



## Implementation and monitoring

- > By the end of April 2016, 77 WTO members had ratified the Trade Facilitation Agreement, which will come into effect once two-thirds of the WTO membership have ratified it. Implementation of the Agreement will help to cut trade costs by speeding up the flow of goods across borders.
- > In 2015, ten more members accepted the protocol amending the WTO's intellectual property (TRIPS) Agreement, which will come into force once two-thirds of the WTO membership have ratified it. By the end of April 2016, 61 per cent of WTO members had accepted the protocol. The aim of the protocol is to make it easier for the WTO's poorest members to access affordable medicines.
- > The Committee on Sanitary and Phytosanitary (SPS) Measures received a record 1,681 notifications from WTO members concerning food safety, animal or plant health regulations, helping to improve the transparency of members' use of these measures.
- > The use of trade-restricting measures by WTO members is a cause for concern, according to the latest WTO trade monitoring reports, as the overall stockpile of trade restrictions introduced by members since 2008 continues to grow.

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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 2015, the General Council made preparations for the Tenth Ministerial Conference in Nairobi and submitted recommendations for decisions. It oversaw progress in the Doha Round negotiations on the basis of reports from the Director-General in his capacity as Chair of the Trade Negotiations Committee. It also oversaw progress in implementing decisions taken at the Ninth Ministerial Conference in Bali, based on regular reports by the General Council chair, Fernando de Mateo of Mexico. It heard the Director-General's reports on the Fifth Global Review of Aid for Trade and other matters, such as WTO accessions.

## Ministerial Conference

The Chair of the General Council prepared both the substantive and organizational aspects of the Tenth Ministerial Conference. Delegations were consulted regularly on organizational issues, such as the appointment of chairs and other officers for the Conference and the participation of observers and non-governmental organizations.

The General Council submitted three recommendations for decisions to the Nairobi Ministerial Conference regarding e-commerce, small economies, and so-called non-violation and situation complaints in trade-related aspects of intellectual property rights (TRIPS). Work to finalize Nairobi "deliverables" – matters that could be agreed at the Ministerial Conference – and the Ministerial Declaration took place in the relevant negotiating bodies as well as in the General Council and the Trade Negotiations Committee.

The General Council also oversaw progress on mandates given by ministers at the Bali Ministerial Conference in 2013, including on the drawing up of work programmes by the negotiating bodies of the Doha Round (see page 32). It reviewed other issues from regular WTO bodies for ministerial action.

## Aid for Trade

In July, the Director-General reported on the Fifth Global Review of Aid for Trade (see page 126) whose theme was

"Reducing Trade Costs for Inclusive, Sustainable Growth".

He said that the review had been a success and that the Aid for Trade initiative was already having a tangible effect on reducing trade costs and in helping least-developed countries (LDCs) connect to global supply chains. WTO members stressed the importance of reducing trade costs and pledged their continued support for the initiative.

## E-commerce

The Work Programme on Electronic Commerce, which involves the digital transfer of goods and services across borders, is carried out under the auspices of the General Council, with the Council for Trade in Services, the Council for Trade in Goods, the Council for TRIPS, and the Committee on Trade and Development examining and reporting to the General Council on various aspects of electronic commerce.

As instructed by the Ninth Ministerial Conference, the General Council continued to review progress on the e-commerce programme. The Friend of the Chair for e-commerce, Ambassador Suescom (Panama), who chaired the dedicated discussions on e-commerce on behalf of the General Council Chair, reported in July that positions were little changed on key issues, such as whether to make the current moratorium on customs duties on electronic transmissions permanent. At the 30 November 2015 General Council meeting, WTO members agreed to forward a draft decision on e-commerce to the Tenth Ministerial Conference. In Nairobi, ministers decided to continue the work and asked the General Council to keep the moratorium on transmission duties until the next Ministerial Conference in 2017.

## 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.



Ambassador Fernando de Mateo was elected as Chair of the General Council in February 2015.

## Waivers under Article IX of the WTO Agreement

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:

- › LDCs — Article 70.9 of the TRIPS Agreement with respect to pharmaceutical products, granted on 8 July 2002 until 1 January 2016
- › Preferential treatment for LDCs, granted on 27 May 2009 until 30 June 2019
- › United States — Former Trust Territory of the Pacific Islands, granted on 27 July 2007 until 31 December 2016
- › United States — African Growth and Opportunity Act (AGOA), granted on 27 May 2009 until 30 September 2015 (see page 54)
- › Philippines — Special treatment for rice, granted on 24 July 2014 until 30 June 2017
- › Preferential treatment to services and service suppliers of LDCs, granted on 17 December 2011 until 17 December 2026 (see page 74)
- › Kimberley process certification scheme for rough diamonds, granted on 12 December 2012 until 31 December 2018
- › European Union — Application of autonomous preferential treatment to the West Balkans, Granted on 30 November 2011 until 31 December 2016
- › Cuba — Article XV:6 of GATT 1994, Extension of waiver, granted on 14 February 2012 until 31 December 2016

## Intellectual property issues

In February, the General Council heard an update on implementation of the protocol amending the TRIPS Agreement, which aims to make it easier for poorer WTO members to gain access to medicines through the granting

of compulsory licences, referred to as the “Paragraph 6” system (see page 78). The latter is a waiver permitting generic versions of patented medicines to be exported to developing countries with no domestic manufacturing capacity.

In November, the General Council received a report from the TRIPS Council on implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health. The General Council agreed to extend until 31 December 2017 the period for WTO members to accept the protocol, which comes into force when it has been accepted by two-thirds of WTO members (see page 78).

In November, on the recommendation of the TRIPS Council, the General Council agreed to extend for 17 years until 1 January 2033 the transitional period for LDCs to enforce global trade rules protecting pharmaceutical patents and clinical data (see page 79).

## WTO accessions

At a meeting in July, attended by Kazakhstan’s President Nursultan Nazarbayev, the General Council approved the draft protocol on the accession of Kazakhstan. It adopted the draft decision on the country’s accession and the report of the respective working party. Kazakhstan became the 162<sup>nd</sup> WTO member on 30 November, 30 days after depositing its instrument of acceptance of its membership terms with the Director-General (see page 25).

The General Council considered at its meeting in November the 2015 Annual Report on Accessions by the Director-General, which looked back at WTO accessions over the past 20 years. The report said that the process of accession and its results illustrated the value of the WTO “in supporting domestic priorities for economic diversification and modernization, updating the rules of trade and promoting broader international cooperation for trade”. The report also highlighted the need for a post-accession support strategy for new WTO members.

## Micro, small and medium-sized enterprises (MSMEs)

At its meetings in July, October and November, the General Council discussed proposals by the Philippines and other co-sponsors for action to improve the participation of MSMEs in global and regional markets. The Philippines proposed a forum to share national experiences on MSMEs and to highlight the opportunities and challenges confronting them (see page 54).

## Other issues

The General Council heard updates about the chair's consultations on improving the guidelines for granting intergovernmental organizations permanent observer status in the WTO.

As part of its oversight function, the General Council conducted a year-end review of WTO activities on the basis of annual reports from its subsidiary bodies. All the annual reports were forwarded to the Tenth Ministerial Conference.

The General Council reviewed the exemption provided under paragraph 3 of the General Agreement on Tariffs and Trade (GATT) 1994. This review of the exemption granted to US legislation – the Jones Act – which prohibits the use, sale or lease of foreign-built or foreign-reconstructed ships in US national waters, takes place in the Council every two years.

The General Council approved the WTO biennial budget. It also considered a report from the Joint Advisory Group of the International Trade Centre (ITC), which 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 2015, the General Council granted the following waivers from obligations under the WTO agreements.

Member(s)	Type	Decision of	Expiry	Decision
Argentina, China and European Union	Introduction of Harmonized System 2002 changes into WTO schedules of tariff concessions	30 November 2015	31 Dec 2016	WT/L/967
Argentina, Brazil, China, Dominican Republic, El Salvador, European Union, Israel, Republic of Korea, Malaysia, Mexico, New Zealand, Nicaragua, Philippines, Switzerland and Thailand	Introduction of Harmonized System 2007 changes into WTO schedules of tariff concessions	30 November 2015	31 Dec 2016	WT/L/968
Argentina; 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; Philippines; 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	30 November 2015	31 Dec 2016	WT/L/969
United States	Africa Growth and Opportunity Act	30 November 2015	30 September 2025	WT/L/970
Least-developed countries	Obligations under Article 70.8 and Article 70.9 of the TRIPS Agreement with respect to pharmaceutical products	30 November 2015	1 January 2033	WT/L/971
Canada	CARIBCAN	28 July 2015	31 December 2023	WT/L/958
United States	Caribbean Basin Economic Recovery Act	5 May 2015	31 December 2019	WT/L/950



# Trade in goods

The Council for Trade in Goods addressed a large number of trade concerns in 2015, reflecting its increasing role as a forum for airing concerns about measures, policies and practices considered potentially discriminatory or trade-restricting. It also considered a number of waiver requests and took note of an updated and comprehensive list of notifications submitted by WTO members. The Philippines delivered a statement about the obstacles faced by micro, small, and medium-sized enterprises in participating in regional and global markets. Colombia presented the conclusions of a panel on illicit trade and money laundering.

## Trade concerns

The Goods Council discussed a large number of trade concerns raised by WTO members at its three meetings in 2015.

Japan, echoed by Canada, Korea, Mexico and the United States, reiterated its concerns that Ecuador had not taken action to remove or correct its restrictions on imports of automobiles and parts, which these members consider to be contrary to GATT (General Agreement on Tariffs and Trade) Article XI on quantitative restrictions, and questioned Ecuador's justification of protecting the environment. Japan also expressed concern about Ecuador's surcharge on imports and urged it to notify this measure to the WTO Committee on Balance-of-Payments (BOP) Restrictions (see page 58). Colombia, the United States, the European Union, Guatemala, Panama, Peru and Mexico shared these concerns. Ecuador responded that its measures did not discriminate between imported and domestically produced cars and were aimed at reducing carbon emissions.

The European Union, Japan and the United States, supported by Australia, Brazil, Canada, Chile, New Zealand, Norway,

Switzerland and Chinese Taipei, recalled the concerns previously raised in the Goods Council and other WTO bodies about a growing number of Indonesian trade and investment restrictions affecting a broad range of sectors, including agriculture, information and communications technology, energy and consumer goods. Concerns were also raised with regard to a prepaid corporate tax on importers, Indonesia's port of entry restrictions applying to certain raw materials, its Mining Law restricting exports of raw material such as nickel, and laws on trade and industry regarding minimum local content.

The European Union, the United States, Australia, Japan and Norway again asked Nigeria to respond to their concerns over local content requirements in oil and gas, concerns originally raised in 2011. Concerns were also raised by Chile, the European Union, Iceland, Malaysia, Norway, Switzerland, Thailand, the United States and Uruguay about Nigeria's regulations prohibiting foreign exchange transactions for 41 products. These included fish from Norway and the European Union, as well as agricultural products, plastics, aircraft and aircraft parts, and metal and metal products from the United States.

## Background on trade in goods

The Council for Trade in Goods 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 working parties on state trading enterprises and the Information Technology Agreement.



The European Union reiterated its systemic and commercial concerns over a series of Russian measures affecting the transit of products through Russian territory, increased border controls affecting mainly Lithuanian products and trucks loaded in or dispatched from Lithuania, and the transit of agricultural goods through Russian territory towards a final destination in Central Asia. Concerns were also expressed over Russia's industrial assembly programme and the local content requirement to obtain preferential treatment as well as subsidies provided to local automobile producers in areas such as energy consumption, production of ecologically friendly vehicles, employment and research and development. Russia reiterated that its measures were WTO-compliant.

Norway, Iceland and Switzerland raised concerns regarding customs valuation practices in Ukraine. Norway said it had received complaints from its seafood exporters about Ukrainian customs authorities systematically rejecting the transaction values reported by the exporters. Switzerland described the practices as burdensome and non-transparent. Ukraine replied that its customs valuation system was in full conformity with WTO requirements. However, its regulations were undergoing reforms which had already led to significant improvements.

The Council heard concerns about various Chinese measures, established since 2010, which included quarantine and testing procedures and import licences for salmon and a further 39 fish species. A number of members questioned India's decision to limit imports of apples to only one port (Nhava Sheba). The EU, Canada, the United States, Japan and Switzerland expressed concerns regarding what they said were Pakistan's discriminatory sales taxes, which impose a higher rate of tax on imported over domestic goods. The United States said a regulation adopted last year by Pakistan raised sales tax on imported leather, footwear, apparel and sporting goods from 5 to 17 per cent. Pakistan said the government was considering withdrawing the measure and that an indicative date for the withdrawal might be announced soon.

Brazil's imposition of non-automatic licensing requirements on imports of industrial nitrocellulose, which is used in the production of lacquer and nail varnish, was raised by the European Union, which said the licences were a *de facto* ban. Brazil countered that the measure was being misrepresented by the European Union as an import ban and that the requirements were in conformity with WTO rules.

### Waiver requests

The Council approved three collective waiver requests, extending the deadlines for the updating of tariff schedules under the Harmonized System changes (2002, 2007 and 2012) (see pages 55). It also approved a request from Canada to extend a waiver for the Caribbean Initiative (CARIBCAN) and from the United States regarding the African Growth and Opportunity Act (AGOA). AGOA is a preferential trade programme granting special access to the US market for goods imported from 39 beneficiary countries in sub-Saharan Africa. The AGOA waiver will run until the expiry of the

programme, which has been extended for another ten years until 2025. It also extended a waiver for the US Caribbean Basin Economic Recovery Act (CBERA), which offers duty-free treatment or other preferential treatment for eligible articles from 17 beneficiary countries.

The Council continued to consider a waiver request from Jordan to extend the phase-out period of an export subsidy programme for domestic producers, in particular small and medium-sized enterprises (SMEs). Jordan said it was facing an "exceptional geopolitical situation" and that "severe instability" in the region continued to negatively affect the country's economy and hinder the industrial sector.

Regarding the EU enlargement of 2013 (Croatia), the Council agreed to extend the deadline for the withdrawal of concessions until 1 July 2016. It took note of statements by Argentina, Australia, Brazil, New Zealand and Uruguay about the slow pace of the negotiations. Following the accession of Armenia and the Kyrgyz Republic to the Eurasian Economic Union (EUEA), the Council agreed to their requests to extend for 12 months the period in which interested members could withdraw substantially equivalent concessions.

### Micro, small and medium-sized enterprises

In a statement, the Philippines said that micro, small and medium-sized enterprises (MSMEs) had become a critical component of both developing and developed economies. However, they faced a number of barriers that prevented their integration into global value chains. The statement drew members' attention to the Boracay Action Plan to Globalize MSMEs, an initiative of the Asia-Pacific Economic Cooperation (APEC) states aimed at addressing the cross-cutting concerns of MSMEs.

### Illicit trade and money laundering

Colombia, together with Chile, Costa Rica, the European Union, Guatemala, Mexico and Peru, presented the conclusions of the Panel on Illicit Trade and Money Laundering in International Trade that took place during the 2015 WTO Public Forum (see pages 140). The Panel's objectives were to sensitize the WTO community to illicit trade, a problem that affected an ever-growing number of developing countries and to stimulate a discussion about possible strategies collectively to address the phenomenon.

### Other issues

In 2015, the Council was informed about ten free trade agreements (FTAs) (see pages 85) concluded and notified by WTO members. Thailand notified the Council of its preferential tariff treatment for LDCs.

Finally, the Council approved a draft decision concerning the derestriction of the bilateral negotiating documents of the Tokyo Round (see page 56).

## Market access

**The Committee on Market Access heard a number of trade concerns raised by WTO members. It continued to make good progress in updating members' schedules of concessions to reflect the latest international tariff classification standards. Members are making a big effort to provide tariff and import data through the WTO's Integrated Data Base and the Consolidated Tariff Schedule database. The Committee recommended the derestriction of negotiating materials of the Tokyo Round. Members expressed disappointment at the low number of notifications received on quantitative restrictions.**

### Trade concerns

A number of trade concerns were raised by WTO members at the two formal meetings of the Committee on Market Access. The European Union considered that Argentina was applying discriminatory taxes against imported vehicles. The European Union also considered that Pakistan was applying discriminatory taxes to the detriment of imports (see page 108). Switzerland asked the Kingdom of Bahrain to explain why customs duties on cigarettes were being levied in excess of the corresponding bound tariffs. The United States and the European Union questioned Colombia's excise taxes on alcoholic beverages. The Dominican Republic expressed concern at overland import restrictions affecting some 23 products imposed by Haiti. Finally, Chile questioned Nigeria's import restrictions on mackerel. In most cases, the concerns expressed were supported by other WTO members who requested that a prompt solution be found.

### Background on market access

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

## Harmonized System (HS) transposition exercise

The Committee continued its work to ensure that WTO members' schedules of concessions reflect the amendments made by the World Customs Organization (WCO) to the Harmonized System nomenclature, which take place every four to five years. The amendments are typically referred to by the year in which they enter into force. They include HS96, HS2002, HS2007 and HS2012, with HS2017 soon to be added. The "transposition" exercise helps guarantee that members' schedules are up to date and that tariff obligations are transparent (i.e. allowing tariffs being applied in practice to be compared with members' legal obligations at the WTO).

Significant progress was made on the HS2007 exercise, with amendments to more than 102 schedules either certified or under the certification process, compared with 85 in 2014. The HS96 and HS2002 transpositions are concluded for most WTO members. The Committee is expected to begin the HS2012 exercise in 2016.

As usual, the WTO Secretariat issued its "Situation of schedules of WTO members" report, which lists in one place all the legal instruments relating to each member's schedule of concessions.

### Databases

WTO members have made a big effort to make available tariff and import data, a process which is overseen by the Committee on Market Access. The WTO Secretariat reported on the Integrated Data Base (IDB), which provides information on applied tariffs and import data as notified by WTO members, and the Consolidated Tariff Schedules (CTS) database, which compiles information on the legal obligations reflected in the schedules of concessions. The Secretariat also provided information on the use of information in the databases, the status of software development, and technical assistance in this area.

IDB data coverage has significantly improved in recent years but some important gaps remain. A comprehensive dataset on tariffs and import statistics is very important for any analysis that WTO members might want to undertake. However, at present, IDB data needs to be complemented with data coming from other sources. For this reason, the WTO Secretariat encouraged members to notify their data and help fill in the gaps. The Secretariat is available to provide technical support on IDB notifications, and announced a joint pilot project with the United Nations Conference on Trade and Development (UNCTAD) to develop a module to collect information through ASYCUDA, a computerized customs management system.

### Quantitative restrictions

The WTO Secretariat issued a report analysing the notifications of quantitative restrictions (QRs) submitted by WTO members in accordance with the 2012 Council for Trade in Goods decision that members must notify all such restrictions in force every two years and any changes to those restrictions no later than six months from their entry into force.



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The GATT requires the general elimination of quantitative restrictions, which include prohibitions and other restrictions on trade that do not take the form of a tariff or a tax. However, QRs are allowed in a number of defined circumstances.

According to the report, 27 WTO members had notified a total of 731 quantitative restrictions on imports and exports, with most of the restrictions taking the form of import/export bans and non-automatic licensing procedures. At the formal meetings of June and September, the Committee reviewed new QR notifications from Australia, Canada, China, Japan, Lao People's Democratic Republic, the Philippines, Russia, Singapore and Chinese Taipei. Disappointment was expressed at both meetings over the low number of notifications and poor compliance with the decision.

### Other issues

The Committee lifted restrictions on the publication on the WTO website of bilateral tariff negotiating material from the Tokyo Round. The negotiating records from the first five trade rounds of the General Agreement on Tariffs and Trade (GATT) have already been posted on the site, and the records for the Tokyo Round will be released in the near future.

## Agriculture

**The Committee on Agriculture examined how countries are complying with their commitments on subsidies and market access and discussed issues arising from this. It reviewed a paper submitted by a group of WTO members describing trends in domestic support. In addition, the Committee held an informal session to discuss improving the implementation of notifications on export restrictions and held a second dedicated discussion on export competition.**

The Committee reviewed approximately 58 notifications of agricultural trade measures by WTO members at

### 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.

its three meetings in 2015. This was down from some 80 in 2014. Members raised 200 questions on these individual notifications.

The review of WTO members' progress in implementing their commitments on subsidies and market access under the Agriculture Agreement is largely based on their notifications. Members can also ask about agricultural measures that have not been notified. Figure 1 gives a snapshot of the proportion of questions on notifications raised by subject area. The proportion of all questions posed annually to developing countries has almost doubled since 2005.

**Figure 1: Questions on notifications raised in the Committee on Agriculture in 2015, by subject area**

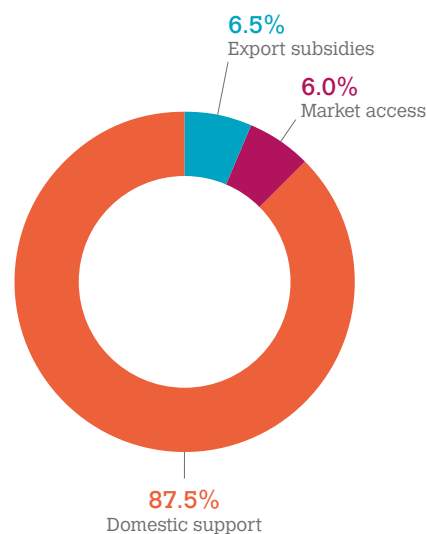
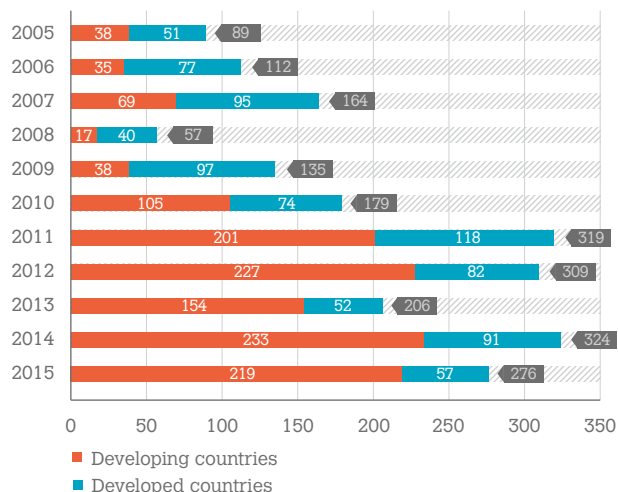


Figure 2 shows the annual proportion of questions addressed to developed and developing countries. In 2015, members posed many questions to India and China relating to their recently notified domestic support (subsidy) measures. China's notification concerned its domestic support programme for 2009-10 while India's covered 2004-05 to 2010-11.

**Figure 2: Proportion of questions addressed to developing country members, 2005-2015**



WTO members raised 33 issues that were not related to specific notifications, 18 of them for the first time. The remaining issues had been discussed at least once in previous years. The Committee also looked at how well members are fulfilling their reporting obligations. Some delegations raised specific concerns about overdue notifications, particularly on domestic support and export subsidies. Many of the new issues raised in this context were related to export policies, including various forms of export subsidies. These topics included Pakistan's wheat export subsidies, US export credit guarantees, Switzerland's export subsidy budget, India's export assistance and EU dairy policies.

The Committee discussed trends in notified domestic support as portrayed in a revised paper submitted by the Cairns Group of agricultural exporting nations, which compiled the latest data notified to the Committee by the top ten agricultural trading nations (counting the European Union as one).

WTO members expressed differing views on how to analyse and evaluate which countries are important subsidizers. Some focused on "trade distortion" (when policies cause prices and production to be higher or lower than levels that would usually exist in a competitive market) caused by large overall quantities of support, including increases in major developing countries. Others argued that those figures overlooked the difference between the large amounts paid per farm in commercial agriculture and the considerably smaller amounts paid per head to poor farmers.

Many WTO members noted that the data depended on notifications and urged timely notification in order to strengthen the review of trends in this area. Discussions benefited from additional information provided by some members that extended the analysis and explored alternative methods for summarizing notified information.



## Export competition

In June, the Committee held its second annual dedicated discussion on export competition, as called for by the Ninth Ministerial Conference in Bali, to enhance transparency and improve monitoring of the issue. Export competition covers export subsidies, export credits, export credit guarantees or insurance programmes, international food aid and agricultural exporting state trading enterprises (STEs).

The discussion was based on a background document from the WTO Secretariat circulated in May covering replies to a questionnaire to WTO members on their export competition programmes. A revised version of the document was circulated in September. During these discussions many members noted that an outcome on export competition was doable and necessary at the Tenth Ministerial Conference in December. In Nairobi, ministers decided to eliminate export subsidies and prevent governments from reverting to trade-distorting export support in the future. Following the ministers' decision (see page 35), the Committee will continue to monitor the situation with respect to export competition on an annual basis.

## Tariff rate quota (TRQ) administration

According to a decision of the Bali Ministerial Conference in 2013, WTO members are required to notify the Committee of the extent to which their tariff rate quotas (TRQs) are filled. Tariffs inside a quota are lower, often significantly lower, than duties outside the import quota. When import quotas go unfilled, it means that exporters have missed out on possible sales.

In this decision on TRQ administration, ministers established a monitoring process within the Committee that combines consultations with the quick provision of information about factors, including administrative factors, that might contribute to TRQs not being filled. In 2015, WTO members increasingly began to provide fill-rate information in their notifications but they did not initiate the monitoring process.

## Discussions on implementation of notifications

The Committee discussed, in informal setting, issues relating to the implementation of notifications, specifically in the area of export restrictions. In these informal meetings, members considered the definition of "foodstuffs" in the context of Article 12 of the Agreement on Agriculture, covering export prohibitions and restrictions, including the scope of the notification provisions under that article.

## Notification workshop

Given the complexity of agriculture notifications, training and technical assistance for government officials involved in these notifications is critical for enhancing the monitoring function of the Committee. The Secretariat held its tenth workshop on agriculture notifications on 6-9 July 2015. The workshop provided specialized training to 26 capital-based

officials involved in preparing notifications. Over three days, participants attended lectures, received hands-on practice, and met with Secretariat officials to discuss notification questions.

## Balance of payments

**In 2015, the Committee on Balance-of-Payments Restrictions held consultations with Ukraine and Ecuador to review import surcharges they had adopted for balance-of-payments purposes. Ukraine lifted its measure at the end of 2015 and Ecuador is due to do so by June 2016.**

### Ukraine

In February 2015, Ukraine introduced a temporary import surcharge following a serious deterioration in its balance of payments. The measure consists of a 10 per cent import surcharge on agricultural goods and 5 per cent on industrial goods, levied on all goods regardless of the country of origin. A few essential goods, including oil and other energy products and medical devices, are excluded.

In 2012-14, Ukraine's economic growth declined due to the impact of internal and external factors, including a fall in prices and a reduction of global demand for major categories of Ukrainian export goods, such as metals. In 2014, the negative trends in the economy intensified as a result of the economic and geopolitical impact of the military conflict in eastern Ukraine, according to a document supplied by Ukraine.

The Balance of Payments (BOP) Committee held meetings with Ukraine in April and June 2015. The majority of WTO members recognized Ukraine's balance of payments difficulties and considered that it had applied the measure consistently with WTO provisions, although they encouraged it to remove

the surcharge as soon as possible. One WTO member considered that Ukraine's measure was not justified by the BOP provisions of the WTO Agreement. The Committee was unable to reach consensus and concluded the consultations. The report of the consultations was circulated and sent to the General Council for adoption.

As agreed during the BOP consultations, Ukraine removed the measure at the end of 2015.

### Ecuador

In March 2015, Ecuador introduced a temporary tariff surcharge for balance-of-payments purposes for a period of up to 15 months because of what it termed the "highly unfavourable economic climate", including the sharp fall in the price of oil, one of its main exports. The surcharge is applied to 38 per cent of Ecuador's tariff lines at rates ranging from 5 per cent on "non-essential" capital and primary capital goods to 45 per cent on final consumer goods.

It is applicable to all of Ecuador's trading partners, except for Bolivia and Paraguay. Ecuador excluded these two WTO members due to their status as countries of "lesser relative economic development" under the Latin American Integration Association (LAIA).

The BOP Committee held consultations with Ecuador in June and October 2015 but was unable to reach consensus. Following the October meeting, Ecuador presented a timetable for the progressive removal of the measure, with a final phase-out programmed for June 2016. The Committee is scheduled to continue its consultations with Ecuador in 2016.

### Background on balance of payments

The Committee on Balance-of-Payments Restrictions is responsible for the review of all import restrictions applied by WTO members for balance-of-payments purposes. Under WTO rules, measures can be taken to safeguard a member's external financial position and (in the case of developing countries) to ensure a level of reserves adequate for the implementation of programmes of economic development. When adopting balance-of-payments measures, members must give preference to those with the least disruptive effect on trade.

# Sanitary and phytosanitary measures

**The Committee on Sanitary and Phytosanitary (SPS) Measures continued the fourth review of the SPS Agreement, and held a thematic session on risk communication. Thematic sessions are one of the new approaches for experience-sharing on important SPS issues. A workshop on transparency provisions provided hands-on training on SPS online tools and examined ways of improving WTO members' implementation of transparency obligations, such as notifications. The pilot version of the new notification submission system had its debut. Developing countries accounted for a record 70 per cent of all submitted notifications.**

The SPS Committee held its first thematic session on risk communication, as a follow-up to the workshop on risk analysis related to food safety, animal or plant health held in October 2014. The SPS Agreement requires that trade measures be based on risk assessments or on international standards.

The thematic session examined risk communication frameworks and provided a platform for WTO members to share experiences and best practice concerning risk communication strategies. It looked at guidance from the relevant standard-setting organizations and questions linked to identifying the audience and their communication needs. Through thematic sessions, the Committee seeks to encourage in-depth discussions among members on SPS issues.

During 2015, the SPS Committee continued its fourth review of the operation and implementation of the SPS

Agreement, started in 2014, including proposals submitted by WTO members for possible areas of future work. However, the Committee reached an impasse over adopting the report of the review. A recommendation regarding the Committee's future work on private standards (see below) has been a major point of contention. On a proposed catalogue of instruments available for WTO members to manage SPS issues, members have not reached a consensus on including a disclaimer to clarify the legal status of the document.

## Implementation of transparency obligations

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 SPS notification submission system (NSS). A pilot version of the new NSS was presented during the workshop as part of the ongoing project to modernize the existing SPS online systems. In addition, the workshop provided a platform for discussion of a proposal, submitted under the fourth review, on improving the quality and completeness of notifications to enhance transparency.

WTO members shared their experiences in filling in notifications, tracking notifications, handling comments, and obtaining translations, and explored possible solutions to the various challenges experienced in the notification process. Some of the challenges include how to effectively fill in notifications, limited access to the Internet and lack of collaboration between the notification authority and other competent authorities. Members also discussed the difficulties with prioritizing and dealing with a large volume of comments received in response to notifications that have been circulated. They discussed how to identify measures that facilitate trade and that can therefore be implemented more quickly without the comment periods granted for measures that restrict trade.

Participants included a large number of officials from developing and least-developed countries with direct responsibility as SPS national notification authorities and enquiry points.

### 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.



# 70%

Developing countries provided 70 per cent of all sanitary and phytosanitary notifications in 2015.



## Notifications by developing countries

Since 2008, developing countries have submitted more than 50 per cent of all notifications of new or changed food safety, animal or plant health regulations with an effect on international trade. In 2015, developing countries accounted for 70 per cent of all SPS notifications, the highest percentage ever recorded – see Figure 3.

Developing countries submitted 1,180 of the record 1,681 notifications received in 2015, representing a 15 per cent increase for developing countries' notifications compared with the previous year. Seven developing countries submitted notifications for the first time in 2015: Burkina Faso, the Central African Republic, Haiti, the Kyrgyz Republic, Nigeria, Togo and Tunisia.

Notifications inform trading partners that there will be changes in the importing member's requirements and – unless there is an urgent health protection issue – provide a period during which partners can submit comments on these draft regulations before they enter into force. When members adopt a regulation in response to an urgent health problem, they submit an emergency notification immediately upon the regulation's entry into force, although they should still receive and consider comments from trading partners. When there are changes to a regulation after it has been notified, or when a member wants to inform trading partners of a regulation's dates of adoption or entry into force, they can submit an addendum.

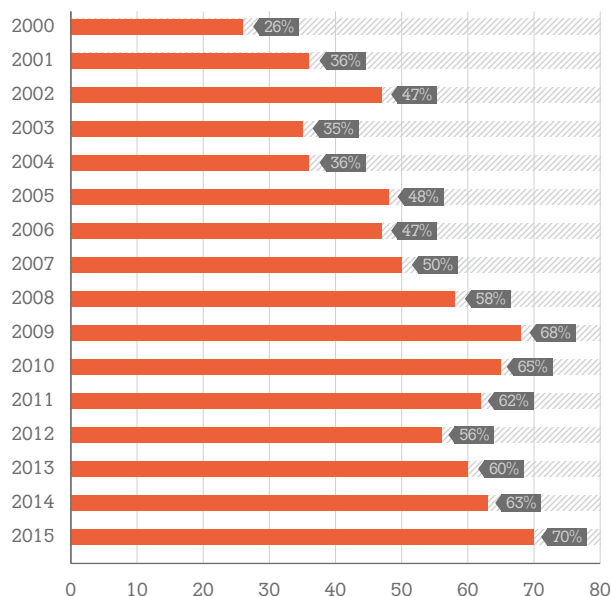
As Figure 4 shows, the total number of all SPS notifications has grown steadily over the years, reaching its highest level in 2015. The 1,681 notifications in 2015 compare with 1,633 the year before. Of these, 1,166 were regular notifications (up from 1,057 in 2014), and 114 were emergency notifications (slightly up from 111 in 2014).



# 1,681

A record 1,681 sanitary and phytosanitary notifications were received by the WTO in 2015.

**Figure 3:** Share of SPS notifications submitted by developing countries, 2000-15



**Figure 4:** Number of SPS notifications per year, 2000-15

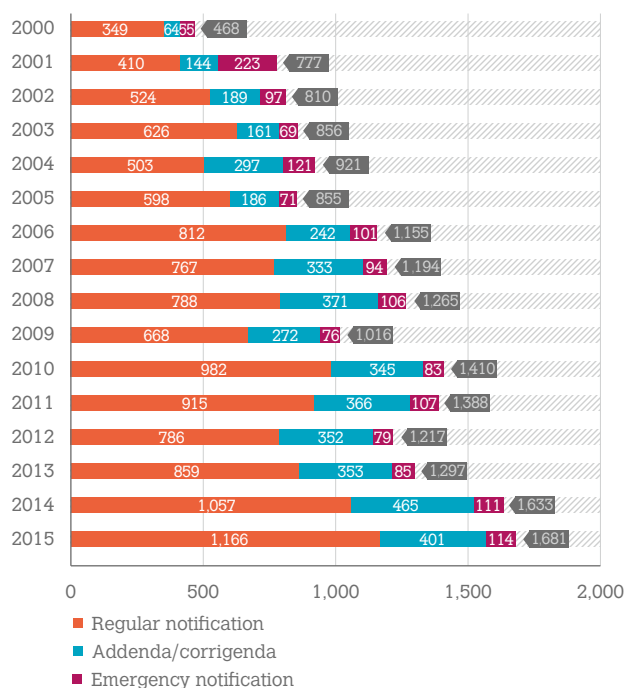
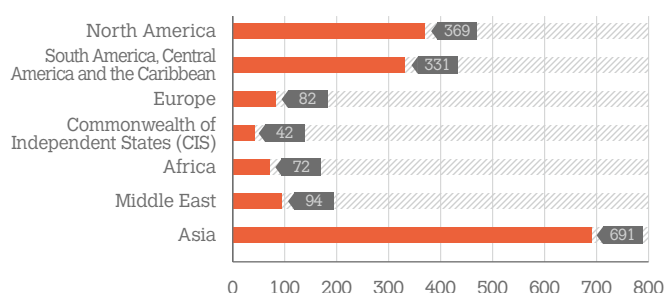


Figure 5 shows a regional breakdown of SPS notifications, illustrating the very high numbers of notifications submitted by WTO members in the Americas and Asia. In 2015, only two regions increased the number of notifications submitted as compared with 2014: Asia, 691 (up from 402) and Africa, 72 (up from 20).

**Figure 5: Number of SPS notifications by region**



## Specific trade concerns

The Committee considered a wide range of “specific trade concerns” at each of its three meetings in 2015. Twenty-one new specific trade concerns were raised and other previously raised concerns were discussed again. The measures discussed related to issues ranging from diseases such as avian influenza and African swine fever to plant pests and matters concerning approval processes.

New trade concerns included China’s restrictions on bovine meat, Mexico’s measures on hibiscus flowers, the European Union’s and China’s policies related to genetically modified organisms (GMO) and Russia’s restrictions on processed fishery products. Two trade concerns were reported to have been resolved. One related to China’s import policy on swallow nests and the other to several WTO members’ import restrictions due to avian influenza.

Nigeria announced its intention to request a mediation process regarding Mexico’s import measures on hibiscus flowers. According to Nigeria, Mexico requires verification of plant health certificates for consignments of hibiscus flowers, a plant commonly used in beverages, resulting in delays of up to six weeks. Mexico said that the validation requirement was due to its detection of false certification by Nigeria.

Nigeria said it intended to request the “good offices” of the Chair of the Committee to assist in resolving the issue. The mediation process, a new procedure agreed by WTO members in July 2014, offers a way of resolving differences on specific trade concerns while avoiding a more complicated legal challenge under the WTO’s dispute settlement system.



# 400

The Committee on Sanitary and Phytosanitary Measures has provided a forum for WTO members to raise over 400 specific trade concerns.

Of the 403 trade concerns raised since 1995, WTO members have reported that a solution has been found for 146 of them. A partial solution has been reported for another 31, meaning that not all those raising a concern accept the solution or that a solution was found for only some of the products at issue. Altogether, about 43 per cent of the specific trade concerns raised in the SPS Committee since 1995 have been either completely or partially resolved. For the remaining 57 per cent, WTO members have not reported that a solution has been found.

## Private standards

The SPS Committee continued its efforts to develop a working definition of SPS-related private standards, such as those used by supermarket chains and other entities outside government. A working group consisting of interested WTO members had been attempting to find consensus language. In 2015, the Committee was unable to resolve all remaining differences and agreed to have a “cooling-off” period for the working group. Private standards are a growing concern among developing countries, many of which urged continued efforts to find a compromise.

## International harmonization of standards

Four new issues were raised under the Committee’s procedure to monitor the process of international harmonization of standards. These dealt with avian influenza-related restrictions not consistent with World Organisation for Animal Health (OIE) standards, use of the Codex international standard on glyphosate, the risk of introduction of bovine spongiform *encephalopathy* (BSE or “mad cow” disease) and the lack of a Codex standard for the pesticide Imidacloprid used in sesame production. Codex was established by the UN Food and Agriculture Organization (FAO) and the World Health Organization to develop harmonized international food standards.

The SPS Agreement encourages WTO members to bring to the attention of the SPS Committee any international standards whose use or non-use is creating trade problems, or where there is a lack of an international standard whose existence could facilitate trade.

## Technical barriers to trade

**In 2015, WTO members agreed on a three-year work plan for the Technical Barriers to Trade (TBT) Committee including work on good regulatory practice, regulatory cooperation between members and transparency. Members raised 86 specific trade concerns for discussion, the second-highest number since 1995. An event was held at the WTO in November, as part of the WTO's 20<sup>th</sup> anniversary activities, to look back at the Committee's work over the past two decades on reducing trade frictions arising from standards and regulations.**

### Work plan

WTO members adopted a new road map and a set of recommendations for the work of the Technical Barriers to Trade Committee for the next three years. This was the Committee's seventh triennial review. The work plan covers themes such as good regulatory practice, regulatory cooperation across borders, testing and certification schemes, standards, transparency and capacity building. The reviews are intended to strengthen implementation of the TBT Agreement by helping members adapt to a changing trade landscape.

The seventh review took into account 45 proposals from WTO members. The adopted text broadens the scope of the Committee's thematic sessions – aimed at exchanging experiences and developing guidance on the implementation of the TBT Agreement – and seeks to make regulatory cooperation between members more effective.

Under the work plan, the Committee will continue its work on developing a list of voluntary mechanisms and related principles of good regulatory practice. This includes initiating a discussion on regulatory impact assessments. The purpose of this work is to streamline the way that regulations are prepared, adopted and applied so as to avoid unnecessary barriers to trade.

### Background on technical barriers to trade

The Technical Barriers to Trade (TBT) Agreement aims to ensure that regulations, standards, testing and certification procedures followed by WTO members do not create unnecessary obstacles to trade. The number of regulations adopted by members has continued to grow in response to consumers' demands for safe, high-quality products, the protection of health and the need to curb pollution and environmental degradation.

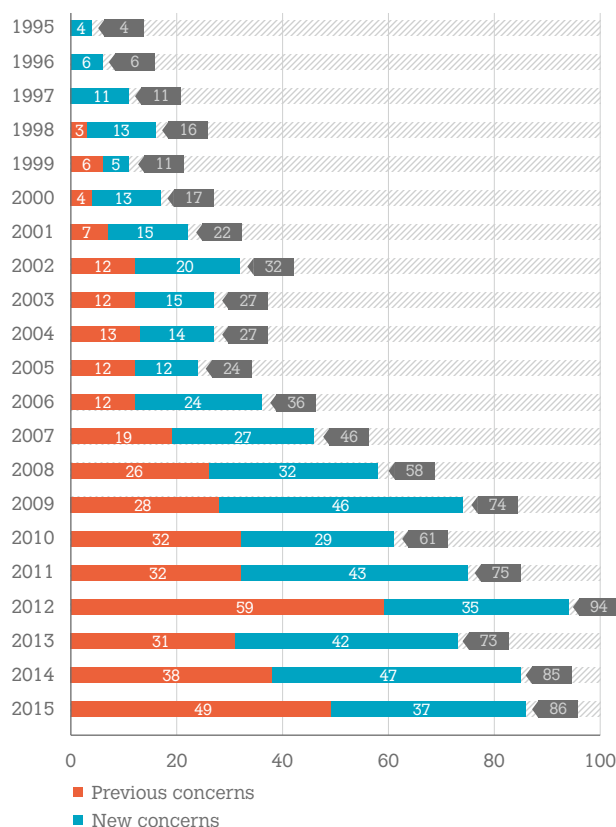
The recommendations include a call for the Committee to target technical assistance for developing countries more effectively. They also mandate the WTO Secretariat to explore, in cooperation with other organizations, the development of an alert system for TBT notifications.

### Specific trade concerns

WTO members raised 86 specific trade concerns (STCs) for discussion, the second-highest number since 1995 (see Figure 6). Measures affecting a wide range of products were discussed, including tyres, toys, food and beverages, and information technology (IT) products. Members raise concerns about measures they believe are not consistent with the TBT Agreement. These can concern standards, testing and certification procedures, regulations or labelling requirements imposed by the importing country.

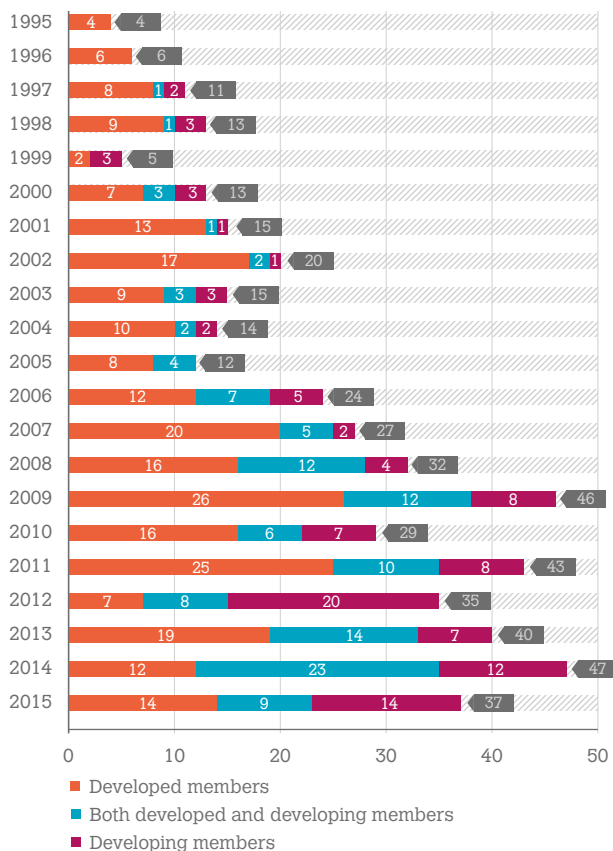
In contrast to the two previous years, WTO members focused on following-up on previously raised concerns rather than raising new ones. Only 37 of the concerns raised were new, compared with 47 in 2015 and 42 in 2014.

**Figure 6: Specific trade concerns raised in the TBT Committee, 1995 to 2015**



Developing countries are increasingly raising STCs. In 2015, they raised 14 new STCs, the same number as developed members, while nine new STCs were raised jointly by developing and developed countries (see Figure 7).

**Figure 7: New specific trade concerns raised by developing and developed country members, 1995 to 2015**



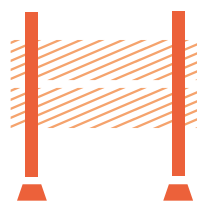
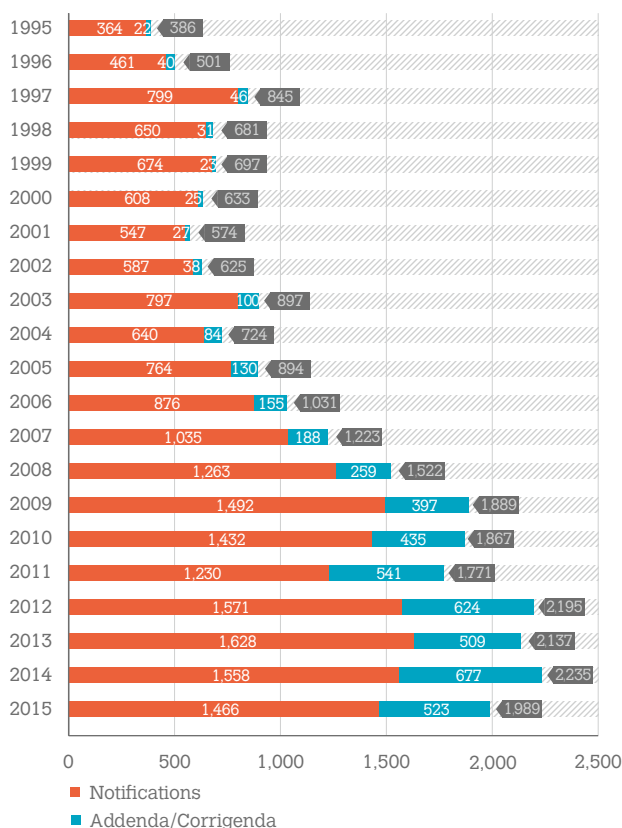
## Notifications

In 2015, WTO members submitted a total of 1,989 notifications of new (or changed) draft measures (see Figure 8), the lowest figure since 2011. More than 50 per cent of all TBT notifications were submitted through

the WTO's online portal, up from 34 per cent in 2014. The system has enabled the WTO Secretariat to publish notifications within two days of receipt. It also allows members to track the status of submitted notifications through a user interface and facilitates the preparation of similar notifications through the use of templates.

The WTO Secretariat continued to develop an online notification alert system in coordination with the International Trade Centre and the UN Department of Social Affairs (UNDESA). This system will allow increased access to sanitary and phytosanitary (SPS) and TBT notifications, broken down by product coverage or notifying member, and will be made publicly available.

**Figure 8: TBT notifications, 1995 to 2015**



86

WTO members raised 86 specific trade concerns in the Technical Barriers to Trade Committee in 2015, the second-highest number since 1995.





On 4 November 2015, an event was held at the WTO to mark the 20<sup>th</sup> anniversary of the Technical Barriers to Trade Agreement.

## TBT@20

An event to mark 20 years of the TBT Agreement attracted over 250 participants, including around 80 from the private sector and academia, on 4 November 2015. The aim of the event was to highlight the role of the TBT Committee in reducing trade tensions and in avoiding disputes in the area of standards and regulations over the past two decades.

In his opening speech, Director-General Roberto Azevêdo said that the work in this area “often goes unseen and unremarked upon – but it is one of the key strengths of the multilateral trading system. Over the last 20 years it has become a well-functioning, dynamic mechanism for addressing matters of everyday commercial and social significance – from chemicals in toys, to carbon footprint labelling, to test procedures for medical devices and pharmaceuticals.”

Three panels looked into different aspects of the Committee's work. The first highlighted its success in developing good practice for implementing the TBT Agreement and in limiting or reducing technical barriers to trade. A second panel looked at the broader relevance of the work of the TBT Committee in relation to businesses, trade associations and consumers. Speakers included representatives from international companies and standards organizations.

A third panel looked at how the TBT Agreement will be implemented in the future. Some of the challenges identified included reviewing how regional trade agreements address TBT issues, how trade barriers can be reduced in the area of testing and certification and how developing countries can participate more effectively in the work of the TBT Committee.

## Capacity building

Demand for technical assistance has increased significantly over the last few years. In 2015, the WTO Secretariat organized 37 training activities. These included four regional workshops, 13 national workshops and an advanced course in Geneva on the TBT Agreement. The activities were designed to help participants expand their understanding of the TBT Agreement, to discuss challenges in implementing the TBT Agreement and to better engage in the work of the TBT Committee. Particular emphasis was placed on transparency issues and national coordination. Several of the training activities also covered the SPS Agreement.

## Observers

The TBT Committee received updates in 2015 from representatives of various observer organizations – the Bureau International des Poids et Mesures, the FAO/WHO Codex Alimentarius Commission, the International Electrotechnical Commission, the International Organization for Standardization, the International Trade Centre, the United Nations Economic Commission for Europe and the World Health Organization – on their latest activities, including on technical assistance.

The Committee granted ad hoc observer status to the African Organization for Standardization and the Intergovernmental Authority on Development.



# Subsidies and countervailing measures

**The WTO's Committee on Subsidies and Countervailing Measures focused on encouraging more WTO members to notify their subsidy programmes and on improving the timeliness and completeness of notifications. The chairs expressed serious concern that a significant number of members have yet to make new and full notifications for the latest notification periods, 2013 and 2015. The final two-year phase-out period for the export subsidies of 19 developing members expired at the end of 2015.**

The Subsidies and Countervailing Measures (SCM) Committee reviewed WTO 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 Eduardo Minoru Chikusa, of Brazil, expressed serious concern about the state of subsidy notifications. His successor as Chair, Mitsuhiro Fukuyama of Japan, reiterated this concern at the October meeting. He urged the 65 members that had not made their 2013 new and full subsidy notifications and the 106 members that had not made their 2015 new and full subsidy notifications by the 30 June deadline to explain why.

The Committee began its consideration of 2015 new and full notifications and continued its consideration of new and full notifications for prior periods (2013, 2011, 2009, and 2007). At both its spring and autumn meetings, the Committee continued its discussions of ways to improve the timeliness and completeness of notifications and other information flows on trade measures under the SCM Agreement.

Regarding extending the period for elimination of the export subsidy programmes of 19 developing-country members, the Committee took no further action. For these members, the final two-year phase-out period for the elimination of export subsidies expired at the end of December 2015. At the autumn

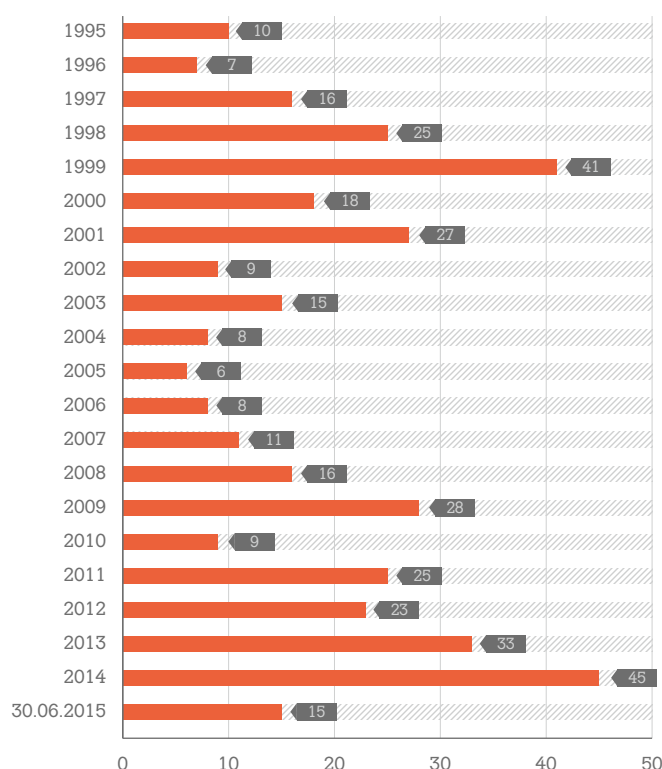
meeting, the Chair reminded the members involved that they were required to eliminate their export subsidies not later than 31 December 2015 and to provide their final transparency notifications not later than 30 June 2016.

Certain other developing countries are exempted from the general requirement to eliminate export subsidies so long as they remain least-developed countries (LDCs) or if they are listed individually in Annex VII to the SCM Agreement and remain below the US\$ 1,000 threshold for per capita GNP.

According to a ministerial decision taken in Doha in 2001, a WTO member listed individually in Annex VII remains there until its per capita gross national income (GNI) is above US\$ 1,000, calculated in constant 1990 dollars, for three consecutive years. The World Bank calculates the deflated per capita GNI figures for the members concerned once per year. According to the most recent of these calculations, performed in 2015, the listed members remaining in Annex VII are Bolivia, Cameroon, Congo, Côte d'Ivoire, Ghana, Guyana, Honduras, India, Kenya, Nicaragua, Nigeria, Pakistan, Senegal and Zimbabwe. In addition, all members designated as LDCs by the United Nations are included in Annex VII and are exempt from the export subsidy prohibition.

The Committee reviewed notifications related to the countervailing duty legislation of Armenia, Australia, Bahrain, Brazil, Cameroon, Qatar, Saudi Arabia and the United States.

**Figure 9: Countervailing initiations by reporting member, 1 January 1995 to end-June 2015\***



\*Figure 9 covers initiations up to the end of June 2015. Data for the second half of 2015 are not yet available.

## Background on subsidies and countervailing measures

The Subsidies and Countervailing Measures (SCM) Agreement regulates WTO members' use of subsidies and of countervailing measures on subsidized imports of a product found to be injuring domestic producers of that product. The SCM Committee serves as a forum for members to discuss the implementation of the SCM Agreement and any matters arising from this.

The Committee also reviewed notifications of countervailing actions taken (see Figure 9). The notifying members were Australia, Brazil, Canada, China, Egypt, the European Union, India, Peru, Russia, Turkey, Ukraine and the United States. As of 30 June 2015, there were 112 notified countervailing measures (definitive duties and undertakings) in force, of which 60 were maintained by the United States, 18 by Canada and 15 by the European Union.

## Anti-dumping practices

**WTO members initiated 107 new anti-dumping investigations from January to June 2015, just slightly up from 106 in the same period in 2014. The United States, Brazil and India were again the leading initiators in 2015, along with Turkey. The Committee on Anti-Dumping Practices reviewed new legislative notifications, semiannual reports on anti-dumping actions and ad hoc notifications of preliminary and final actions taken by WTO members.**

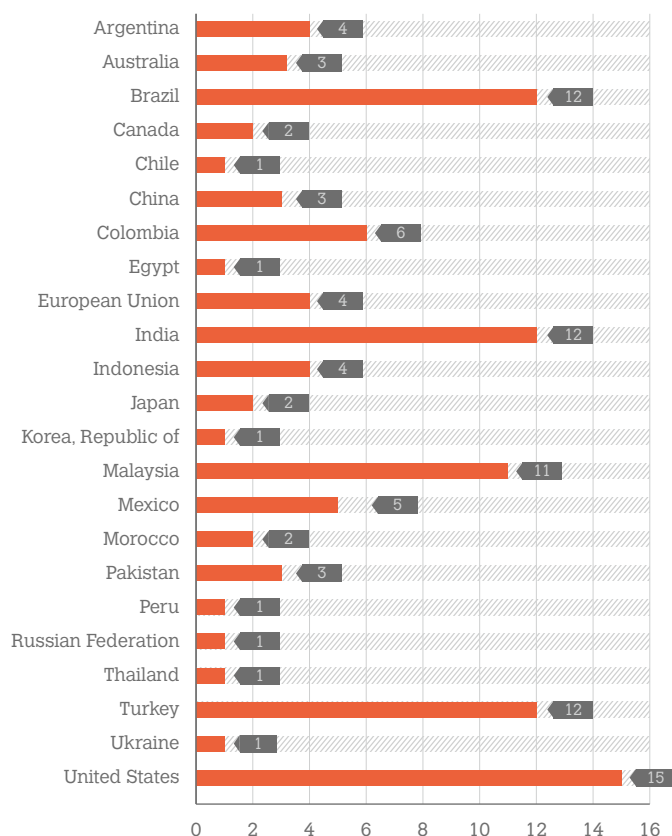
Malaysia, Mexico, Turkey and the United States initiated more anti-dumping investigations during the first half of 2015 compared with the same period in 2014. Other frequent users of anti-dumping investigations, including Brazil, China, India and Russia, initiated fewer. However, the top initiators in 2015 were again the United States (15 new investigations), followed by Brazil (12) and India (12), with Turkey also launching 12 (see Figures 10 and 11).

WTO members taking anti-dumping actions used the revised report format, adopted in 2008, for their semi-annual reports. Many used the minimum information format, as revised in 2009, in making their ad hoc notifications of such actions. 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

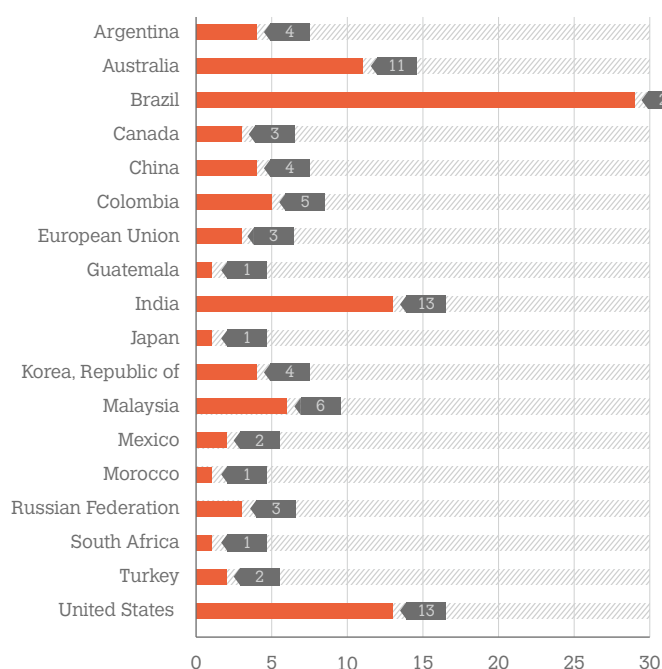
WTO members are allowed to apply “anti-dumping” measures on imports of a product where the exporting company exports the product at a price lower than the price it normally charges in its home market and the dumped imports cause or threaten to cause injury to the domestic industry. The Committee on Anti-Dumping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

**Figure 10: Anti-dumping initiations by reporting member, 1 January 2015 to end-June 2015\***



\* Figure 10 covers initiations up to the end of June 2015. Data for the second half of 2015 are not yet available.

**Figure 11: Anti-dumping initiations by reporting member, 1 January 2014 to end-June 2014**

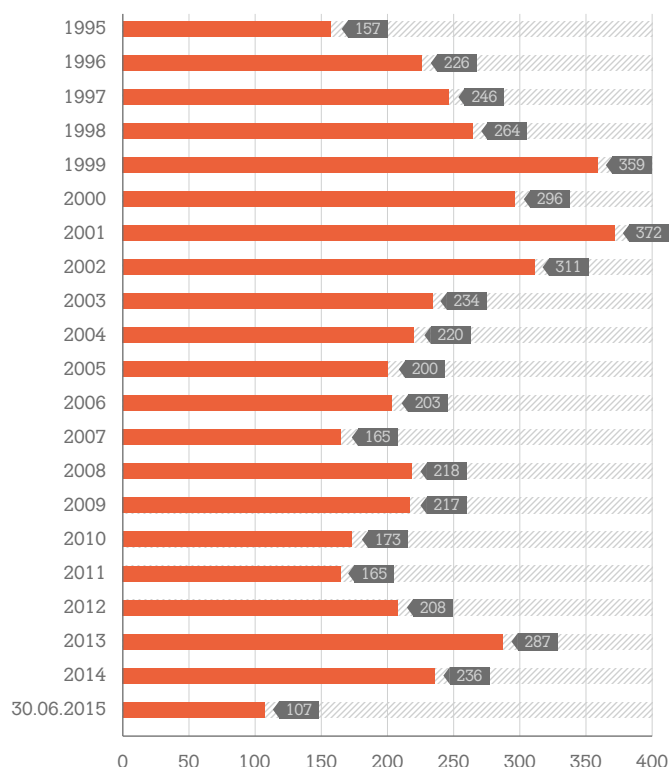


At its spring and autumn meetings, the Committee on Anti-Dumping Practices reviewed semi-annual reports for the second half of 2014 submitted by 34 WTO members and semi-annual reports for the first half of 2015 submitted by 33 members. It also reviewed ad hoc notifications of preliminary and final actions taken by 25 WTO members at both meetings. As of 30 June 2015, 32 members had notified the WTO of 1,504 anti-dumping measures (definitive duties and undertakings) in force.

The Committee reviewed new notifications of legislation submitted by the following members: Armenia, Australia, Bahrain, Brazil, Qatar, Saudi Arabia and the United States. It also continued its review of the notifications of Brazil and Qatar. Pending written questions posed about the legislative notification of Cameroon remained on the agenda of the April and October meetings.

The Working Group on Implementation discussed administrative, arbitral and judicial review of national legislation containing anti-dumping measures. Some WTO members made presentations or provided papers describing their practices while other members contributed to the discussion, posing questions or making comments.

**Figure 12: Anti-dumping initiations by reporting member, 1 January 1995 to end-June 2015\***



\* Figure 12 covers initiations up to the end of June 2015. Data for the second half of 2015 are not yet available.

## Customs valuation

**The WTO's Committee on Customs Valuation continued to review national legislation and responses to a standard checklist of issues raised by WTO members. The reviews of four members were concluded and new or further notifications of national legislation were received.**

The Committee held two formal meetings, in May and October. The reviews of Lesotho, Ukraine, St. Vincent and the Grenadines, and Uruguay were concluded. The Committee received new or further notifications from eight members: Cabo Verde, Guinea, Honduras, Montenegro, Nepal, Russia, South Africa and Sri Lanka. The Committee continued its examination of the legislation of Bahrain, Belize, Cabo Verde, Colombia, Ecuador, Gambia, Guinea, Honduras, Mali, Moldova, Montenegro, Nepal, Nicaragua, Nigeria, Russia, Rwanda, South Africa and Sri Lanka.

As of the end of 2015, 96 WTO members had notified their national legislation on customs valuation to the Committee, and 64 members had provided responses to the checklist of issues, a questionnaire that facilitates review of national legislation. The notification record remains poor, however. Thirty-seven members have yet to send a notification and 71 have not provided responses to the checklist.

### Background on customs valuation

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



## Rules of origin

**WTO members heard presentations by several organizations about the impact of non-preferential rules of origin on international trade. This “educational exercise” was aimed at furthering members’ understanding of national rules in the absence of harmonized rules of origin. The Committee on Rules of Origin also discussed preferential rules of origin for least-developed countries (LDCs). Ministers took a fresh decision on simplifying these rules at the Nairobi Ministerial Conference.**

The Committee on Rules of Origin held two formal meetings in April and October 2015. The main work of the Committee concerns negotiations to harmonize non-preferential rules of origin (known as the Harmonization Work Programme). These negotiations, mandated under the WTO Agreement, were initiated in 1995 and are conducted in collaboration with the Technical Committee on Rules of Origin at the World Customs Organization (WCO).

Despite progress in elaborating specific rules of origin for thousands of tariff lines, the negotiations came to a virtual halt in 2007 due to divergences on a number of “core policy issues” and have since lost momentum. Members hold different views regarding whether there is a need to finalize the Harmonization Work Programme. Given these differences, the Chair of the Committee Christian Wegener, of Denmark, said that it was difficult to propose any technical work on the draft harmonized rules of origin.

Pending the continuation of the programme, the Committee agreed to initiate a transparency exercise to exchange information about non-preferential rules of origin currently in place. Some WTO members presented to the Committee their current non-preferential rules of origin and shared their experiences regarding the application of such rules.

### 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, labelling of country of origin, and the application of anti-dumping measures. The main objective of the Agreement on Rules of Origin is to harmonize the rules that WTO members use to determine origin in their non-preferential trade. This work is conducted by the Committee on Rules of Origin and is referred to as the Harmonization Work Programme.

The Committee also heard presentations by the WTO Secretariat, the WCO, International Trade Centre (ITC), the International Chamber of Commerce and the United Nations Conference on Trade and Development (UNCTAD) about the impact of rules of origin on international trade.

These presentations were part of an information exercise agreed by the Committee to further members’ understanding of the impact of non-preferential rules of origin in international trade. According to ITC, businesses report that rules of origin are one of the most common barriers to trade (22 per cent of all barriers mentioned in ITC’s surveys were linked to rules of origin). Some sectors were more affected than others (e.g. clothing, textiles and non-electrical machinery).

The Committee held an informal session on preferential rules of origin for least-developed countries (LDCs). At this session, WTO members heard presentations by several LDC representatives and learned more about how rules of origin may hinder market access opportunities for LDCs. For each agenda item, the LDCs recalled the “benchmarks” set in the 2013 Bali Ministerial Decision and provided examples of existing rules which, according to them, did not meet these benchmarks. The LDCs proposed specific reforms to enhance their ability to make effective use of preferential market access opportunities. The Committee heard presentations about new rules introduced by Thailand and China and a presentation by Japan about changes to its existing rules regarding clothing.

In addition, the Committee reviewed new developments as mandated by the Bali Ministerial Decision, which had set out, for the first time, multilaterally agreed guidelines to make it easier for LDC exports to qualify for preferential market access

Drawing on proposals put forward by LDCs, the Tenth Ministerial Conference in Nairobi took a further step towards ensuring that preferential trade arrangements for LDCs have simple and transparent rules of origin (see page 39).

### Harmonizing non-preferential rules

The Committee reviewed the results of the transposition exercise conducted by the WTO Secretariat. All draft harmonized rules of origin have now been transposed to the most recent version of the Harmonized System (2012) (see page 55) and compiled in a single document. WTO members agreed that comments to the draft transposed rules should be sent to the Secretariat by 15 March 2016 and that the Committee should consider this item again at its next meeting.

Regarding notifications, the Committee took note of new notifications sent by WTO members. These notifications indicated that 44 members had implemented some type of non-preferential rules of origin while 51 members had not implemented rules of origin for non-preferential purposes. Information about non-preferential rules of origin was still missing for 38 WTO members.

# Import licensing

**The Chair of the Committee on Import Licensing, Carrie I.J. Wu (Chinese Taipei), consulted WTO members on how to improve compliance with notification obligations amid concerns that import licensing is being used to restrict imports. The Committee reviewed 67 notifications submitted by WTO members under the Agreement on Import Licensing Procedures. However, some members have not submitted any notifications. The Committee also heard specific trade concerns about import licensing rules and procedures applied by some members.**

The Committee on Import Licensing reviewed 15 notifications from 12 WTO members regarding publications and/or legislation on import licensing procedures, and 16 notifications from 10 members relating to the institution of new import licensing procedures or changes in these procedures. It also reviewed 36 notifications from 35 members regarding responses to a questionnaire on import licensing procedures.

Improving transparency through notifications is an important objective of the Agreement, particularly given concerns about the use of border measures, such as import licensing requirements, to restrict imports. The Agreement stipulates that import licensing should be simple, transparent and predictable, and administered in a neutral and non-discriminatory manner.

WTO members' compliance with notification obligations remains a challenge. As of October 2015, 14 WTO members had not submitted any notifications under the Agreement. In addition, 23 members had never fulfilled their obligation to submit responses to the annual questionnaire on licensing procedures. WTO trade monitoring reports (see page 92) have identified import licensing as one of the main trade-restricting measures introduced by governments.

Montenegro and Saint Vincent and Grenadines submitted their first notifications in 2015 under the Agreement. The WTO Secretariat continued to provide technical assistance and capacity building to members in need. All notifications

submitted by members have been published on the WTO website for easy reference.

The chair held consultations on how to improve members' compliance rate for notifications, including through the holding of a workshop. WTO members agreed to explore the idea of a workshop to familiarize them with their notification obligations.

The Committee also heard a number of specific trade concerns regarding import licensing. Some members reiterated concerns about India's import regime on marble and marble products and boric acid, and amendments in the import conditions applicable to apples, Brazil's import licensing requirements on nitrocellulose (see page 54) and Indonesia's import regulations on cell phones, handheld computers and tablets.

In addition, WTO members raised questions about a number of other topics, including Angola's non-automatic licensing regime regulating the importation, distribution and sale of certain fish products. They also raised questions about Turkey's surveillance licensing regime, its import authorization on old and renovated goods and its import regime for non-fuel petroleum products. They also questioned Mexico's automatic licensing procedures on certain steel products, Bangladesh's import licensing regime, Viet Nam's import licensing requirements on distilled spirits, and Indonesia's import licensing regulation for the importation of carcasses/processed meat products.

A panel was established to hear a complaint brought by New Zealand and other WTO members against Indonesia for certain measures imposed on imports of horticultural products, animals and animal products.

## Background on import licensing

The Agreement on Import Licensing Procedures establishes disciplines on WTO 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

**The Safeguards Committee reviewed WTO members' notifications of their safeguard rules and actions. Notifications of new investigations in 2015 declined, while notifications of final measures taken remained at the same level as last year.**

In 2015, notifications of new investigations declined to 17, from 23 the year before (see Figure 13). The safeguard investigations were initiated by 11 WTO members: Chile, Egypt, India, Indonesia, Malaysia, Morocco, Tunisia, Turkey, Ukraine, Viet Nam and, for the first time, Zambia. The products covered ranged from ceramic tiles and cars to polyethylene terephthalate (PET), used for making beverage containers, and alloy and non-alloy steel.

Notifications of final measures totalled 14, the same as the previous year. Indonesia imposed the highest number of final measures, with three, followed by Egypt and the Kyrgyz Republic with two.

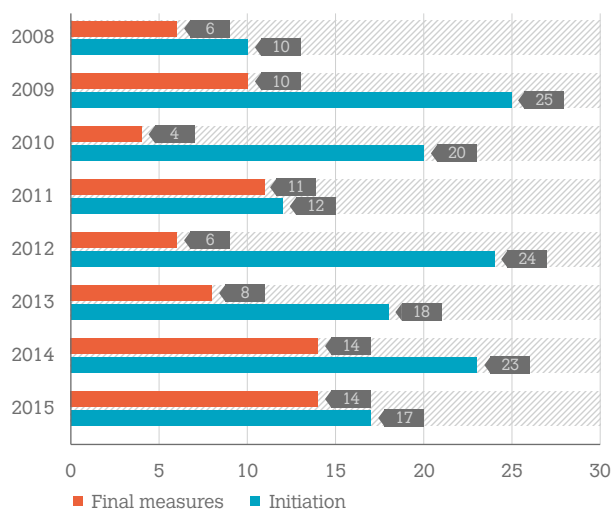
At the Committee's meetings, many WTO members expressed concerns about the proliferation of safeguard measures. They stressed that safeguards, unlike anti-dumping and countervailing duties, target exports that are not violating any WTO rules, and members imposing these measures should therefore be particularly careful.

A safeguard investigation seeks to determine whether increased imports of a product are causing, or are threatening to cause, serious injury to a domestic industry. During an investigation, importers, exporters and other interested parties may present evidence, give their views and respond to the presentations of other parties.

### 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, labelling of country of origin, and the application of anti-dumping measures. The main objective of the Agreement on Rules of Origin is to harmonize the rules that WTO members use to determine origin in their non-preferential trade. This work is conducted by the Committee on Rules of Origin and is referred to as the Harmonization Work Programme.

**Figure 13:** Notifications of safeguard investigations by year (for all WTO members)



## Trade-related investment measures

**The WTO's Committee on Trade-Related Investment Measures (TRIMs) discussed at its two meetings seven new investment measures taken by WTO members. It continued to debate eight measures previously raised by members. In addition, it reviewed compliance with members' notification obligations under the TRIMs Agreement.**

Five of the new investment measures raised by WTO members concerned local content requirements, which stipulate that

### 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.



at least part of a good or service should be locally produced. The first measure, raised by the European Union, concerned Turkey's local content requirements in the electricity generation sector. The second, raised by Japan and the United States, concerned local content requirements on information and communication technology (ICT) equipment used by the banking sector in China. The third, raised by the European Union, involved local content requirements in solar power generation projects in India.

A fourth measure, raised by the United States, concerned local content requirements in the production of mobile devices in Indonesia. Another two new measures, raised by the European Union and the United States and by the European Union and Japan respectively, concerned local content requirements for purchases by Russian state-owned enterprises and Russian support measures for its automotive industry.

Another new investment measure was raised by Japan concerning assistance measures for producers of agricultural machinery in Korea.

Discussions on measures previously raised at the Committee included local content requirements in the Indian and Indonesian telecommunications sectors and in the Indonesian, Nigerian and US energy sectors. Other measures concerned local content requirements in Russia's agricultural equipment sector, provisions of Indonesia's Industry Law and Trade Law, and minimum local product content requirements for the Indonesian retail sector.

The Committee took note of three new notifications under the TRIMs Agreement, which requires WTO 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. Members who had not provided notifications to date were urged to do so promptly.

## Information Technology Agreement

**Kazakhstan joined the WTO's Information Technology Agreement (ITA) in 2015, bringing the total number of members to 82. An expansion of the ITA was agreed by over 50 WTO members at the Tenth Ministerial Conference, eliminating tariffs on 201 additional IT products valued at over US\$ 1.3 trillion per year (see page 47). The Committee continued its work on non-tariff measures (NTMs) affecting trade in IT products and held a workshop on this topic. WTO members agreed to work on the basis of a Swiss proposal to tackle the issue of divergences in product classification.**

Kazakhstan joined the ITA in 2015, bringing the total number of participants to 82. The Agreement covers some 97 per cent of world trade in information technology products, with almost all of this trade now duty free. Because ITA concessions are included in the participants' WTO schedules of commitments, the tariff elimination is implemented on a most-favoured nation basis. This means that even WTO members that have not joined the ITA can benefit from the trade opportunities generated by ITA tariff elimination.

During the year, the Committee of the Participants on the Expansion of Trade in Information Technology Products continued to review implementation of the ITA.

### Expansion of the ITA

The expansion of the ITA, agreed in December at the Tenth Ministerial Conference in Nairobi, opens up trade in an additional 201 high-tech products, whose annual value is estimated at US\$ 1.3 trillion, accounting for nearly 10 per cent

### Background on Information Technology Agreement

The Information Technology Agreement (ITA) was concluded in December 1996 in Singapore. This plurilateral agreement requires participants to eliminate duties on IT products on a most-favoured nation (MFN) basis. The ITA covers a large number of high-technology products, including computers, telecommunication equipment, semiconductors, software and scientific instruments, and their parts and accessories. The Committee of the Participants on the Expansion of Trade in Information Technology Products oversees the Agreement.



## ■ Implementation and monitoring

of world trade in goods. The new agreement is the first major tariff-cutting deal at the WTO since 1996 (see page 47).

### Non-tariff measures (NTMs)

On 7 May 2015, the Committee held a workshop on NTMs affecting trade in IT products. This provided an opportunity for the private sector to share their experience with trade policy-makers and to express their views on possible ways to address NTMs and to improve market access. The main issues raised at the workshop were transparency, standards for recognition of test results, e-labelling and energy efficiency.

The lack of harmonization for standards, for both administrative and technical regulations, creates many barriers to trade by significantly increasing the costs of compliance (e.g. duplication of testing and certification procedures) and by delaying market entry. The industry is unanimous in saying that for each area of certification (for example, electromagnetic compatibility (EMC), safety, telecom approvals, radio emission, and energy efficiency), there should be one global standard, one global test, one global certificate.

Consultations between the chair of the Committee, Mr. Andrew Staines (United Kingdom), and WTO members are under way to examine the recommendations of industry representatives and a possible way forward. These recommendations include establishing a centralized database of administrative requirements (e.g. conformity assessment procedures) and technical requirements (e.g. standards) per area of certification (e.g. EMC, safety, radio, environment) per product and per country to solve the lack of transparency. Other recommendations include adoption of e-labelling as a simple solution to the problem of the proliferation of requirements. Many countries have already endorsed e-labelling.

### Product classification divergences

Classification divergences on ITA products continued to be an area of controversy. In 2013, the Committee agreed on the HS 2007 classification (see page 55) of 18 products, mainly semiconductor manufacturing equipment, but WTO members have continued discussions on the remaining 37 items listed in "Attachment B" of the 1996 Ministerial Declaration, for which there is no agreed tariff classification.



# 97%

The Information Technology Agreement covers 97 per cent of world trade in IT products, with almost all of this trade now duty free.



Ten WTO members provided their comments on classification options outlined by the WTO Secretariat under a Swiss proposal. The proposal, agreed in 2014, required the Secretariat to circulate the list of 37 items – including computers, network equipment, flat panel display and semiconductor manufacturing equipment – indicating their possible classification in HS 2007 so that members can identify where their domestic classification diverges. The Committee will continue discussing the issue of divergences in 2016, with a view to narrowing down the differences among members.

## State trading enterprises

**The Working Party on State Trading Enterprises (STEs) continued to review WTO members' notifications of STEs. These are enterprises granted exclusive rights or privileges that can influence exports or imports. China made its first notification. However, the number of notifications remains low and the chair, Andrew Jory (Australia), called for improvements to members' compliance with notification obligations. Canada submitted a new paper on agriculture-exporting STEs.**

### 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 of their state trading activities.



At the June meeting of the Working Party on State Trading Enterprises, Canada submitted a paper on agriculture-exporting STEs, in which it suggested that part of the review process carried out by the Committee on Agriculture would “enrich” the work of the Working Party. It drew attention to what the Committee had discussed on this issue. Switzerland, Colombia, the European Union, Chile and New Zealand supported Canada’s proposal. Australia made a presentation on its experience of fulfilling notification obligations in changing circumstances.

At its October meeting, the Working Party reviewed 45 new and full notifications from 16 WTO members and 22 updating notifications from four members. Notifications cover products imported into or exported from members’ territories by STEs. WTO members have extended indefinitely a June 2012 agreement to submit new and full notifications every two years.

Compliance with notification obligations remains poor. Of 133 notifying members, only 44 submitted notifications for the most recent period (2012-13). For the previous period (2010-11), only 52 notifications were received from a total of 130 notifying members. The chair of the Working Party encouraged members to continue to work with their respective capitals and the WTO Secretariat to improve their notification record. The Working Party reviewed notifications of Barbados, Canada, India and New Zealand on the basis of written questions from delegations.

Members may counter-notify when they have reason to believe that another WTO member has not adequately notified its STEs. Accordingly, at both its meetings, the Working Party reviewed a counter-notification submitted by the United States regarding China’s STEs. At the October meeting, China submitted its first notification since it joined the WTO in 2001.

Following a joint request by the European Union and the United States, the Working Party discussed Russia’s notification obligations. Both the European Union and the United States asked Russia to provide notifications of all its STEs, including Gazprom. The European Union also asked Russia to provide detailed information about the status and functioning of the Russian United Grain Company.

## Trade in civil aircraft

**In 2015, the Trade in Civil Aircraft Committee adopted a protocol to amend the Agreement on Trade in Civil Aircraft. The protocol, which had been under negotiation since 2008, brings product coverage under the Agreement into line with the 2007 update of the Harmonized System (HS2007), used for classifying goods for customs purposes (see page 55).**

The protocol, which amends the existing annex to the Agreement on Trade in Civil Aircraft, was opened for acceptance by parties to the Agreement.

The Agreement currently has 32 signatories, of which 20 are member states of the European Union. It eliminates import duties on civil aircraft-related products covered by its product annex, such as engines, radar, flight recorders and ground flight simulators. The Agreement also contains disciplines on matters such as government-directed procurement of civil aircraft and inducements to purchase.

### Background on trade in civil aircraft

The Agreement on Trade in Civil Aircraft 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

The Council for Trade in Services focused on encouraging the use of the services waiver for least-developed countries (LDCs), which aims to help LDCs play a more active role in global services trade. By the end of the year, the Council had received 21 notifications from WTO members granting preferential treatment to LDC services. The Tenth Ministerial Conference in Nairobi extended the waiver for another four years, until 2030. The Council also discussed electronic commerce and developments in services trade policy.

## LDC services waiver

The services waiver for LDCs dominated the Council's work in 2015. The waiver, agreed in 2011, enables WTO members to grant more favourable treatment to services and service suppliers of LDCs. As no preferential treatment had been notified under the waiver by the time of the Bali Ministerial Conference in 2013, ministers took steps to encourage members to make use of the waiver. One of them was directing the Council for Trade in Services to convene a high-level meeting at which members would indicate the preferential treatment they intended to grant to LDC services and service suppliers.

The high-level meeting was held on 5 February 2015. Over 25 WTO members, both developed and developing, indicated sectors and modes of supply where they were considering providing preferential treatment. These addressed most of the 74 services sectors in which LDCs had sought preferential treatment, as specified in a collective request. Many members also mentioned technical assistance initiatives to improve the export capacity of LDC services. Members agreed that they should endeavour to notify their preferential

treatment at the earliest possible date, and no later than 31 July 2015.

WTO members' assessment of the pledges made at the meeting was very positive overall. Following the meeting, members started to submit the first notifications of preferential treatment under the waiver. By the end of 2015, the Council had received a total of 21 notifications of preferential treatment to LDC services and service suppliers on the part of 48 members (counting European Union member states individually). They were submitted by Canada, Australia, Norway, Korea, China, Hong Kong (China), Chinese Taipei, Singapore, New Zealand, Switzerland, Japan, Mexico, Turkey, the United States, India, Chile, Iceland, Brazil, the European Union, Liechtenstein and South Africa.

At a meeting of the Council in November, LDCs provided a detailed assessment of the notifications received until then. They noted that the number of notifications received was impressive, considering the scant progress made initially on the issue, stating that the notifications were testament to WTO members' commitment to integrating LDCs into the multilateral trading system. They also noted that many of the sectors where they had sought preferential treatment were included in the notifications and that all modes of service supply were featured.

LDCs noted that more than half of their collective request appeared to have been considered in the notifications, although more needed to be done to address requests related to non-market access preferential treatment. Some of the preferences set out in the notifications went beyond WTO

## Background on trade in services

The General Agreement on Trade in Services (GATS) defines trade in services in terms 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 through establishment 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.



# 21

The Services Council has received 21 notifications from WTO members granting preferential treatment to LDC services, as of end-2015.



members' Doha Round services offers or the preferences pledged at the high-level meeting in February, LDCs noted. But they also sought clarifications as some notifications did not spell out precisely how the preferential treatment would operate for LDCs.

Concerns were also expressed about the limited number of preferences covering "mode 4", an issue of particular importance to LDCs. Mode 4 consists of individuals moving temporarily in another member's territory to supply services. Notifying members provided some initial explanations and stated their readiness to discuss the queries of LDCs bilaterally.

At the same meeting, the Council also approved preferential treatment going beyond market access measures contained in notifications submitted until then. As stipulated in the ministerial waiver decision, while WTO members can implement preferential treatment related to market access measures upon notification to the Council, preferential treatment regarding any other measure is subject to the Council's approval.

At the Tenth Ministerial Conference in Nairobi, ministers adopted a decision on the services waiver. In light of the time gap between the adoption of the waiver in 2011 and WTO members' notification of preferential treatment in 2015, ministers decided to extend the existing waiver period for four years until the end of 2030. They also instructed the Council to encourage discussions among members on technical assistance aimed at increasing the capacity of LDCs to participate in services trade, and to initiate a review process to monitor the operation of the notified preferences.

## E-commerce

The Council continued to engage in discussions on electronic commerce. WTO members considered a US suggestion to address and share information on cross-border information flows, localization requirements, privacy protection and cloud computing. Members seemed generally amenable to engaging in such a discussion, provided that it implied no normative or prescriptive content. The Council also addressed the protection of personal information in relation to e-commerce on the basis of a contribution by Chinese Taipei drawing on its privacy protection framework.

WTO members accepted a proposal by China to formalize the sharing of information on e-commerce by adding a regular item to the agenda of the Council. Under that item, China and Nigeria shared their respective experiences with the fast pace of e-commerce growth in their countries and the impact on small and medium-sized enterprises. Other delegations said they would contribute to the discussion in the future. Given ministers' agreement at the Nairobi Ministerial Conference to press on with the work programme on electronic commerce, the issue will continue to occupy the Council in 2016.

## Other Services Council issues

In 2015, the Council also debated recent developments in services trade and regulation. WTO members participating in the negotiations on a plurilateral Trade in Services Agreement (TISA) kept the Council regularly informed on progress in their negotiations. While non-TISA participants were generally appreciative of the transparency, some remained concerned about the initiative and in particular its impact on multilateralism. TISA participants pointed out that TISA was developed to be compatible with the General Agreement on Trade in Services (GATS) and could help to facilitate multilateral talks in the future.



At the meetings held in March, June and October, Russia made a statement on certain measures related to the reform of the Unified Gas Transportation System of Ukraine. In March and June, Ukraine responded to the statement. A few other WTO members expressed their interest in the issue.

In accordance with the GATS' transparency provisions, the Council received 33 notifications of new or revised measures that could significantly affect trade in sectors where the notifying WTO members had commitments. It also received two notifications concerning recognition measures. Another 12 notifications dealt with new economic integration agreements covering services trade.

### Financial services

The Committee on Trade in Financial Services continued its consideration of the issue of financial inclusion, or greater access to financial services, including such questions as mobile banking, on the basis of a note prepared by the WTO Secretariat. The note addresses the issue from a trade policy perspective, including the role that the GATS may play.

Several WTO members reviewed the situation of financial inclusion in their respective economies and highlighted the most important initiatives and policies adopted to promote it. The Committee agreed to continue this discussion, focusing specifically on obstacles to financial inclusion.

The Committee continued its consideration of regulatory issues in financial services. Following an invitation by the Committee, representatives of the Financial Action Task Force, the International Monetary Fund and the Islamic Financial Services Board gave an overview of the most recent international regulatory reforms and initiatives in their respective areas of competence, and discussed with WTO members the potential implications for trade in financial services.

### Specific commitments

In 2015, the Committee on Specific Commitments continued to consider the issue of "new services" based on an informal note prepared by the WTO Secretariat. This contains an illustrative list of services identified in previous discussions as not being explicitly referred to in the GATS classification system.

The Secretariat note also provided background on the issue of "new services" and suggested a number of general questions for consideration. WTO members expressed divergent views on issues such as whether "new services" really existed, whether a definition of "new services" was needed, and the implications of "new services" for existing commitments under the GATS. There were substantive discussions on the nature of cloud computing services. A number of members reiterated that the discussion of "new services" should not affect the scope of the existing commitments under the GATS.

In order to have a better understanding of classification issues and to facilitate future discussions, for its meeting on 14 October the Committee invited experts from the United Nations Statistics Division to give a presentation on the evolution of the central product classification (CPC) and the gaps between the version on which the GATS classification is based and the latest version.

The Committee generally supported a proposal to examine economic needs tests (ENTs), which are referred to in Article XVI:2 of the GATS as one form of quantitative limitation on market access. An ENT is a test that conditions market access upon the fulfilment of certain economic criteria. The major problem with respect to ENTs is that most relevant entries in WTO members' schedules of commitments provide no or minimal indications on the criteria applied in the test. In order to have substantive discussions, a written proposal on issues related to ENTs was requested.



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

The TRIPS Council continued to promote transparency in WTO members' intellectual property (IP) systems and reviewed implementation of the TRIPS Agreement. It discussed access to medicines, biodiversity, traditional knowledge, the patentability of life forms, biotechnology and technical cooperation, among other topics. The Council extended until January 2033 a waiver on least-developed countries (LDCs) having to apply TRIPS provisions on pharmaceutical patents. It also recommended a parallel waiver of LDC obligations regarding two other TRIPS provisions regarding pharmaceutical products. The Council discussed aspects of innovation policy, including the role of IP in financing innovation.

## Promoting transparency

Transparency in national intellectual property systems helps the TRIPS Council to monitor the operation of the TRIPS Agreement, to promote understanding of members' IP policies, to reduce trade tensions and to build productive trading relationships in knowledge products and technology.

The TRIPS Council has developed a unique body of information about diverse approaches to protecting and regulating IP, based on notifications of WTO members and the Council's review of national systems. It has also collected extensive reporting from members on such matters as technical cooperation and technology transfer incentives.

## Background on TRIPS

Intellectual property rights have become a key part of the debate over economic development and broader public policy questions, such as innovation and public health. 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 and reviews the intellectual property legislation of individual members.

In 2015, 17 members notified the Council of more than 47 pieces of legislation, which were mainly focused on amendments and revisions of previously notified laws and regulations to reflect evolving policy needs and technological, social and commercial changes. So far, the TRIPS Council has received more than 3,000 legal texts notified by 132 members along with detailed checklists on enforcement mechanisms applied within over 100 jurisdictions.

The Council continued to consider how to make the notification system more accessible to WTO members and the public at large. In particular, the Council introduced a new reporting tool for notification, which includes cross-references and brief descriptions of the notified laws or regulations. Also, the Council completed its review of Russia's TRIPS implementing legislation and followed up its review of Tajikistan.

## Plants, animals, biodiversity and traditional knowledge

The Council continued to address a cluster of issues 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.

Two issues were at the forefront: whether the TRIPS Agreement should be amended to prohibit the patentability of life forms; and whether – and, if so, how – TRIPS should do more to promote the CBD objective of equitably sharing the benefits that arise from the use of genetic resources

and associated traditional knowledge. Some proposed amending the TRIPS Agreement to oblige WTO members to require patent applicants to disclose the source or the country providing genetic resources and associated traditional knowledge that form the basis for an invention.

### TRIPS and public health

In 2015, ten more WTO members accepted the protocol amending the TRIPS Agreement to formally incorporate the so-called paragraph 6 system, which makes it easier for developing countries to access affordable medicines. The system allows generic versions of patented medicines to be produced under a compulsory licence (one that is granted without the patent holder's consent) exclusively for export to countries that cannot manufacture the needed medicines themselves.

A further nine WTO members accepted the protocol in the first four months of 2016. By the end of April 2016, 61 per cent of WTO members had submitted their instruments of acceptance for the TRIPS protocol, which was agreed in 2005. The amendment will come into force once it is accepted by two-thirds of the WTO membership. The TRIPS Agreement originally limited the issue of compulsory licences to predominantly domestic market use but this effectively excluded the use of compulsory licences by countries, particularly poorer developing countries, with no domestic manufacturing capacity.

Issues relating to TRIPS and public health were addressed in many technical cooperation activities organized by the WTO Secretariat, which coordinates capacity-building activities in this area with the World Health Organization (WHO) and the World Intellectual Property Organization (WIPO).

Thirty-one government officials from 24 developing countries and two from developed countries took part in an October workshop on trade and public health, the latest in a series. It aimed to build national policy-makers' capacity to analyse policy choices in areas where trade, intellectual property and public health all play a part. Topics included the interface between health, trade and intellectual property, the economics of innovation and access to health technologies, public health determinants, pricing and procurement policies, competition policy and rules, health services and the WTO's Trade Facilitation Agreement (see page 83).

The three organizations also held a fifth trilateral technical symposium in late October which reviewed access and

innovation in medical technologies. The symposium provided an opportunity to discuss practical ways in which the twin challenges of innovation and access have been addressed. It reviewed selected data on the complex relationship between trade in medical technologies, patents, innovation and access, including the role of TRIPS flexibilities and recent experience with the use of compulsory licences and voluntary licence agreements. This was preceded by a technical workshop on patentability criteria, giving participants practical insights into how these criteria are applied in practice at country level and how different definitions and interpretations can impact on public health.

### Technical cooperation and capacity building

The Council was updated on technical cooperation in the area of intellectual property by developed countries, other intergovernmental organizations and the WTO Secretariat. The Secretariat continued to focus on assisting WTO members and observers to understand the rights and obligations which flow from the TRIPS Agreement and relevant decisions of WTO bodies in order to enable them to meet their developmental and other domestic policy objectives.

The WTO and WIPO jointly delivered two advanced technical assistance courses for government officials and university teachers in March and June in Geneva. The aim was to strengthen the capacity of developing-country participants to monitor and participate in international intellectual property developments and to make informed assessments of IP policy issues. The course for government officials drew 25 participants and the course for university teachers attracted 27. In recent years, the courses have trained about 260 IP teachers and about 150 government officials.

To mark the 20<sup>th</sup> anniversary of the WTO and the TRIPS Agreement, the WTO Secretariat organized a capacity-building symposium for TRIPS delegates that aimed to deepen understanding of the Agreement's negotiating history and its relevance for current multilateral discussions on trade-related aspects of intellectual property. Officials who participated in the TRIPS negotiations in the Uruguay Round shared their experiences and discussed the practical impact of the TRIPS Agreement since its entry into force. Insights from this symposium were captured in a new publication – *The Making of the TRIPS Agreement* – launched at the Public Forum (see page 140) as a resource for policymakers and negotiators.



# 61

61 per cent of WTO members have accepted the TRIPS protocol on access to medicine, as of the end of April 2016.



# 2/3

The TRIPS protocol will enter into force once two-thirds of the WTO membership have accepted it.



## Pharmaceutical patent exemption for LDCs

At the request of LDCs, the Council extended – until January 2033 – the period during which key provisions of the TRIPS Agreement do not apply to pharmaceutical products in LDCs. This means LDCs can choose whether or not to protect pharmaceutical patents and clinical trial data before 2033. The decision also keeps open the option for further extensions beyond that date.

The latest extension, the second specifically applied to pharmaceutical products for LDCs, is in line with directions set by WTO ministers in the 2001 Doha Declaration on the TRIPS Agreement and Public Health, which decided a specific transition period should apply for LDCs in this area. The transition was initially due to end in 2016.

A subsequent General Council decision, on the recommendation of the TRIPS Council, also extended an existing waiver for LDCs exempting them from granting patent holders exclusive marketing rights for five years after they obtain marketing approval or until a product patent is granted or rejected in a member territory, whichever period is shorter.

The General Council also provided a new waiver for LDCs regarding “mailbox” measures under which any WTO member not applying patent protection for pharmaceutical products still has to provide a means by which patent applications can be filed. These two waivers complement and buttress the effect of the decision to extend the transition period in respect of obligations concerning pharmaceutical patenting and the protection of clinical data until 2033.

These extension decisions follow the adoption of the new UN Sustainable Development Goals (SDGs) (see page 119). SDG3 on “Good Health and Well-being” affirms the right of developing countries to utilize the TRIPS Agreement flexibilities to ensure access to medicines for all.

## Innovation

At its February meeting, the Council considered the topic of women and innovation, with WTO members describing the benefits of gender equality for innovation and entrepreneurship as part of its series on “Intellectual Property and Innovation”. The Council looked broadly at various aspects of the issue, including the relationship between entrepreneurship and innovation in women-owned businesses and addressing barriers to women's participation in the economy and trade in particular.

In June, the Council considered the role of IP in financing innovation, in particular how it attracted and guided investment and capital towards innovation activity. A side-event on the same topic was sponsored by the European Union, the United States and Switzerland. The Council turned in October to examining entrepreneurship and new technologies using the experiences of small and medium-sized enterprises and start-ups in the area of new and mobile technologies to illustrate the role that IP played in bringing innovation to the market. The focus lay in particular on start-ups commercializing mobile technologies and applications (“apps”) and on the potential benefits for developing countries.



## Tobacco control measures

In recent years, the Council has discussed tobacco plain packaging legislation and its compatibility with the TRIPS Agreement. The plain packaging measures adopted by Australia are currently the subject of four disputes initiated by Cuba, the Dominican Republic, Honduras and Indonesia (see pages 107-8).

In 2015, the Council continued to discuss tobacco control policies under the heading “Concerns with respect to Measures Related to Plain Packaging of Tobacco Products in the United Kingdom and Ireland”. The sponsor of the item, Dominican Republic, and several other delegations reiterated their view that such measures were incompatible with TRIPS obligations on protecting trademarks and geographical indications (see page 40) and urged members, in particular the United Kingdom and Ireland, that were considering introducing similar tobacco plain packaging measures, not to adopt them until the WTO panels had ruled on their compatibility with WTO obligations. Some other members defended such policies as legitimate public health measures that are consistent with WTO rules. In Australia's view, it was inappropriate to use the pending disputes to discourage other members from implementing public health measures.

## Other issues

No new proposals emerged from the reviews, mandated under the TRIPS Agreement, of the Agreement as a whole (the “71.1 review”). Regarding the review of the application of the provisions on geographical indications (the “24.2 review”), China and the European Union shared information on their bilateral agreements with Costa Rica, Switzerland and a number of other countries.

The Council's work on the incentives for technology transfer to LDCs and on “non-violation and situation complaints” is discussed on pages 41.

# Trade and environment

The Committee on Trade and Environment (CTE) discussed topics ranging from energy efficiency and illegal logging to illegal fishing. The Committee was briefed by international organizations on recent sustainable development initiatives, including the launch of the United Nations Sustainable Development Goals (SDGs) in September. A ministerial declaration issued at the end of the Tenth Ministerial Conference in Nairobi “recognized the role the WTO can play in contributing towards achievement of the 2030 SDGs. The Committee was also updated on negotiations for an Environmental Goods Agreement.

## Energy efficiency

The Committee on Trade and Environment discussed several initiatives to improve energy efficiency. The European Union shared information on its energy efficiency policy framework. This includes mandatory requirements that seek to eliminate the least energy-efficient products from the market (commonly referred to as “eco-design”) and energy labelling, which offers information on a product’s energy efficiency.

Singapore explained that its limited options to harness renewable energy made energy efficiency a core element of its strategy to reduce carbon emissions. Thailand emphasized that energy efficiency was a key aspect of its energy policy, given its high dependence on fossil fuels. Chile provided details on education campaigns, labelling and other domestic measures to improve energy efficiency.

Pakistan presented its national experience and explained how solar and wind energy could help to ensure adequate access to energy for its population and overcome its reliance on fossil fuels. Chinese Taipei introduced its efforts to establish an energy efficient economy and create a “win-win-win” solution for energy, the environment and the economy. Canada explained how investments under its ecoENERGY efficiency programme had helped Canadian consumers reduce energy costs and greenhouse gas emissions.

WTO members expressed significant interest in these initiatives. Their discussions on these issues covered market and structural barriers, labelling schemes, methodologies

for energy pricing and consumption measurement, internal coordination challenges to implement specific programmes, and international cooperation and capacity building.

The Organisation for Economic Co-operation and Development (OECD) described the broad array of measures used worldwide to improve energy efficiency and their possible trade implications. Such measures include minimum energy-performance standards for appliances and buildings, labelling schemes and energy efficiency incentives. The International Organization on Standardization (ISO) provided information on ISO 50001 – a standard that seeks to support organizations in using energy more efficiently – and other energy efficiency standards.



## 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

Several WTO members shared their experience in tackling illegal, unreported and unregulated (IUU) fishing. Ecuador provided information on its action plan to combat IUU fishing and efforts to strengthen institutional capacity in this area. The United States described the work of its Presidential Task Force on Combating IUU Fishing and Seafood Fraud.

Mexico presented specific programmes to address IUU fishing, including vessel registration, satellite monitoring and on-board observation, which involves placing independent observers on vessels to monitor vessel positions and observe fishing operations. It noted that regional and multilateral cooperation was needed to reinforce domestic efforts against IUU fishing.

The European Union described its policy on IUU fishing and underlined the importance of creating a culture of compliance, ensuring traceability throughout the supply chain and of promoting international cooperation. Australia, the Republic of Korea, New Zealand, Norway, Papua New Guinea, the Philippines, Sri Lanka and Chinese Taipei also shared their experiences in combating IUU fishing.

Responding to the presentations, several WTO members underscored the negative environmental and socio-economic impacts of IUU fishing. They urged members to take the interests of developing country exporters into consideration when designing and implementing measures to combat IUU fishing. It was recalled that such measures should respect the principle of non-discrimination and avoid the creation of unnecessary barriers to trade. Some members underlined the links between efforts to combat IUU fishing and the ongoing negotiations to address fisheries subsidies in the WTO (see page 45).

## Illegal logging

The Committee continued its discussion of the trade aspects of illegal logging. Malaysia, a major producer and exporter of tropical timber, presented its timber certification scheme, a voluntary national scheme that provides independent assessment of forest management practices, as well as cooperation efforts with other countries to combat illegal logging.

Russia provided an overview of the 2013 Roundwood Act, which seeks to establish a system for tracking the life cycle of timber from harvest to processing or export. Commenting on these experiences, several WTO members underlined the

importance of cooperation and transparency in tackling illegal logging and related trade activities.

## Environmental goods

Australia, which chairs the negotiations on an Environmental Goods Agreement (EGA), continued to update the Committee on progress towards an EGA among 44 WTO members, which together account for a large proportion of global trade in environmental goods. In a statement issued in Nairobi just ahead of the Tenth Ministerial Conference, the chair Andrew Robb said that “considerable progress” had been made in the negotiations.

Director-General Roberto Azêvedo welcomed this progress. He said: “I further welcome Minister Robb’s statement that negotiators will capitalize on the momentum and re-engage early in 2016 to continue to work towards a successful conclusion. This agreement will be an important contribution of the international trade community towards realizing the complementary benefits of trade and environmental policy.”

Negotiations are focused on building a list of possible products to be covered by a future agreement. The chair recalled that EGA participants are committed to transparency and that the EGA remains open to other WTO members similarly committed to liberalizing trade in environmental goods. He further noted that the EGA will be implemented on a most-favoured nation (MFN) basis, meaning all WTO members will benefit once a critical mass of participation has been reached. Negotiations on the EGA were launched in July 2014.

The participants are considering products in several areas of environmental protection and climate change mitigation, including those that contribute to generating clean and renewable energy, improving energy efficiency, controlling air pollution, managing waste, and treating waste water.

## Other issues

China described its Ecological Civilization Strategy, which seeks to intensify the protection of the environment and the conservation of resources, to promote low-carbon development, to deepen reform, to encourage innovation and to raise public awareness of environmental issues. In addition, it presented its environmental labelling scheme, which currently covers 97 categories of products, and outlined the environmental provisions included in its recent free trade agreements (FTAs), such as the China-Korea FTA. It noted that its recent FTAs had a growing number of disciplines that aim to address trade and environment issues.

Canada and a representative of the International Hydropower Association presented a tool for assessing the sustainability of hydropower plants and projects. Canada emphasized the importance of preventing barriers to trade on hydropower technologies and inputs. Several delegations shared some of their own experiences with hydropower. Some delegations underlined the need to include the costs of sustainability assessments in the financial viability of hydropower projects and to take into consideration the special needs of developing countries.



# 44

Negotiations on an Environmental Goods Agreement are taking place among 44 WTO members, which account for a large proportion of global trade in environmental goods.





The Executive Director of the United Nations Environment Programme, Mr Achim Steiner, and DG Azevêdo at a 20<sup>th</sup> anniversary event on trade and environment on 28 April 2015.

On behalf of the Friends of Fossil-Fuel Subsidy Reform (FFFSR) – an informal group of non-G20 countries aiming to build political consensus on the importance of fossil fuel subsidy reform – New Zealand and Norway highlighted the benefits of tackling inefficient fossil fuel subsidies. In pursuit of this goal, FFFSR had launched voluntary peer reviews of the efficiency of measures related to fossil fuel subsidies.

### Multilateral environmental agreements and other international organizations

The Committee continued to serve as a platform to inform WTO members about the latest developments in multilateral environmental agreements (MEAs) and other international organizations. In 2015, this included regular briefings by the United Nations Framework Convention on Climate Change (UNFCCC) on the state of play of the climate change negotiations.

The United Nations Conference on Trade and Development (UNCTAD) briefed delegations on the economic and sustainability benefits of promoting organic agriculture in developing countries. The United Nations Environment Programme (UNEP) highlighted the trade opportunities and other benefits of organic farming in South Africa. The International Trade Centre (ITC) presented initiatives for helping agricultural exporters in developing countries to meet carbon standards and increase their resilience to climate change.

The UN Department of Economic and Social Affairs (UNDESA) briefed the Committee on Agenda 2030, launched at the United Nations in September and which includes the UN Sustainable Development Goals (SDGs) (see page 119), and the Addis Ababa Action Agenda, which aims to provide a global framework for financing sustainable development. Following requests by some WTO members, the WTO Secretariat provided an overview of the main trade-related elements of these two processes. The Secretariat also introduced and updated its “Matrix on Trade-related Measures Pursuant to Selected Multilateral Environmental Agreements” and continued to present relevant environment-related case law under the WTO.

### 20<sup>th</sup> anniversary of the WTO

In April, Director-General Roberto Azevêdo and the Executive Director of the United Nations Environment Programme (UNEP), Achim Steiner, jointly opened a high-level event, “20 Years of Building Pathways to Sustainable Development”, held at the WTO. The one-day gathering, held as part of the WTO’s 20<sup>th</sup> anniversary activities, looked back at how the global trade and environment regimes have helped countries to achieve sustainable development, and explored how WTO case law on trade and environment has evolved over the past two decades. Representatives from international organizations, civil society and academia participated in this event.

In June, the DG and John Scanlon, Secretary-General of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), launched a new publication, *CITES and the WTO: Enhancing Cooperation for Sustainable Development*. The joint publication shows how the relationship between CITES and the WTO has become a leading example of mutual supportiveness between global trade and environmental regimes.

### Nairobi Ministerial Declaration

At the close of the Tenth Ministerial Conference in Nairobi, WTO members agreed on a ministerial declaration which acknowledges that “international trade can play a role towards achieving sustainable, robust and balanced growth for all.” Furthermore, it recognized the role the WTO can play in contributing towards achievement of the UN’s Sustainable Development Goals.

### Technical assistance

In 2015, the Trade and Environment Division of the WTO organized national workshops in Cuba and Qatar. In addition, a workshop for the Arab and Middle East region was held in Kuwait, in partnership with the International Monetary Fund’s Centre for Economics and Finance. Trade and environment training was delivered as part of the WTO’s Geneva-based and regional trade policy courses, and through the e-learning platform.

# Trade facilitation

By end of April 2016, 77 WTO members had ratified the Trade Facilitation Agreement (TFA), which will come into effect once two-thirds of the WTO membership have done so. The Preparatory Committee on Trade Facilitation received over 70 notifications from WTO members indicating how they will implement the Agreement once it enters into force. A website was launched for the Trade Facilitation Agreement Facility, which helps developing and least-developed countries find the support they need to implement the TFA. The Global Alliance for Trade Facilitation was launched at the Tenth Ministerial Conference.

The Trade Facilitation Agreement will simplify and speed up global procedures for the movement of goods across borders and could see average trade costs fall by over 14 per cent. The Agreement was approved at the 2013 Bali Ministerial Conference and is one of the biggest reforms of the WTO since it was established in 1995. Implementation of the TFA has the potential to increase global merchandise exports by up to USD 1 trillion per year.

By the end of April 2016, the Preparatory Committee on Trade Facilitation had received 83 category "A" commitment notifications, indicating what the WTO member designates for immediate implementation upon entry into force of the Agreement (or, in the case of a least-developed country, within one year of entry into force).

At meetings of the Preparatory Committee, WTO members were updated on the state of ratification processes and briefed on technical assistance and capacity-building activities, both by donor members and the WTO Secretariat. WTO members discussed a range of topics, including their ratification procedures, the establishment of national trade facilitation committees and the implementation of other measures under the TFA.

## Background on trade facilitation

Negotiations on the Trade Facilitation Agreement were successfully concluded in December 2013 at the WTO's Ninth Ministerial Conference. The Agreement will enter into force once two-thirds of members have ratified it. The Agreement aims to expedite the movement, release and clearance of goods across borders. It establishes measures for effective cooperation between customs and other authorities on trade facilitation and customs compliance issues. The Agreement also contains provisions for technical assistance and capacity building. A Preparatory Committee on Trade Facilitation oversees the Agreement.

For the first time in WTO history, the requirement to implement an agreement is directly linked to the capacity of a country to do so. The Agreement states that assistance and support should be provided to help members achieve that capacity. To benefit from this, developing and least-developed countries must notify their commitments and needs to the WTO.

## Trade Facilitation Agreement Facility

A website was launched for the Trade Facilitation Agreement Facility, which helps developing and least-developed countries find the support they need to implement the TFA.

The website ([www.TFAFacility.org](http://www.TFAFacility.org)) provides information on the TFA, case studies, training materials and other implementation-related resources. It also provides information and contact points for donors and regional/international organizations.

The Trade Facilitation Agreement Facility (TFAF) was launched in 2014 to provide guidance to developing and least-developed countries on the implementation of the TFA. It provides an information-sharing platform to provide resources, help identify possible donors, and undertake donor and recipient match-making activities. In the future it will also provide project preparation and project implementation grants in cases where efforts to attract funding from other sources have failed.

In 2015, the WTO Secretariat conducted workshops for parliamentarians to support their efforts to ratify the TFA. It also organized national workshops to help WTO members assess their capacity to implement the Agreement and to prepare notifications required to benefit from implementation flexibilities. It helped members that requested assistance to find donors, conducted meetings with partner organizations/donors to enhance coordination of implementation support and participated in many other activities.

The TFAF complements efforts by regional and multilateral agencies, bilateral donors and other stakeholders that provide



The Global Alliance for Trade Facilitation was launched at the WTO's Tenth Ministerial Conference in Nairobi.

technical assistance and capacity-building support for trade facilitation. It is funded by WTO members on a voluntary basis.

While funding is an important element of the Facility, its core purpose is to help WTO members access the support they need through existing projects offered by bilateral donors as well as by international and regional organizations and the private sector.

### Global Alliance for Trade Facilitation

An event on trade facilitation at the Tenth Ministerial Conference in Nairobi saw the launch of the Global Alliance for Trade Facilitation. This is a new public-private platform that seeks to use private sector expertise and resources to support trade facilitation reforms. The Alliance was created by the Center for International Private Enterprise, the International Chamber of Commerce and the World Economic Forum, with support from the governments of the United States, the United Kingdom, Canada and Germany.

At the event, Director-General Roberto Azevêdo welcomed the pledges made by governments and private sector entities to help developing and least-developed countries implement the TFA, declaring efforts to provide support had “got off to a good start”.

“There is significant support and funding available from a range of partners to help with trade facilitation measures, and specifically with the implementation of the Trade Facilitation Agreement,” the Director-General said. “This is very positive, and we must keep this momentum ... the more extensive and faster the implementation of the Trade Facilitation Agreement, the greater the benefits will be.”



77

77 WTO members have ratified the Trade Facilitation Agreement, as of end-April 2016.

# Regional trade agreements

In 2015, the WTO received 16 new notifications about regional trade agreements (RTAs), down from 22 in 2014. The notifications involved eight new RTAs. Half of the RTAs were between developed and developing partners, maintaining a recent trend. The Asia Pacific region made the highest number of notifications – six RTAs – while the Americas made notifications about three RTAs. At the Tenth Ministerial Conference in Nairobi, ministers called for a discussion of the systemic implications of RTAs for the multilateral trading system.

## Notifications

Of the eight individual RTAs notified to the WTO in 2015 (counting goods and services components as one), five included both goods and services provisions while three included goods provisions only. The trend towards agreements between developing and developed trading partners was maintained. Members from the Asia Pacific region were involved in six RTAs, and the rest involved members in the Americas region (three agreements) and Europe, African and Middle East regions (one agreement each). Four of the agreements covered members from two different regions and four covered members from one region.

The notifications took to 621 RTAs the number received by the WTO as of 31 December 2015, of which 415 were in force (see Figure 14). RTAs include free trade agreements and customs unions. Under WTO rules, the goods and services aspects of RTAs, as well as accessions to existing RTAs, have to be notified separately so they are counted separately. However, putting the three together, the 621 notifications involved 453 individual RTAs, of which 266 were in force.

## Background on regional trade agreements

The Committee on Regional Trade Agreements (CRTA) monitors 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 examines RTAs individually and considers their systemic implications for the multilateral trading system. All WTO members except Mongolia are members of one or more (some belonging to as many as 30). In addition, Mongolia has recently signed an agreement with Japan and has joined the Asia-Pacific Trade Agreement, both of which should enter into force shortly.



# 621

621 regional trade agreements have been notified to the WTO since 1995, of which 415 are in force.

## Increasing complexity

The newer RTAs broaden and, in many cases, deepen coverage, compared with the older ones. Thus, while some agreements are limited to reducing barriers to trade in goods, most 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. They also let members wishing to move faster than others in opening their markets to do so within WTO rules.

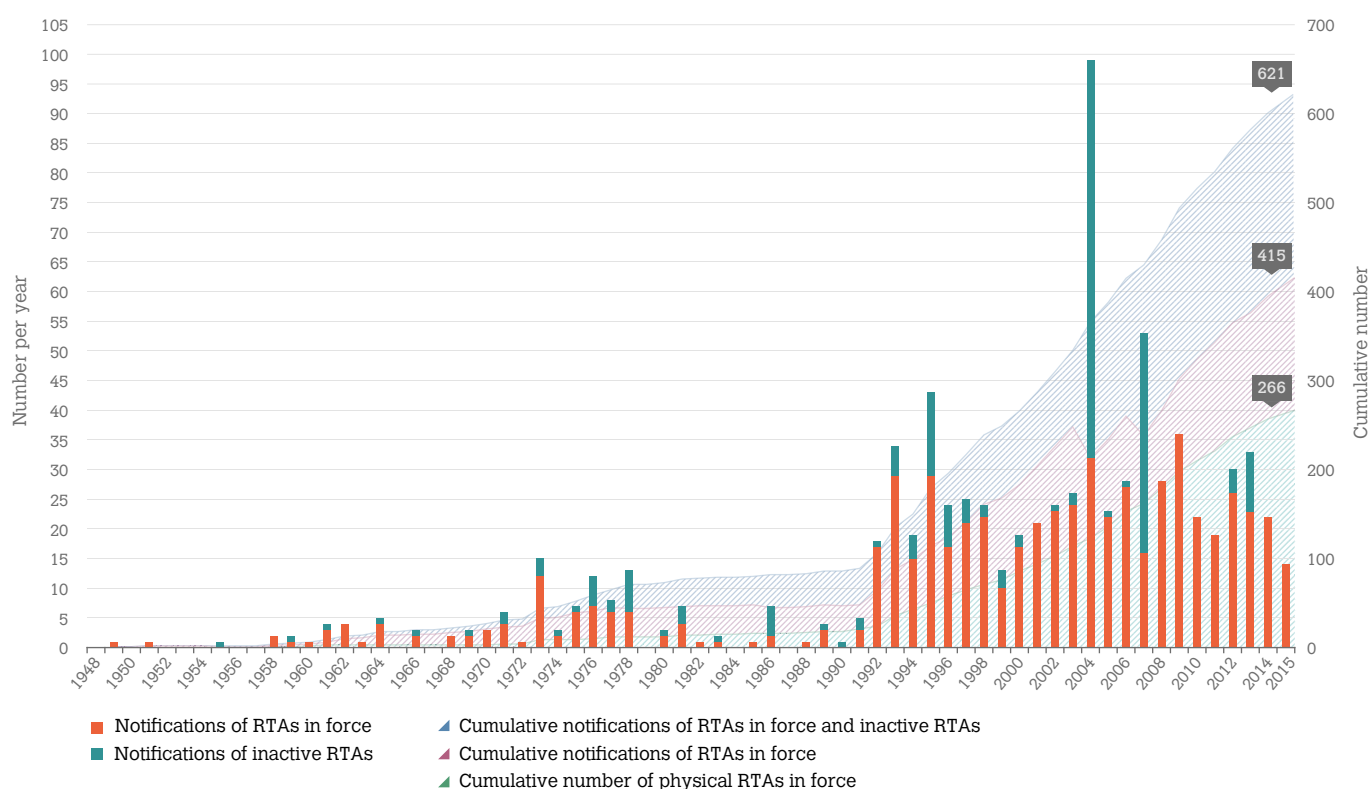
## Enlargement

Although RTAs are by nature discriminatory, discrimination against non-parties can be reduced if the agreements are open and parties allow accession by third parties to existing agreements.

Such enlargement and consolidation of existing agreements is being proposed by new negotiations, such as the Trans-Pacific Partnership Agreement (TPP) among 12 parties, most of which already have bilateral RTAs with each other. Another example is the Regional Closer Economic Partnership Agreement



**Figure 14:** All RTAs notified to the GATT/WTO (1949 to 2015) by year of entry into force



Note: Notifications of RTAs: goods, services and accessions to an RTA are counted separately. Physical RTAs: goods, services and accessions to an RTA are counted together.

Source: WTO Secretariat.

between the Association of South East Asian Nations (ASEAN) and six other regional partners. Negotiations on TPP were completed on 5 October 2015 and the agreement was signed on 4 February 2016.

Other negotiations include the Pacific Alliance, a Latin American grouping that also involves countries that already have bilateral RTAs with each other, and the Tripartite Agreement, which involves 26 African partners at present. It remains to be seen if the eventual agreements are able to harmonize some of the rules in existing RTAs between the individual parties. Existing bilateral agreements between the TPP parties will, however, remain in force (Chile for instance already has bilateral agreements with all TPP parties).

Research by the WTO Secretariat based on RTAs notified since 2000 shows that around 60 per cent of these RTAs contain commitments in both goods and services and that over half contain rules on investment. Other issues, such as provisions on government procurement, competition, sanitary and phytosanitary (SPS) measures, technical barriers to trade, trade defence measures and intellectual property rights, are also found in over half of the RTAs notified. Some RTAs also include other issues, such as environmental and labour standards and electronic commerce, which are not covered by the WTO rules.

## Nairobi Declaration

In the Nairobi Ministerial Declaration of December 2015, ministers reaffirmed the need to ensure that RTAs remain complementary to, not a substitute for, the multilateral trading system. They instructed the Committee on Regional Trade Agreements (CRTA) to discuss the systemic implications of RTAs for the multilateral trading system and their relationship with WTO rules.

## 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. The mechanism, in force provisionally since December 2006, 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 WTO 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) (see Table 2) while agreements notified under the Enabling Clause are considered by a dedicated session of the Committee on Trade and Development (CTD) using the Secretariat's factual presentation as the basis for consideration. WTO members are required to inform the WTO Secretariat of any subsequent changes to a notified agreement and to provide a report once an agreement is fully implemented. In the interests of transparency, they 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. In 2015, the CRTA held four meetings and considered 19 notifications of RTAs, counting goods, services and accessions separately, compared with 42 in 2014 and 23 in 2013.

The transparency mechanism also requires the WTO Secretariat to prepare "factual abstracts" on RTAs examined by the CRTA prior to their entry into force. By the end of 2015, 72 factual abstracts of agreements currently in force had been prepared in consultation with the relevant RTA parties and posted in the RTA database.

In addition, one "early announcement" was received from WTO members in 2015, for a newly signed RTA not yet in force. As of December 2015, the WTO had received 98 "early announcements", 35 involving RTAs that had been signed but were not yet in force and 63 involving RTAs under negotiation. Sixty-one of these early announcements have subsequently been notified following entry into force of the agreements.

**Table 2: Regional trade agreements considered in 2015**

European Union – Colombia and Peru (goods and services)
United States – Bahrain (goods and services)
European Union – Georgia (goods and services)
Switzerland – China (goods and services)
United States – Colombia (goods and services)
Singapore – the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (goods and services)
European Union – Republic of Moldova (goods and services)
ASEAN – China (services)
Hong Kong, China – Chile (goods and services)
Mexico – Central America (Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua) (goods and services)

*Note:* The table refers to ten individual agreements, nine of which covered both goods and services and one only services.

Not all agreements that are in force have been notified and efforts are underway to improve the notification record. A list of agreements that have been verified by the Secretariat as being in force and not notified, through consultation with at least one of the parties to the RTA, is circulated before each meeting of the CRTA. The last list, circulated on 10 November 2015, contained 75 non-notified agreements.

The CRTA also discussed the provision of end-of-implementation reports. Most RTAs are implemented over a transition period and the transparency mechanism requires RTA parties to submit a short written report on the realization of the liberalization commitments as originally notified. One such report was submitted in 2015 (Ukraine–Azerbaijan). The reports are important for understanding whether RTAs accomplish what they set out to do. The Chair of the Committee, Ambassador Amr Ramadan (Egypt), noted that implementation reports had been due for 123 RTAs as of 7 January 2015 and yet only one was received during the year.

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. WTO 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. In the Nairobi Ministerial Declaration in December 2015, ministers agreed to work towards the transformation of the transparency mechanism into a permanent mechanism (see page 45).

## RTA database

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 includes links to the official texts and annexes 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 information on preferential trade arrangements (PTAs), see page 118.

# Trade Policy Reviews

The Trade Policy Review Body (TPRB) reviewed the trade policies and practices of 24 WTO members in 20 meetings in 2015. By the end of 2015, the TPRB had carried out 429 reviews involving 151 of the 162 WTO members.

## Trade Policy Reviews

Of the 24 WTO members reviewed in 2015, two of them, Cabo Verde and the Republic of Moldova, went through the process for the first time. The other members reviewed in 2015 were Barbados, Brunei Darussalam, Japan, Pakistan, Australia, India, Canada, Chile, New Zealand, European Union, Madagascar, Dominican Republic, Guyana, Jordan, Thailand and Haiti. In addition, Angola, Botswana, Lesotho, Namibia, South Africa and Swaziland were reviewed as a group under the Southern African Customs Union. The dates of the reviews and the members covered are shown on the map on pages 90-1.

Printed versions of each trade policy review are available as WTO publications. These include the report by the WTO Secretariat, the report by the member under review, the concluding remarks by the Chair of the TPRB and a key trade facts section.

So far, the United States, Japan and the European Union have been reviewed the most – 12 times. This is followed by Canada, ten times; Hong Kong (China), Australia, and Thailand, seven times; the Republic of Korea, Malaysia, Norway, Singapore, Indonesia, Switzerland, Brazil, and India, six times; and China, Mexico, Turkey, Chile, New Zealand and South Africa, five times. Twenty-five members have been reviewed four times and 36 members three times.

### Background on Trade Policy Reviews

The Trade Policy Review Mechanism aims at encouraging all WTO members to adhere to WTO rules. Through its regular Trade Policy Reviews, the mechanism enables WTO members to examine collectively the trade policies and practices of individual members in all trade-related areas. The four largest trading entities (currently the European Union, the United States, China and Japan) are reviewed every two years, and the next 16 largest every four years. The other members are reviewed every six years, with a longer cycle for least-developed countries. Reviews are not intended to serve as a basis for the enforcement of obligations, for dispute settlement procedures, or to impose new policy commitments.

## Implementation of the Fifth Appraisal of the TPRM

WTO members continued to implement the recommendations of the fifth appraisal of the Trade Policy Review Mechanism (TPRM), carried out in 2013. One of the recommendations was the need to make reviews more interactive and fruitful.

For their TPR meetings in 2015, nine members (up from four in 2014) chose to use the alternative timeline for the submission of written questions and replies, one of the outcomes of the appraisal. This requires the submission of questions by other members four weeks in advance of the meetings and of written responses one week in advance. Digital audio files (podcasting) were used in all TPR meetings in 2015, except the one on Thailand. The audio files are accessible to members but not to the public. The seven-minute rule for members' interventions continued to work satisfactorily.

## TPR follow-up workshops

In 2015, a regional follow-up workshop was organized for the Organization of Eastern Caribbean States (Antigua and Barbuda, Dominica, Grenada, Saint Kitts and Nevis, Saint Lucia, and Saint Vincent and the Grenadines). National follow-up workshops were organized for Myanmar, the Dominican Republic and Pakistan. One envisaged for Madagascar was postponed to 2016 at the country's request.

The follow-up workshops allowed discussion and further dissemination of the results of the reviews of the nine WTO members concerned. The workshops can also help to convince national stakeholders of the need to address the concerns expressed by other members during reviews. The workshops also provide the opportunity to identify priority areas for reforms requiring foreign assistance.

Myanmar's experience with the follow-up workshop illustrated the additional benefits of the TPRM process for least-developed countries (LDCs), in particular. Myanmar was able to synchronize its priority areas for reforms with the Enhanced Integrated Framework (see page 128) and donors' programmes. Several donors pledged to provide assistance in some of the areas specified by Myanmar. The demand for TPR follow-up workshops rose from two in 2014 to four in 2015.

## Trade Policy Review programme for 2016

For 2016, 24 TPR meetings are scheduled for 24 members: Georgia, Morocco, Fiji, Turkey, Maldives, Kingdom of Saudi Arabia, Ukraine, Malawi, Honduras, Albania, United Arab

Emirates, Democratic Republic of the Congo, Zambia, China, Tunisia, Singapore, El Salvador, Russia, Republic of Korea, Sierra Leone (review postponed from 2015), Sri Lanka, Guatemala, Solomon Islands and the United States. Ukraine and Russia are to be reviewed for the first time.



# 24

24 trade policy reviews of WTO members were undertaken in 2015, the highest number for a single year.



Implementation  
and monitoring

# Trade Policy Reviews in 2015

The WTO conducted 20 Trade Policy Reviews in 2015 to examine the trade policies and practices of 24 WTO members. The dates of the reviews and the WTO members covered are shown on the map. Further information, including the Chair's concluding remarks for each review, can be found on the WTO website at [www.wto.org/tpr](http://www.wto.org/tpr)







Implementation  
and monitoring



# Trade monitoring reports

Trade monitoring reports showed that WTO members continued to introduce trade-restrictive measures in 2015 at the same pace as the year before. Given the continuing uncertainties in the global economy, the reports stressed the need for members to show restraint in imposing new trade restrictions and to eliminate more of the existing measures in order to reduce the accumulated stockpile of restrictions. The reports also call for more transparency in the area of non-tariff measures.

The WTO Secretariat prepared four reports on global trade policy developments during 2015 amid continuing global economic uncertainty and sluggish trade growth. Two of the Secretariat reports, covering trade and investment measures taken by G20 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 reports covered trade measures taken by WTO members and observers and were discussed at meetings of the Trade Policy Review Body.

## Trade monitoring summary for 2015

Against the backdrop of global economic uncertainty with modest and unevenly distributed economic and trade growth across regions, the use of trade-restricting measures by WTO members were a cause for concern. Although the pace of introduction of new trade-restrictive measures from mid-October 2014 to mid-October 2015 remained stable compared with the previous monitoring period, between mid-November 2013 and mid-October 2014, the overall stockpile of trade restrictions introduced by members since 2008 continued to grow.

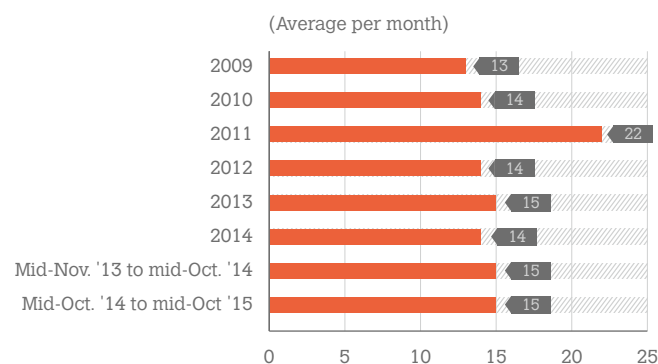
### Background on trade monitoring reports

In early 2009, the WTO began regular monitoring of global trade developments, covering all 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 trade monitoring is overseen by the Trade Policy Review Body.

WTO members applied 178 new trade-restrictive measures during the 12-month period compared with 168 in the previous reporting period. The average number of restrictions taken per month remained stable at 15 and remained below the monthly average of trade-facilitating measures (see Figures 15 and 16). The 178 new measures accounted for 1.2 per cent, or US\$ 228.3 billion, of world merchandise imports during the review period.

Trade remedy measures (anti-dumping actions, countervailing duties and safeguard measures) made up almost 43 per cent of all trade-related measures in the review period, down from 49 per cent in the previous annual report. Out of the 297 trade remedy measures recorded, 241, or around 81 per cent, were anti-dumping actions. The number of trade remedy actions was down compared with the previous period. More initiations of investigations were recorded than terminations of measures.

**Figure 15: Trade-restrictive measures, excluding trade remedies (average per month)**

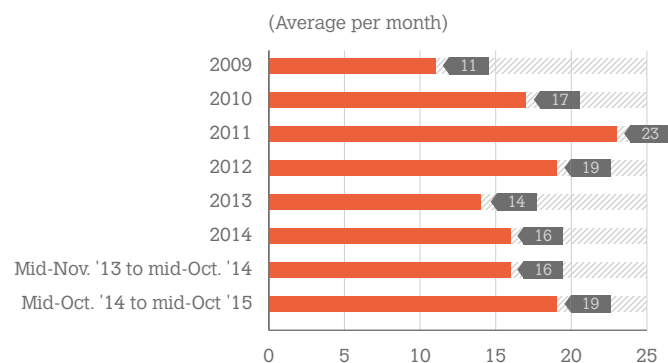


Note: values are rounded

The number of trade-facilitating measures significantly increased from 177 in the previous annual reporting period to 222 in the latest one. These trade-liberalizing measures accounted for 0.9 per cent, or US\$ 170.3 billion, of world merchandise imports. As an average per month, there were 19 in the latest period, up from 16 the year before. It was the

second-highest monthly average of such measures recorded since the beginning of the monitoring exercise in October 2008 (see Figure 16).

**Figure 16:** Trade-facilitating measures, excluding trade remedies (average per month)

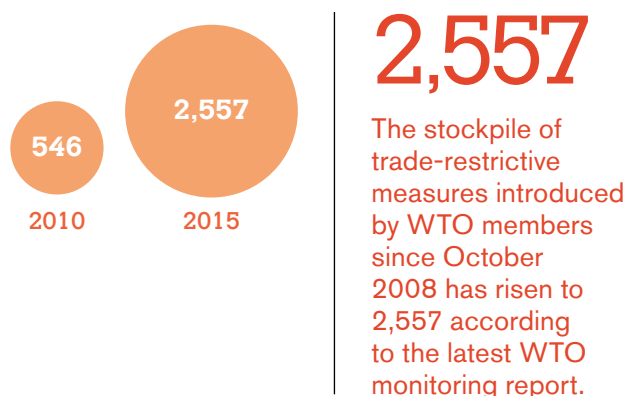


Note: values are rounded

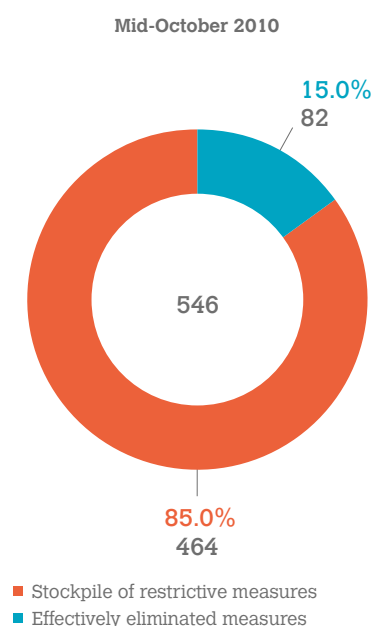
The relatively positive development in the area of trade-liberalizing measures should not distract, however, from the concerns about the accumulation of trade restrictions. Although WTO members continue to show some restraint in taking new trade-restrictive measures, the rate of removal of previous restrictions remains insufficient to seriously dent the stockpile, which continues to grow.

Of the 2,557 trade-restrictive measures, including trade remedies, introduced since October 2008, only 642 (25.1 per cent of the total) have been removed. The total number of restrictive measures still in place stood at 1,915 at the end of 2015 (see Figure 17).

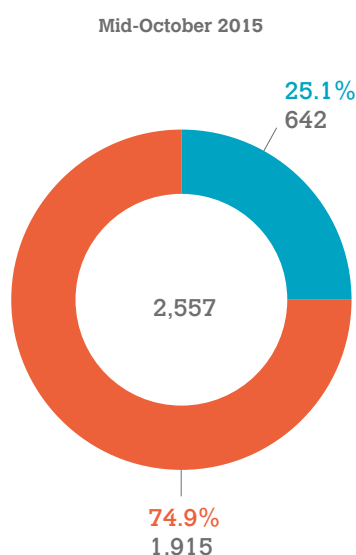
The reports urged WTO members to take decisive action to reduce the stock of trade restrictions by showing restraint in the imposition of new measures and by effectively eliminating existing ones.



**Figure 17:** Stockpile of trade-restrictive measures



■ Stockpile of restrictive measures  
■ Effectively eliminated measures



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Adequate information on behind-the-border measures, including regulatory measures and subsidies, is still lacking. Various types of non-tariff measures, such as technical or health regulations and product standards, have increasingly been the subject of debate in WTO bodies such as the Council for Trade in Goods and the General Council. With a view to increasing transparency, the 2015 monitoring reports contain a section providing a brief overview of trade concerns raised by WTO members in formal meetings of various WTO bodies during the reporting period.

Some consider that these types of measures have become more prominent in recent years, compared with conventional border measures, and that the need to increase the quality of the information available is therefore paramount. To deliver on

this and enhance understanding of the operation and effects of non-tariff measures on trade, the reports encouraged WTO members to provide greater transparency in this area.

The WTO trade monitoring exercise contains a unique verification process, which provides WTO members with the opportunity to update and correct information included in the monitoring reports and subsequently submitted to the Trade Policy Review Body. The ability of these reports to provide information on overall trends in trade policy measures depends on the participation and cooperation of all members. Although the increase in the number of members participating in the preparation of reports was encouraging, a large number still do not take part.

The monitoring reports included several other important trade-related developments that took place during 2014-15, such as the adoption of the Trade Facilitation Agreement, the expansion of the Information Technology Agreement, the Global Review of Aid for Trade and new initiatives in the area of regional trade agreements. The reports highlighted the growth in the number of regional trade agreements and their changing scope. This underlined the need for continuing work by WTO members to understand the systemic implications of regionalism and to ensure that regional trade agreements are consistent with, and supportive of, the multilateral trading system.

### WTO trade monitoring – A unique process

The purpose of the WTO trade monitoring reports is to enhance the transparency of trade policy developments and to provide WTO members and observers with an up-to-date picture of trends in the implementation of trade-restricting as well as trade-liberalizing measures, in particular in times of economic crisis when protectionist pressures tend to surge.

Preparing the trade monitoring reports is an on-going activity, which relies on continuous dialogue and exchange of information across divisions within the WTO Secretariat.

The core of this information stems from formal notifications by WTO members, formal publication of new legislation and other public sources, including media reports.

However, the most important element in collecting trade policy information for the reports is the close and continuous consultation between the WTO Secretariat and WTO members which seek to gather complete, up-to-date and accurate information on their trade-related measures and to verify the relevant information collected from other public sources. In preparation for each report, the Director-General writes to all WTO members and observers inviting them to provide the WTO Secretariat with information on recent trade-related measures as well as general economic support measures.

The WTO Secretariat collates all recorded country-specific information on trade measures and re-submits this information to each WTO member for verification. This verification process is a unique feature of the WTO's monitoring efforts and represents a quality control mechanism, allowing members to check the accuracy of the information before it is made public. The WTO-wide trade monitoring reports are subsequently discussed at meetings of the WTO's Trade Policy Review Body.

### Database

In 2013, the WTO launched its Trade Monitoring Database where all information gathered since October 2008, when the monitoring exercise began, can be found. The database, which is also publicly available, provides information on trade measures implemented by WTO members and observers and includes various search criteria options, e.g. country or country group, HS code, type of measure, date of measure etc. Members are regularly invited to update all existing information compiled by the WTO Secretariat since 2008 so as to facilitate an evaluation of the extent of "roll-back" of such measures. The database is updated once a new report has been discussed by WTO members.

# Trade, debt and finance

WTO Director-General Roberto Azevêdo raised the issue of developing countries' access to trade finance at a seminar of the Working Group on Trade, Debt and Finance in March and again at the Third UN Financing for Development Conference in Addis Ababa in July. Trading companies, in particular from developing countries, find increasing difficulties in accessing trade finance. DG Azevêdo pledged to consult multilateral partners and make concrete proposals in the first half of 2016. The Working Group continued efforts to improve understanding of the links between exchange rates and trade.

Some 80-90 per cent of world trade relies on trade finance (trade credit and insurance/guarantees). 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 March 2015, WTO members held a seminar to examine the challenges faced by traders, in particular small and medium-sized enterprises (SMEs) in getting access to trade finance at an affordable cost. The WTO Secretariat issued an updated background note on improving the availability of trade finance in developing countries, incorporating information from the latest surveys undertaken by multilateral development banks.

The surveys include "Trade finance in Africa", undertaken by the African Development Bank, which looked into the trade activities of 276 African commercial banks operating in 45 African countries. The estimate for unmet demand for trade finance in Africa was between USD 110 billion and USD 120 billion, a third of the total market. The Asian Development Bank estimated the financing gap to stand at around USD 1 trillion globally.

## 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. 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.



# 90%

Some 80-90 per cent of world trade relies on trade finance (trade credit and insurance/guarantees).

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The surveys cited above also highlighted the fact that SMEs face the greatest hurdles in accessing financing on affordable terms because they typically have less collateral, guarantees and credit history than larger, more established companies. They also have less access to the largest banks. Even when liquidity is abundant, it may not always be available to them. The poorer the country, the greater the challenges faced by SMEs in accessing trade finance. Local financial institutions supporting them may be smaller, less internationalized, or less advanced in terms of risk management. In many such countries and in some large regions, access to know-how and skills in handling trade finance instruments is also a challenge. Moreover, following the 2009 financial crisis, the appetite of international banks for investing in developing countries has been limited.

Some 53 per cent of trade finance requests by SMEs are rejected, against only 7 per cent for multinational companies, according to an Asian Development Bank survey. The lack of trade finance can be a powerful non-tariff barrier to trade and for the integration of countries into the global trading system.

At the Working Group seminar, speakers from both WTO members and international financial institutions provided multiple examples of the difficulties met by small firms in accessing finance for trade in all continents. WTO members acknowledged that trade finance gaps were due to a mix of structural and developmental factors, including a lack of know-know and the low capacity of local financial sectors in some developing countries. More needs to be done by





DG Azevêdo speaking at a seminar on "Trade Finance in Developing Countries" at the WTO on 26 March 2015.

multilateral partners to develop local and regional trade finance industries through knowledge dissemination, the building up of institutions and even direct support, they concluded. The WTO and DG Azevêdo were encouraged to monitor and address these gaps in the context of their joint work with other multilateral institutions.

DG Azevêdo agreed to increase the focus on this topic. He addressed trade finance in his keynote speech to the UN Third Financing for Development Conference in Addis Ababa in July, in which he promised to consult development partners and come up with concrete proposals with a view to reducing trade financing gaps in the future. The idea is not to "re-invent the wheel" but to rely on existing successful mechanisms and initiatives, he told the conference, called to secure financing for the United Nations' Sustainable Development Goals (SDGs) (see page 119). Such mechanisms include trade finance facilitation programmes operated by multilateral development banks and training and capacity building initiatives.

In recent years, a network of trade finance facilitation programmes has been established in almost all multilateral development banks, including the World Bank's International Finance Corporation (IFC), the Asian Development Bank, the African Development Bank, the Inter-American Development Bank, the Islamic Development Bank and the European Bank for Reconstruction and Development. These programmes support roughly USD 30 billion in (small) trade transactions in the poorest countries, against an estimated global financing gap of around USD 1 trillion.

DG Azevêdo plans to issue his proposals in the first half of 2016 on how the WTO and its partners can reduce the trade finance gap. He believes that there is a significant role for the WTO and the G20 group of leading developed and developing countries to give greater prominence to the issue and to help find potential solutions.

### Strengthening coherence

The Working Group continued its efforts to improve understanding of the links between exchange rates and trade, in particular with a view to strengthening the coherence between the International Monetary Fund and WTO.

At the suggestion of Brazil, WTO members had agreed in 2014 to commission a factual note from the WTO Secretariat on instances and cases in the history of the GATT/WTO system where multilateral trade rules had been invoked to address the impact of exchange rate movements on members' rights and obligations under the WTO Agreement.

Members discussed the note in September. A wide range of views was expressed on the use of this provision of the GATT, including its use in what is regarded as today's more complex global economic environment. Members also showed interest in pursuing the discussion in the Working Group on exchange rates and trade, including the impact of exchange rate misalignments on tariffs.

### Expert Group on Trade Finance

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

Under the chairmanship of DG Azevêdo, the Expert Group continued to evaluate gaps in the trade finance markets, especially in the poorest countries. One approach to helping fill these gaps has been for multilateral development banks to expand trade finance facilitation programmes in the regions where they operate (see above). DG Azevêdo confirmed the central role of the Group's work on trade finance for the WTO and indicated that the Organization was ready to take whatever steps are necessary, provided it had the support of WTO members.

# Government Procurement Agreement

Montenegro and New Zealand joined the Government Procurement Agreement (GPA) in 2015 and negotiations were concluded on the accessions of Moldova and Ukraine. Work began on the accessions of Australia and Tajikistan while constructive discussions took place on China's accession. Phase II of the e-GPA system, an automated market access information tool, was launched. The WTO Secretariat undertook technical assistance activities regarding GPA accession and procurement reforms, and deepened its partnerships with other international organizations.

## Accessions to the GPA

Montenegro and New Zealand completed their accession process and became parties to the Agreement in July and August 2015 respectively, giving them access to a US\$ 1.7 trillion market. For Montenegro, the work was concluded essentially in one year, while for New Zealand, it was a two-year process.

Negotiations were concluded on the accessions of Moldova and Ukraine. They will become parties to the GPA 30 days after depositing their instruments of accession at the WTO, which is expected in the first half of 2016. The WTO Secretariat estimates that altogether these accessions may add as much as US\$ 17.5 billion annually to the value of the market access commitments under the GPA.

Accession candidates are invited to accede to the GPA after a review by existing parties of their legislative, regulatory and policy frameworks to ensure full compliance with the GPA. They must also reach agreement with each of the

existing parties on which parts of their procurement market will be covered and thus open to international competition. The parties hope that the recent accessions will encourage other prospective members to come forward.

Work on the GPA accessions of Australia and Tajikistan began in 2015. Both countries have circulated market access offers and information concerning relevant national legislation. During the year, constructive discussions took place on China's accession. The parties to the GPA see China's accession, on the appropriate terms, as a matter of great significance for the Agreement, for the WTO, and for the world economy. They also see it as a very important signal for other emerging economies.

Costa Rica, Pakistan, Seychelles and Thailand were granted observer status under the GPA. Thirty WTO members now hold observer status.

## Monitoring of implementation and legislation

In 2015, Armenia and the Republic of Korea submitted their instruments of acceptance regarding the revised Agreement on Government Procurement, bringing it into force for these two countries. The revised agreement took effect on 6 April 2014 after two-thirds of the parties to the GPA accepted it. It is now in force for all but one of the parties, Switzerland, which has provided regular updates to the Committee. It has indicated that it will provide its acceptance as soon as possible.

The revised agreement extends the GPA's coverage to approximately 500 additional procurement entities, including local government and sub-central entities, together with new services and other areas of public procurement activities. It should bring market access gains of US \$80-100 billion or

## 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 government procurement opportunities that are opened to foreign competition. The GPA 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.

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more annually. The text of the agreement has been streamlined and modernized to include, for example, standards related to the use of electronic procurement tools. It recognizes and facilitates the use of e-procurement, while strengthening the GPA's role in promoting good governance and battling corruption.

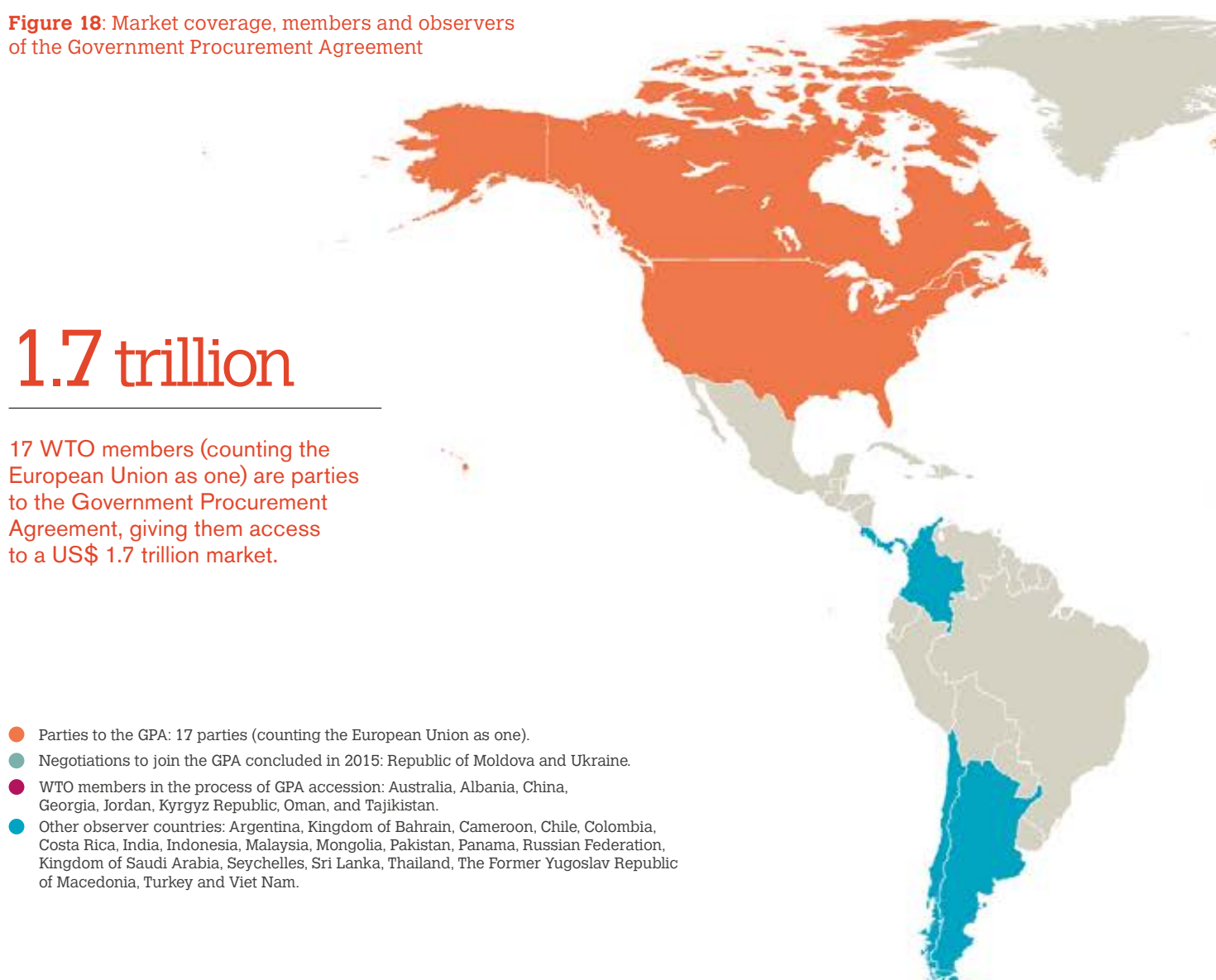
The revised GPA gives developing countries important flexibilities to manage their transition to a more internationally competitive government procurement regime. It reinforces the scope provided by the original agreement to promote the conservation of natural resources and to protect the environment through the application of appropriate technical specifications.

The GPA provides two independent mechanisms for settling procurement-related disputes: "domestic review mechanisms" at the national level, and the WTO dispute settlement system

(see page 102). In 2015, the WTO's Dispute Settlement Body (DSB) was informed by the Committee on Government Procurement about relevant new provisions in the revised GPA. The Committee also considered modifications to parties' schedules of commitments, statistical reports, threshold levels expressed in national currencies and changes in parties' legislation implementing the GPA.

The entry into force of the revised agreement triggered work in the Committee on Government Procurement on new work programmes, which were a separate outcome of the negotiations. The programmes deal with such issues as facilitating participation by small and medium-sized enterprises (SMEs) in government procurement, promoting sustainable procurement practices, improving the statistical data available on parties' operations concerning the GPA and enhancing transparency about the exclusions and restrictions in the parties' coverage schedules.

**Figure 18:** Market coverage, members and observers of the Government Procurement Agreement



The WTO Secretariat has developed an automated GPA market access information tool (the “e-GPA system”) to provide a single point of entry to the market access information available under the revised GPA, together with related information that the parties are committed to provide. An initial version of the tool was released in November 2014 (“Phase I”) and in early 2015 “Phase II” was launched. This phase will further enhance the e-GPA system and incorporate additional functionalities. It is envisaged that the Phase II product will be made publicly accessible later in 2016.

### Technical assistance and cooperation with other intergovernmental organizations

The WTO Secretariat carries out an intensive programme of technical assistance relating to the GPA. This includes regional workshops, tailored national seminars and Geneva-based

activities. A large number of such events took place during the year, reflecting not only heightened interest in the revised GPA but also the close relationship between the GPA and many regional initiatives.

In Central and Eastern Europe, the provision of technical assistance has been greatly facilitated by the WTO Secretariat's cooperation with the European Bank for Reconstruction and Development (EBRD). Collaboration with other international organizations is also increasing. In September 2015, the Secretariat updated the Committee on its ongoing discussions with the World Bank to achieve greater synergies on government procurement issues. A new procurement framework, approved by the Bank's Executive Board in 2015, refers to GPA accession as one path that World Bank countries can use to put into place legislation which may also be acceptable to the World Bank for its own purposes.

