in this area.

Since then ...

Negotiations? Many delegations consider trade facilitation as a subject ready for negotiation in the WTO. They believe that after more than six 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 advocates negotiating new binding trade facilitation rules, centred around commitments on border and border-related procedures to expedite the movement, release and clearance of goods, including goods in transit. These rules would build upon existing WTO provisions (in particular GATT Articles 5, 8 and 10) and WTO principles such as transparency, due process, simplification and non-discrimination. Advocates of new rules would also make an upfront commitment for more developed members to provide comprehensive technical assistance and capacity building for developing countries.

Many developing countries broadly support the objectives, and agree that it is important to work in this area. But many say they are not ready to make new legal commitments. They are concerned that new rules will stretch their limited resources and expose them to dispute settlement proceedings. Several delegations have also questioned whether there is a need for new binding rules. Some said this should be handled nationally, bilaterally or regionally.

In Cancún, ministers have to decide whether there is an "explicit consensus" on modalities that would allow negotiations to go ahead, leading to new WTO rules on trade facilitation.

Work programme The ministers' instructions to the Goods Council have been translated into a day-to-day work programme, and carried out in the course of six formal sessions between 22 March 2002 and 13 June 2003.

ENDS

RULES: ANTI-DUMPING, SUBSIDIES

Negotiations to clarify and improve disciplines

ON THE WEBSITE:

www.wto.org > *trade topics* > *goods* > *anti-dumping*

www.wto.org > *trade topics* > *goods* > *subsidies and countervail*

DOHA DECLARATION: Paragraph 28

The Doha mandate

The Negotiating Group on Rules was established by the Trade Negotiations Committee in February 2003. In the Doha Declaration, "rules" covers three subjects: anti-dumping (known in the WTO as GATT Article 6), subsidies, and regional trade agreements. (Regional agreements are handled in a separate briefing note.)

The declaration sets out the following mandate on the WTO's Anti-Dumping and Subsidies Agreements:

"In the light of experience and of the increasing application of these instruments by members, we agree to negotiations aimed at clarifying and improving disciplines under the Agreements on Implementation of Article VI [i.e. 6] of the GATT 1994 [i.e. the Anti-Dumping Agreement] and on Subsidies and Countervailing Measures, while preserving the basic concepts, principles and effectiveness of these Agreements and their instruments and objectives, and taking into account the needs of developing and least-developed participants. In the initial phase of the negotiations, participants will indicate the provisions, including disciplines on trade distorting practices, that they seek to clarify and improve in the subsequent phase. In the context of these negotiations, participants shall also aim to clarify and improve WTO disciplines on fisheries subsidies, taking into account the importance of this sector to developing countries. We note that fisheries subsidies are also referred to in Paragraph 31."

Since then ...

During the initial phase of negotiations, participants have indicated the provisions in the two WTO agreements that they would like to clarify or improve in the subsequent phase. More than 100 submissions have been tabled by participants in the 10 formal meetings of the negotiating group held since February 2002, many of them on the Anti-Dumping Agreement. In addition, some participants have made specific proposals for clarifying and improving the agreements.

Anti-dumping A number of members believe that the existing Anti-Dumping Agreement should be improved to counter what they consider to be an abuse of the way anti-dumping measures can be applied, as indicated by the rising trend of dumping actions and growing number of WTO disputes in this area. An informal group of 15 participants (Brazil; Chile; Colombia; Costa Rica; Hong Kong, China; Israel; Japan; Rep of Korea; Mexico; Norway; Singapore; Switzerland; Chinese Taipei; Thailand; and Turkey) calling themselves "Friends of Anti-Dumping Negotiations" have tabled many proposals for tightening disciplines on the conduct of anti-dumping investigations.

The United States has emphasized the importance of ensuring that anti-dumping actions, and for that matter, countervailing measures (usually contingency duties charged to offset the lower prices of subsidized products), remain effective in addressing unfair trade. It has proposed a number of improvements and clarifications to the agreement.

Some developing countries have also taken the opportunity to raise in the negotiating group a number of outstanding implementation issues. These issues include "operationalizing" the provision in the agreement (Article 15) for more favourable treatment of developing countries.

Subsidies While not yet attaining the same level of activity as anti-dumping, work on the Subsidies and Countervailing Measures Agreement has steadily progressed. More than 20 participants have identified issues on this agreement.

On **fisheries subsidies**, another informal grouping of members calling themselves the "Friends of Fish" (including Australia, Chile, Ecuador, Iceland, New Zealand, Peru, Philippines and the United States) has called for improved WTO disciplines in this sector to control subsidies that they say lead to over-capacity and over-fishing. This link between subsidies and over-fishing is disputed by Japan and the Rep. of Korea, who contend that setting up special rules for the fishing sector would fragment the Subsidies Agreement.

The Doha mandate on trade and environment negotiations (Paragraph 31 of the declaration) note that fisheries subsidies are part of the "rules" negotiations.

For Cancún

The negotiating group has no intermediate deadlines. The ministers are expected simply to review progress in the negotiations based on a report by the group's chairperson.

ENDS

RULES: REGIONAL AGREEMENTS

Building blocks or stumbling blocs?

ON THE WEBSITE:

www.wto.org > [trade topics](#) > [regional trade agreements](#)

www.wto.org > [trade topics](#) > [regional trade agreements](#) > [negotiations on RTAs](#)

DOHA DECLARATION: Paragraph 29

Although the term used in the WTO is “regional”, this subject includes bilateral free trade agreements between countries or groups of countries that are not in the same region. These agreements have become so widespread that most WTO members are now also parties to one or more of them, and their scope, coverage and number are still growing.

It is estimated that more than half of world trade is now conducted under agreements of this kind. They 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 its ASEAN Free Trade Area (AFTA), and the Common Market of Eastern and Southern Africa (COMESA).

From its inception, 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 out in the most-favoured-nation clause of GATT’s Article 1.

Conditions for **trade in goods** within these agreements were set in GATT Article 24. Essentially, a regional trade agreement should aim to boost trade between its member countries and not to raise barriers against the trade of other WTO members. During the 1986–94 Uruguay Round negotiations, Article 24 was clarified to some extent and updated.

Preferential trade arrangements on goods between developing-country members are regulated by an “Enabling Clause” dating from 1979.

For **trade in services**, economic integration agreements are governed by GATS Article 5.

Non-reciprocal preferential agreements generally involve selected developing and developed countries. WTO members that have signed an agreement of this kind have 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 signed by the EC and the ACP countries to replace the Lomé Convention.

Non-reciprocal schemes under the Generalized System of Preferences — when developed countries allow imports from developing countries to enter duty-free or at low duty rates — are regulated by the “Enabling Clause”.

Work in the Regional Trade Agreements Committee

In February 1996, the WTO General Council set up a single committee to oversee all regional trade agreements, replacing separate working parties, each dealing with a separate agreement. The Regional Trade Agreements Committee also looks at the broader, systemic implications of the agreements for the multilateral trading system, the relationship between them, and encourages adequate reporting by countries that have signed these agreements.

Up to May 2003, over 265 regional trade agreements had been notified to the WTO and before it to GATT. Of these, 139 agreements notified under GATT Article 24, 19 agreements under the Enabling Clause and 26 under GATS Article 5 are still into force today. The committee has currently under examination more than 125 agreements.

- The Regional Trade Agreements Committee has developed procedures to examine the agreements, including compiling information. These procedures are for assessing whether each agreement is consistent with WTO provisions. However, since there is no consensus among WTO members on how to interpret the criteria for assessing this consistency, the committee now has a lengthening backlog of uncompleted reports.
- As the number of regional agreements increases, so does the need to analyze whether the WTO's rules on these agreements need to be clarified further. WTO members differ on whether regional agreements help or hinder the multilateral trading system — whether they function as “building blocks” or “stumbling blocks”. One view is that the regional agreements strengthen the multilateral system because they can move faster, and because they can help integrate developing countries into the world economy. Other countries believe that the WTO's rules should be re-vised— and not just reinterpreted — so that the two systems can work together better, particularly since the number of agreements has increased, and their membership has increasingly overlapped.

What's at stake?

Issues raised by the regionalism debate are complex.

Some are primarily **legal**. For example, GATT Article 24 requires that a regional trade agreement should cover “**substantially all the trade**” in goods between its members. Similarly, GATS Article 5 calls for a “**substantial sectoral coverage**” in services. But there is no agreement among members on what this means, and in practice many agreements leave out large and sensitive areas such as agriculture and financial services. This poses difficulties for assessing whether the agreements are consistent with WTO rules.

Other issues are more **institutional** in nature. They highlight possible discrepancies between the regional agreements' rules and those of the WTO. The focus in negotiations has shifted over time from tariff reductions to rules and regulations, both at the regional and at the multilateral level — for instance, rules on anti-dumping, subsidies, or product standards. Some recent regional agreements include provisions not covered by the WTO at all, 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 members and non-members of regional agreements. Rather, this is now a question of the regional agreements' impact on the shape and development of world trade itself — given their large and increasing number and their overlapping membership. Over the next few years, this will be one of the most important challenges facing trade policymakers in all continents.

The Doha Declaration

The relationship between regionalism and multilateralism has become a critical systemic issue, reflected in the WTO Regional Trade Agreements Committee's increasing backlog of uncompleted reports and its lack of consensus on the broader question of the consistency between regional agreements and WTO rules.

At the Doha Ministerial Conference in November 2001, WTO members agreed to give a political push to this question and to negotiate a solution, giving due regard to the role that these agreements can play in fostering development.

The ministerial declaration mandates negotiations aimed at “clarifying and improving disciplines and procedures under the existing WTO provisions applying to regional trade agreements. The negotiations shall take into account the developmental aspects of regional trade agreements”.

These negotiations fall into the general timetable established for virtually all negotiations under the Doha Declaration. They are to end by 1 January 2005. The Cancun Ministerial Conference is to take stock of progress, provide any necessary political guidance, and take decisions as necessary.

Since then: the Rules Negotiating Group

While the Regional Trade Agreements Committee has continued its examination of specific agreements, members decided that the Doha mandate should be fulfilled through a specific negotiating channel. A **Rules Negotiating Group** was set up in 2002 to clarify and improve disciplines on implementation on dumping, subsidies and countervailing measures, fishery subsidies, and regional trade agreements.

The negotiating group met formally nine times in 2002 and 2003. Informal meetings, where issues can be thrashed out more freely, have also been held. A seminar on regionalism for officials also took place in Geneva in April 2002; it helped to raise awareness on the significance of regional agreements in world trade and to explore ways of ensuring coherence between trade policy initiatives at the multilateral and regional levels.

The negotiating group's work has progressed substantially. Identifying the issues could be completed quickly because they had already been debated extensively in the Regional Trade Agreements Committee. In order to help participants present submissions and proposals, the Secretariat provided a background note in August 2002 listing all the issues related to regional trade agreements that had been raised in various WTO councils and committees and mentioned in WTO dispute rulings. The negotiating group decided to try as a priority to make progress in "procedural" issues, and to address at this stage only a few "systemic" issues. Another question that has been raised is whether new rules coming out of the negotiations should apply retroactively to existing regional agreements. This complex legal question has far-reaching implications.

Procedural issues The question that has emerged as a priority under the "procedural" heading is "transparency" — the obligation to notify regional trade agreements to the WTO; "when" the information should be notified; "what" should be notified on each agreement; and "where" or which WTO council or committee should consider the information. The negotiating group is also considering how to use the Internet to make information available publicly.

The aim is to improve the information provided by members on their specific agreements, so that the reviews can be done more conveniently and consistently.

The Secretariat could play an increasing role in presenting factual reports on individual agreements, as a way to make the review of regional agreements more efficient and coherent.

Issues to do with the trading system At this stage, a few "systemic" issues have already been identified as meriting early consideration:

- how to interpret the phrase "substantially all the trade"
- regulations that could restrict trade such as rules of origin under preferential schemes
- how regional agreements relate to development
- the primacy of the multilateral trading system and the negative effect regional agreements can have on other countries.

ENDS

DISPUTE SETTLEMENT

Force of argument, not argument of force

ON THE WEBSITE:

www.wto.org > trade topics > dispute settlement > negotiations

DOHA DECLARATION: Paragraph 30

Mandate:

"We agree to negotiations on improvements and clarifications of the Dispute Settlement Understanding. The negotiations should be based on the work done thus far as well as any additional proposals by Members, and aim to agree on improvements and clarifications not later than May 2003, at which time we will take steps to ensure that the results enter into force as soon as possible thereafter."

— Para 30 of Doha Ministerial Declaration, 14 November 2001

Background

The WTO's "**Understanding on Rules and Procedures Governing the Settlement of Disputes**" (**Dispute Settlement Understanding** or **DSU**) contains detailed steps and timetable for resolving disputes between member governments. It was negotiated during the Uruguay Round, and is a legally-binding agreement committing member governments to settle their disputes in an orderly and multilateral fashion. It is the first such system for settling trade disputes between governments. When the Uruguay Round ended in April 1994 at the Marrakesh Ministerial Conference, ministers agreed that their governments would complete a full review of this new system by January 1999, and to decide whether to continue, modify or terminate it. During the review several members proposed possible improvements and clarifications to the agreement. But even after extending the review to July 1999, members did not reach an agreed conclusion.

The Doha mandate

In recognition of the work done during this review, the Doha mandate states that the negotiations should be based on the work done so far and on any additional proposals, with the aim of concluding an agreement by May 2003. More significantly perhaps, the Doha Declaration (in paragraph 47) also states that these negotiations will not be part of the single undertaking — i.e. that they will not be tied to the success or failure of the other negotiations mandated by the declaration.

Developments since Doha

As a measure of the Dispute Settlement Understanding's pivotal role in the whole multilateral trading system of the WTO, more member governments have participated actively in these talks than in any other negotiation (except agriculture) under the Doha mandate. Well over 80 WTO members have subscribed to more than 40 proposals, each of which contains several suggested changes, covering virtually all stages of the dispute settlement system.

Some of the proposed changes address housekeeping issues such as how to deal with inactive cases which remain dormant for several years without any indication that the complaining countries want to pursue these any further. In such cases countries would be expected to formally withdraw their complaints. Other proposals seek to introduce new stages such as the possibility of remanding, or referring, the case back to the original panel if a factual issue arises at the appellate stage which had not been examined by the panel. Several proposals contain suggestions for enhancing the special and differential treatment of developing and least-developed countries.

The issue on which there is, perhaps, the most widespread support for change is the procedural issue of “**sequencing**”. The issue arises from a lack of clarity in the Dispute Settlement Understanding’s text as to the order in which two phases of the procedure should occur when a member believes that another has failed to comply fully with the final rulings.

Conversely, the issue on which members are, perhaps, the most strongly divided is external transparency — what kind of access the public might have to panel proceedings or their input into the procedure by means of *amicus curiae* briefs (see explanation below).

Despite the numerous suggestions for improvements or clarifications, underlying these proposals is the shared conviction amongst all members that overall the Dispute Settlement Understanding has served them well since it started operating in January 1995. Almost 300 cases have been brought to the Dispute Settlement Body in less than nine years; this compares to the final total of 300 cases filed during the entire 47 years of the former GATT.

So far, over 40 cases have been completely resolved, including full compliance with the legal rulings. Nearly 70 cases are under legal examination. In another 70 or so, the parties are either consulting bilaterally, or, in many cases, the disputes are considered settled. Most significantly, perhaps, well over 100 cases have been clearly settled or defused as a result of bilateral consultations. It is this quasi-judicial characteristic — a blend of political flexibility and legal integrity — which makes this a unique process for settling international disputes peacefully through force of argument rather than through argument of force.

Current status of negotiations

On 16 May 2003, the chairman of the negotiations circulated a draft legal text under his own responsibility. The text contained members’ proposals on a number of issues, including: enhancing third-party rights; introducing an interim review and “remand” (referring a case back to a panel) at the appeals stage; clarifying and improving the sequence of procedures at the implementation stage; enhancing compensation; strengthening notification requirements for mutually-agreed solutions; and strengthening special and differential treatment for developing countries at various stages of the proceedings.

According to the chairman, a number of other proposals by members were not included in his text due to the absence of a sufficiently high level of support. These proposals covered issues such as accelerated procedures for certain disputes; improved panel selection procedures; increased control by members on the panel and Appellate Body reports; clarification of the treatment of *amicus curiae* briefs; and modified procedures for retaliation, including collective retaliation or enhanced surveillance of retaliation.

Members continued to discuss the chairman’s text until the end of May 2003. Some felt that the text captured the essential elements for a final agreement; others felt that there were serious omissions in the text. All members, however, expressed a readiness to continue work beyond 31 May 2003 towards an agreement.

At its meeting on 24 July 2003, the General Council agreed to extend negotiations from 31 May 2003 to 31 May 2004.

Some terms frequently used in DSU negotiations

Implementation (DSU Articles 21 & 22) After the Dispute Settlement Body has adopted the final rulings in a case, the defending country has to implement these rulings by changing or completely removing its trade measure which has been ruled illegal.

Reasonable period of time (DSU Article 21.3) If the defending country cannot comply with the rulings immediately, it is given a “reasonable period of time” to implement the rulings. This period of time is either agreed mutually between the two parties, or, failing that, it is decided by an arbitrator. Article 21.3(c) states that a guideline for the arbitrator should be that the reasonable period of time “should not exceed 15 months from the date of adoption”.

Sequencing (DSU Articles 21.5, 22.2, & 22.6) The word “sequencing” is shorthand for the procedural steps and time-periods needed to deal with a situation where the complaining country claims that the defending country has not implemented the rulings.

- Article 21.5 states that where the two parties disagree whether the rulings have been implemented or not, a panel examines the dispute and reports **within 90 days**.
- Article 22.2 states that if the defending country fails to implement, the complaining country can ask the Dispute Settlement Body to authorize it to retaliate. Article 22.6 states that, **within 30 days** from the end of the reasonable period of time for implementation, the Dispute Settlement Body authorizes the complaining country to retaliate.

So, there are two key steps with their own time-periods: **90 days for a panel to examine whether a ruling has been implemented**; and **30 days for Dispute Settlement Body to authorize retaliation**. The wording of the Dispute Settlement Understanding does not specify whether these steps have to come one after the other. Hence, according to the current wording of the agreement, it seems that the 30-day period for the Dispute Settlement Body to authorize retaliation runs out **before** the panel has examined whether the defending country has implemented or not.

Determination of compliance (DSU Article 21.5) Article 21.5 addresses a situation where the two parties disagree whether the rulings have been implemented or not. It states that such a dispute “shall be decided through recourse to these dispute settlement procedures, including wherever possible resort to the original panel” which has 90 days to report its findings. The panel is referred to as a “compliance panel” — i.e. it examines whether the defending country has complied with the rulings.

Besides referring to “these dispute settlement procedures” and a 90-day panel, Article 21.5 does not specify any other elements or time-periods for determining compliance. However, normal procedures under the Dispute Settlement Understanding also include a 60-day period for consultations, a possibility of two Dispute Settlement Body meetings before a panel is established, a possibility of appeal of the panel findings, and a 2-3 months appeal process — together, they add up to more than 90 days.

Compensation (DSU Articles 3.7, 22.1, & 22.2) Compensation can be negotiated between the two parties in a dispute if the defending country fails to comply with the rulings within the reasonable period of time for implementation. Articles 3.7 & 22.1, however, state that compensation is a temporary measure pending full implementation. Article 22.2 allows 20 days, from the end of the period of implementation, to conclude negotiations. If the negotiations conclude unsuccessfully, the complaining country is allowed to request authorization from the Dispute Settlement Body to retaliate.

Suspension of concessions or other obligations (DSU Articles 3.7, & 22) This is commonly referred to as “retaliation” or “sanctions”. A **concession** is, for example, an importing country’s legal commitment not to raise its customs duty on an import above a certain agreed level of tariff. A **suspension of this concession** would mean that the importing country would raise the tariff. An **obligation** is, for example, a country’s legal responsibility to provide protection for intellectual property rights, such as patents and copyrights etc. A **suspension of this obligation** would mean that the country would be free of its legal responsibility to provide such protection. According to the Dispute Settlement Understanding, suspension of concessions or other obligations should be used as a last resort by the complaining country subject, of course, to authorization by the Dispute Settlement Body (Art.3.7), and is a temporary measure pending full implementation (Art.22.1).

Cross-retaliation (DSU Article 22.3) The phrase “cross-retaliation” does not appear in the Dispute Settlement Understanding, but is shorthand to describe a situation where the complaining country retaliates (i.e. suspends concessions or other obligations) under a sector or an agreement which has not been violated by the defending country. The circumstances under which cross-retaliation can be authorized are explained in the agreement’s Article 22.3. In preparing its request for authorization by the Dispute Settlement Body to suspend concessions or other obligations (i.e. to retaliate), the complaining country should first seek to retaliate in the same sector where the violation has occurred. If that is not practicable or effective it can seek to retaliate in another sector but under the same agreement where the violation has occurred. And if that is also impracticable or ineffective it can seek to retaliate under another agreement.

Carousel Among the procedures and disciplines for retaliation, the Dispute Settlement Understanding does not contain any obligation on the retaliating country to submit a list of products targeted for sanctions. Nor does the agreement contain any mention of whether or not the retaliating country can change its selection of targeted products. The word "carousel" refers to the possibility of changing the targeted products as and when the country wants, so long as it stays within the authorized level of retaliation.

Transparency (DSU Articles 10, 14, 17.4, 17.10, 18, & Appendixes 3.2 & 3.3) Dispute settlement proceedings are confidential to the main parties and, where appropriate, third parties to a dispute. Transparency means opening up the dispute settlement proceedings either to the public (i.e. external transparency) or to WTO members other than those who are already parties to the dispute (i.e. internal transparency).

Amicus curiae briefs *Amicus curiae* means "friend of the court" or "disinterested adviser".

ENDS

TRADE AND ENVIRONMENT

How the WTO relates to environmental agreements

ON THE WEBSITE:

www.wto.org > *trade topics* > *environment* > *negotiations*

DOHA DECLARATION: Paragraphs 31-33

Background

At Doha, Members agreed to launch negotiations on the linkage between trade and environment. However, these negotiations are circumscribed to four issues:

- the need to clarify the relationship between existing WTO rules and specific trade obligations set out in multilateral environmental agreements (MEAs)
- the exchange of information between the WTO and MEA secretariats
- the criteria for granting observer status to other international organizations
- the liberalization of trade in environmental goods and services.

The deadline for these negotiations is 1 January 2005 and they are taking place in “**special sessions**” of the **Trade and Environment Committee**.

Identifying specific trade obligations

How do WTO rules apply to WTO members that have also signed environmental agreements outside the WTO? Suppose a WTO member government puts into place a trade measure to protect its environment that is provided for in an environmental agreement that it has signed. Should it fear being challenged in the WTO dispute settlement procedure? This is an issue these negotiations are exploring.

There are approximately 200 multilateral environmental agreements (MEAs) in place today. Only about 20 of these contain trade provisions. For example, the Montreal Protocol for the protection of the ozone layer applies restrictions on the production, consumption and export of aerosols containing chlorofluorocarbons (CFCs). The Basel Convention, which controls trade or transportation of hazardous waste across international borders, and the Convention on International Trade in Endangered Species (CITES) are other multilateral environmental agreements containing trade provisions.

The new negotiations aim to clarify the relationship between trade measures taken under the environmental agreements and WTO rules. However, in practice so far no action taken under an environmental agreement has been challenged in the GATT-WTO system.

Focus on actual obligations, or broader principles? Members started the negotiations by attempting to define what a “specific trade obligation” is, and to develop a common understanding on this.

Some members advocate identifying individual “specific trade obligations” that the WTO should examine. Others prefer a more general approach that would look at the principles governing the relationship between the WTO and the environmental agreements, and how the environmental agreements’ trade measures might be accommodated in the WTO. For example, some advocate the principle that there should be no “hierarchical” relationship between the two legal regimes — neither the WTO, nor the environmental agreements should be dominant.

The Trade and Environment Committee’s special sessions are following both approaches at the same time.

Information exchange

Ministers agreed in Doha to negotiate procedures for the secretariats of multilateral environmental agreements and the WTO to exchange information better. Currently, the Trade and Environment Committee holds information sessions once or twice a year with the different secretariats of the environmental agreements to discuss the trade-related provisions in these agreements and their dispute settlement mechanisms. The new information exchange procedures are likely to institutionalize the exchanges.

Among the possible ways of achieving this are:

- turning the information sessions with environment agreements' secretariats into more formal arrangements, and organizing them more regularly
- holding information sessions on specific themes by grouping the environmental agreements that share common interests
- having other WTO committees organize meetings with the environmental agreements' secretariats, either jointly with the Trade and Environment Committee or separately
- creating avenues for government representatives from the trade and environment sides to exchange information with each other.

Observer status

Overall, proposals to grant observer status in the WTO to other international governmental organizations are currently blocked for political reasons. In the Trade and Environment Committee's special sessions, eight requests are pending, including four from multilateral environmental agreements. The negotiations aim at developing criteria for allowing these organizations to be observers in the WTO.

Some members would prefer to wait for the outcome of deliberations in the General Council (for regular WTO committees) and Trade Negotiations Committee (for negotiating bodies). Others believe that work in the Trade and Environment Committee's own negotiating sessions should be used to make progress in the discussions, particularly since the ministers issued their instruction to the committee.

In the mean time, six environmental agreements' secretariats and the United Nations Environmental Programme (UNEP) have received ad hoc invitations to participate in the committee's special session — each invitation is for one meeting, and each invitation has to be approved by the committee before it is issued.

Liberalizing trade in environmental goods and services

Ministers also agreed to negotiate freer trade on environmental goods and services through the reduction or elimination of tariffs and non-tariff barriers. (Examples of environmental goods and services are catalytic converters, air filters or consultancy services on wastewater management.)

At the Trade and Environment Committee's first special session, members agreed that the bargaining should take place in the Services Council's negotiating "special session" and in the Negotiating Group on Market Access for Non-Agricultural Products.

However, the Trade and Environment Committee's special sessions would oversee those negotiations. And they would try to clarify the concept of what are environmental goods. In the discussion, some members have referred to the lists of environmental goods used by Organization for Economic Cooperation and Development (OECD) and the Asia Pacific Economic Cooperation forum (APEC). Other members say that these lists have no particular standing in the WTO, and that the WTO should do its own work on this issue.

ENDS

ELECTRONIC COMMERCE

Work continues on issues needing clarification

ON THE WEBSITE:

www.wto.org > *trade topics* > *electronic commerce*

DOHA DECLARATION: Paragraph 34

The growing importance of electronic commerce in global trade led WTO members to adopt a declaration on global electronic commerce on 20 May 1998 at their Second Ministerial Conference in Geneva, Switzerland.

The declaration directed the WTO General Council to establish a comprehensive **work programme** to examine all trade-related issues arising from electronic commerce, and to present a progress report to the WTO's Third Ministerial Conference in Seattle, November 1999.

The 1998 declaration also included a so-called **moratorium** stating 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. It continued after the 1999 Ministerial Conference.

The Doha decision

At the Fourth Ministerial Conference in Doha in 2001, ministers agreed to continue the work programme as well as to extend the moratorium on customs duties. In paragraph 34 of the Doha Declaration, they instructed the General Council to report on further progress to the Fifth Ministerial in Cancún, in 2003.

Under the work programme, issues related to electronic commerce were examined by the Services, Goods and TRIPS (intellectual property) councils, and the Trade and Development Committee. During the course of the work programme a number of background notes on the issues were produced by the WTO Secretariat and many members submitted documents outlining their own thoughts.

The issues

The following is a summary of the main points which emerge from these reports since the beginning of the work programme in 1998, and from several dedicated discussions on e-commerce issues held under the auspices of the General Council:

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.

WTO members hold the general view that the General Agreement on Trade in Services (GATS) does not distinguish between technological means of supplying a service, and that its provisions apply to the supply of services through electronic means.

A difference of views emerged on whether certain products (e.g. software, the texts of books) when delivered electronically should be classified as goods or services. Until the advent of the internet these products (e.g. software on CD-ROMs) were only delivered by conventional means, and they were classified and regulated as goods under General Agreement on Tariffs and Trade (GATT). The question now

arises as to whether these products, when delivered electronically, should still be treated as goods and therefore be subject to GATT rules, or whether they should be classified as services and be subject to the GATS framework.

Since then ...

After the Doha Ministerial Declaration, the General Council agreed to hold "dedicated" discussions on cross-cutting issues, i.e. issues whose potential relevance may "cut across" different agreements of the multilateral system. So far, there have been five discussions dedicated to electronic commerce, held under the General Council's auspices.

The issues discussed included: classification of the content of certain electronic transmissions; development-related issues; fiscal implications of e-commerce; relationship (and possible substitution effects) between e-commerce and traditional forms of commerce; imposition of customs duties on electronic transmissions; competition; jurisdiction and applicable law/other legal issues.

Participants in the dedicated discussions hold the view that the examination of these cross-cutting issues is unfinished, and that further work to clarify these issues is needed.

ENDS

SMALL ECONOMIES

Recognizing small economies' trade challenges

ON THE WEBSITE:

www.wto.org > trade topics > development

DOHA DECLARATION: Paragraph 35

Small economies face specific challenges in their participation in world trade, for example lack of economies of scale or limited natural resources. Studies show that a small size is likely to limit an economy's possibilities to diversify local production. This in turn makes it more difficult for small economies to adjust to changes in their trade policy regime.

The Doha Declaration

The Doha Declaration mandates the General Council to examine these problems and to make recommendations to the next Ministerial Conference as to what trade-related measures could improve the integration of small economies.

Since then ...

The General Council instructed the Trade and Development Committee to hold dedicated sessions on small economies. The first of these took place in April 2002.

The discussions focus on a paper presented by a group of small economies (Barbados, Belize, Bolivia, Dominican Republic, Guatemala, Honduras, Mauritius and Sri Lanka, in document WT/COMTD/SE/W/3). The paper includes the following proposals:

- the liberalization process must preserve the existing margins of preference for products exported by small economies
- small economies must not be required to give reciprocal treatment in return for the preferential treatment that they receive from developed members in the context of regional trading arrangements
- small economies must not be required to make concessions that are inconsistent with their development, financial and trade needs

There is currently no definition in the WTO of what a "small economy" is. Some members have argued that a definition is necessary before any commitment is made. Other members do not want to embark on such an exercise.

ENDS

TRADE, DEBT AND FINANCE

WTO's contribution to solving debt and financial crises

ON THE WEBSITE:

www.wto.org > trade topics > development

DOHA DECLARATION: Paragraph 36

The Working Group on Trade, Debt and Finance was set up at the Fourth Ministerial Conference in Doha in November 2001. Members had seen financial crisis in Asia and the heavy debt burden borne by many developing countries, and they decided to explore how trade could help.

The underlying belief is that markets should be kept open worldwide in periods of financial crisis. This would ensure that crisis-hit economies can continue to count on exports in order to earn foreign exchange, and to help their incomes to grow. If access to foreign markets is restricted, indebted countries may not be able to earn enough foreign exchange and to service their external debt. They may have to resort to further unsustainable borrowing.

During the six meetings it held, the working group examined the relationship between trade and finance, between trade and debt, and the relevant WTO provisions. The group made good progress in identifying key linkages. A number of papers were presented both by members and by international governmental organizations.

The working group is now proposing a more focused list of themes and projects for further work after Cancún:

- trade liberalization as source of growth
- WTO rules and financial stability
- the importance of market access and the reduction of other trade barriers in the Doha Development Agenda's negotiations
- trade and financial markets
- trade financing
- better coherence in the design and implementation of trade-related reforms and monitoring
- the linkages between external liberalization and internal reforms
- external financing, commodity markets and export diversification

ENDS

TRADE AND TECHNOLOGY TRANSFER

Studying whether the WTO should have more specific measures

ON THE WEBSITE:

www.wto.org > trade topics > development

DOHA DECLARATION: Paragraph 37

A number of provisions in the WTO agreements refer to the need for technology transfer to take place between developed and developing countries. But it is not clear how it takes place in practice and if specific measures might be taken within the WTO to encourage such flows of technology.

The Doha Declaration

WTO ministers decided in Doha to establish a working group to examine the issue. The working group will report to the General Council which itself will report to the Cancún Ministerial Conference.

Since then ...

The working group has examined a number of studies by the Secretariat and a number of proposals from the members.

A group of developing countries has suggested focusing on the following points:

- to examine WTO provisions related to technology transfer with a view to making them operational and meaningful
- to look at WTO provisions which have the effect of hindering transfer of technology to developing countries (including intellectual property)
- to examine restrictive practices adopted by multinational enterprises in the area of technology transfer
- to examine the impact of developed countries' tariff peaks (relatively high tariffs) and tariff escalation (higher tariffs on processed products than on raw materials and components) on technology transfer
- to examine the difficulties developing countries face in meeting the standards set by different agreements because they lack the relevant technology
- to examine the need for and desirability of internationally agreed disciplines on technology transfer
- to examine possible internationally agreed commitments on technology transfer

Repeatedly, developed countries have emphasized the danger in coercing the private sector into giving away its technology. Developed countries believe that this would reduce the appeal for foreign direct investment.

ENDS

TECHNICAL COOPERATION

A joint effort to build capacity in developing countries

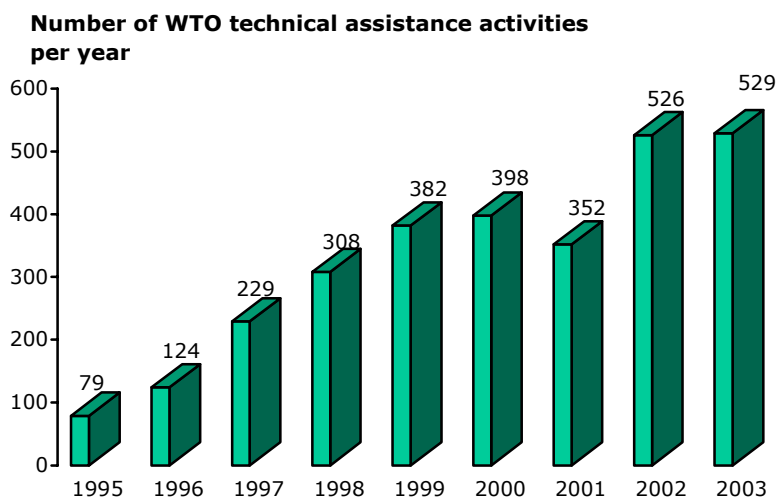
ON THE WEBSITE:

www.wto.org > trade topics > development

DOHA DECLARATION: Paragraphs 38–41

More than three quarters of the WTO's members are developing countries. Of these, 30 are least-developed. Developing countries, and countries in transition from central planning, require technical assistance to adjust to WTO rules and disciplines, implement obligations, and exercise their rights as members — including drawing on the benefits of an open, rules-based multilateral trading system.

Assisting officials from developing countries, and countries in transition, in their efforts to better understand WTO rules and procedures — and how these rules and procedure can benefit them — is among the most important aspects of the organization's work.



Since the WTO's creation in 1995, the number of technical assistance activities has continuously increased. This increase is driven by rising demand from WTO member governments in the developing world.

The Doha mandate

When WTO members launched a new round of negotiations in Doha, they acknowledged developing countries' increasing need for technical cooperation in order to allow them to participate fully in the negotiations. At Doha, donors — developed countries and international organizations active in trade issues — pledged to provide the needed support to developing countries.

Paragraph 41 of the Doha Declaration lists all the reference to commitments on technical cooperation within the declaration. Under this heading, WTO member governments reaffirm all technical cooperation and capacity building commitments made throughout the declaration and add general commitments:

- The Secretariat, in coordination with other relevant agencies, is to encourage WTO developing country members to consider trade as a main element for reducing poverty and to include trade measures in their development strategies.
- The agenda set out in the Doha Declaration gives priority to small, vulnerable, and transition economies, as well as to members and observers that do not have permanent delegations in Geneva.
- Technical assistance must be delivered by the WTO and other relevant international organizations within a coherent policy framework.

Since the launch of the Doha Development Agenda in November 2001, activities have increased even more. This reflects developing countries' desire to participate actively in the negotiations. It also shows

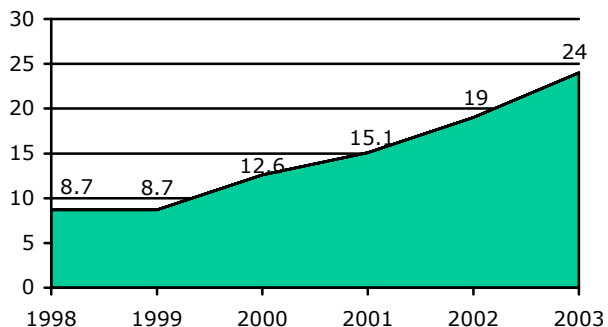
the increase in sectors covered by the WTO — investment, competition, trade facilitation and government transparency, for example, are four new topics.

Funding for technical cooperation has risen in line with the accelerating demand from members. Since the establishment of the Doha Development Agenda Global Trust Fund at the beginning of 2002, funding has increased to cover all activities related to the negotiations.

Reference Centres

Since 1997, the WTO Secretariat has installed Reference Centres in developing countries. These allow government officials to access essential documents instantly via the WTO website. WTO Secretariat officials provide governments with hardware, software and the training required to efficiently access such documents. By June 2003, 122 centres had been established in 100 countries including 54 in Africa, 16 in the Caribbean, 18 in Asia, 11 in the Middle East, 10 in the Pacific, eight in Latin America, and two in Eastern Europe.

Funding for WTO technical assistance
Million Swiss francs



Training Institute

The WTO Institute for Training and Technical Cooperation provides junior government officials with an important foundation of knowledge in WTO matters. These training courses, held at WTO headquarters in Geneva, run as long as 12 weeks and cover the full range of WTO issues. Many trainees have returned to Geneva as ambassadors representing their countries in the WTO. In 2002, 325 officials went through WTO training programmes.

Geneva weeks

In 1999, Director-General Mike Moore initiated a programme known as Geneva Week, which is a special week-long event bringing together representatives of WTO member countries who do not have permanent missions in Geneva. These sessions cover all WTO activities and include presentations by other international organizations based in Geneva, including the International Trade Center (ITC), the United Nations Conference on Trade and Development (UNCTAD), the World Intellectual Property Organization (WIPO) and the International Organization for Standardization (ISO). Geneva Week usually coincides with important activities already on the agenda including preparations for Ministerial Conferences or other negotiations. In 2002, for the first time, there were two Geneva Weeks. Since 2002, the Geneva Weeks have been funded by the regular WTO budget — previously they were funded from trust fund contributions.

ENDS

LEAST-DEVELOPED COUNTRIES

Enhancing trade opportunities

ON THE WEBSITE:

www.wto.org > *trade topics* > *development*

DOHA DECLARATION: Paragraphs 42–43

Least-developed countries' share of world trade is marginal, around 0.5% of the total. In recent years, WTO members have made significant efforts to help these countries increase their exports, through enhanced market access and technical assistance. Efforts have also been made to reinforce their participation in the work of the WTO.

Doha decision on least-developed countries

At the Doha Ministerial Conference in November 2001, members renewed their commitment to help least-developed countries. Concretely, they promised to give duty-free, quota-free market access improvements for products from these countries. They also promised to consider additional measures to improve least-developed countries' access to their wealthier markets. And they agreed to make it easier for least-developed countries to join the WTO.

On 12 February 2002, the Sub-Committee on Least-Developed Countries agreed to a work programme in order to implement the commitments of the Doha Declaration.

On **market access**, members will

- work to identify and examine all market access barriers confronting least-developed countries' products
- annually review all market access improvements
- examine possible additional measures to improve market access for least-developed countries' products.

On **technical assistance**, priority is to be given to least-developed countries. Members are encouraged to significantly increase their contribution to technical assistance programmes for these countries.

Additional measures to improve market access include **helping least-developed countries diversify** the products they make and export. Members will consider proposals related to trade and relevant to diversification, and will support the work of other international agencies in this field.

The sub-committee will annually review and possibly make recommendations on the participation of least-developed countries in the multilateral trading system.

Joining the WTO

On 10 December 2002, the General Council adopted a decision which sets guidelines to help least-developed countries join the WTO more quickly and easily. No least-developed country has gone through the full application process and joined the WTO since its creation on 1 January 1995. This decision should change that.

For example, the decision says WTO members will be restrained in seeking concessions and commitments on trade in goods and services from least-developed countries negotiating membership. The decision also says the least-developed countries joining the WTO are to be given the transition periods and transitional arrangements foreseen for all least-developed countries under specific WTO agreements. (These agreements allowed transition periods for developing and least-developed countries that were already members when the agreements took effect and the WTO came into being in 1995. Since then,

new members have often agreed to implement the provisions as soon as they joined, without a transition period.)

The ten least-developed countries currently negotiating WTO membership are: Bhutan, Cambodia, Cape Verde, Ethiopia, Laos, Nepal, Samoa, Sudan, Vanuatu and Yemen.

Participation in world trade

Between 1990 and 2002, least-developed countries have maintained their share of world trade, without any erosion. But they also remain marginal participants in world trade. Their merchandise exports, as a group, grew by 4% in 2002 to US\$38 billion. Their merchandise imports continue to exceed exports, rising by 3% to US\$45 billion in 2002.

The picture is similarly marginal in services. Globally, in 2002, services trade accounted for about one-fifth of total trade. But for least-developed countries, commercial services accounted for about one-eighth of their total exports, while imports of commercial services increased to US\$16 billion. The least-developed countries' deficit of US\$10 billion in commercial services trade continues to be much larger than their deficit in merchandise trade.

Preferential market access

Several developed and transition economies — including some of the major markets for least-developed countries' exports — have given duty-free and quota-free market access for all or almost all exports from least-developed countries. They include Canada, the Czech Republic, the EU, Hungary, New Zealand, Norway, the Slovak Republic and Switzerland. Among the major developing countries, Singapore and Hong Kong China already offer duty-free and quota-free access — without discriminating between WTO member countries — on virtually all products, including products from least-developed countries.

Some other developing countries such as Mauritius, Egypt, and the Republic of Korea, have also given least-developed countries preferential duty-free access to their markets, albeit for more limited ranges of products.

Some of the preferences are based on regions. For instance, India gives preferential access to least-developed fellow-members of the South Asian Association for Regional Cooperation (SAARC). Morocco gives preferential access to African least-developed countries. And the US gives enhanced market access opportunities for 23 least-developed countries in Sub-Saharan Africa under the African Growth and Opportunity Act (AGOA).

Additional measures have also been taken or considered by member governments. For instance, at the third United Nations Conference on the Least-Developed Countries in 2001, the EU announced it would not use anti-dumping measures on least-developed countries' exports. Other members have exercised similar restraint in the use of contingent trade remedies against imports of least-developed countries' products that might be dumped, subsidized or surging. Several, including Canada, the EU, Norway and Switzerland, have simplified the rules of origin so that least-developed countries can make use of preferential schemes (such as generalized systems of preferences or GSPs) more easily.

Participation in the WTO's work

In the past few years, least-developed countries have become more active in the WTO and its negotiations. But their participation is hampered by the small size of their delegations and, for some, the lack of a mission in Geneva.

To increase the number of WTO experts in those countries, the WTO Institute for Training and Technical Cooperation has stepped up its activities for them. These include: national and regional seminars, technical missions, workshops, conferences and symposiums. In 2003, least-developed countries will participate in approximately 150 regional and 115 national activities.

For non-residents — delegations which do not have an office in Geneva — “Geneva Weeks” are organized. Least-developed countries’ representatives in other European cities and officials from the capitals are invited to Geneva for a briefing on the state of play of work in the WTO. Non-residents are also kept up to date through briefing notes from the Secretariat. There are 24 WTO members and 12 observers who are not represented permanently in Geneva at all, 10 of them least-developed countries.

Definition of LDCs

The WTO recognizes as “least-developed countries” those given the designation by the United Nations. There are currently 49 least-developed countries on the UN list. Thirty of them are WTO members: Angola, Bangladesh, Benin, Burkina Faso, Burundi, Central African Republic, Chad, Democratic Republic of the Congo, 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.

Ten more are applying for WTO membership: Bhutan, Cambodia, Cape Verde, Ethiopia, Laos, Nepal, Samoa, Sudan, Vanuatu, and Yemen. They are observers.

Furthermore, Equatorial Guinea, and Sao Tome and Principe are also WTO observers without yet formally applying for membership.

ENDS

SPECIAL AND DIFFERENTIAL TREATMENT

Grappling with 88 proposals

ON THE WEBSITE:

www.wto.org > trade topics > development

DOHA DECLARATION: Paragraph 44

The WTO agreements contain special provisions which give developing countries special rights and allow developed countries to treat developing countries more favourably than other WTO members. These special provisions include, for example, longer time periods for implementing agreements and commitments, or measures to increase developing countries' trading opportunities.

These are "special and differential treatment provisions" (abbreviated as S&D or SDT).

The special provisions include:

- longer time periods for implementing agreements and commitments
- measures to increase trading opportunities for these countries
- provisions requiring all WTO members to safeguard the trade interests of developing countries
- support to help developing countries build the infrastructure to undertake WTO work, handle disputes, and implement technical standards
- provisions related to least-developed country (LDC) members

The Doha mandate

In the Doha Declaration, member governments agreed that all special and differential treatment provisions should be reviewed with a view to strengthening them and making them more precise, effective and operational.

More specifically, the declaration (together with the Decision on Implementation-Related Issues and Concerns) mandates the Trade and Development Committee to identify which special and differential treatment provisions are mandatory, and to consider the legal and practical implications of turning those that are currently non-binding into mandatory obligations.

In addition, the committee is to consider ways in which developing countries, particularly the least developed, may be helped to make best use of special and differential treatment.

From the Trade and Development Committee to the General Council

The Trade Negotiations Committee agreed that the mandate on special and differential treatment should be carried out by the Trade and Development Committee in "special sessions".

This has proved to be a difficult task. The Implementation Decision originally foresaw that the Trade and Development Committee would make its recommendations to the General Council by July 2002. Acting on the committee's recommendation, on 31 July 2002 the General Council extended the deadline to 31 December 2002.

Early in 2003, members were still unable to agree on the set of 88 proposals that had been made, and could not decide whether to harvest the 12 proposals on which consensus was possible. Many members called for the Doha mandate — the Ministerial Declaration and the Implementation Decision — to be clarified. The Trade and Development Committee's special session therefore made the following recommendations to the General Council:

- take note of the 12 proposals that members can agree in principle

- provide clarification on the mandate
- instruct the Trade and Development Committee's Special Session to suspend further work.

In February 2003, the General Council adopted the recommendations. Members agreed that the General Council Chairperson would consult delegations on how to take the matter forward.

The situation as it stands

The General Council Chairperson has held several informal meetings. There are now 14 proposals on which members can agree.

The proposals

A total of 88 proposals on special and differential treatment were made by developing and least-developed countries. Most proposals came from the African Group and the group of least-developed countries. The proposals usually identify parts of an agreement and suggest new wording to introduce new special and differential treatment provisions for developing countries or to strengthen existing ones.

Proposals on the table relate to most WTO agreements, including the General Agreement on Trade in Services (GATS), the GATT and the Agreement Trade-Related Aspects of Intellectual Property Rights (TRIPS).

In April 2003, the General Council Chairperson subdivided the 88 proposals into three distinct categories. **Category one**, with 38 proposals, contains those likely to be accepted with minor changes. It includes the 12 proposals that members had agreed in February. **Category two** contains 38 proposals which, according to the chairperson, would be discussed more effectively in the relevant WTO bodies. Accordingly, he forwarded them to the relevant bodies. The **third category** contains 12 proposals requiring major drafting in order to be agreed upon.

Proposals in the first and third categories remain on the General Council's agenda.

ENDS

IMPLEMENTATION

Progress made but some difficult issues remain

ON THE WEBSITE:

www.wto.org > [trade topics](#) > [Doha agenda](#) > [implementation decision explained](#)

DOHA DECLARATION: Paragraph 12

Concerns related to the issue of implementation of existing WTO agreements have been expressed by some developing countries for many years.

The issue is complex and not easily definable. The implementation issues before member governments run across the spectrum of the WTO agreements, covering areas such as market access, balance of payments, trade-related investment measures, trade-related intellectual property rights, customs valuation, safeguards, agriculture and services.

Developing countries' difficulties in implementing WTO accords are also rooted in a series of different factors, as well. In some cases, developing countries have raised implementation issues as means of addressing perceived inadequacies and inequities in the WTO agreements, including the timeframes in which developing countries were to have implemented the accords into national laws, regulations and practices. In other areas, implementation problems are linked to severe financial and institution capacity constraints which prevent developing country governments from adapting regulations, laws and practices so that they are in compliance with WTO rules. In other instances, the problems involve political sensitivities at home that have hindered implementation of the rules agreed as part of the 1994 Uruguay Round agreement that established the WTO.

Those countries which have taken a more cautious approach on implementation-related concerns argue that significant adaptation of the rules cannot be undertaken without mandated negotiations.

Singapore 1996, Geneva 1998, Seattle 1999

Ministers meeting in Singapore for the first WTO Ministerial Conference in 1996 noted: "Implementation thus far has been generally satisfactory, although some members have expressed dissatisfaction with certain aspects. It is clear that further effort in this area is required, as indicated by the relevant WTO bodies in their reports."

At the WTO's second Ministerial Conference in Geneva in 1998, a significant number of governments raised the matter and since that meeting the issue has regularly been on the agenda of the General Council and its subsidiary bodies.

Prior to the Seattle Ministerial Conference in 1999, implementation was a very important issue on the negotiating agenda for developing countries. Disagreement between developed and developing country governments on negotiating these issues was among the principal reasons behind the failure of the Seattle conference. Negotiators have worked hard on this matter since then and have made considerable progress in dealing with the issue.

After the Seattle meeting, there was wide recognition among WTO member governments of the need to address the issue and delegations agreed in 2000 to establish dedicated sessions of the General Council to deal specifically with implementation related issues.

Since before Seattle, more than 100 implementation proposals have been made by WTO Member Governments, nearly all of which were from developing countries.

Doha 2001: some resolved

At the fourth Ministerial Conference in Doha in 2001, ministers resolved certain implementation concerns immediately and charged specific WTO bodies with addressing others in several different ways. These actions addressed nearly half of the issues that had been raised before Seattle.

The Ministers agreed that the remaining issues should be dealt with through negotiations which were mandated as part of the launch of the Doha Development Agenda round of global trade negotiations, through discussions in subsidiary bodies which would be reviewed by the Trade Negotiating Committee (which oversees the seven formal negotiating groups and the negotiations that have transpired in the Committee on Trade and Development).

In Paragraph 12 of the Doha Ministerial Declaration, ministers stated: "We shall proceed as follows: (a) where we provide a specific negotiating mandate in this Declaration, the relevant implementation issues shall be address under that mandate; (b) the other outstanding implementation issues shall be addressed as a matter of priority by the relevant WTO bodies, which shall report to the Trade Negotiations Committee ... by the end of 2002 for *appropriate action*."

Since then ...

This complex implementation picture has been further complicated by disagreements among member governments as to the meaning of *appropriate action*, as it is spelled out in Paragraph 12 (b). Some delegations suggest that appropriate action means agreement to the proposals, some suggest that it means the proposals should be the subject of negotiations, while others question whether there is a mandate to conduct negotiations on these proposals at all.

In an effort to make progress on the remaining 23 issues, the chairperson of the Trade Negotiations Committee, WTO Director-General Supachai Panitchpakdi, suggested in December 2002 that delegations consider five approaches to addressing these issues. Director-General Supachai proposed that governments deal with the issues in one of the following ways:

1. resolving the issue
2. agreeing that no further action is needed on the issue
3. referring the issue to a negotiating body
4. continuing work in the relevant subsidiary body under enhanced supervision by the Trade Negotiations Committee and with a clear deadline, or
5. undertaking work at the level of the Trade Negotiations Committee.

While significant progress has been made in addressing the implementation issues before WTO bodies, some difficult issues remain. There are currently 23 issues which are now before the Trade Negotiations Committee covering issues including balance of payments, customs valuation, market access, safeguards, technical barriers to trade, trade-related investment measures and trade-related intellectual property. The political sensitivity of many of these matters has made resolving them an often difficult exercise.

ENDS

MEMBERS AND ACCESSION

Becoming a member of the WTO

ON THE WEBSITE:

www.wto.org > *the WTO* > *membership* > *accessions*

Any state or customs territory having full autonomy in the conduct of its trade policies may join (“accede to”) the WTO, but WTO members must agree on the terms.

How to join the WTO: the accession process

The process starts with the applying country submitting a formal written request to accede (under Article 12 of the WTO Agreement). The request is considered by the General Council, which sets up a **working party** to examine the application — each application has a separate working party. The working party eventually makes recommendations to the General Council, including a “protocol of accession” at the end of the negotiations. The working party is open to all WTO members.

Broadly speaking the application goes through four stages:

- **First, “tell us about yourself”.** The government applying for membership has to describe all aspects of its trade and economic policies that have a bearing on WTO agreements. This is submitted to working party members in a memorandum covering all aspects of its trade and legal regime, that forms the basis of the working party’s fact-finding exercise.
- **Second, “work out with us individually what you have to offer”.** When the working party has made sufficient progress on principles and policies, parallel bilateral talks begin between the prospective new member and individual countries. They are bilateral because different countries have different trading interests. These talks cover tariff rates and specific market access commitments, and other policies in goods and services. The new member’s commitments are to apply equally to all WTO members under normal non-discrimination rules, even though they are negotiated bilaterally. In other words, the talks determine the benefits (in the form of export opportunities and guarantees) other WTO members can expect when the new member joins. (The talks can be highly complicated. It has been said that in some cases the negotiations are almost as large as an entire round of multilateral trade negotiations.)
- **Third, “let’s draft membership terms”.** This is the substantive part of the multilateral membership negotiations. Once the working party has completed its examination of the applicant’s trade regime, and the parallel bilateral market access negotiations are complete, the working party finalizes the terms of accession. These consist of commitments to observe WTO rules and disciplines as soon as the new member joins, or in some cases with transitional periods. They appear in a draft **working party report**, a draft membership treaty (“**protocol of accession**”) and lists (“**schedules**”) of the member-to-be’s commitments.
- **Finally, “the decision”.** The final package, consisting of the report, protocol and lists of commitments, is presented to the WTO General Council or the Ministerial Conference. If a two-thirds majority of WTO members vote in favour, the applicant is free to sign the protocol and to accede to the organization. In many cases, the country’s own parliament or legislature has to ratify the agreement before membership is complete. The applicant becomes a member of the WTO 30 days after it has notified the WTO Secretariat that it has completed ratification.

Readiness and development level

Questions are often raised as to when a country can become a member of the WTO and whether it joins the WTO as a developing or a developed country. These questions are an inherent part of each membership negotiation.

Basically, the questions of a country’s readiness, and its level of development, involve it being given certain flexibilities when it implements the WTO’s rules and disciplines — a matter determined in the mem-

bership negotiations. The accession process can 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 the WTO's rules and disciplines.

Because each working party takes decisions by consensus, WTO members must agree that their individual concerns have been met and that all outstanding issues have been resolved in the course of their deliberations.

Least-developed countries

On 10 December 2002, the General Council agreed a new range of measures enabling the world's poorest countries, the least-developed countries (LDCs), to join more quickly and easily.

Member governments agreed to be restrained in seeking concessions and commitments on goods and services from least-developed countries negotiating membership. They agreed to apply "special and differential treatment" to those countries as soon as they become members, and to grant transitional periods in specific WTO agreements, taking into account individual development, financial and trade needs. The purpose is to enable them to implement and comply with the rules. (Many WTO agreements allowed transition periods for developing and least-developed countries that were already members when the agreements took effect and the WTO came into being in 1995. Since then, new members have often agreed to implement the provisions as soon as they joined, without a transition period.) In the General Council decision, WTO members also agreed to provide technical assistance.

The new members

Since the WTO was established on 1 January 1995, 19 new members have joined the WTO through working party negotiations. These are: Albania, Armenia, Bulgaria, China, Croatia, Ecuador, Estonia, Former Yugoslav Republic of Macedonia, Georgia, Jordan, Latvia, Lithuania, Kyrgyz Republic, Moldova, Mongolia, Oman, Panama, Saint Kitts and Nevis, and Chinese Taipei. (A number of others were originally GATT members who formally joined the WTO after 1 January 1995 because of delayed ratification and other formalities.)

Since the last Ministerial Conference in November 2001, the WTO has received four new members: China and Chinese Taipei, whose membership was approved by the Ministerial Conference itself; and Armenia and the Former Yugoslav Republic of Macedonia, whose membership was approved by the General Council.

The applicants

With 27 governments still in the queue for membership of the WTO, accession will remain a major challenge for WTO members in the years ahead. These are the 27. Their applications are currently being considered by WTO accession working parties. An exception is Vanuatu, whose membership awaits a final decision by its government and then by the General Council. Each of these applicant governments is an observer in the WTO.

Algeria	Cambodia	Nepal	Tajikistan
Andorra	Cape Verde	Russian Federation	Tonga
Azerbaijan	Ethiopia	Samoa	Ukraine
Bahamas	Kazakhstan	Saudi Arabia	Uzbekistan
Belarus	Lao People's	Serbia and Montenegro	Vanuatu
Bosnia Herzegovina	Democratic Republic	Seychelles	Viet Nam
Bhutan	Lebanese Republic	Sudan	Yemen

Some current accessions negotiations

Of the countries applying to join the WTO, these have been more active in their negotiations in the last few months, are close to an agreement, or have aroused more public interest:

Algeria

Algeria's working party was established on 17 June 1987 and met for the first time in April 1998. Topics under discussion in the working party include: agriculture, the customs system, state trading, transparency and legal reform, and intellectual property. Algeria has made its initial offers on market access in goods and the discussion on terms of entry is underway. The fifth meeting of the working party took place in May 2003. At that meeting, the working party chairperson, Ambassador Carlos Pérez del Castillo of Uruguay, said that efforts will be made to try to finish the negotiation so that Algeria would become a member of the WTO in 2004.

Cambodia

On 22 July 2003, Cambodia's working party completed its work (although some of the documentation still needed tidying up). Cambodia is now set to meet its ambition of having its membership approved in Cancún, making it the first least-developed country to join the WTO through a working party negotiation since the WTO came into being in 1995. Cambodia has also benefited from the 10 December 2002 General Council decision setting guidelines to help least-developed countries join the WTO more quickly and easily.

A tight schedule was agreed at the working party's 16 April 2003 meeting, aiming for Cambodia's WTO membership negotiation to end in July, and allowing the possibility for all the formalities to be completed by the Ministerial Conference. The April meeting saw substantive discussion on a first version of the working party's draft report.

Earlier this year, Cambodia had revised its market access offers, further reducing proposed tariff ceilings and adding more service sectors. In return, Cambodia asked for more technical assistance to help it adjust, although it agreed not to make this a condition for opening its markets. In the meantime, several members still had to complete their bilateral negotiations with Cambodia on particular market access issues that concern them, but many said they were close to agreement.

The Cambodian working party was established on 21 December 1994. Cambodia submitted a memorandum on its foreign trade regime in June 1999. Replies to questions concerning the memorandum were circulated in January 2001. Bilateral negotiations on market access in goods and services continued in 2002 and 2003.

Nepal

Nepal is now set to be the second least-developed country to join the WTO through a working party negotiation, following hard on the heels of Cambodia. The working party completed its work, marking the end of the membership negotiations, including those on market access for goods and services, on 15 August 2003, less than a month before Cancún.

Nepal's working party was established on 21 June 1999 and held its first meeting in May 2000. Nepal made the latest offer on market access for goods and services in May 2003. The draft working party report was circulated in mid-June 2003.

Russian Federation

Russia's working party was established on 16 June 1993. Bilateral market access negotiations on goods and services have started. In the working party, topics under discussion include: agriculture, the customs system (and customs union and other trade arrangements with CIS states), excise taxation and

national treatment, import licensing, industrial subsidies, national treatment, sanitary/phytosanitary measures and technical barriers to trade, trade-related investment measures, intellectual property, and services. Discussion has started on a second draft of the working party's report.

Russia is the biggest economy outside the WTO and the accession negotiations are intense and detailed. One of the most important aspects of this negotiation is a wide ranging programme of legislative reforms, which the Russian Parliament plans to complete this year. This set of new or amended laws includes a Customs Code, intellectual property protection, regulation of foreign trade activity, foreign currency regulations and many more. The aim is to create a modern, market oriented and predictable legal environment in tune with WTO agreements and principles and Russia's own plans for economic reform.

A well-defined programme of bilateral, plurilateral and multilateral meetings for 2003 is underway. Many of these bilateral meetings involve Russia negotiating market access agreements for goods and services with its trading partners. Other meetings have focused on dealing in more detail with some contentious issues in the negotiation such as agriculture, import quotas, and energy, in particular natural gas. At this stage it is very difficult to forecast when the negotiations will end and when Russia will join the WTO.

Saudi Arabia

Saudi Arabia's working party was established on 21 July 1993. Its last meeting was in October 2000. Bilateral market access negotiations on goods and services are continuing on the basis of revised offers. Topics discussed in the working party include: agriculture, preshipment inspection, sanitary-/phytosanitary measures and technical barriers to trade, intellectual property, and services. The working party is also focusing on a draft report and protocol of accession.

Ukraine

Ukraine's working party was established on 17 December 1994. Topics under discussion include: agriculture, the customs system, excise and value added tax, import licensing and other non-tariff measures, industrial subsidies, national treatment, services, state trading, transparency and legal reform, and intellectual property. Bilateral market access negotiations are continuing on the basis of revised offers in goods and services. Work has started on a "check-list of issues", i.e. specific concerns that members have raised, and Ukraine's replies to the individual questions or request for clarification. The working party's last meeting was on 25 February 2003.

Viet Nam

Viet Nam reported progress in its membership negotiations, when its working party met last on 12 May 2003, but several delegations said much more needs to be done. The working party chairperson told members that "success will depend on a quantum jump" in efforts if Viet Nam is to meet its goal of joining by 2005.

The working party was established on 31 January 1995. Bilateral market access contacts are generally in early stages. Several members say they need Viet Nam to circulate lists of the import duties it currently charges (the "applied tariff schedule") before they can negotiate market access properly.

Topics under discussion in the working party include: trading rights for foreigners and foreign companies, technical barriers to trade, sanitary and phytosanitary measures, quantitative restrictions on imports, customs valuation and the customs system, import licensing, agricultural subsidies, intellectual property, investment policies and subsidies, state trading and the broader economic regime.

Current WTO members

ON THE WEBSITE:

www.wto.org > the WTO > membership > members and observers

146 governments, as on 4 April 2003, with date of membership ("g" = the 51 original GATT members who joined after 1 January 1995; "n" = new members joining the WTO through a working party negotiation):

Albania 8 September 2000 (n)
Angola 1 December 1996 (g)
Antigua and Barbuda 1 January 1995
Argentina 1 January 1995
Armenia 5 February 2003 (n)
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 (g)
Bolivia 13 September 1995 (g)
Botswana 31 May 1995 (g)
Brazil 1 January 1995
Brunei Darussalam 1 January 1995
Bulgaria 1 December 1996 (n)
Burkina Faso 3 June 1995 (g)
Burundi 23 July 1995 (g)
Cameroon 13 December 1995 (g)
Canada 1 January 1995
Central African Republic 31 May 1995 (g)
Chad 19 October 1996 (g)
Chile 1 January 1995
China 11 December 2001 (n)
Colombia 30 April 1995 (g)
Congo 27 March 1997 (g)
Costa Rica 1 January 1995
Côte d'Ivoire 1 January 1995
Croatia 30 November 2000 (n)
Cuba 20 April 1995 (g)
Cyprus 30 July 1995 (g)
Czech Republic 1 January 1995
Democratic Republic of the Congo 1 January 1997 (g)
Denmark 1 January 1995
Djibouti 31 May 1995 (g)
Dominica 1 January 1995
Dominican Republic 9 March 1995 (g)
Ecuador 21 January 1996 (n)
Egypt 30 June 1995 (g)
El Salvador 7 May 1995 (g)
Estonia 13 November 1999 (n)
European Union 1 January 1995
Fiji 14 January 1996 (g)
Finland 1 January 1995
Former Yugoslav Republic of Macedonia 4 April 2003 (n)
France 1 January 1995
Gabon 1 January 1995
Gambia 23 October 1996 (g)
Georgia 14 June 2000 (n)
Germany 1 January 1995
Ghana 1 January 1995
Greece 1 January 1995
Grenada 22 February 1996 (g)
Guatemala 21 July 1995 (g)
Guinea Bissau 31 May 1995 (g)
Guinea 25 October 1995 (g)
Guyana 1 January 1995
Haiti 30 January 1996 (g)
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 (g)
Italy 1 January 1995
Jamaica 9 March 1995 (g)
Jordan 11 April 2000 (n)
Japan 1 January 1995
Kenya 1 January 1995
Korea 1 January 1995
Kuwait 1 January 1995
Kyrgyz Republic 20 December 1998 (n)
Latvia 10 February 1999 (n)
Lesotho 31 May 1995 (g)
Liechtenstein 1 September 1995 (g)
Lithuania 31 May 2001 (n)
Luxembourg 1 January 1995
Macao, China 1 January 1995
Madagascar 17 November 1995 (g)
Malawi 31 May 1995 (g)
Malaysia 1 January 1995
Maldives 31 May 1995 (g)
Mali 31 May 1995 (g)
Malta 1 January 1995
Mauritania 31 May 1995 (g)
Mauritius 1 January 1995
Mexico 1 January 1995
Moldova 26 July 2001 (n)
Mongolia 29 January 1997 (n)
Morocco 1 January 1995
Mozambique 26 August 1995 (g)
Myanmar 1 January 1995
Namibia 1 January 1995
Netherlands — including Netherlands Antilles 1 January 1995
New Zealand 1 January 1995
Nicaragua 3 September 1995 (g)
Niger 13 December 1996 (g)
Nigeria 1 January 1995
Norway 1 January 1995
Oman 9 November 2000 (n)
Pakistan 1 January 1995
Panama 6 September 1997 (n)
Papua New Guinea 9 June 1996 (g)
Paraguay 1 January 1995
Peru 1 January 1995
Philippines 1 January 1995
Poland 1 July 1995 (g)
Portugal 1 January 1995
Qatar 13 January 1996 (g)
Romania 1 January 1995
Rwanda 22 May 1996 (g)
Saint Kitts and Nevis 21 February 1996 (n)
Saint Lucia 1 January 1995
Saint Vincent & the Grenadines 1 January 1995
Senegal 1 January 1995
Sierra Leone 23 July 1995 (g)
Singapore 1 January 1995
Slovak Republic 1 January 1995
Slovenia 30 July 1995 (g)
Solomon Islands 26 July 1996 (g)
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 (g)
Chinese Taipei 1 January 2002 (n)
Tanzania 1 January 1995
Thailand 1 January 1995
Togo 31 May 1995 (g)
Trinidad and Tobago 1 March 1995 (g)
Tunisia 29 March 1995 (g)
Turkey 26 March 1995 (g)
Uganda 1 January 1995
United Arab Emirates 10 April 1996 (g)
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 (g)

ENDS

SOME FACTS AND FIGURES

Facts for the 'Fifth'

All figures from the WTO unless source specified

World trade and output

Selected indicators, 1948–2002

	1948	1950	1973	1990	2000	2002	Annual percentage change			
							1948–73	1973–00	1948–02	1990–00
World merchandise exports										
Billion current \$	58	61	579	3,438	6,250	6,240	9.7	9.2	9.1	6.2
Billion constant 1990\$	304	376	1797	3,438	6,726	6,836	7.4	5.0	5.9	6.9
Exports per capita, 1990\$	123	149	458	654	1,110	1,110	5.4	3.3	4.1	5.4
World exports of manufactures										
Billion current \$	22	23	348	2,390	4,630	...	11.7	10.1	...	6.8
Billion constant 1990\$	93	112	955	2,390	5,031	...	9.8	6.3	...	7.7
Exports per capita, 1990\$	38	44	244	455	831	...	7.8	4.6	...	6.2
World output (Indices, 1990=100)										
Total merchandise production	16.9	18.4	64.3	100.0	126.5	...	5.5	2.5	...	2.4
— manufacturing output	10.9	12.8	60.3	100.0	130.2	...	7.1	2.9	...	2.7
GDP (billion, 1990\$)	3,935	4,285	13,408	22,490	28,115	28,993	5.0	2.7	3.8	2.3
GDP per capita (1990\$)	1,591	1,700	3,420	4,280	4,642	4,668	3.1	1.1	2.0	0.8
GDP (billion, current \$, at market rates) ^a	...	775	4,908	22,490	31,398	32,128	8.4	7.1	7.4	3.4
World population (million)										
	2,473	2,521	3,920	5,255	6,057	6,211	1.9	1.6	1.7	1.4
Trade to GDP										
Exports of goods and services, to GDP, at constant 1987 prices, %	...	8.0	14.9	19.8	29.2	29.0	...	...	...	...
Merchandise trade to GDP										
at current prices	...	7.9	11.8	15.3	19.9	19.4				
at constant prices	...	8.8	13.4	15.3	23.9	23.6				

a Growth rates refer to 1950 instead of 1948.

Sources: Population: *UN World Population Prospects 2000* revision.

GDP, current: *IMF World Economic Outlook*. April 2003.

GDP, 1987 prices: World Bank and WTO.

Trade: *WTO International Trade Statistics 2002 and World Trade Report 2003*

World trade and output growth by sector, 2001

Annual percentage change in volume

	Exports	Output
Manufactures	-2.7	-1.6
Agricultural products	1.5	0.4
Mining products	1.5	0.1
Total merchandise	-1.4	-1
GDP		1.5

Source: WTO International Trade Statistics 2002

World exports of merchandise and commercial services, 1990–2002

Billion dollars and percentage

	Value 2002	Annual percentage change				
		1990–00	1999	2000	2001	2002
Merchandise	6240	6.0	4.0	13.0	-4.0	4.0
Commercial services	1540	7.0	3.0	6.0	-1.0	5.0

Source: WTO

Least-developed countries (LDCs). Merchandise exports by selected country group, 1990–2002

Billion dollars and percentage

	Value 2002	Annual percentage change			
		1990–2000	2000	2001	2002
Total LDCs	38.0	7.0	26.0	1.0	4.0
Oil exporters (4) ^a	14.0	11.0	64.0	-10.0	8.0
Exporters of manufactures (8) ^b	12.0	15.0	24.0	5.0	-1.0
Commodity exporters (31)	10.0	2.0	-7.0	16.0	4.0
LDCs with civil strife (6) ^c	1.0	-9.0	-12.0	8.0	-2.0
World	6,240	6.0	13.0	-4.0	4.0

a Angola, Equatorial Guinea, Sudan and Yemen.

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

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

Source: WTO

Developing economies' trade and output growth, 1990–2002

Annual percentage change

	Developing economies				World
	2000	2001	2002	1990–2000	1990–2000
GDP	5.5	2.0	3.0	5.0	3.0
Merchandise export volume	14.0	0.0	7.0	9.0	6.5
Merchandise import volume	16.0	0.0	6.0	8.5	6.5
Merchandise export value	23.5	–6.5	6.0	9.0	6.0
Merchandise import value	20.0	–4.0	4.0	8.5	6.5

Source: WTO

Latin America – merchandise trade, 1990–2002

Billion dollars and percentage

	Total merchandise exports 2002	Total merchandise imports 2002	Annual percentage change			
			Exports growth 1990–2000	Exports growth 2002	Imports growth 1990–2000	Imports growth 2002
Latin America	351.5	355.1	9.5	1.0	11.5	–7.0
Mexico	160.8	176.5	15.0	1.5	15.5	0.0
maquiladoras	78.0	59.3	19.0	1.5	19.5	3.0
ANDEAN (5)	52.7	42.4	6.5	0.0	8.5	–9.0
MERCOSUR (4)	88.5	62.1	6.0	1.0	12.0	–26.0

Source: WTO

Acceding countries' merchandise trade: Cambodia and Nepal, 1990–2002

Million dollars and percentage

	Merchandise exports 2002	Merchandise imports 2002	Annual percentage change			
			Exports growth 1990–2000	Exports growth 2002	Imports growth 1990–2000	Imports growth 2002
Cambodia	1,379	1,968	31.0	0.0	26.0	14.0
Nepal	645	1,394	15.0	–13.0	9.0	–5.0

Source: WTO

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

FDI flows and global integration

- Global FDI inflows amounted to **\$735 billion** in 2001 and are estimated to have declined to **\$534 billion** in 2002.
- FDI inflows dropped by **59%** in developed countries and **14%** in developing countries in 2001 following a **16%** annual growth between 1973 and 2000.
- Global FDI outward stock rose **nearly 6 fold** between 1990 and 2001 reaching **\$6.6 trillion** in 2001.
- Cross-border mergers & acquisitions valued **\$594 billion** in 2001, over 4 times the average of **\$145 billion** during 1990–94.
- FDI inflows to developing and transition economies rose to **28%** and **4%** in 2001 compared to **18%** and **2%** in 1999/2000.
- FDI flows to Africa rose from **\$9 billion** in 2000 to more than **\$17 billion** in 2001.

Source: UNCTAD, World Investment Report 2001 and 2002

Global benefits from cuts in trade protection

There are a number of published studies that examine the potential impact of trade liberalization in general and specific elements of the Doha Development Agenda in particular. Comparing them systematically is impossible because researchers have used a wide range of methods and data. Nevertheless, a number of consistent results across these studies provide an insight into the economic potential of trade negotiations.

- The largest share of benefits from liberalization typically **goes to the country that liberalizes**.
- **Most developing countries would gain** from a broader market access package of trade liberalization.
- If tariffs are eliminated completely, the range of estimated economic benefits (“welfare gains”) is **\$80–\$500 billion**. Estimates of the share going to developing countries are in the range **40–60%**.
- What if trade-distorting agricultural policies are eliminated completely, i.e. domestic support, export subsidies and tariffs? The range of estimated gains is **\$8–\$10 billion**. (These estimates are net totals since some countries stand to lose from the elimination.)

- **If export subsidies are removed**, some developing countries stand to lose because their imports will become more expensive compared with other products. However, their losses can be compensated by their gains if all countries liberalize appropriately on the market access side.
- In the **agriculture** negotiations, **tariff liberalization is the largest source of gains** for developing countries as a group.
- The gains from services trade liberalization are estimated to be between **two to four times** the gains from merchandise trade liberalization.
- The gains from trade facilitation are estimated to be **2–5%** of the value of trade and **50–100%** of the gains from merchandise trade liberalization.
- It is estimated that **\$81.1 billion** of developing-country imports are affected by export cartels.

For more information, a selection of studies on trade liberalization:

- International Monetary Fund (2002) *World Economic Outlook*, September, Washington, IMF.
- Levenstein, M. C., and Suslow, V., "Private International Cartels and The Effect on Developing Countries". Background Paper to the World Bank's *World Development Report 2001*, Washington, D.C., 2001.
- Organisation for Economic Co-operation and Development (OECD) (2001), "Business benefits of trade facilitation", TD/TC/WP (2001) 21/Final, Paris, OECD.
- Organisation for Economic Co-operation and Development (OECD) (2003), "The Doha Development Agenda: welfare gains from further multilateral trade liberalization with respect to tariffs", TD/TC/WP (2003) 10/Final, Paris, OECD.
- United Nations Conference on Trade and Development (2003), *Back to basics: market access issues in the Doha Agenda*, Geneva, UNCTAD.
- World Bank (2002), *Global Economic Prospects 2002: making trade work for the world's poor*, Washington, World Bank.

Tariff rates in WTO members

This is a selection of available data. Average bound rates are not included because of differences in the numbers of products that are bound. For more details, see the WTO's *World Trade Report for 2003*: "Trade Development and the Opportunities of Doha".

Import markets	MFN bound tariffs				MFN applied tariffs				
	Last year of implementation	Binding coverage %			For all products			Agriculture Simple average	Non-agri. Simple average
		Agri-culture	Last year of implementation	Non-agriculture	Year	Duty-free %	Non-ad valorem %		
Albania	2007	100.0	2009	100.0	2001	1.0	0.0	9.0	7.2
Angola	1995	100.0	1995	100.0	...	...	...	...	...
Antigua and Barbuda*	2004	99.9	1999	97.6	2001	11.1	2.8	14.7	8.8
Argentina	2004	100.0	2003	100.0	2001	2.5	0.0	12.3	12.7
Armenia*	...	...	...	...	2001	70.3	0.0	7.2	2.3
Australia	2000	100.0	2000	96.5	2001	47.5	0.1	1.1	4.6
Bahrain*	1995	100.0	1995	71.0	2001	3.1	0.1	9.0	7.6
Bangladesh	2004	100.0	1997	3.0	1999	6.4	0.1	24.2	21.7
Barbados	2004	100.0	1995	97.6	2001	0.0	0.9	30.1	9.8
Belize*	1995	100.0	1995	97.7	2001	9.6	0.4	17.8	9.4
Benin*	1995	100.0	1995	30.1	2002	1.3	0.0	14.2	11.6
Bolivia	2000	100.0	1995	100.0	2002	3.9	0.0	10.0	9.3
Botswana	2000	99.7	2007	96.0	2001	51.1	14.2	8.7	5.3
Brazil	2004	100.0	2004	100.0	2001	2.4	0.0	12.5	14.9
Brunei Darussalam	1995	97.6	1995	95.0	2001	77.1	0.7	0.0	3.0
Bulgaria	2001	100.0	2010	100.0	2001	16.6	1.3	18.2	10.0
Burkina Faso*	1995	100.0	1995	29.9	2002	1.3	0.0	14.2	11.6
Burundi	1995	100.0	1995	9.9	...	...	...	...	...
Cameroon	1995	100.0	1995	0.1	2001	0.6	0.0	22.0	17.5
Canada	2004	100.0	2004	99.7	2001	38.7	2.9	3.0	4.3
Central African Rep.*	1995	100.0	1995	56.8	2002	0.6	0.1	22.3	17.4

Import markets	MFN bound tariffs				MFN applied tariffs				
	Last year of implementation	Binding coverage %			For all products			Agriculture Simple average	Non-agri. Simple average
		Agriculture	Last year of implementation	Non-agriculture	Year	Duty-free %	Non-ad valorem %		
Chad*	1995	100.0	1995	0.3	2002	0.6	0.1	22.3	17.4
Chile	2004	100.0	2004	100.0	2001	0.6	0.0	8.0	7.9
China	2010	100.0	2010	100.0	2002	3.2	0.5	19.2	11.3
Colombia	2004	100.0	2004	100.0	2001	1.0	0.0	14.8	11.8
Congo*	1995	100.0	1995	3.2	2002	0.6	0.1	22.3	17.4
Congo, Dem. Rep.	1995	100.0	1995	100.0	...	...	...	...	...
Costa Rica	2004	100.0	2005	100.0	2001	48.5	0.0	12.0	4.6
Côte d'Ivoire*	2004	100.0	1999	22.9	2002	1.3	0.0	14.2	11.6
Croatia	2007	100.0	2005	100.0	2001	31.4	2.4	11.6	5.7
Cuba	2004	100.0	2004	20.4	2002	5.8	0.0	10.6	10.9
Cyprus	2004	99.6	2004	83.9	2001	18.9	5.3	21.4	4.3
Czech Rep.	2000	100.0	2004	100.0	2001	19.2	0.0	10.0	4.2
Djibouti	1995	100.0	1995	100.0	1999	0.0	2.0	23.9	31.7
Dominica	2004	100.0	2004	94.0	2001	22.9	0.0	19.6	8.4
Dominican Rep.	2004	100.0	1995	100.0	2000	10.7	0.0	12.1	7.8
Ecuador	2001	100.0	2001	99.8	2000	2.0	0.0	14.5	11.5
Egypt*	2004	99.7	2004	98.7	2002	0.5	10.6	22.8	19.4
El Salvador	2004	100.0	2005	100.0	2000	48.2	0.0	10.6	6.5
Estonia	2004	100.0	2005	100.0	2002	93.5	0.0	12.2	0.1
European Union	2003	100.0	2004	100.0	2002	18.3	5.9	5.9	4.2
Fiji	2004	100.0	1995	45.0	...	...	...	...	...
FYR Macedonia	...	...	...	...	2001	0.6	1.5	19.1	11.7
Gabon	1995	100.0	1995	100.0	2000	1.9	0.0	21.8	17.4
Gambia	1995	100.0	1995	0.5	...	...	...	...	...
Georgia*	2006	100.0	2005	100.0	1999	0.0	0.2	11.9	10.4
Ghana	2004	100.0	2004	1.2	2000	13.5	0.0	20.1	13.8
Grenada	1995	100.0	1995	100.0	2001	5.7	56.3	23.0	17.7
Guatemala	2004	100.0	2004	100.0	1999	47.5	0.0	9.8	7.1
Guinea	1995	100.0	1995	29.6	1998	0.6	0.0	6.6	6.4
Guinea-Bissau*	1995	100.0	1995	97.4	2002	1.3	0.0	14.2	11.6
Guyana	1995	100.0	1999	100.0	2000	4.0	0.0	20.1	9.6
Haiti	1999	100.0	1999	87.6	...	...	...	...	...
Honduras	2001	100.0	2001	100.0	2000	0.0	0.0	10.9	6.7
Hong Kong, China	2000	100.0	2000	37.4	2002	100.0	0.0	0.0	0.0
Hungary	2001	100.0	2002	95.8	2001	10.1	0.0	25.8	7.0
Iceland	2000	100.0	2000	94.2	2000	71.6	2.8	7.0	2.4
India	2004	100.0	2005	69.8	2001	1.1	5.2	37.0	30.5
Indonesia	2004	100.0	2005	96.1	2002	19.3	0.1	8.2	6.7
Israel	2004	98.5	2005	73.0	1999	40.8	18.2	15.9	4.0
Jamaica	1995	100.0	1995	100.0	1999	63.3	0.0	15.8	5.9
Japan	2004	100.0	2004	99.5	2001	45.2	6.5	7.1	2.7
Jordan	2010	100.0	2010	100.0	2001	18.5	0.2	20.7	13.8
Kenya	1995	100.0	1999	1.6	2001	3.1	0.0	20.1	16.6
Korea, Rep.	2004	99.1	2009	93.7	2001	4.9	0.5	45.5	7.5
Kuwait*	1995	100.0	1995	100.0	2002	12.5	2.1	1.7	3.9
Kyrgyz Rep.	2003	100.0	2005	99.9	2001	54.9	0.3	5.9	4.6
Latvia	2008	100.0	2008	100.0	1999	19.1	0.1	11.9	2.9
Lesotho	1995	100.0	1995	100.0	2001	51.1	14.2	8.7	5.3
Lithuania	2009	100.0	2009	100.0	2001	75.0	0.4	9.8	2.5
Macao, China	1995	100.0	1997	15.6	2001	100.0	0.0	0.0	0.0
Madagascar	1995	100.0	1995	18.9	2000	33.6	0.0	5.7	5.7
Malawi	2004	100.0	1999	20.7	2000	3.8	0.0	14.8	13.2
Malaysia	2004	99.9	2005	81.2	2001	53.3	0.8	2.1	8.1
Maldives*	1995	100.0	1995	96.7	2002	0.1	0.1	18.2	20.5
Mali	1995	100.0	1995	31.6	1999	29.4	0.0	14.6	10.6
Malta	1995	100.0	1995	96.8	2001	16.7	0.1	4.0	5.8
Mauritania*	1995	100.0	1995	30.1	2001	8.5	0.0	12.9	10.6
Mauritius	1995	100.0	2005	5.3	2001	55.4	0.1	19.7	18.9
Mexico	2004	100.0	2004	100.0	2001	0.8	0.8	23.4	17.1
Moldova*	2005	99.9	2005	100.0	2001	46.1	0.7	10.3	4.1
Mongolia	1999	100.0	2005	100.0	...	...	...	...	...
Morocco	2004	100.0	2004	100.0	1997	0.0	0.2	57.6	30.1
Mozambique*	1995	100.0	1995	0.5	2002	2.2	0.0	16.8	11.4
Myanmar	1995	100.0	1995	4.7	1996	3.0	0.0	8.5	5.1
Namibia	2000	99.7	2007	96.0	2001	51.1	14.2	8.7	5.3
New Zealand	2000	100.0	2000	99.9	1999	54.1	3.9	1.7	3.5
Nicaragua	2004	100.0	2004	100.0	2002	49.1	0.0	9.1	4.1

Import markets	MFN bound tariffs				MFN applied tariffs				
	Last year of implementation	Binding coverage %			For all products			Agri-culture Simple average	Non-agri. Simple average
		Agri-culture	Last year of implementation	Non-agriculture	Year	Duty-free %	Non-ad valorem %		
Niger*	1995	100.0	1995	96.3	2002	1.3	0.0	14.2	11.6
Nigeria*	1995	100.0	1999	6.9	2002	0.0	0.5	53.9	26.3
Norway	2000	100.0	2004	100.0	2002	75.2	9.4	8.4	1.7
Oman	2006	100.0	2009	100.0	2001	5.0	0.0	10.2	5.0
Pakistan	2002	92.6	2004	36.9	2001	0.0	0.7	22.0	19.9
Panama	2006	100.0	2010	100.0	2001	3.4	0.0	15.1	7.7
Papua New Guinea*	2008	100.0	2006	100.0	2002	76.2	1.1	17.7	5.5
Paraguay	1995	100.0	1995	100.0	2001	2.2	0.0	12.1	13.2
Peru	2004	100.0	1995	100.0	1998	0.0	0.0	15.0	13.1
Philippines	2003	99.4	2005	61.8	2002	2.1	0.0	9.2	5.2
Poland	2000	99.9	2002	95.7	2001	4.8	3.6	41.9	10.1
Qatar*	1995	100.0	2009	100.0	2002	0.0	0.0	4.9	4.1
Romania	2004	100.0	2004	100.0	1999	2.6	0.0	112.0	16.2
Rwanda*	1995	100.0	1999	100.0	2001	7.5	0.2	13.0	9.4
Senegal*	2005	100.0	2005	100.0	2002	1.3	0.0	14.2	11.6
Sierra Leone	1995	100.0	2004	100.0	...	...	...	...	...
Singapore	2004	100.0	2004	64.5	2001	100.0	0.0	0.0	0.0
Slovak Rep.	2000	100.0	2004	100.0	2001	19.2	0.0	9.9	4.2
Slovenia	2000	100.0	2003	100.0	2002	10.0	1.5	11.3	9.3
Solomon Islands	1995	100.0	1995	100.0	1998	0.0	1.4	34.0	20.5
South Africa	2000	99.7	2007	96.0	2001	51.1	14.2	8.7	5.3
Sri Lanka	2000	100.0	2001	28.3	1998	18.4	0.6	25.1	8.8
St. Kitts and Nevis*	2004	100.0	2004	97.6	2001	23.5	0.4	12.6	8.8
St. Lucia	2004	100.0	2004	99.5	2001	40.0	0.0	14.8	8.0
St. Vincent and the Grenadines*	2004	100.0	2004	99.7	2001	8.5	0.2	15.6	8.9
Suriname*	2004	100.0	1999	15.1	2000	5.3	74.8	23.5	14.5
Swaziland	2000	99.7	2007	96.0	2001	51.1	14.2	8.7	5.3
Switzerland	2004	100.0	2004	99.7	2001	15.8	84.2	0.0	0.0
Chinese Taipei	2011	99.9	2011	100.0	2001	14.2	1.6	17.3	6.3
Tanzania*	1995	100.0	1995	0.1	2000	2.4	0.0	19.8	15.8
Thailand	2004	100.0	2005	70.9	1999	1.4	22.7	30.8	15.5
Togo	1995	100.0	1995	0.7	2001	1.2	0.0	14.0	11.7
Trinidad and Tobago*	2004	100.0	1995	100.0	2002	44.2	0.1	15.7	6.7
Tunisia*	2005	98.8	2005	51.1	2002	10.2	0.0	77.8	27.1
Turkey	2004	100.0	2004	39.3	2001	16.3	1.7	42.2	5.5
Uganda	1995	100.0	1995	3.0	2001	16.1	0.0	12.4	8.5
United Arab Emirates	1995	100.0	2009	100.0	...	...	...	...	...
United States	2003	100.0	2004	100.0	2001	30.7	0.2	4.7	3.8
Uruguay	2004	100.0	1995	100.0	2001	2.2	0.0	12.3	14.0
Venezuela	2004	100.0	2004	100.0	2001	0.6	0.0	14.8	12.1
Zambia	1995	100.0	1995	4.1	2001	14.2	1.4	18.4	13.4
Zimbabwe	2004	100.0	1995	9.0	2001	4.1	3.2	26.1	17.1

... indicates unavailable data.

* MFN applied data sourced from UNCTAD TRAINS database.

Source: WTO (2003), *World Trade Report: Trade Development and the Opportunities of Doha*, Geneva. WTO. See Appendix Tables IIB.1 - IIB.7 for more details and the Technical Notes for details on the calculation methodology.

ENDS

JARGON BUSTER

An informal guide to 'WTOspeak'

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

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

ad valorem tariff A tariff rate charged as percentage of the price. See "specific tariff".

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).

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.

agricultural product Defined for the coverage of the WTO's Agriculture Agreement, by the agreement's Annex 1. This excludes, for example, fish and forestry products. It also includes various degrees of processing for different commodities.

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

anti-dumping duties GATT's Article 6 allows anti-dumping duties to be imposed on goods that are deemed to be dumped and causing injury to producers of competing products in the importing country. These duties are equal to the difference between the goods' export price and their normal value, if dumping causes injury.

APEC Asia Pacific Economic Cooperation forum.

Appellate Body An independent seven-person body that considers appeals in WTO disputes. When one or more parties to the dispute appeals, the Appellate Body reviews the findings in panel reports.

Article XX (i.e. 20) A GATT article listing allowed "exceptions" to the trade rules.

ASEAN Association of Southeast Asian Nations. Seven ASEAN members are members of the WTO — Brunei, Indonesia, Malaysia, Myanmar, the Philippines, Singapore and Thailand. The other ASEAN members — Cambodia, Laos and Vietnam — are negotiating WTO membership.

ATC The WTO Agreement on Textiles and Clothing which integrates trade in this sector back to GATT rules within a 10-year period.

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

Basel Convention A multilateral environmental agreement dealing with hazardous waste.

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

binding, bound see "tariff binding"

BIT bilateral investment treaties

border protection Any measure which acts to restrain imports at point of entry.

box In agriculture, a 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.
- BSE** Bovine spongiform encephalopathy, or “mad cow disease”.
- BTA** Border tax adjustment
- 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.
- Caricom** The Caribbean Community and Common Market, comprising 15 countries.
- 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.
- CBD** Convention on Biological Diversity
- circumvention** Getting around commitments in the WTO such as commitments to limit agricultural export subsidies. Includes: avoiding quotas and other restrictions by altering the country of origin of a product; measures taken by exporters to evade anti-dumping or countervailing duties.
- CITES** Convention on International Trade in Endangered Species. A multilateral environmental agreement.
- Codex Alimentarius** FAO/WHO commission that deals with international standards on food safety.
- commercial presence** Having an office, branch, or subsidiary in a foreign country. In services, “mode 3” (see “modes of delivery”).
- 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 WTO’s TRIPS (intellectual property) 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.
- 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.
- CTD** The WTO Committee on Trade and Development
- CTE** The WTO Committee on Trade and Environment.
- CTG** Council for Trade in Goods — oversees WTO agreements on goods, including the ATC.
- customs union** Members apply a common external tariff (e.g. the European Union).
- deficiency payment** A type of agricultural domestic support, 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.

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

domestic support (Sometimes “internal support”.) In agriculture, any domestic subsidy or other 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.

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

DSU Dispute Settlement Understanding, the WTO agreement that covers dispute settlement — in full, the Understanding on Rules and Procedures Governing the Settlement of Disputes.

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.

EC European Communities (official name of the European Union in the WTO).

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

EFTA European Free Trade Association.

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

EST Environmentally-sound technology.

EST&P Environmentally-sound technology and products.

EU European Union, in the WTO officially called the European Communities.

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

exhaustion In intellectual property protection, 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*.

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

FDI Foreign direct investment.

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.

free trade area Trade within the group is duty free but members set their own tariffs on imports from non-members (e.g. NAFTA).

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.

G15 Group of 15 developing countries acting as the main political organ for the Non-Aligned Movement.

G7 Group of seven leading industrial countries: Canada, France, Germany, Italy, Japan, United Kingdom, United States.

G77 Group of developing countries set up in 1964 at the end of the first UNCTAD (originally 77, but now more than 130 countries).

G8 G7 plus Russia.

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

GATT General Agreement on Tariffs and Trade, which has been superseded as an international organization by the WTO. An updated General Agreement is now the WTO agreement governing trade in goods. **GATT 1947**: The official legal term for the old (pre-1994) version of the GATT. **GATT 1994**: The official legal term for new version of the General Agreement, incorporated into the WTO, and including GATT 1947.

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

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*.

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.

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.

harmonizing formula Used in tariff negotiations for much steeper reductions in higher tariffs than in lower tariffs, the final rates being "harmonized" i.e. closer together.

HLM WTO High-Level Meeting for least-developed countries, held in October 1997 in Geneva.

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

integration programme In textiles and clothing, the phasing out of Multifibre Arrangement restrictions in four stages starting on 1 January 1995 and ending on 1 January 2005.

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.

internal support See "domestic support" (agriculture).

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

IPRs Intellectual property rights.

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

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.

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 the UN Conference on Trade and Development (UNCTAD). Focal point for technical cooperation on trade promotion of developing countries.

ITCB International Textiles and Clothing Bureau — Geneva-based group of some 20 developing country exporters of textiles and clothing.

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

LDCs Least-developed countries.

Lisbon Agreement Treaty, administered by the World Intellectual Property Organization (WIPO), for the protection of geographical indications and their international registration.

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

Madrid Agreement Treaty, administered by the World Intellectual Property Organization (WIPO), for the repression of false or deceptive indications of source on goods.

mailbox In intellectual property, 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.)

MEA Multilateral environmental agreement.

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

MERCOSUR Argentina, Brazil, Paraguay and Uruguay.

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.

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.

modality A way to proceed. In WTO negotiations, modalities set broad outlines — such as formulas or approaches for tariff reductions — for final commitments.

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.

Montreal Protocol A multilateral environmental agreement dealing with the depletion of the earth's ozone layer.

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

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

NAFTA North American Free Trade Agreement, comprising Canada, Mexico and the US.

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

national treatment The principle of giving others the same treatment as one's own nationals. GATT Article 3 requires that imports be treated no less favourably than the same or similar domestically-produced goods once they have passed customs. GATS Article 17 and TRIPS Article 3 also deal with national treatment for services and intellectual property protection.

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

non-agricultural products In the non-agricultural market access negotiations, products not covered by Annex 1 of the Agriculture Agreement. Fish and forestry products are therefore non-agricultural, along with industrial products in general.

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.

NTBs Non-tariff barriers, such as quotas, import licensing systems, sanitary regulations, prohibitions, etc. Same as "non-tariff measures".

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

nuisance tariff Tariff so low that it costs the government more to collect it than the revenue it generates. Sometimes, a tariff that does not have any protective effect — some countries defend this as necessary in order to raise revenues.

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.

offer In a negotiation, a country's proposal for its own further liberalization, usually an offer to improve access to its markets.

panel In the WTO dispute settlement procedure, an independent body is established by the Dispute Settlement body, consisting of three experts, to examine and issue recommendations on a particular dispute in the light of WTO provisions.

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 the World Intellectual Property Organization (WIPO), for the protection of industrial intellectual property, i.e. patents, utility models, industrial designs, etc.

peace clause Provision in Article 13 of the Agriculture Agreement saying 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.

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.

PPM Process and production method.

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

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

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.

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.

Quad Canada, EU, Japan and the United States.

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**.

Rome Convention Treaty, administered by the World Intellectual Property Organization (WIPO), United Nations Educational, Scientific and Cultural Organization (UNESCO) and International Labour Organization (ILO), for the protection of the works of performers, broadcasting organizations and producers of phonograms.

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.

S&D (Sometimes "SDT".) "Special and differential treatment" provisions for developing countries. Contained in several WTO agreements.

SACU Southern African Customs Union comprising Botswana, Lesotho, Namibia, South Africa and Swaziland.

safeguard measures Action taken to protect a specific industry from an unexpected build-up of imports — generally governed by Article 19 of GATT. The Agriculture Agreement and Textiles and Clothing Agreement have different specific types of safeguards: "**special safeguards**" in agriculture, and "**transitional safeguards**" in textiles and clothing.

schedule In general, a WTO member's list of commitments on market access (bound tariff rates, access to services markets). Goods schedules can include commitments on agricultural subsidies and domestic support. Services commitments include bindings on national treatment. Also: "schedule of concessions", "schedule of specific commitments".

schedule of concessions List of bound tariff rates.

Singapore issues Four issues introduced to the WTO agenda at the December 1996 Ministerial Conference in Singapore: **trade and investment, trade and competition policy, transparency in government procurement, and trade facilitation.**

specific commitments See "schedule".

specific tariff A tariff rate charged as fixed amount per quantity such as \$100 per ton. See "ad valorem tariff".

SPS Sanitary and Phytosanitary measures or regulations — implemented by governments to protect human, animal and plant life and health, and to help ensure that food is safe for consumption.

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.

swing In textiles and clothing, when an exporting country transfers part of a quota from one product to another restrained product.

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".

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

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.

TBT The WTO Agreement on Technical Barriers to Trade.

TMB The Textiles Monitoring Body, consisting of a chairman plus 10 members acting in a personal capacity, oversees the implementation of commitments under the Agreement on Textiles and Clothing.

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**.

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

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

transitional safeguard mechanism In textiles and clothing, 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.

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

TRIMs Trade-related investment measures (note small "s").

TRIPS Trade-Related Aspects of Intellectual Property Rights (note capital "S").

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.

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

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.

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

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.

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.

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

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

WIPO World Intellectual Property Organization.

ENDS