

# Implementation and monitoring

- The General Council agreed that the Ninth Ministerial Conference would be held in Bali, Indonesia, on 3-6 December 2013.
- The Council approved improved guidelines that provide a simpler framework for the entry of least-developed countries into the WTO family.
- The Council approved the membership of Laos and Tajikistan, clearing the way for them to join the WTO in early 2013.
- The WTO's trade monitoring reports showed that WTO members and observers had by and large continued to resist domestic protectionist pressures in 2012.
- The WTO received 37 new notifications of regional trade agreements between WTO members in 2012, a considerable increase on the 25 received in 2011.



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**Background on implementation and monitoring**  
 Various WTO councils and committees seek to ensure that WTO agreements are being properly implemented. All WTO members undergo periodic scrutiny of their trade policies and practices.

# General Council

In 2012, the General Council agreed that the Ninth Ministerial Conference will be held in Bali, Indonesia. It oversaw the progress of the Doha Round negotiations on the basis of reports from the Director-General in his capacity as Chair of the Trade Negotiations Committee. It heard the Director-General's annual report on accessions and on the development assistance aspects of cotton. In July, it adopted recommendations on the accession of least-developed countries (LDCs) as mandated by the Eighth Ministerial Conference. It also reviewed progress in the Work Programme on Electronic Commerce.

## Ninth Ministerial Conference

Following the offer by the Government of Indonesia to host the Ninth Ministerial Conference (MC9), the General Council agreed that it would be held in Bali, Indonesia, on 3-6 December 2013. The General Council also took note of the following guiding principles to be applied to both the preparatory process and to the Conference itself:

- the "FIT" principle – full participation, inclusiveness and transparency
- any issue for action or decision by ministers proposed by WTO members should be developed by them in line with the normal consensus principle
- issues for action or decision by ministers should be agreed well before MC9.

## Accessions

Further to the MC8 decision on the accession of least-developed countries (LDCs), the General Council in July adopted the recommendations of the Sub-Committee on LDCs designed to further streamline and facilitate the accession process. The decision sets benchmarks for acceding LDCs on goods, services, transparency in accession negotiations, special and differential treatment and transition periods as well as technical assistance (see page 6). The Director-General said that the improved guidelines provide a simpler framework for the entry of LDCs into the WTO family.

The General Council approved the accession agreements of the Lao People's Democratic Republic and Tajikistan, in October and December respectively, clearing the way for them to join 30 days after notifying the WTO that they had ratified the accords.



## Background on the General Council

The General Council is entrusted with carrying out the functions of the WTO and taking actions necessary to this effect between meetings of the Ministerial Conference in addition to carrying out the specific tasks assigned to it by the Agreement establishing the WTO.

Notifications were received in early 2013, resulting in Laos joining the WTO on 2 February and Tajikistan joining on 2 March.

## Appointment of officers to WTO bodies

At its February meeting, the General Council agreed that the Chair would initiate a process of consultations to review the guidelines for the appointment of officers to WTO bodies. At its July meeting, following the consultations carried out by the Chair, the General Council approved a number of practical steps to improve the implementation of the guidelines. Among other recommendations, the General Council said that the appointment process should be set in motion more carefully and allow sufficient time. More comprehensive information about the process should be provided to delegations, in particular to group coordinators, at an early stage, including through early meetings.

## TRIPS-related matters

In December, the General Council received a report from the Council on Trade-related Aspects of Intellectual Property Rights (TRIPS) on its review of the implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health (see page 56). This relates to special provisions, currently contained in a waiver to the TRIPS Agreement, permitting generic versions of patented medicines to be exported to developing countries with no manufacturing capacity of their own, and which cannot otherwise use TRIPS flexibilities to issue compulsory licences on public health grounds.

## Waivers under Article IX of the WTO Agreement

In 2012, the General Council considered and granted a number of requests for waivers from obligations under the WTO Agreement, as set out in Table 1. It also reviewed the following multi-year waivers:

- Least-developed countries (LDCs) – Article 70.9 of the TRIPS Agreement with respect to pharmaceutical products, granted on 8 July 2002 until 1 January 2016
- Preferential tariff treatment for LDCs, granted on 27 May 2009 until 30 June 2019
- European Union – Application of autonomous preferential treatment to Moldova, granted on 7 May 2008 until 31 December 2013





Elin Østebø Johansen (right) chaired the General Council in 2012.

- United States – Former Trust Territory of the Pacific Islands, granted on 27 July 2007 until 31 December 2016
- United States – Caribbean Basin Economic Recovery Act, granted on 27 May 2009 until 31 December 2014
- United States – African Growth and Opportunity Act, granted on 27 May 2009 until 30 September 2015
- United States – ANDEAN Trade Preference Act, granted on 27 May 2009 until 31 December 2014
- Preferential treatment to services and service suppliers of least-developed countries, granted on 17 December 2011 until 17 December 2026
- Kimberley Process Certification Scheme for rough diamonds, granted on 15 December 2006 until 31 December 2018
- Canada – CARIBCAN, granted on 30 November 2011 until 31 December 2013
- European Union – Application of autonomous preferential treatment to the West Balkans, granted on 30 November 2011 until 31 December 2016.

#### **Other issues**

The General Council heard concerns expressed by Cuba about the intellectual property rights of the holder of the Havana Club Cuban rum brand in the United States. A large number of members raised questions about Ukraine's resort to Article XXVIII to raise duties on over 350 tariff lines. Ukraine says that it was pushed to act by the economic situation. Members expressed concerns about the scope of the move and its systemic implications.

The General Council also heard updates concerning the Chair's consultations on improving the guidelines for granting intergovernmental organizations permanent observer status in the WTO. On e-commerce, Deputy Director-General Harsha Singh gave an overview in July of work taking place and noted that overall there was more substantive engagement on this matter than in the past. He drew attention to a proposal by Ecuador and Cuba on a Workshop on E-Commerce, Development and Small and Medium-sized Enterprises (SMEs).

As part of its overall oversight function, the General Council also conducted a year-end review of WTO activities on the basis of annual reports from all its subsidiary bodies. The Director-General provided regular updates to the Council on the measures taken to streamline the conduct of meetings and the production of documents.

In addition, the General Council reviewed other matters relating to the WTO budget, the building renovation project for the Centre William Rappard and the WTO pension plan, and considered two reports from the Joint Advisory Group of the International Trade Centre (ITC). The Joint Advisory Group is the policymaking body of the ITC, the trade promotion agency for developing countries jointly sponsored by the WTO and the United Nations Conference on Trade and Development (UNCTAD).

**Table 1: Waivers under Article IX (Decision-Making) of the WTO Agreement**

In 2012, the General Council granted the following waivers from obligations under the WTO agreements.

Member(s)	Type	Decision of	Expiry	Decision
Australia; Brazil; Canada; China; Costa Rica; Dominican Republic; El Salvador; European Union; Guatemala; Honduras; Hong Kong, China; India; Israel; Republic of Korea; Macao, China; Malaysia; Mexico; New Zealand; Norway; Pakistan; Russian Federation; Singapore; Switzerland; Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu; Thailand; and United States	Introduction of Harmonized System 2012 changes into WTO schedules of tariff concessions	11 Dec 2012	31 Dec 2013	WT/L/875
Argentina; Australia; Brazil; Canada; China; Costa Rica; Croatia; Dominican Republic; El Salvador; European Union; Guatemala; Honduras; Hong Kong, China; India; Israel; Republic of Korea; Macao, China; Malaysia; Mexico; New Zealand; Nicaragua; Norway; Pakistan; the Philippines; Singapore; Switzerland; Thailand; United States; and Uruguay	Introduction of Harmonized System 2007 changes into WTO schedules of tariff concessions	11 Dec 2012	31 Dec 2013	WT/L/874
Argentina; Australia; Brazil; China; Croatia; European Union; Iceland; India; Malaysia; and Uruguay	Introduction of Harmonized System 2002 changes into WTO schedules of tariff concessions	11 Dec 2012	31 Dec 2013	WT/L/873
Australia; Botswana; Brazil; Canada; Croatia; European Union; India; Israel; Japan; Republic of Korea; Mexico; New Zealand; Norway; the Philippines; Russian Federation; Singapore; Chinese Taipei; Thailand, Turkey, United States; and Bolivarian Republic of Venezuela	Kimberly Process Certification Scheme for Rough Diamonds - Extension of Waiver	11 Dec 2012	31 Dec 2018	WT/L/876
Cuba	Article XV:6 – Extension of waiver	14 Feb 2012	31 Dec 2016	WT/L/850
European Union	Preferences for Pakistan	14 Feb 2012	31 Dec 2013	WT/L/851

# Trade in goods

Over the course of four meetings held in 2012, the Council for Trade in Goods approved a number of waiver requests, individual and collective, such as the extension of the waiver on the Kimberley Process Certification Scheme (KPCS), the on-going harmonization of tariff schedules and the European Union duties on certain goods from Pakistan. It also discussed a range of trade concerns raised by members.

The collective requests on the changes to schedules of tariff concessions to be applied under the Harmonized System (HS), referred to the extension of the deadlines to update the tariff schedules of the requesting members so as to reflect changes in the HS they apply. The other collective waiver request related to the KPCS for Rough Diamonds, which was set to expire at the end of 2012. This waiver gives legal cover to trade measures adopted by the Kimberley Process participants, which aim at breaking the link between armed conflict and trade in rough diamonds. The Goods Council agreed to extend the waiver by six years or until 31 December 2018 and, forwarded the draft decision to the General Council for adoption. The extension was requested by 21 members and coordinated by the United States.

The Council also approved a waiver requested by the European Union (EU) on EU duties on certain products from Pakistan to help the country recover from massive floods in 2010. The EU reiterated that it was asking for a waiver for an exceptional measure in exceptional circumstances, and would not set a precedent in the WTO. Some members, notably textile exporters, had previously expressed concerns about granting the duty waiver. The Council also approved a further extension for Cuba to its waiver concerning Article XV:6, which refers to WTO members who are not members of the International Monetary Fund (IMF).

Members raised a number of specific trade concerns during the year. In November Australia introduced a joint statement by 23 delegations urging Ukraine, in the interest of the multilateral trading system and the global economy, to withdraw



its notification to re-negotiate its tariffs on a large number of products. Concerns referred to the large number of tariff lines covered by Ukraine's notification, the extent to which Ukraine would be able to compensate other members, as required by Article XXVIII of GATT 1994 and, the lack of transparency on this matter. In reply, Ukraine indicated that it was following the established procedures in a transparent manner, that its notification was a normal practice in the WTO and that it should not be seen as a protectionist measure.

Other trade concerns related to Chinese Taipei's subsidies applied to the purchase of domestic electronic appliances; the EU restrictive measures on bio-diesel imports; Russia's implementation of WTO accession commitments; and Ukraine's recycling fee draft law. Other concerns, previously discussed included Argentina's import restricting policies and practices; Ukraine's implementation of customs valuation legislation; and Brazil's increase of the industrial product tax on the automotive sector, along with the ruling of the EU Court of Justice on the detection in honey of pollen containing DNA from genetically modified maize.

Note was taken of the consultations held by the Philippines concerning its request for a waiver relating to special treatment for rice and of the notifications made by the Chinese Taipei and the Republic of Korea concerning their duty-free market access schemes for least-developed countries (LDCs).

Finally, on notifications, the Chairperson, Ambassador Tom Mboya Okeyo (Kenya), invited delegations to explore ways of finding the right balance between transparency and the cost-saving recommendations endorsed by the General Council at its meeting in November 2011.

## Background on trade in goods

The Council for Trade in Goods (Goods Council or the Council) is responsible for the workings of all WTO Agreements on trade in goods. It consists of the full WTO membership and reports to the WTO General Council. The Goods Council has 11 subsidiary committees dealing with specific subjects, such as agriculture, market access, subsidies, technical barriers to trade, sanitary and phytosanitary measures, import licensing and customs valuation. All these committees also comprise all WTO members. Also reporting to the Goods Council are a working party on state trading enterprises and the Information Technology Agreement (ITA).

### Market access

**In 2012, the Committee on Market Access pressed ahead with updating members' schedules to bring them into line with the four amendments – HS1996, HS2002, HS2007 and HS2012 – made to the Harmonized System (HS).**

In two formal meetings, in April and in October, it approved a new format for notifications of quantitative restrictions and agreed to procedures for eventually making public negotiating material of the Dillon Round, together with some additional material from the four earlier GATT rounds. Most of the negotiating material of the earlier GATT rounds is now deregulated and is available on the WTO website. Ukraine's announcement that it would raise tariffs on over 350 lines triggered intense debate at the October meeting.

The Committee has been focusing on the various transposition exercises and approved several collective waivers for HS2002, HS2007 and HS2012. With regard to HS96, Chairman Bipin Menon of India informed members that he had consulted with four of the five members whose schedules remained uncertified with a view to seeing how progress could be made.

The HS2002 exercise is well advanced with 99 schedules certified and a further four schedules in the process of certification. For HS2007, the Committee agreed on the methodology to be used to transpose schedules and work began, with 21 HS2007 files being released for multilateral review. A further 26 draft files were completed and sent to members for a first review and eight members made submissions. The subject of non-consensus correlated HS2007 lines was also discussed. These are lines on which the Harmonized System Committee at the World Customs Organization has yet to reach a common view. The Secretariat also received the first HS2012 submission from the United States.

#### Background on market access

The Committee on Market Access provides a forum for consultation and supervises the implementation of tariff and non-tariff concessions that are not covered by any other WTO body. It also seeks to ensure that schedules of commitments are kept up to date, including changes required by amendments to the Harmonized System (HS). This is crucial for surveillance purposes (i.e. to be able to compare tariffs in the schedules of commitments with those applied in practice by WTO members). The HS, developed by the World Customs Organization, allows countries to classify trade goods on a common basis. It has been updated three times since 1996.

The Committee agreed to a proposal by Chair Menon to hold informal consultations on discontinuing the waiver reports that the Committee sends to the Council for Trade in Goods (CTG) twice a year. The information is already in the annual report to the CTG.

#### Notifications of quantitative restrictions

A big step was taken in respect of the timeliness and completeness of notifications when, after four years of discussion, the Committee approved the draft Decision on Notification Procedures. The Council for Trade in Goods subsequently adopted it. The decision requires members to make complete notifications of all quantitative restrictions in force by 30 September 2012 and at two-yearly intervals thereafter. Members should also notify changes to quantitative restrictions no later than six months from their entry into force. The information will be stored in a database, which will be made available to the public in 2013. The Secretariat will circulate an annual report listing, among other things, the WTO members making notification and the type of notification made.

#### Databases

The Secretariat reported on development of the Integrated Data Base (IDB) and the Consolidated Tariff Schedules (CTS) database, their use, the status of software development and technical assistance. The IDB compiles information on applied tariffs and imports, as notified by members, while the CTS collates information on members' schedules of concessions. The databases are used – among other things – for the calculation of "ad valorem" equivalents (duties expressed as a percentage of the value of an item) of tariffs based on quantity or weight. The Secretariat plans to integrate into the IDB historical tariff and import information for 29 countries covering years 1988 to 1995. It also intends to put together a consolidated document on IDB notification for ease of reference.

#### Other developments

Negotiating records from the first four GATT rounds were posted on the WTO public website, so concluding a process that had taken three years. The Committee also approved procedures for the proposed publication of material from the fifth – Dillon Round – and some additional negotiating material of the four earlier rounds. This material will be a rich source of information for academics, students and others.

Ukraine's declaration of intent to raise duties on over 350 tariff lines triggered intense debate at the October meeting, with a number of members raising objections and seeking further information. Ukraine said it was making the move under Article XXVIII of the GATT and that the move had been dictated by evolving global and internal factors.

## Agriculture

**Besides pursuing its core activity of reviewing WTO members' compliance with their commitments under the Agreement on Agriculture, the Committee on Agriculture continued to review the implementation issues for which it has responsibility under the Doha Development Agenda. These include developing disciplines on export credits and other export financing measures and ensuring transparency in the administration of tariff quotas. Consultations on members' participation in the normal growth of world agricultural trade were also held within the framework of the export subsidy disciplines.**

At its four meetings in 2012, the Committee reviewed progress in the implementation of WTO members' commitments on the basis of their notifications and matters specifically raised under Article 18.6 of the Agreement on Agriculture (which allows members to raise any matter relevant to implementation).

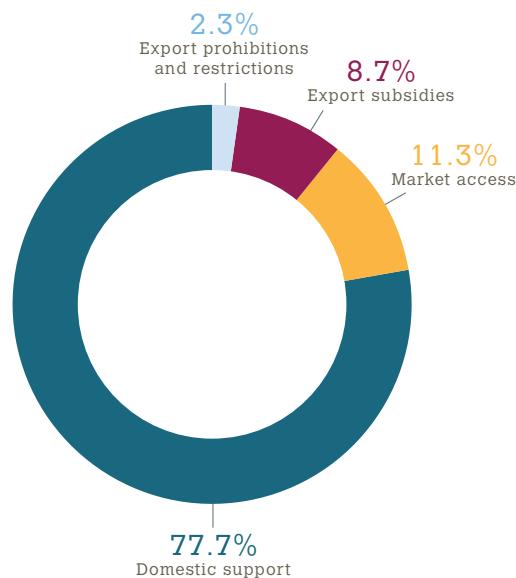
Approximately 180 notifications were subject to detailed review. A total of 391 questions were raised, 85 per cent of which related to individual notifications. Figure 1 gives a snapshot of the nature and number of concerns raised by subject area, i.e. market access, domestic support, export competition and export prohibitions and restrictions.

As notifications are the principal source of information for monitoring compliance, the Committee closely supervised these with respect to members' reporting obligations. In this context, specific concerns were raised regarding long overdue notifications, in particular in the domestic support and export subsidy areas.

### Background on agriculture

The Agreement on Agriculture aims to reform trade and make WTO members' policies more market-oriented. The rules and commitments apply to the areas of market access, domestic support and export competition as well as export restrictions and prohibitions. The Committee on Agriculture meeting in regular session oversees the implementation of the Agreement. The Committee is also entrusted with monitoring the follow-up to the Marrakesh Ministerial Decision regarding net food-importing developing countries, which sets out objectives on the provision of food aid and other assistance to the beneficiary countries.

Figure 1: Concerns raised in the Committee on Agriculture in 2012, by subject area



### Net food-importing developing countries

In March 2012, the WTO list of net food-importing developing countries (NFIDCs) was further extended to include Antigua and Barbuda and El Salvador. As in previous years, the Committee had a dedicated discussion on the implementation and monitoring of the Marrakesh decision on NFIDCs.

Based on the notifications received and with the assistance of the United Nations Food and Agricultural Organization, the International Monetary Fund and the Inter-American Institute for Cooperation on Agriculture, WTO members considered food aid levels to least-developed countries (LDCs) and NFIDCs as well as the technical and financial assistance made available by donor members and multilateral institutions to improve their agricultural productivity and infrastructure.

### "Significant exporters"

Building on discussions held since 2010, the Committee intensified its work on updating the 1995 list of "significant exporters" within the framework of notification requirements on export subsidies. There was constructive engagement with a number of delegations tabling additional contributions, bringing the discussions to a more technical level.

A list that takes account of current agricultural trade will improve the Committee's ability to monitor potential subsidization of exports and evasion of commitments. Significant exporters were defined in 1995 as countries whose share of total world exports in particular products exceeds 5 per cent and who, in addition to members with export subsidy reduction commitments, are required to notify total export volumes for such products.

### Looking ahead

In 2013, the Committee will continue to strengthen its monitoring tools and functions by, among other things, seeking further engagement from WTO members on updating the list of "significant exporters" established in 1995, and capitalizing on the technical assistance and outreach sessions organized by the WTO Secretariat. A new database that documents the review process undertaken by the Committee since 1995 will provide useful input to the Committee's work.



## Sanitary and phytosanitary measures

**The Committee on Sanitary and Phytosanitary (SPS) Measures granted observer status to another four organizations, bringing to 25 the number that have regular or ad hoc observer status. The Committee continued to work on guidelines to facilitate the use of the "good offices" of the Chair in resolving trade concerns and on the development of a working definition of SPS-related private standards. A workshop on the transparency provisions of the SPS Agreement provided training on using the SPS Information Management System and the online system for submission of notifications as well as information on the online tools of the SPS standard-setting bodies.**

In 2012, the Committee granted observer status on an ad hoc basis to the African Union, the Common Market for Eastern and Southern African States (COMESA), the Economic Community of Central African States (ECCAS/CEEAC) and the Gulf Cooperation Council Standardization Organization in recognition of the important role that observer organizations can play in assisting WTO members to fully benefit from, and comply with, the SPS Agreement. The Committee also agreed to invite all organizations with ad hoc observer status to participate in all of the SPS Committee meetings during 2013.

The Committee continued to address issues arising from the third review of the operation and implementation of the SPS Agreement. An informal working group was established to advance work on guidelines to facilitate the implementation of Article 12.2 of the SPS Agreement on "ad hoc consultations and negotiations" to resolve specific trade concerns.

The Committee considered a proposed revision to the procedure for monitoring the use of international standards. It also considered further encouragement of joint work by the WTO, the Codex Alimentarius Commission, the International Plant Protection Convention (IPPC) and the World Organization for Animal Health (OIE) on cross-cutting issues, such as certification and inspection, and recommendations to improve



### Background on sanitary and phytosanitary measures

The Agreement on the Application of Sanitary and Phytosanitary (SPS) Measures establishes the rights and obligations of WTO members regarding measures taken to ensure food safety, protect human health from plant- or animal-spread diseases, protect plant and animal health from pests and diseases, or prevent other damage from pests. Governments must ensure that their SPS measures are based on scientific principles.



SPS coordination at the national and regional levels. The Committee continued to discuss the effects of SPS-related private standards on trade, on the basis of the actions agreed by the Committee. Discussions focused in particular on the development of a working definition of SPS-related private standards.

A workshop in October on the transparency provisions of the SPS Agreement provided interactive training on the use of the SPS Information Management System and on the new online SPS Notification Submission System (NSS). Those attending included a large number of officials from developing and least-developed countries with direct responsibility as SPS national notification authorities and enquiry points.

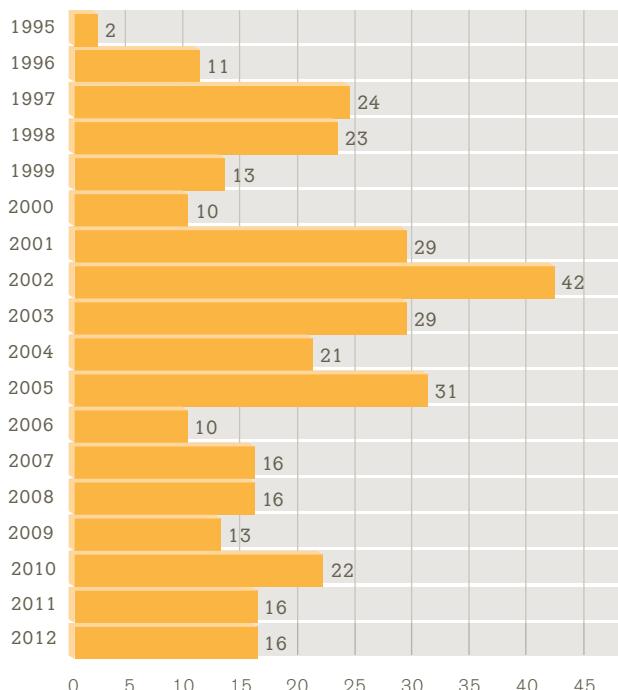
A growing number of members are making use of the NSS to submit notifications online since it became operational at the beginning of 2012. Representatives from the Codex, the IPPC and the OIE also provided information on their online information tools. During 2012, 1,219 notifications (including corrections and revisions) were submitted, compared with 1,388 in 2011. This brings the total number of notifications submitted since the entry into force of the Agreement in 1995 to 14,869. Over 48 per cent of all SPS notifications submitted during 2012 were submitted using the NSS.

The Committee considered a wide range of "specific trade concerns" at each of its three meetings in 2012. Sixteen new specific trade concerns were raised and other previously raised concerns were discussed again. New issues included Indonesia's closure of certain ports of entry, China's testing measures for food additives, US measures on fresh lemon imports, modifications to EU testing procedures for pesticide residues, Japan's rejection of shrimp consignments due to certain residues and Russia's import ban on live animals.

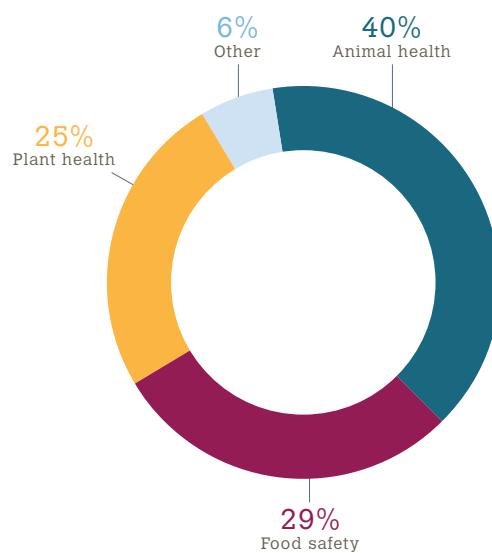
Two trade concerns were reported to have been resolved. One related to Chinese Taipei's maximum residue levels for ochratoxin A in coffee and the other to the US prohibition of certain ornamental plants from Costa Rica. A total of 344 specific trade concerns were raised between 1995 and the end of 2012 (see Figures 2 and 3).



**Figure 2: Number of new SPS trade concerns raised per year**



**Figure 3: SPS trade concerns by subject, 1995 to end 2012**



### Technical barriers to trade

In 2012 WTO members raised a record 94 specific trade concerns in the Technical Barriers to Trade (TBT) Committee, up from 76 the previous year, covering trade in a broad range of products. Health-related concerns, however, continued to dominate the agenda. Following the latest review of the working of the Agreement on Technical Barriers to Trade, the Committee agreed to shift its focus towards broader themes, such as standards and good regulatory practice, that are common to the specific trade concerns that have dominated its work. The hope is that this will enable the specific concerns to be addressed more easily.

The TBT Committee discussed 35 new trade concerns and 59 existing ones during the year. Matters relating to public health, such as alcohol and tobacco labelling, were extensively discussed. Between 1995 and the end of 2012, over 360 specific trade concerns were raised in the TBT Committee (see Figure 4). Among new issues discussed in 2012 was New Zealand's plan to introduce plain packaging legislation for tobacco products. The proposal comes after Australia's plain packaging tobacco legislation became a legal dispute at the WTO. Although health-related issues were prominent in debate, concerns related to environmental measures were also raised. These included questions about bio-fuels, solar panels, energy labelling and carbon footprints, among others.

Most of the measures discussed are mandatory governmental regulations (i.e. technical regulations or conformity assessment procedures), but standards (and frequently, international standards) are also discussed to the extent that they are used as references for mandatory measures. The range of products discussed is broad, as are the nature of measures – covering product safety specifications, toxicity limits, energy and health labelling, environmental performance requirements, compatibility of electronic products, quality and health testing requirements, product registration requirements, amongst many others.

With the aim of settling specific trade concerns more easily, members decided to give more time to discussing the underlying themes that recur in these issues. The decision was taken in November as part of the review the Committee conducts every three years into how well the TBT Agreement is working. Ultimately, trade in goods ranging from food, medicines and cosmetics to toys, telephones and tyres may flow more easily. In March 2013 back-to-back sessions will be set aside for discussing good regulatory practice and standards, while transparency will be taken up in June. Other themes will follow. The report of the 6th Triennial Review covers all key areas, including enhancing transparency by improving information sharing and consultation on draft measures. The Committee has also put more emphasis on those disciplines that deal with the particular challenges of developing countries. The main purpose of this work is to improve the practices, processes, institutions and infrastructures that members put in place to implement the TBT Agreement, thereby avoiding unnecessary barriers to trade.

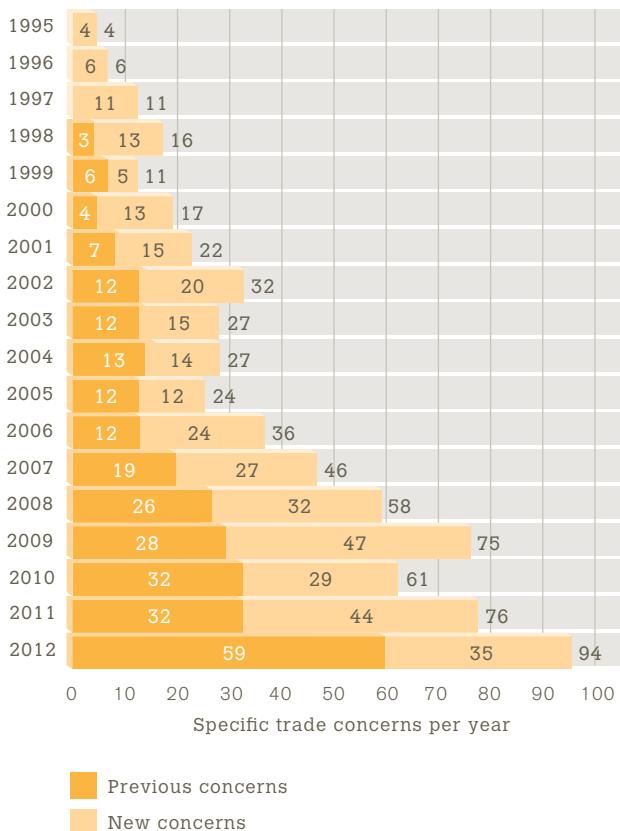
#### Disputes

Since 1995, 45 WTO disputes have cited the TBT Agreement in the formal dispute settlement consultations. In 2012, three Appellate Body reports were circulated in respect of cases that dealt mainly with the Agreement. These disputes concerned challenges related to three US measures: country of origin labelling (COOL) requirements; the production and sale of clove cigarettes; and measures affecting the importing, marketing and sale of tuna and tuna products. Two further TBT-related disputes are in the pipeline: one concerning a European Union measure prohibiting the importing and marketing of seal products, and another concerning an Australian measure affecting plain packaging requirements applicable to tobacco products.

#### Observers

Representatives of various observer organizations – the FAO/WHO Codex Alimentarius Commission, the International Electrotechnical Commission, the International Organization for Standardization (ISO), the International Trade Centre (ITC), the OECD, the International Organization for Legal Metrology, the United Nations Economic Commission for Europe (UNECE), the United Nations Industrial Development Organization (UNIDO), the International Telecommunication Union (ITU) and the World Health Organization (WHO) – updated the TBT Committee on activities relevant to its work, including on technical assistance. The Committee agreed, in 2012, to extend ad hoc observer status to the Bureau Internationale des Poids et Mesures (BIPM).

**Figure 4: Specific trade concerns raised in the TBT Committee**



## Subsidies and countervailing measures

The Committee on Subsidies and Countervailing Measures (SCM) focused in 2012 on encouraging more WTO members to notify their subsidy programmes and on improving the timeliness and completeness of notifications. A significant number of members have still to make new and full notifications. The Committee decided to further extend the transition period for the elimination of export subsidy programmes of 19 developing countries.

In 2012, the SCM Committee reviewed members' notifications of specific subsidies, notifications of countervailing duty legislation, semi-annual reports of countervailing actions and ad hoc notifications of preliminary and final countervailing measures taken. At the Committee's regular meeting in April, the then Chair Andreas Krallmann (Germany) expressed serious concern about the state of subsidy notifications. New Chair Sam C. S. Hui (Hong Kong, China) returned to the theme at the October meeting and invited the 73 members (down from 80 in April) that had not yet made their 2011 new and full subsidy notifications to explain the reasons for that.

The SCM Agreement requires members to notify their specific subsidies each year. Members are asked to give priority to submitting new and full notifications every two years, while the Committee gives less emphasis to reviewing updated notifications. In 2012, the Committee continued its consideration of 2009 and 2011 new and full subsidy notifications. At both its April and October meetings, the Committee discussed ways to improve the timeliness and completeness of notifications and other information flows on trade measures under the SCM Agreement.

The Committee also reviewed the annual updating notifications by developing country members granted an extended transition period for the elimination of certain export subsidy programmes. On the basis of the review, the Committee agreed to renew the transition period for a further year to the end of 2013. The 19 members are Antigua and Barbuda, Barbados, Belize, Costa Rica, Dominica, Dominican Republic, El Salvador, Fiji, Grenada,



### Background on subsidies and countervailing measures

The Subsidies and Countervailing Measures (SCM) Agreement regulates the use of subsidies by WTO members as well as the use of countervailing measures (usually in the form of increased duties) by members where subsidized imports of a product are causing or threatening to cause injury to the domestic industry. The SCM Committee provides WTO members with the opportunity to discuss any matters relating to the operation of the SCM Agreement.

Guatemala, Jamaica, Jordan, Mauritius, Panama, Papua New Guinea, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, and Uruguay. The programmes involved are mainly related to free trade zones or to tax incentives for exporters.

In addition, certain developing members are listed in the SCM Agreement as exempt from the general requirement to eliminate export subsidies as long as they remain low-income countries. To qualify for exemption, a listed member must have a per capita gross national product (GNP) of less than USD 1,000, as reported by the World Bank. Listed members in 2011 were Bolivia, Cameroon, Congo, Côte d'Ivoire, Ghana, Guyana, Honduras, India, Indonesia, Kenya, Nicaragua, Nigeria, Pakistan, Senegal, Sri Lanka and Zimbabwe. Least-developed country (LDC) members are also exempt from the prohibition on export subsidies.

The Committee also reviewed notifications related to countervailing duty legislation. In the 12 months to 30 June 2012, eight members notified the Committee of 29 new countervailing duty investigations, including nine initiated by the United States and seven by Canada. At the end of June, there were 82 notified countervailing measures in force (definitive duties and price undertakings), of which 50 were maintained by the United States, 11 by Canada and ten by the European Union.

### Anti-dumping practices

**The Committee on Anti-Dumping Practices reviewed new legislative notifications, the semi-annual reports and ad hoc notifications of preliminary and final actions taken by WTO members at its two meetings in the spring and the autumn. In the period January-June 2012, members initiated 114 anti-dumping investigations, sharply up from 69 in the same period in 2011.**

Argentina, Australia, Brazil, Canada, Indonesia, Malaysia and Chinese Taipei increased their initiations of anti-dumping investigations during the first half of 2012 compared with the same period in 2011. However, frequent users such as the European Union, India, Mexico, Pakistan, Ukraine and the United States slowed their anti-dumping activity.

The sharp increase in anti-dumping in the first six months of the year, compared with 2011, reversed a recent trend towards fewer actions. In the whole of 2011, 153 anti-dumping actions were initiated against 213 in 2008.

WTO members taking anti-dumping actions have been using the revised report format, adopted in 2008, to submit their semi-annual reports. Furthermore, many members taking anti-dumping actions have been using the minimum information format as revised in 2009 to provide their ad hoc notifications of such actions, and it has been observed that compliance with this notification obligation has improved. Following the creation of a more specific automated reply to electronic notifications, most members have been providing all their notifications electronically.

#### Background on anti-dumping practices

WTO members are allowed to apply "anti-dumping" measures on imports of a product where the exporting company exports the product at a price lower than the price it normally charges in its home market and the dumped imports cause or threaten to cause injury to the domestic industry. The Committee on Anti-Dumping Practices provides WTO members with the opportunity to discuss any matters relating to the Anti-Dumping Agreement.

The Working Group on Implementation discussed papers on other known causes of injury to domestic industry, the accuracy and adequacy test, and sunset reviews at its spring and autumn meetings. The other known causes of injury are those known factors, other than the dumped imports, which the authorities in the importing country should examine to ensure that the injuries caused to the domestic industry by these factors are not attributed to the dumped imports. The adequacy and accuracy test is what anti-dumping authorities use to assess whether there is sufficient evidence to launch an anti-dumping investigation. Finally, the sunset review refers to the review that may be conducted by the authorities before a definitive anti-dumping duty lapses to determine whether to extend that duty or lift it.



## Customs valuation

**The Committee on Customs Valuation continued to review national legislation, as well as responses to the checklist of issues raised by members. New or further notifications of national legislation were received from eight members, bringing to 16 the number of notifications that the Committee has under review. Training events on customs valuation were held in Africa, Asia and Latin America, some of which were delivered jointly with the World Customs Organization.**

In 2012, the Committee received new or further notifications of national legislation from the Kingdom of Bahrain, Cape Verde, Ecuador, Nicaragua, Russia, Rwanda, Uruguay and Ukraine. At its May and October meetings, the Committee continued its examination of the legislation of Belize, Cambodia, China, Costa Rica, Nigeria, Saint Vincent and the Grenadines, Thailand, and Tunisia. The review of Thailand was concluded during the year and progress was made in the reviews of Cambodia and China. However, the notification record remains poor: 42 of the 157 members have never sent any notification and 70 members have not provided responses to the checklist, which is a questionnaire that facilitates review of national legislation.

The 2012-2013 WTO biennial technical assistance plan envisages regional training activities on market access issues, which include customs valuation. Two such activities were delivered in 2012, in the Republic of Korea in June (Asian region) and in Chile in August (Latin American region). The regional workshop planned for English-speaking Africa had to be postponed, but will take place in 2013. National training can also be provided on customs valuation. Four national activities were delivered in 2012. The first one took place in The Gambia and was delivered by the WTO Secretariat. The WTO and the World Customs Organization jointly organized three other events in Honduras, the Kyrgyz Republic and Peru.



### Background on customs valuation

The value of a good plays a critical role in the calculation of import duties. Although the customs value is indispensable for the calculation of ad valorem duties, which are the most common type, it is often also required for the calculation of other duties (e.g. compound and mixed), as well as other border taxes. The WTO Agreement on Customs Valuation seeks to protect the value of tariff concessions by establishing a fair, uniform and neutral system for the valuation of goods for customs purposes, which precludes the use of arbitrary or fictitious values. The Committee on Customs Valuation manages the Agreement along with the Agreement on Preshipment Inspection.

New notifications on preshipment inspections were received from Ecuador and Russia. Preshipment Inspection (PSI), a standing item on the agenda of the Committee, is the practice of employing private companies to check shipment details such as price, quantity and quality of goods ordered overseas. The Agreement on PSI recognizes that the principles of the GATT Agreement apply to such activities. The purpose is to safeguard national financial interests (prevention of capital flight and commercial fraud, as well as customs duty evasion, for instance) and to compensate for inadequacies in administrative infrastructures.

The Committee received a request for observer status from the International Chamber of Commerce (ICC). The ICC expressed the desire to cooperate with the Committee, particularly on problems that could arise from the eventual misuse of customs valuation databases to set minimum or reference prices. Members are currently considering the request.



## Rules of origin

**The Committee on Rules of Origin began the work of transposing draft, harmonized rules of origin into more recent versions of the Harmonized System for classifying traded goods as part of its technically complex and long-running discussions on the harmonization of non-preferential rules of origin. It also reviewed notifications by WTO members.**

In two meetings in 2012, the Committee pursued its work on harmonizing non-preferential rules of origin. It completed the first steps of the work to transpose rules of origin that were initially negotiated for the 1996 version of the Harmonized System (HS) to later versions. Developed by the World Customs Organization, the system provides a common basis for classifying traded goods. The system was revised in 2002 and 2007 and the Committee reviewed the results of the harmonization work to correct them according to these revisions. The Secretariat is conducting the work in collaboration with the World Customs Organization and WTO members.

Rules of origin are important in implementing such trade policy instruments as anti-dumping and countervailing duties, origin marking and safeguard measures. However, with the growth of global value chains, it is becoming increasingly difficult to determine where a product comes from.

The committee also reviewed notifications by WTO members. In 2012, 11 new notifications under Article 5 and paragraph 4 of Annex II of the Agreement were received. They brought the total number of members having notified non-preferential rules of origin to 85 and the total number of members having notified preferential rules of origin to 127. The latter number reflects both notifications made to the Committee as well as to other bodies of the WTO.

Technical assistance on rules of origin was delivered in regional and national workshops, as well as in the context of the WTO's regional and advanced trade policy courses.

### Background on rules of origin

Rules of origin are the criteria used to determine the country in which a product was made. They are used in the implementation of many trade measures, including trade statistics, the determination of customs duties, origin labelling, and the application of anti-dumping measures. The main objective of the Agreement on Rules of Origin is to harmonize the rules so that all WTO members use the same criteria to determine origin in their non-preferential trade. This work is conducted by the Committee on Rules of Origin in the WTO and the Technical Committee under the auspices of the World Customs Organization in Brussels.

## Import licensing

**During 2012, members submitted 74 notifications to the Committee on Import Licensing for review under various provisions of the Agreement. Four members submitted notifications for the first time under different articles of the Agreement. Currently, only 17 members have never submitted any notification.**

Import licences are permits granted before a product is imported. The administrative procedures for obtaining the licences should be simple, neutral, equitable and transparent.

The Committee has provided a regular forum for the discussion of specific notifications submitted by members. At the two meetings held in 2012, 15 members submitted 17 notifications under Articles 1.4(a) and/or 8.2(b) covering publications and/or legislation on import licensing procedures, and seven members submitted 17 notifications under Article 5, which refers to the institution of licensing procedures or changes in these. In addition, 39 members made 40 notifications under Article 7.3, which relates to responses to the annual questionnaire on import licensing procedures.

The Committee also considered specific questions and answers concerning the import licensing systems notified/applied by some members and took note of the trade concerns regarding the import licensing regimes applied/notified. Amongst issues raised were Argentina's non-automatic licences and related measures on a range of imports that continued to cause concern among a number of delegations. Also discussed were India's licensing for boric acid and Indonesia's licensing for livestock, animal products, and fruit and vegetables.



### Background on import licensing

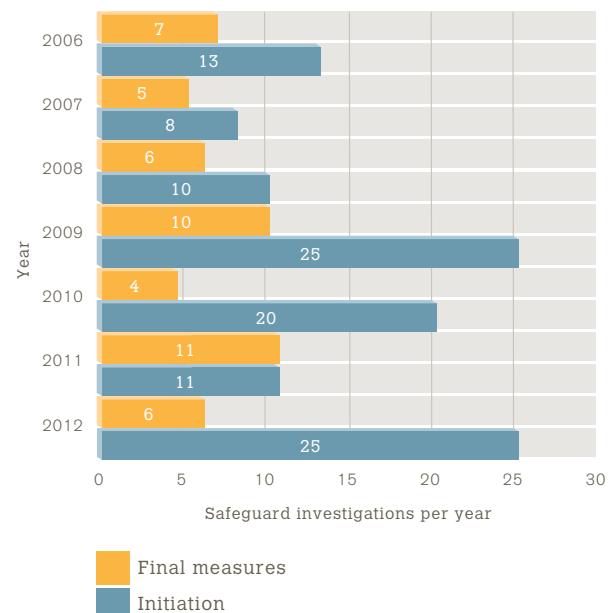
The Agreement on Import Licensing Procedures establishes disciplines on members' import licensing systems, with the principal objective of ensuring that the procedures applied for granting import licences do not in themselves restrict trade. The Agreement says import licensing should be simple, transparent and predictable, and administered in a neutral and non-discriminatory way.

## Safeguards

**Notifications of new investigations rose during 2012 to 25 from 11 the year before. The Chair of the Safeguards Committee submitted a factual report on a request regarding Article 13.1 of the Agreement on Safeguards. It was the first use of this article, which deals with whether the procedural requirements of the Agreement have been complied with in connection with a safeguard measure.**

At its two meetings in 2012, the Safeguards Committee reviewed notifications by WTO members of their safeguards rules and actions. The 25 notifications of new investigations made in 2012 were more than double the number of new investigations initiated in 2011. By contrast, the number of final measures taken during 2012 fell to six from 11 in 2011 (see Figure 5). Russia, which acceded to the WTO in 2012, notified that safeguard investigations were initiated for three products. These notifications were made on behalf of the Eurasian Economic Commission. By the end of 2012, the Committee had received and discussed notifications from five members regarding their new or revised domestic legislation and/or regulations on safeguards.

**Figure 5: Summary of safeguard investigations by year (for all members)**



At the October meeting, a new ten-delegation grouping called "Friends of Safeguards Procedures" expressed concern about "procedural, transparency, and due process issues" related to certain safeguard investigations. Speaking on behalf of the group of mainly developed countries, the United States said there has been an alarming increase in safeguard actions in recent years, and members must work together to deal with systemic concerns about safeguard proceedings.

With regard to Colombia's request presented on 3 May 2011 under Article 13.1(b) about Ecuador's safeguard measures on glass windshields, a factual report was submitted by the Chair of the Safeguards Committee to the Council on Trade in Goods in April 2012. Colombia has argued that Ecuador has committed clear violations, while Ecuador maintained that its measure was consistent with the Safeguards Agreement.



### Background on safeguards

WTO members may take "safeguard" actions (temporarily restrict imports of a product) to protect a specific domestic industry from an increase in imports of any product that is causing, or threatening to cause, serious injury to the industry. In these circumstances, they have the right to restrict imports of the product from all sources (but not from a specific member or group of members). The Agreement on Safeguards provides detailed rules concerning the investigation that must be conducted and the application of safeguard measures.

## Trade-related investment measures

**At its two meetings in 2012, the Committee on Trade-Related Investment Measures (TRIMs) discussed six new investment measures taken by WTO members and continued debate on four measures previously raised in 2011. In addition, it reviewed compliance with members' notification obligations under the TRIMs Agreement.**

Three new investment measures were placed on the agenda at the May 2012 meeting. The first, at the request of the European Union, Japan and the United States, concerned Argentina's informal "trade balancing" policy, whereby companies seeking to import products should agree to export goods of an equal or greater value, or to establish production facilities in Argentina.

The second, at the request of the European Union and the United States, concerned certain Brazilian local content requirements in the telecommunications sector, and the third, raised at the request of the European Union and the United States, concerned certain Indian local production requirements for government procurement of electronic goods.

Another three new investment measures were raised at the October 2012 meeting. The first, raised by Australia and the European Union, concerned what they said were Brazilian tax advantages for domestically manufactured automotive vehicles. The second, raised by the United States, concerned certain Chinese investment measures relating to the steel sector and the third, raised by the European Union, concerned certain local content provisions in a Ukrainian draft law related to the electric power industry.

During the year, discussion continued on four issues previously raised in 2011, including India's mandatory local content requirements in project guidelines for the Jawaharlal Nehru national solar mission, Indonesia's local content requirements in the telecommunications sector and in the energy (mining, oil and gas) sector and Nigerian measures for the development of local content in its oil and gas industry.

The Committee took note of four new notifications under Article 6.2 of the TRIMs Agreement. Members who had not provided notifications to date were urged to do so promptly. Article 6.2 of the TRIMs Agreement requires members to notify the Committee of all publications in which TRIMs may be found, including those applied by regional and local governments and authorities within their territory. The United States indicated that it was looking forward to Russia's notification under Article 5.1 of the Agreement of its trade-related investment measures not in conformity with the Agreement, pursuant to Table 38 of the Working Party Report on Russia's accession.



### Background on trade-related investment measures

The Agreement on Trade-Related Investment Measures (TRIMs) recognizes that certain investment measures can restrict and distort trade. It states that WTO members may not apply any measure that discriminates against foreign products or that leads to quantitative restrictions, both of which violate basic WTO principles. A list of prohibited TRIMs, such as local content requirements, is part of the Agreement. The TRIMs Committee monitors the operation and implementation of the Agreement and allows members the opportunity to consult on any relevant matters.



## Information technology

**Colombia and Montenegro joined the Information Technology Agreement (ITA) in 2012, taking membership to 75. Russia took a step closer to membership by presenting its draft ITA schedule. On 16 November 2012, Tajikistan's ITA schedule was also approved. Tajikistan will become a participant to the ITA upon the date of its accession to the WTO. The ITA celebrated its 15th anniversary with a two-day symposium that reviewed trade liberalization and the evolution of global trade in information and communications technology since 1996. The Committee continued work on non-tariff measures (NTMs), including the electromagnetic compatibility (EMC) and electromagnetic interference (EMI) pilot project, and agreed to include a review of product coverage as a regular agenda item.**

During the year, ITA membership rose to 75 with the admission of Colombia and Montenegro, and Tajikistan said it would join on its accession to the WTO, which took effect in early 2013. Russia presented its draft ITA schedule together with the Secretariat's verification sheet and began work on addressing comments received from participants. Several delegations urged Russia to complete these procedures as soon as possible in order to become a full participant to the ITA at an early date.



### Background on information technology

The Information Technology Agreement (ITA) was launched in December 1996 in Singapore as a plurilateral agreement. It requires participants to provide duty-free treatment to IT products, including computers, telecommunication equipment, semi-conductor manufacturing equipment, and software and scientific instruments. The Committee of the Participants on the Expansion of Trade in Information Technology Products (or the ITA Committee) oversees the Agreement.

Participants to the ITA represent around 97 per cent of world trade in information technology products. The ITA provides for participants to completely eliminate duties on IT products covered by the Agreement on a most-favoured nation (MFN) basis. Thus, the benefits of this plurilateral agreement are extended to all WTO members.

The Committee continued its deliberations on non-tariff measures (NTMs). It noted that the response to a survey on conformity assessment procedures for electromagnetic compatibility (EMC) and electromagnetic interference (EMI) was still slow. Two more participants provided answers over the year, taking the number of responses to-date to 28. However, this leaves 20 participants still to reply. The Committee urged those that have not yet given the information to do so as quickly as possible. In considering ways to advance and expand its work on NTMs other than EMC/EMI, the Committee also heard reports and updates by participants on their contributions to work on NTMs, including in other bodies of the WTO and informally.



#### Expanding product coverage

At the Committee meeting in November, the Republic of Korea reported some progress in technical discussions it hosted on expanding the current product coverage of the ITA. It said that the 17 participating members were moving towards more substantial discussions and that it planned to circulate a revised consolidated list of products proposed for inclusion. Delegates had agreed at the Committee's first meeting in May to make reviews of product expansion a regular agenda item. The European Union told the May meeting that it would no longer insist on a review of the ITA based on its proposal tabled in 2008, which linked ITA expansion with negotiations on non-tariff barriers.

#### Anniversary celebrations

The ITA marked its 15th anniversary with a two-day symposium on 14-15 May. The gathering was open to all WTO members and observers, the private sector, IT industry representatives, academic experts in IT technologies, international inter-governmental organizations, non-governmental organizations (NGOs) and journalists. It reviewed the evolution and liberalization of global trade in information and communication technology (ICT) products since 1996, and their impact, including on developing countries. It also looked at the latest developments in the ICT sector, the socio-economic benefits, including as an enabler of sustainable development, and the prospects for, and challenges to, the continued expansion of trade in ICT products. WTO Director-General Pascal Lamy told the meeting that the ITA was one of the most successful trade agreements ever.

In addition, the WTO published *15 Years of the Information Technology Agreement*, which charts the history of the Agreement and the effect it has had on the global trade in IT products. Details of the latest trends in IT trade and discussions on the future of the ITA make this publication a useful source of information for government officials and policy-makers as well as academics, students and all those involved in the IT sector.



## State trading enterprises

**In 2012, the Working Party on State Trading Enterprises reviewed 71 notifications and approved a recommendation to extend indefinitely the current frequency of notifications.**

In an effort to reduce the notification burden on members and help improve compliance with their obligations, the Working Party on State Trading Enterprises adopted, in 2003, a recommendation to modify the frequency of notifications. According to this recommendation, new and full notifications are submitted every two years rather than every three years, with updating notifications in the intervening years. The recommendation for the new frequency took effect as of 2004 for a trial phase of four years, and this trial phase was extended in 2008 and 2010 until 30 June 2012. Following a series of consultations, members agreed at a formal meeting in June 2012 to extend the current frequency of notifications on an indefinite basis.

At its regular meeting in October 2012, the Working Party reviewed 59 new and full notifications and 12 updating notifications from 30 WTO members covering different review periods. For comparison purposes, in 2011 the Working Party reviewed 12 new and full notifications and seven updating notifications from eight members.



### Background on state trading enterprises

State trading enterprises are defined as governmental or non-governmental enterprises, including marketing boards, which have been granted exclusive or special rights or privileges to deal with goods for export and/or import. They are required to act in a manner consistent with the WTO principle of non-discriminatory treatment. The Working Party on State Trading Enterprises reviews notifications by WTO members on their state trading activities.

## Trade in civil aircraft

**In 2012, the Trade in Civil Aircraft Committee held one meeting, where signatories continued to discuss their work to bring the annex to the Agreement relating to product coverage into line with the 2007 update of the Harmonized System, used for classifying goods for customs purposes.**

During the year, Montenegro acceded to the Agreement, bringing the total number of signatories to 32, of which 20 are member states of the European Union.



### Background on trade in civil aircraft

The Trade in Civil Aircraft Agreement aims to achieve maximum freedom of world trade in civil aircraft, parts and related equipment by eliminating tariffs, promoting fair and equal competitive opportunities for civil aircraft manufacturers, and regulating government support for civil aircraft development, production and marketing. The Committee on Trade in Civil Aircraft provides signatories with an opportunity to consult on any matters relating to the operation of the Agreement.

# Trade in services

In 2012, the Council for Trade in Services continued to focus on issues surrounding information and communication technologies (ICT), particularly e-commerce and international mobile roaming. Transparency was another issue that figured prominently on the agenda, with members discussing how compliance with the notification process might be improved. Jamaica became the latest member to ratify the General Agreement on Trade in Services (GATS) Fifth Protocol, covering trade in financial services.

Throughout 2012, the Council continued work on electronic commerce as mandated by the 2009 Ministerial Conference. This included, among other things, communications on trade-related ICT principles, mobile applications and cloud computing services as well as the e-commerce activities of small and medium-sized enterprises (SMEs). Members contributed with their experiences in these areas. The Council also addressed a proposal to organize a workshop focusing on the services aspects of electronic commerce. E-commerce will thus continue to figure prominently on the Council's agenda in 2013.

The Council carried on with dedicated discussions on international mobile roaming and its status under the GATS. Several members shared information on their national roaming markets, including at a symposium organized by Australia. Members also benefitted from the updates provided by a representative of the International Telecommunication Union (ITU) on its work on international mobile roaming.

In accordance with the GATS' transparency provisions, the Council received 46 notifications of new or revised measures deemed by the members concerned to significantly affect trade in sectors they had subjected to commitments. Another 16 notifications dealt with new economic integration agreements covering services trade, and a further one concerned recognition measures. For the first time, a WTO member made a notification about a measure taken by another member that the notifying member considered to affect the operation of the GATS.

The Council also resumed discussions on how compliance with the GATS' notification requirements might be improved in order to further enhance transparency. Deliberations were held against the backdrop of a Swiss communication on the issue and a WTO Secretariat note providing an updated statistical record of notifications. Consultations on this topic are scheduled to be held in early 2013.

## Financial services

Following a request by Jamaica, which had completed its domestic ratification process, the Council re-opened the Fifth Protocol to the GATS. Jamaica accepted the Protocol on 16 October 2012, thus giving legal effect to the commitments on financial services it had undertaken as part of the extended negotiations on this sector concluded in December 1997.

The Committee on Trade in Financial Services, a standing body under the Council, continued its consideration of classification issues in financial services, based on inputs provided by WTO members.

As a follow-up to a previous discussion, the Committee organized a workshop on trade in financial services and development. Speakers came from academia, national governments and international organizations, including the International Monetary Fund, the Financial Stability Board and the United Nations Conference on Trade and Development (UNCTAD). The purpose of the workshop was to deepen discussion on the link between financial services trade and development initiated last year by the Committee, and to promote dialogue and information sharing among members on different regulatory, trade and policy aspects surrounding this issue. The Committee will continue exploring the relationship between trade in financial services and development, focusing on specific aspects.



## Background on trade in services

The General Agreement on Trade in Services (GATS) defines trade in services as consisting of four types of transactions: mode 1 – cross-border supply (a supplier in one WTO member provides services to a consumer in another member's territory); mode 2 – consumption abroad (a consumer from one member consumes services in another member's territory); mode 3 – commercial presence (a foreign company provides services by establishing an operation in another member's territory); and mode 4 – presence of natural persons (individuals move to supply services in another member's territory). The Council for Trade in Services, which is open to all WTO members, oversees the operation of the GATS.



The Committee also considered a proposal by Ecuador to discuss the relationship between macro-prudential regulation and GATS disciplines. Macro-prudential regulation aims at reducing the risk and the macroeconomic cost of financial instability. Members agreed to hold a dedicated discussion on this issue in 2013.

#### **Specific commitments**

The Committee on Specific Commitments oversees and examines the implementation of GATS commitments and most-favoured nation (MFN) exemptions as well as the procedures for the modification of schedules of commitments. The Committee aims to improve the technical accuracy and coherence of WTO members' services commitments and the operation of the GATS. With this in view, it regularly discusses classification and scheduling issues and their implications for the scope and content of specific commitments.

With regard to classification, the sectors examined included computer and related services, telecommunications services, audiovisual services, environmental services, energy services, postal and courier services, distribution services and legal services. To facilitate the exchange of views, discussions took place in informal mode with input from the WTO Secretariat. Key contributions are reflected in informal, non-attributable summaries circulated under the Chair's responsibility.

At the request of delegations, the Committee also started reviewing the operation of the procedures for the modification of schedules of specific commitments. The Secretariat presented a factual report on the application of these procedures, and delegations shared their views and experiences. It was agreed that the exercise would not lead to a re-opening of the procedures.

# Trade-related aspects of intellectual property rights (TRIPS)

The TRIPS Council continued its discussion on topics such as access to medicines for the poorest countries, promotion of transparency and least-developed countries' needs for assistance as part of its regular review of intellectual property (IP) matters. The Council also exchanged information on and debated a number of policy issues raised by individual countries, such as national innovation strategies and the role of IP in fostering market-based innovation.

## Promoting transparency

Transparency of national intellectual property systems is a key principle of TRIPS. It reduces trade tensions and builds productive trading relationships in knowledge products and technology. In 2012, the Council gave further consideration to ways of improving the timeliness and completeness of notifications under the TRIPS Agreement and other relevant information flows. It took note of the material still required to complete the pending reviews of TRIPS implementing legislation of three members, initiated the review of the legislation of Maldives, and agreed on the arrangements for the review of the legislation of Russia.

## TRIPS and public health

In 2003, members agreed on the "Paragraph 6" system of special compulsory licences for export, which gives poor countries additional flexibility under the TRIPS Agreement to gain access to affordable medicines. The system allows generic versions of patented medicines to be produced under compulsory licence (that is, without the consent of the patent holder) for export to countries that cannot manufacture the medicines themselves. The TRIPS Agreement originally only permitted compulsory licensing predominantly to serve the domestic market (unless remedying anti-competitive practices).



The new system changed this, first through a set of waivers and then through an amendment in 2005 creating a new kind of compulsory licence for the export of medicines. The Council held its annual review of the functioning of the system at its November meeting. Three more countries accepted the amendment, which will come into force when two-thirds of members have accepted it. As of 31 December, 44 countries had done so (counting the European Union as one).

Issues relating to TRIPS and public health were addressed in many of the Secretariat's technical cooperation activities aimed at assisting members to understand the rights and obligations, including the available options, which flow from the TRIPS Agreement and relevant decisions of WTO bodies. For example, 27 developing-country officials took part in the eighth workshop on the TRIPS Agreement and Public Health in October designed to help their countries assess the implications of flexibilities for pharmaceuticals in the TRIPS Agreement and, when needed, to make effective use of such flexibilities. The workshop was organized by the Secretariat in close collaboration with the World Health Organization (WHO) and the World Intellectual



## Background on trade-related aspects of intellectual property rights

Intellectual property rights have become an important element in international trade and a key part of the debate over economic development and broader public policy questions, such as public health and the environment. The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) is the most comprehensive international treaty governing the protection, administration and enforcement of intellectual property rights. The Council for TRIPS, a body open to all WTO members, administers the TRIPS Agreement, provides a forum for debate on policy issues relating to TRIPS and reviews the intellectual property legislation of individual members.

Property Organization (WIPO) as part of well-established trilateral cooperation on building capacity on issues arising when intellectual property rights and public health are linked. A particular emphasis was laid on pricing and procurement policies as a key element in securing access to medicines, and experts from major procurement initiatives shared their practical experiences with participants. Among the other issues covered were licensing policies adopted by the private sector, the safety, efficacy and quality of medicines, the role of competition policy, and intellectual property rights provisions in regional or bilateral free trade agreements, and their link with public health.

#### **Plants, animals, biodiversity and traditional knowledge**

The Council continued to address a cluster of subjects related to biotechnology, biodiversity, genetic resources and traditional knowledge, as instructed by the 2005 Hong Kong Ministerial Declaration. These discussions cover the review of the TRIPS provisions dealing with the patentability of plant and animal inventions and the protection of plant varieties, the relationship between the TRIPS Agreement and the Convention on Biological Diversity (CBD), and the protection of traditional knowledge and folklore.

#### **Technical cooperation and capacity building, and LDC general transition period**

The Council reviewed the available technical cooperation in the area of intellectual property on the basis of information it received from developed countries, other intergovernmental organizations and the WTO Secretariat. The 2005 decision that extended to 1 July 2013 the transition period for least-developed countries (LDCs) to apply their TRIPS obligations also requested them to identify their priority assistance needs so that these could be effectively addressed. In 2012, Mali reported in detail on its needs, taking the number of countries to report by the end of the year to seven. Following the decision of the Eighth Ministerial Conference to invite the Council to consider requests from LDC members for a further extension of the transition period, Haiti on behalf of the LDC group presented such a request in November.

As part of an intensifying coordination process, the Secretariat again organized, at the request of the LDC group and with the support of the Swedish Government, a three-day symposium with officials from LDCs, donor countries and intergovernmental organizations to promote dialogue and coordination on assessing and responding to priority assistance needs.

#### **Other issues**

No new proposals emerged from the reviews, mandated under the TRIPS Agreement, of the Agreement as a whole (the "71.1 review") and of the application of the provisions on geographical indications (the "24.2 review").

The Council's work on the incentives for technology transfer to LDCs and on "non-violation and situation complaints" is described on page 27.

#### **Issues raised by individual members**

The Council considered a number of policy issues raised by individual members. At the request of the Dominican Republic, it continued its discussion from the previous year on Australia's proposed tobacco plain-packaging legislation. While some delegations raised concerns about its compatibility with the TRIPS Agreement, some others asserted countries' rights to use flexibilities in the Agreement for public health purposes, including tobacco control.

#### **Counterfeiting**

At the request of Australia, Canada, the European Union, Japan, the Republic of Korea, Mexico, New Zealand, Singapore, Switzerland and the United States, the Council again discussed trends relating to the enforcement of intellectual property rights. These members, participants to the Anti-Counterfeiting Trade Agreement (ACTA), said their main aim was to strengthen enforcement against proliferation of counterfeit goods. They stressed that ACTA does not target generic medicines, and nor would it interfere with legitimate access to the Internet. However, others expressed concerns that the provisions of ACTA go beyond the TRIPS provisions. Some LDCs said that despite what ACTA members said they were worried that the agreement could limit LDC access to generic medicines. Some developed and advanced developing countries saw counterfeiting and piracy as one of the most serious problems to be discussed by the Council because of the economic loss and because products can be dangerously sub-standard. However, some developing countries said intellectual property rights violations should not be confused with sub-standard products. They argued that the discussion should take place in agencies such as the World Customs Organization (WCO), because customs officers are responsible for tackling internationally traded counterfeit goods, and the WHO, whose work includes tackling sub-standard medicines.

#### **Innovation**

Innovation is essential for raising living standards, and intellectual property has an important role to play provided an appropriate balance is struck and governments act to help smaller players, the Council heard at its meeting in November. The two-hour exchange of information and ideas, put on the agenda by Brazil and the United States, was the first time the Council had discussed innovation. Members agreed that the topic, which is broader than the usual discussions in the TRIPS Council, is important and most accepted that a balanced intellectual property system has a role to play in spurring innovation, a term which is not defined in the TRIPS Agreement. However, speakers differed in their emphasis. Some developing countries argued that the system gives advantages to richer countries and larger corporations, and stressed the need to use flexibilities.

Brazil and the United States also briefed the Council on the ongoing negotiations at WIPO on limitations and exceptions for the benefit of visually impaired persons.

# Trade and environment

In 2012, the Committee on Trade and Environment (CTE) received information on and debated a range of environmental policy developments, from climate change mitigation and fisheries to environmental technology dissemination. The WTO Secretariat issued the 2009 Environmental Database in electronic format and held the first advanced course on trade and the environment.

## Climate change mitigation measures

Members discussed two national measures aimed at mitigating greenhouse gas emissions, the Republic of Korea's emission trading scheme and Norway's carbon tax. Some members supported these initiatives, but others raised a number of issues, including the extent to which such measures contribute to sustainable development, the risk that they might affect developing countries' trade and the appropriateness of the WTO as a forum to discuss climate change. Some members also stressed the need to perform impact assessments before implementing carbon emission reduction schemes, so as to avoid disguised restrictions to trade. The importance of addressing global environmental problems multilaterally rather than through unilateral measures was also emphasized.

Product carbon footprint and labelling schemes continue to be a concern for many developing countries, particularly with respect to the development of international standards. Discussions highlighted the complexity of the methodologies used and the importance of transparency and inclusiveness in the standard-setting process. Several developing countries said that such schemes should take into account developing country needs and difficulties to avoid creating unnecessary market barriers.

At the United Nations Framework Convention on Climate Change (UNFCCC) conference in Doha in December, the WTO Secretariat co-organized with the International Monetary Fund (IMF) a side event on carbon policies. The event gathered together key stakeholders and policy-makers, and discussed the design, trade impact and environmental effectiveness of carbon policies.



## Background on trade and environment

Sustainable development and protection and preservation of the environment are fundamental goals of the WTO. The Committee on Trade and Environment is responsible for examining the relationship between trade and the environment.

## Fisheries

The European Union presented a regulation on combating illegal, unreported and unregulated (IUU) fishing. While members welcomed this initiative, some concerns were also raised, including the importance of avoiding barriers to trade affecting products from developing countries, the need to address this global problem multilaterally and the difficulty of defining illegal fishing. Several members also stressed the importance of providing technical assistance to developing countries in order to facilitate implementation. A representative of the Organisation for Economic Co-operation and Development (OECD) briefed the CTE on a recent meeting of the OECD Committee for Fisheries.

## Environmental technologies

Russia and Australia introduced Annex C of the APEC 2012 Leaders' Declaration of September 2012 – Asia-Pacific Economic Co-operation (APEC) List of Environmental Goods – which endorses reductions of applied tariff rates to 5 per cent or less on 54 environmental goods by the end of 2015. While many members acknowledged APEC's achievement, several others cautioned against the transposition of the APEC list to the WTO negotiations on the opening of markets in environmental goods and services.

The CTE held a workshop on environmental technology dissemination (12 November 2012), where experts from members, international organizations, academia and the private sector explored the main developments in environmental technologies. They discussed the economic, technological and policy factors that can either promote or hamper the diffusion of environmental technology, including the absorptive capacity in developing countries, and the role of intellectual property rights for the generation, dissemination and transfer of technology. Particular attention was given to carbon capture and storage (CCS) technologies, low emission technologies, and waste management and water treatment technologies.





### Green economy

During the Rio+20 United Nations Conference on Sustainable Development (20-22 June), the WTO Secretariat organized a high-level side event (20 June), entitled "Multilateral Cooperation Towards Inclusive Green Growth", with the participation of the WTO Director-General, Peter Poschen, Director of the Job Creation and Enterprise Development Department of the International Labour Organization (ILO), Han Seung-soo, Board Chair of the Global Green Growth Institute in Seoul, Republic of Korea, Achim Steiner, Executive Director of the United Nations Environment Programme (UNEP) and with Josette Sheeran, Vice Chair of the World Economic Forum (WEF), as moderator. The event explored ways to ensure that multilateral cooperation supports countries' efforts to promote inclusive green growth and sustainable development.

A UNEP representative briefed the CTE on its activities aimed at implementing the Rio+20 call for the development of green economy policies. A representative of the United Nations Conference on Trade and Development (UNCTAD) highlighted in the CTE the potential of developing countries and economies in transition to strengthen the capacity and competitiveness of green sectors and enhance exports of green goods and services in world markets.

### Transparency

In order to enhance the transparency of environmental measures and requirements, the WTO Secretariat circulated the 2009 Environmental Database, which compiles the environment-related measures notified in 2009 under all WTO agreements, as well as the environment-related measures and programmes mentioned in Trade Policy Reviews released in 2009. The database is now being circulated in two parts: a brief description of the environment-related notifications and Trade Policy Reviews; and an electronic table providing the underlying data used for analysis to facilitate usage of information.

### Technical assistance

In addition to national workshops organized in Angola (28-29 March) and Paraguay (5-6 November), the WTO Secretariat held the first Advanced Course on Trade and Environment (16-27 April) at WTO headquarters in Geneva. The two-week course benefited from the participation of 26 government officials from least-developed countries, developing countries and economies in transition. The main objective was to consolidate participants' knowledge of trade and environmental issues and facilitate their participation in the work of the CTE and the environment chapter of the Doha Development Agenda negotiations. A large spectrum of environment-related trade topics, such as environmental requirements and market access, WTO disputes involving environmental issues, environmental technologies, climate change and green economy, were discussed through lectures, case studies and a round table, with contributions from experts from the WTO, other international organizations and non-governmental organizations. The course was also an opportunity for participants to exchange national experiences and enhance dialogue between trade and environment officials.

# Regional trade agreements

**In 2012, the WTO received 37 new notifications, a considerable increase over the 25 received in 2011. The notifications involved 23 regional trade agreements (RTAs). Eight of the RTAs were between developed partners, with another eight involving developed and developing partners. The remaining seven were between developing country partners. The Americas was the region with the highest number of notifications – ten, followed by the Commonwealth of Independent States (CIS) region with eight.**

Of the 546 RTA notifications received by the WTO as of 31 December 2012, 354 were in force (see Figure 5). RTAs include free trade agreements and customs unions. Under WTO rules, the goods and services aspects of RTAs have to be notified separately, so they are counted separately. However, putting the two together, the 546 notifications involve 414 individual RTAs, of which 235 are currently in force.

A key feature of modern RTAs is that they are broadening and, in many cases, deepening their coverage. While some agreements are limited to reducing barriers to trade in goods, the agreements are becoming increasingly more comprehensive, with provisions on market opening in services and in other areas, such as investment, competition policy, trade facilitation, government procurement, intellectual property, electronic commerce and, in some cases, labour and the environment.

Most agreements are bilateral, giving rise to an increasingly complex regime of different trade regulations. Critics argue that these overlapping regional trade regimes make international trade more complex and undermine WTO non-discrimination principles. However, proponents of RTAs say they can lay the groundwork for future multilateral trade rules. The consolidation of existing RTAs, for instance, through accession by non-parties can also reduce the degree of discrimination they cause.

Of the 23 individual RTAs notified to the WTO in 2012 (counting goods and services components as one), 14 included both components. The trend towards agreements between developing and developed trading partners appears to have been maintained. The number of agreements between developed partners rose slightly compared to previous years. Countries from the Americas region were involved in ten RTAs, and the rest involved members in the Commonwealth of Independent States (CIS) region (eight agreements), the Asia Pacific (five), Europe (four) and Africa (two agreements). Six of the agreements covered members from two different regions.

## Monitoring RTAs

All RTAs, regardless of whether they are notified under Article XXIV of the General Agreement on Tariffs and Trade (GATT) 1994, the Enabling Clause between developing countries (for trade in goods), or the General Agreement on Trade in Services (GATS) Article V (for trade in services), are subject to the provisions and procedures of the Transparency Mechanism for Regional Trade Agreements. Established by a decision of the General Council in December 2006, and applied provisionally

from 2007, the mechanism provides specific guidelines on when a new RTA should be notified to the WTO Secretariat and the related information and data to be provided. It also requires the Secretariat to prepare a factual presentation on each RTA, and for each RTA to be reviewed by members.

Agreements notified under Article XXIV of the GATT 1994 and Article V of the GATS are considered by the Committee on Regional Trade Agreements (CRTA), while agreements notified under the Enabling Clause are considered by a dedicated session of the Committee on Trade and Development (CTD). The General Council decision requires WTO members to inform the WTO Secretariat in the event of any subsequent changes to a notified agreement and to provide a report once an agreement is fully implemented. In the interests of transparency, WTO members are also encouraged to inform the Secretariat of any agreements being negotiated or those that have been signed but are not yet in force ("early announcements").

Notified agreements already in force are considered by the CRTA or by the CTD, normally within a year of the date of notification. The consideration is based on a "factual presentation" prepared by the Secretariat on the basis of information and data provided by the parties to the agreement. The factual presentation describes the main provisions of the agreement and the degree of trade liberalization to be achieved between the parties during its implementation period.



## Background on regional trade agreements

The Committee on Regional Trade Agreements (CRTA) is responsible for monitoring all regional trade agreements (RTAs) notified to the WTO, except those notified under special provisions for agreements between developing countries (the Enabling Clause), which are considered by the Committee on Trade and Development. The CRTA's two principal duties are to examine individual RTAs and to consider their systemic implications for the multilateral trading system and the relationship between them. The overall number of RTAs in force has been increasing steadily; all WTO members except Mongolia are members of one or more (some belonging to as many as 30), creating what has been described as a tangled "spaghetti bowl" of overlapping trade regulations.

In 2012, the CTRA held four meetings and considered 20 notifications of RTAs, counting goods and services separately (or 13 RTAs counting goods and services notifications together), compared with 20 in 2011 and 28 in 2010.

The Transparency Mechanism also requires the WTO Secretariat to prepare "factual abstracts" on RTAs examined by the CTRA prior to the 2006 General Council decision. By the end of 2012, 75 factual abstracts had been prepared in consultation with the relevant RTA parties and posted on the RTA database.

In addition, three "early announcements" were received from members in 2012, two for RTAs under negotiation and one for newly signed RTAs not yet in force. As of December 2012, the WTO had received 78 "early announcements", 30 involving RTAs that had been signed but were not yet in force and 48 involving RTAs under negotiation. Forty-two of these early announcements have subsequently been notified following entry into force of the agreements.

As called for by the General Council decision on transparency, all the information on RTAs notified to the WTO is contained in a publicly accessible RTA database, which can be consulted at <http://rtais.wto.org>. The database, which became available to the public in January 2009, contains textual information on all RTAs notified to the WTO, including links to the official texts and annexes of each agreement as well as information on the examination or consideration process in the WTO. For those RTAs that have already been the subject of a factual presentation, the database also contains the relevant trade and tariff data.

For the Transparency Mechanism to be adopted on a permanent basis, WTO members need to review, and if necessary, modify it as part of the overall results of the Doha Round. Members are also required to review the legal relationship between the mechanism and relevant WTO provisions on RTAs. In December 2010, members decided to commence the review (see Negotiating Group on Rules on page 31).

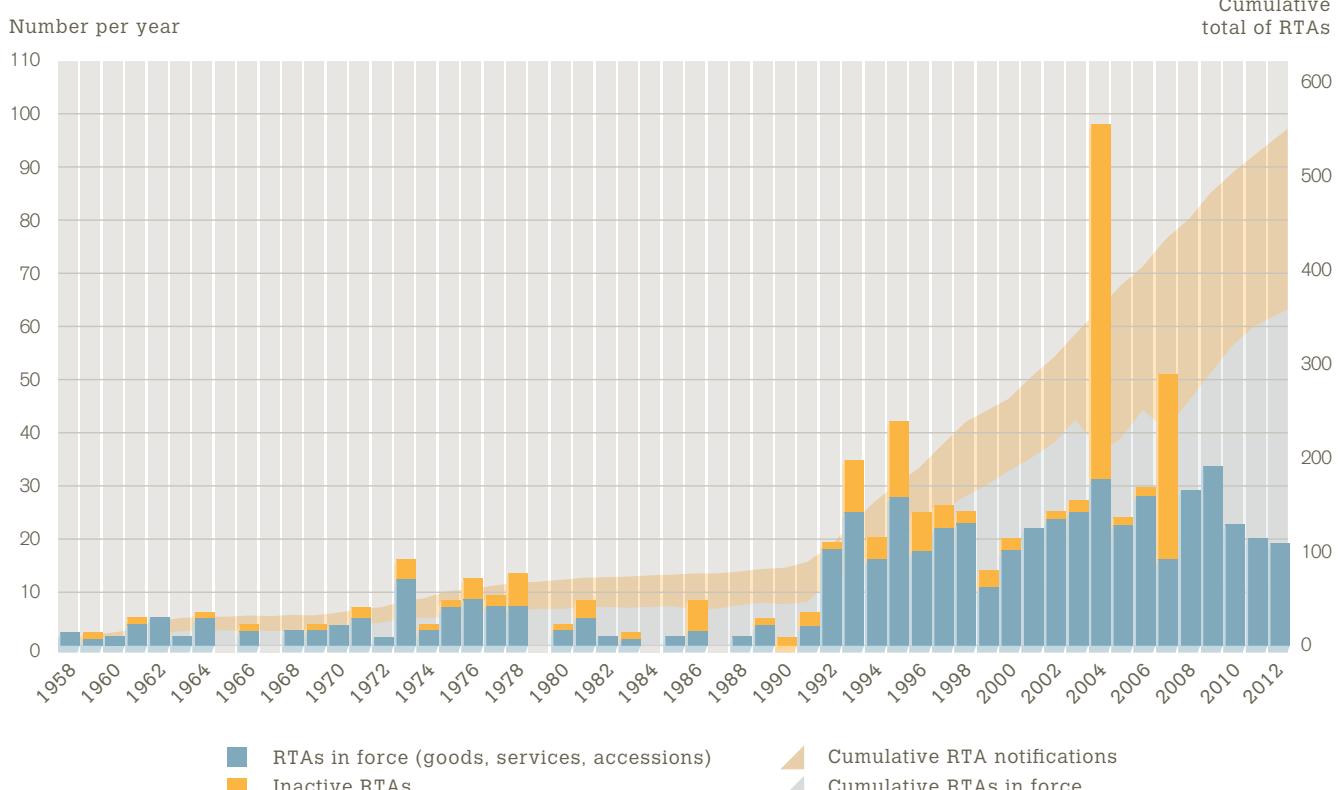
For information on preferential trade arrangements (PTAs), see page 96.

**Table 2: Regional trade agreements considered in 2012**

Turkey – Chile (goods)	EFTA states – Serbia (goods)
Hong Kong, China – New Zealand (goods and services)	European Union – Egypt (goods)
Colombia – Mexico (goods and services)	European Union – South Africa (goods)
European Union – Republic of Korea (goods and services)	Turkey – Jordan (goods)
Peru – Republic of Korea (goods and services)	Peru – Chile (goods and services)
Canada – Colombia (goods and services)	New Zealand – Malaysia (goods and services)
EFTA states – Albania (goods)	

Note: The table refers to 13 individual agreements, of which seven covered both goods and services and six covered only goods.

**Figure 6: All RTAs notified to the GATT/WTO (1949 to 2012) by year of entry into force**



# Trade Policy Reviews

During 2012, the Trade Policy Review Body (TPRB) reviewed 26 WTO members: Bangladesh, Burundi, China, Colombia, Côte d'Ivoire, Guinea-Bissau, Iceland, Israel, Kenya, the Republic of Korea, the State of Kuwait, Nepal, Nicaragua, Norway, the Philippines, Rwanda, the Kingdom of Saudi Arabia, Singapore, Tanzania, Togo, Trinidad and Tobago, Turkey, the United Arab Emirates, Uganda, the United States and Uruguay (see map on page 64). The country-specific reports and the Chair's concluding remarks made at the TPRB meetings are available on the WTO website. It also began implementing the recommendations of the fourth appraisal of the Trade Policy Review Mechanism (TPRM).

## Follow-up to the fourth appraisal of the TPRM

The Review Body began implementing the results of the fourth appraisal of the TPRM on a provisional basis in 2012. The appraisal, undertaken in 2011, is required under Annex 3 of the Marrakesh Agreement establishing the TPRM. Among other things, the appraisal led to three WTO members (the Philippines, Singapore and Norway) volunteering to apply alternative timelines for the question and answer process, which produced a more timely distribution of written answers ahead of the TPRB meetings.

Improvements in the organization and structure of TPRB meetings resulted in these meetings being more interactive and the discussion more fruitful. Follow-up activities to the reviews of those developing countries held every six years, especially least-developed countries (LDCs), were organized for four members under review, and digital audio files (podcasting) were introduced on a pilot basis. The fifth appraisal of the TPRM will be prepared in 2013 for the WTO's Ninth Ministerial Conference, which will take place in December.

## Frequency of reviews

Under the TPRM, the four largest trading entities (currently the European Union, the United States, China and Japan) are reviewed every two years. The next 16 largest trading partners undergo reviews every four years and the remaining members every six years, with a longer interval envisaged for LDCs. These intervals can be extended by up to six months. Reviews take place against the background of members' wider economic and developmental needs, policies and objectives as well as the external trading environment. They are not intended to serve as a basis for the enforcement of obligations, for dispute settlement procedures, or to impose new policy commitments.

By the end of 2012, 364 reviews had been conducted, covering 145 of the 157 WTO members. The United States had been reviewed 11 times, Japan and the European Union ten times, Canada nine times, Australia, Hong Kong (China), the Republic of Korea, Norway, Singapore and Thailand six times, six members (Brazil, India, Indonesia, Malaysia, Switzerland and Turkey) five times, 15 members four times and 31 members three times.



## Background on Trade Policy Reviews

The objective of the Trade Policy Review Mechanism is to encourage all WTO members to adhere to WTO rules, disciplines and commitments, and thus to contribute to the smoother functioning of the multilateral trading system. Through its regular Trade Policy Reviews, the mechanism enables WTO members to examine collectively the trade policies and practices of individual members in all areas covered by WTO agreements. Reviews are carried out by the Trade Policy Review Body, a full-membership body of equal ranking to the General Council and the Dispute Settlement Body.



Over the past few years, greater focus has been placed on reviews of LDCs. By the end of 2012, reviews had covered 31 of the 33 LDCs that are WTO members. TPRs of LDCs have helped to enhance understanding in these countries of WTO agreements, enabling better compliance and integration into the multilateral trading system. In some cases, better interaction between government agencies has been facilitated by the reviews. The reports' wide coverage of policies also enables members to identify any shortcomings in policy and specific areas where further technical assistance may be required.

#### **Cost-saving**

Informal consultations took place during the year on possible ways in which the documentation costs of the TPRB can be reduced. Based on the results of those consultations, some positive steps have been taken. The cost-saving improvements were mainly in the area of distribution of documents (TPR reports, minutes, questions and answers, etc), which are now only distributed electronically.

#### **Transparency**

Documents distributed for reviews are made available in electronic format to all members. The summary observations of the WTO Secretariat report, the concluding remarks by the Chair and the full reports by the member under review and the WTO Secretariat are available immediately on the WTO website. Printed versions of Trade Policy Reviews are also available for sale. Press briefings are occasionally held by the Chair, senior WTO Secretariat staff and/or the member under review.

#### **Programme for 2013**

The programme for 2013 includes 18 review meetings of 23 members (counting the European Union as one), including four LDCs and Japan and the European Union (which will be reviewed for the 11th time). However, in view of the difficulty of scheduling TPRB meetings in December 2013 (due to the WTO Ministerial Conference), it has been agreed that the TPRs of Mongolia and Tonga will take place in early 2014.



The Trade Policy Review (TPR) of the United States was the 20<sup>th</sup> TPR undertaken by the WTO in 2012.

# Trade Policy Reviews in 2012

The WTO conducted 20 Trade Policy Reviews in 2012 to examine the trade policies and practices of 26 WTO members. The dates of the reviews and the countries covered are shown on the map. Further information, including the Chair's concluding remarks for each review, can be found on the WTO website: [www.wto.org/tpr](http://www.wto.org/tpr).



Norway  
[9 and 11 Oct 2012](#)



Iceland  
[13 and 15 Nov 2012](#)



United States  
[18 and 20 Dec 2012](#)



Nicaragua  
[4 and 6 Dec 2012](#)



Colombia  
[26 and 28 June 2012](#)



Trinidad and Tobago  
[7 and 9 Mar 2012](#)



Côte d'Ivoire,  
Guinea-Bissau  
and Togo  
[2 and 4 July 2012](#)



Uruguay  
[25 and 27 Apr 2012](#)



Kuwait, the  
State of  
[7 and 9 Feb 2012](#)





# Trade monitoring reports

**Countries generally resisted domestic pressures to erect trade barriers during 2012, although some of them put in place new trade-restrictive measures. Economic uncertainties and high levels of unemployment continued to feed domestic protectionist pressures. The global economy encountered increasingly strong headwinds during 2012 that hampered world trade and output growth. The WTO Secretariat revised downward its forecast for world trade growth in 2012 to 2.5 per cent from its forecast of 3.7 per cent early in the year.**

The reports on global trade developments prepared by the WTO Secretariat during 2012 showed that WTO members and observers had by and large continued to resist domestic protectionist pressures and kept markets open overall. However, they also warned of potential dangers in the near future because of uncertainties in the global economy, persistently high levels of unemployment, and increasing trade tensions. The reports showed a slight declining trend in the imposition of new trade restrictions, in particular in the second half of the year. During this period, there were more trade facilitating measures than restricting ones.

Two of the reports, covering trade and investment measures taken by the Group of 20 (G20) leading developed and developing economies, were prepared jointly with the secretariats of the Organisation for Economic Co-operation and Development (OECD) and the United Nations Conference on Trade and Development (UNCTAD). The other two covered trade measures taken by WTO members and observers, and were discussed at meetings of the Trade Policy Review Body (TPRB).

The global crisis and the WTO's trade monitoring exercise underline the importance of increased transparency for the smooth functioning of the multilateral trading system. The WTO's Eighth Ministerial Conference held in December 2011 called on the TPRB to continue discussing the strengthening of the trade monitoring exercise. Following consultations held in the TPRB and

suggestions made by members, some changes were introduced in the structure and coverage of the WTO reports.

The Director-General's "Annual Report on the Overview of Developments in the International Trading Environment" was discussed at the TPRB meeting on 17 December 2012. At the meeting, the Director-General noted that, on the whole, most governments continued to resist domestic pressures to erect new trade barriers, although some government did put in place new restrictions which were adding to the measures implemented over the past four years, and to the stock of restrictions and distortions that have existed for a long time. He also noted that the world economy was still surrounded by many uncertainties and important global risks. The temptation to find easy solutions by closing down borders was always there, even if all knew that these measures would only aggravate the problems.

The Director-General called for a renewed firm commitment to revitalize the multilateral trading system which can restore economic certainty at a time when it was badly needed.

## Transparency and surveillance

Transparency and surveillance of national trade policies are vital components of the multilateral trading system. The strengthened surveillance provided by the regular monitoring of trade and trade-related measures during the crisis has not only enhanced transparency but also helped governments faced with scrutiny by their peers to resist domestic protectionist pressures. It has thereby increased trust in the multilateral trading system.

Members and observer governments recognized the role played by the WTO in helping to mitigate the impact of the global crisis and in providing increased transparency on trade policy developments. At various summit meetings, in particular at G20 summits, world leaders welcomed the role played by the WTO.

Reports on notification activities of most WTO committees and councils show that significant work took place during the year aimed at improving the timeliness and completeness of notifications through an improvement and simplification of procedures. However, progress is still slow and compliance with formal notification obligations could be further improved.

## Monitoring summary for 2012

The global economy has encountered increasingly strong headwinds over the second half of 2012 that have set back world



### Background on trade monitoring reports

In early 2009, the WTO began regular monitoring of global trade developments, covering all trade and trade-related measures implemented by WTO members and observers. Initially launched in the context of the global financial and economic crisis, the trade monitoring exercise has become a regular function in the WTO that further strengthens the transparency aims of the Trade Policy Review Mechanism by providing comprehensive information on recent trade policy changes. The continuation and strengthening of the trade monitoring exercise was confirmed by Ministers at the WTO's Eighth Ministerial Conference in December 2011. The trade monitoring is overseen by the Trade Policy Review Body, which also conducts detailed reviews of members individually (see page 62).



trade and output growth. The outlook is worse than at the time of the previous report in June 2012 due, among other things, to budget developments and the persistent debt crises in some major economies.

Output and employment trends in many countries have continued to be negative, despite the many measures implemented to contain the slowdown in economic growth. The forecast for world trade growth in 2012 was revised to 2.5 per cent down from the 3.7 per cent forecast in April 2012. Trade growth in 2013 is now expected to be at 4.5 per cent, still below the long-term annual average of 5.4 per cent for the last 20 years.

The trade monitoring exercise and the Trade Policy Reviews for individual countries undertaken in 2012 show that, on the whole, governments have continued to resist domestic pressures to erect trade barriers, although some of them have put in place trade-restrictive measures. There has been a slowdown in the imposition of new trade-restrictive measures over the review period compared with last year. This time, 51 per cent of the total number of recorded measures can be considered as facilitating trade.

The new restrictive measures continue to add to the stock of old trade restrictions and distortions. Governments need to redouble their efforts to promptly address this situation and to advance trade opening as a way to counter slowing global economic growth. Trade restrictions and inward-looking policies only aggravate global problems and risk generating tit-for-tat reactions. The difficulties and concerns generated by the persistence of the global economic crisis, with its many facets, are fuelling the political and economic pressures put on governments to raise trade barriers. This is not the time to succumb to these pressures.

### **Measures to facilitate trade**

During the review period, some countries have adopted measures to facilitate trade. Around three-quarters of the 162 trade facilitating measures recorded represent either a decrease or elimination of import tariffs. Some of these measures were taken on a temporary basis. The second most important type of facilitating measure was the streamlining of customs procedures. A number of measures were also aimed at facilitating exports.

### **Other trade measures**

During the same period, 164 other trade and trade-related measures were recorded, out of which 132 were applied on imports. The main measures were tariff increases and new customs procedures. On exports, 32 measures were applied, comprising mainly restrictions or bans on some food products and raw materials.

Regarding trade remedy trends, anti-dumping activity overall is on the rise, due to a significant increase in new investigations. It would seem that the declining trend in anti-dumping initiations, which started in 2009, could be reversed in 2012. As far as countervailing and safeguard initiations are concerned, there have not been significant changes in patterns.

Members are increasing their notifications of sanitary and phytosanitary (SPS) measures and technical barriers to trade

(TBT) measures. This may be a reflection of more active adoption of new measures for a variety of reasons, but also more systematic efforts by members to notify them. The discussion of specific trade concerns related to SPS and TBT measures provides members with an opportunity to address their differences in a multilateral framework.

Developments concerning trade in services were reported for several members. Most of the new measures can be considered as opening the services sector to foreign participation.

A few governments put in place new general economic support measures. The regular monitoring of government-support measures continues to be a challenge because of difficulties in obtaining relevant information.

The evaluation of agricultural support as well as any comparison across members or regions is difficult due to differences in methodologies used in notifications to the WTO as well as delays in notifications from many members. Based on available notifications, domestic support levels have been following an upward trend during the last decade. However, the general trend appears to be that support notified under the "Green Box" (domestic support for agriculture that is allowed without limits because it does not distort trade, or at most causes minimal distortion) is increasing while, for developed countries, support under the other "boxes" has been decreasing (triggered by higher international prices and, in some cases, domestic reforms).

For some developing countries, support under the "Amber Box" (domestic support for agriculture that is considered to distort trade and therefore subject to reduction commitments) and Article 6.2 (i.e. some development programmes in developing countries) has been increasing. In absolute terms, the levels of support still remain far higher in developed countries. The OECD data confirm that structural reforms have been taking place in some developed countries as they move away from market price support towards, according to the OECD, less trade-distorting support. On the other hand, OECD and WTO data show that at least in the years up to 2010, the trend in market price support in some OECD countries and some developing countries has been increasing despite higher world prices.

### **Conclusions**

The world needs a renewed and stronger commitment from all governments to revitalize the multilateral trading system and restore economic certainty at a time when it is badly needed. The policy determination to resist inward-looking policies seems to be faltering in some countries, just when the world economy needs more trade to stave off recession. Due to the rapidly changing patterns of world trade, restrictions on imports will inevitably be felt in reduced export competitiveness. The last thing the world economy needs is indulgence in trade-restrictive practices. In this context, even if it is clear that the goal of achieving a Doha Development package encompassing all 20 topics is out of reach in the short term, the possibility still exists of advancing in smaller steps. This possibility should not be lost.



## Trade, debt and finance

In 2012, the trade and finance agenda moved forward, in line with the deep interest of the international community in this matter. For example, the WTO Working Group on Trade, Debt and Finance continued its examination of the relationship between exchange rates and trade by holding a high-level seminar in March involving key policy-makers and academics.

Lack of trade finance impairs the ability of countries to trade. With the support of WTO members, Director-General Pascal Lamy has been a driving force behind a number of initiatives over the years aimed at closing some of the structural gaps in trade finance markets.

Director-General Lamy has been working in particular with the multilateral development banks (the European Bank for Reconstruction and Development, the Asian Development Bank, the International Finance Corporation, the Inter-American Development Bank, the Islamic Development Bank and the African Development Bank) to boost the global network of trade finance facilitation programmes that help to reduce the risk of financing trade in developing countries. These programmes have expanded considerably during the Director-General's tenure.

In line with the priorities set out at the G-20 meetings in Seoul and Cannes in 2012, the Board of Directors and senior management of the African Development Bank agreed at the beginning of 2013 to start a trade finance programme for African traders, helping to close gaps in the global support network. As a result of these global programmes, the international community is able to support billions of trade transactions by small and medium-sized enterprises (SMEs) in poor countries, which would not have necessarily received support from private markets.

The Director-General continued in 2012 his dialogue with the Basel Committee on Banking Supervision on achieving fair prudential regulation for the trade finance industry. In parallel with this, he sought the support of the International Chamber of Commerce, which collected data on millions of trade finance transactions. These data established that the average default rate on short-term trade finance was a mere 0.2 per cent. Accordingly, the Basel Committee took a number of positive steps, reducing prudential cost for the industry (see below).

### Working Group on Trade, Debt and Finance

The Working Group on Trade, Debt and Finance's main focus at its three meetings in 2012 was to improve understanding of the links between exchange rates and trade, in particular the economic impact of exchange rates on trade. To deal with the different dimensions of the topic, the Working Group held a two-day seminar in March, with the participation of the private sector, governments, international agencies and academia. In an introductory statement, Director-General Pascal Lamy said that the international monetary system must facilitate trade. "The international community needs to make headway on the issue of reform of the international monetary system. Unilateral attempts to change or retain the status quo will not work," he declared.

The Working Group also asked the WTO Secretariat for an update on the recent economic literature on the subject. Brazil introduced a submission looking at some of the institutional and legal aspects of the impact of exchange rate fluctuations on trade. Members offered initial reactions and will be reverting to the issue in 2013.

Members continued to support the work of the Expert Group on Trade Finance and of the WTO Director-General on improving the availability of trade finance for low-income countries. In this regard, they welcomed the creation of a trade finance facilitation programme by the African Development Bank and recent moves by the Basel Committee on Banking Supervision aimed at reducing regulatory obstacles to trade finance.

#### Background on trade, debt and finance

WTO ministers decided in Doha in 2001 to establish a Working Group on Trade, Debt and Finance to look at how the WTO could contribute to finding a durable solution to the external debt problems of many developing countries and to avoid having WTO members' trade opportunities undercut by financial instabilities. In this framework, the Working Group has been focusing its attention on a range of financial issues with an impact on trade, including the provision of trade finance, and more recently, the relationship between exchange rates and trade.

### Expert Group on Trade Finance

Some 80–90 per cent of world trade relies on trade finance (trade credit and insurance/guarantees) and during the worst of the financial and economic crisis in 2008–09 many companies, especially smaller enterprises in both developed and developing countries, found it impossible or prohibitively expensive to obtain the credit they needed to trade. In a context of contraction of the financial sector, the availability and affordability of trade finance for small and medium-sized enterprises in both developed and developing countries remain an issue of concern.

Against this backdrop, the Expert Group on Trade Finance continued to meet in 2012, with a view to filling the remaining gaps in the trade finance markets, especially in the poorest countries. One tool to boost the supply of trade finance in these countries has been the expansion by multilateral development banks of trade finance facilitation programmes in the regions where they operate. The Director-General advocated the creation of such a programme by the African Development Bank, with the support of the Bank's President, Mr Donald Kaberuka. The new programme was adopted at the beginning of 2013 by the Bank's Board of Directors.

The programme of the African Development Bank extends the global network of trade finance facilitation programmes already established by all major multilateral development institutions. A report to the G-20 in 2010 had concluded that only one-third of least-developed countries benefited from meaningful trade finance support. With the beefing up of multilateral development programmes, the international community is financing several billions of dollars of trade transactions in the most challenging countries in the world, from Sierra Leone to Nepal. As evidence that financing trade in such regions is no more risky than anywhere else, very few losses have been incurred by multilateral development banks in their operations.

The Director-General continued his dialogue with prudential regulators in 2012, with a view to clarifying potential regulatory obstacles to the supply of trade finance in developing countries. As a result, the Basel Committee made a number of positive adjustments to guidelines affecting trade finance in the area of capital and liquidity requirements. The main decisions were made by the Committee in autumn 2011 (removal of the maturity floor on letters of credit and the like) and at the beginning of 2013 (low liquidity coverage ratio for similar products). These measures potentially free billions of dollars of bank resources to finance more trade finance for no additional risk.

Established in the wake of the Asian financial crisis in the late 1990s, the Expert Group brings together representatives of the main players in trade finance, including the International Finance Corporation, regional development banks, export credit agencies and big commercial banks, as well as the International Chamber of Commerce and other international organizations.

# Government Procurement Agreement

**Further progress was achieved in 2012 on pending accessions to the Government Procurement Agreement (GPA), including those of China and New Zealand. In addition, the Committee on Government Procurement, which administers the GPA, monitored the entry into force of the revised Agreement adopted by the parties in 2012 (see page 32). Four more countries were granted observer status. Demand for technical training on the GPA continues to grow, reflecting increased interest in accession.**

China submitted a third revised GPA accession offer, containing proposed additions to coverage at the sub-central government level and other improvements. Work on China's accession to the Agreement, to which the Committee attaches great importance, will continue in 2013. Moldova also submitted a revised GPA coverage offer in addition to updated information on its procurement system. Initial substantive discussions were held on New Zealand's application for accession, and there were further discussions relating to Ukraine's application for GPA accession, which was initiated in 2011.

In all, ten WTO members are in the process of acceding to the GPA, which at the end of 2012 comprised 15 parties, counting the European Union and its 27 member states as one. Commitments regarding accession to the GPA are incorporated in the WTO accession protocols of a further seven members that have joined the WTO in recent years.

The Committee granted observer status to Indonesia, Malaysia, Montenegro and Viet Nam in 2012, taking the number of observers to 26. This reflects the growing interest in learning about the GPA.



## Monitoring of implementation and legislation

In 2012, the Committee held regular roundtable sessions to monitor parties' progress towards the acceptance and bringing into force of the revised GPA adopted in March 2012. The Committee also considered modifications to parties' schedules, statistical reports, threshold levels in national currencies and changes in parties' legislation implementing the GPA.

In 2011 and 2012, the Committee, working with the WTO Secretariat, took significant steps to streamline notification processes. Procedures for the circulation of statistical reports have been greatly simplified. Furthermore, a number of the changes that are incorporated in the revised text of the GPA, e.g. with regard to the use of electronic procurement tools, are intended to simplify notification processes relating to transparency obligations.

With regard to national implementing legislation, the Committee was informed of a law adopted by a sub-federal unit of an important GPA party that, if implemented, would purportedly limit access to GPA-covered procurement. The Committee was assured that the law in question has been challenged and an injunction obtained. Other parties indicated that they are following the situation with interest and appreciate being kept informed.



## Background on the Government Procurement Agreement

The WTO Agreement on Government Procurement (GPA) ensures that signatories do not discriminate against the products, services or suppliers of other parties to the GPA with respect to the procuring agencies, goods and services that they have agreed to open to foreign competition. The Agreement also requires transparent and competitive purchasing practices in the markets covered. The GPA is a plurilateral agreement, which means that it applies only to those WTO members that have agreed to be bound by it. The Committee on Government Procurement administers the GPA.

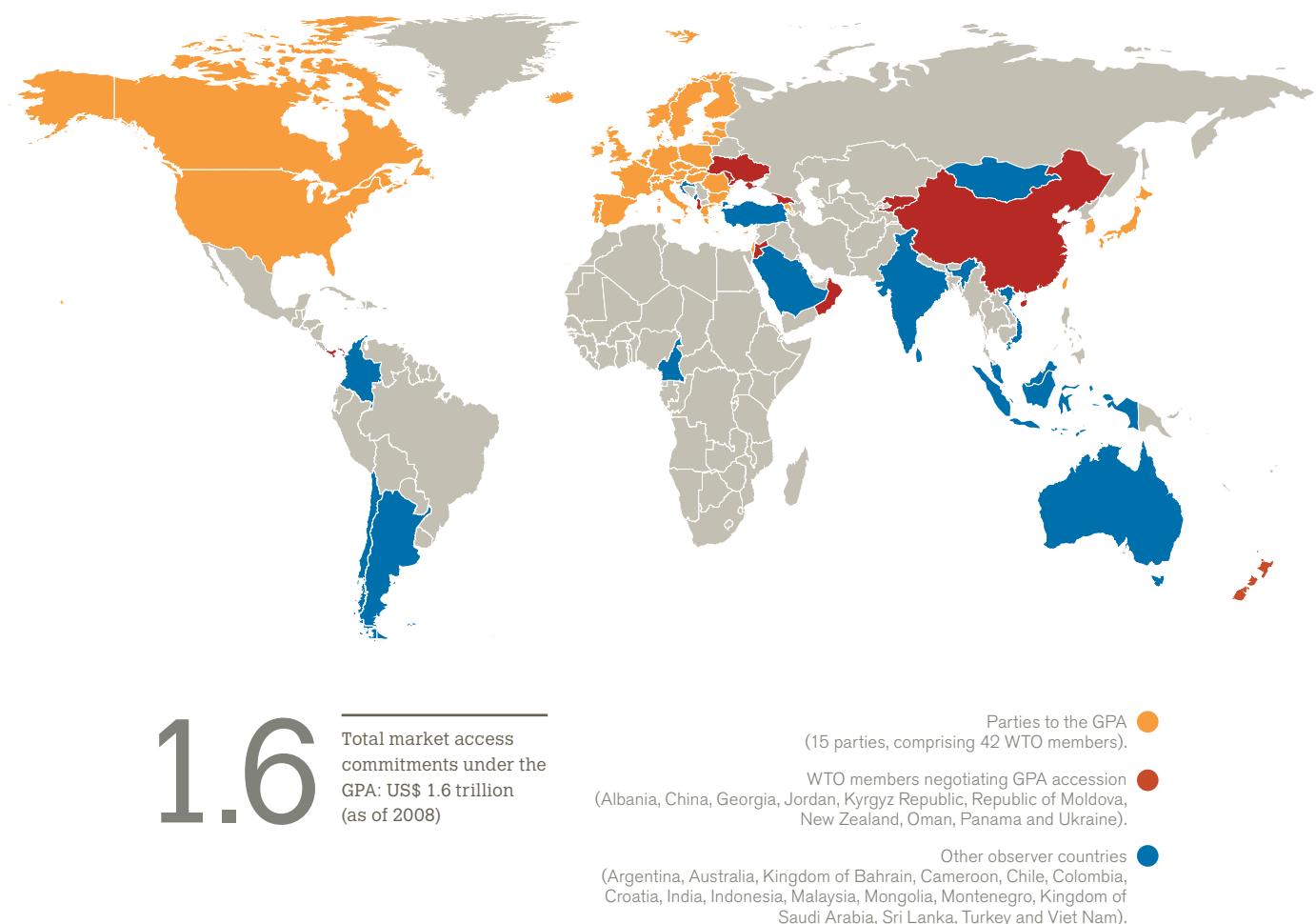


### Technical assistance and international cooperation

The WTO Secretariat carries out an intensive programme of technical assistance relating to the GPA, including both regional workshops and tailored national seminars that are provided on request to WTO members acceding to the Agreement and/or GPA observers. Close links are maintained with other international organizations interested in GPA accession work, notably the United Nations Commission on International Trade Law and various regional development banks.

The Committee, which is briefed regularly on relevant developments, has expressed its strong support for the Secretariat's technical assistance programme and its liaison with other interested organizations.

**Figure 7: Members and observers of the Government Procurement Agreement**



# Integrated Trade Intelligence Portal (I-TIP)

The Integrated Trade Intelligence Portal (I-TIP) provides a single entry point for all information compiled by the WTO on trade policy measures. Containing information on over 25,000 measures, I-TIP covers both tariff and non-tariff measures affecting trade in goods as well as information on preferential trade agreements and the accession commitments of WTO members. Later in 2013, it will be expanded to cover trade in services and other areas. I-TIP was made available to the public for the first time on Trade Data Day, which took place at the WTO on 16 January 2013.

## Trade in goods

I-TIP provides comprehensive information on non-tariff measures (NTMs) applied by WTO members in merchandise trade. The information includes members' notifications of NTMs as well as information on "special trade concerns" raised by members at WTO committee meetings. Areas currently covered by I-TIP include technical barriers to trade, sanitary and phytosanitary measures relating to food safety and animal/plant health, and anti-dumping, countervailing and safeguard measures.

Information on NTMs can be accessed as:

- graphs displaying summary information of trade measures, by WTO member or groupings of members
- tables showing product coverage by WTO member
- tables showing notified measures by WTO member
- summary or detailed lists of measures, as selected by the user, that can be exported into Excel.

I-TIP also provides a direct link to the WTO's extensive tariff and trade databases.

In 2013, the aim is to broaden the content available on I-TIP by including other NTMs and by improving I-TIP's functionality. The new information will include members' notifications of import licensing and quantitative restrictions as well as notifications relating to agricultural commitments. It will also include information from the WTO's Trade Monitoring Data Base (see right).

## Trade in services

The full services component of I-TIP will be made available in July 2013. This integrated database will consist of information on members' commitments under the WTO's General Agreement on Trade in Services (GATS), services commitments in preferential trade agreements, applied measures, and services statistics. A search function will allow users to access information by member, sector and mode of supply. Search results will be viewable in summary form or in more detail. Users will be able to export the information in various formats.

## Air services

The WTO's Air Services Agreements Projector (ASAP) allows users to obtain information on an economy's network of bilateral air services agreements (ASAs) and associated passenger traffic flows. Based on 2011 data, it includes information on agreements available from the International Civil Aviation Organization or through WTO Trade Policy Reviews as well as scheduled passenger traffic statistics provided by the International Air Transport Association.

ASAP's Air Liberalization Index provides a measure of the openness of each ASA. Users may obtain information by signatory or groupings of signatories. The information is displayed on a world map along with the underlying data.

## Trade monitoring

The Trade Monitoring Data Base (TMDB) will provide information on trade measures taken by WTO members and observers since October 2008. Drawing on data in the WTO's trade monitoring reports, the database will allow users to select information by a number of criteria, such as by country implementing the trade measures, by product(s), by countries affected by the measures, by type of measure, and by date. Information on new trade measures will be included in the TMDB only once it has been verified by the relevant countries. The database is expected to be made public in the first half of 2013. Information in the database will be updated twice a year.

## Accessions

The Accession Commitments Database, launched in May 2012, provides access to all WTO accession commitments and related information contained in the working party reports and accession protocols of WTO members that have joined since 1995. Information can be extracted and exported in various ways.



## Background on the Integrated Trade Intelligence Portal (I-TIP)

I-TIP aims to serve the needs of those seeking detailed information on trade policy measures as well as those looking for summary information. Areas currently covered by I-TIP include trade in goods, WTO accession commitments, preferential trade agreements and air services. Other areas to be covered in the near future include trade across the full range of services, trade monitoring and dispute settlement.





On 16 January 2013, the WTO hosted Trade Data Day, an event dedicated to creating a better understanding of international trade flows and market access.

### Preferential trade agreements

I-TIP provides access to information on regional trade agreements (RTAs) and preferential trade arrangements (PTAs) through its RTA and PTA databases. These databases were established as part of the Transparency Mechanism for RTAs and PTAs, which requires members to notify all such trade agreements to the WTO as soon as possible.

### Dispute settlement

The Digital Dispute Settlement Registry will allow WTO members to submit dispute settlement documents online through a secure and convenient facility from anywhere in the world. The system will also serve as a storage facility for all panel and Appellate Body records dating back to 1995.

The registry will permit members and the public to search for publicly available information from past disputes, including material that has only been available in printed form up to now. Members will be able to conduct sophisticated searches - for example, searching by keywords such as "national treatment".